



**tourism**

Department:  
Tourism  
**REPUBLIC OF SOUTH AFRICA**

# **TOURISM BILL**

(Annexure A)

## **The Policy Framework**

**12 February 2013**

## Policy, Legislative and Strategic Framework (Tourism Act, 1993)

- The main objective is to promote tourism.
- Provides for establishment of the South African Tourism for the effective domestic and international marketing of South Africa as a tourist destination.
- Grading and classification of establishments.
- Provides for the management of the affairs of tourist guides.
- The Act is more than 15 years old and was amended only three times, that is in the years 1996, 2000 and 2002 (*rel. Tourist guides*).
- Pre-dates the Constitution of the Republic of South Africa.
- Falls short on being an overarching national legislative framework for the management of tourism.

## Policy, Legislative and Strategic Framework (Constitution, 1996)

- Constitution of the Republic of South Africa, 1996 - Tourism is an area of national and provincial concurrent legislative competence(Schedule 4, Part A).
- Local Government is responsible for local tourism (Schedule 4, Part B).
- National, Provincial and Local government have developed legal frameworks which may have to be aligned to provide for co-operative government

## **Policy, Legislative and Strategic Framework** (Tourism White Paper on the Development and Promotion of Tourism in South Africa, 1996)

- Provides a policy framework and guideline for the development of tourism.
- In accordance with the tourism vision, a united, sustainable and competitive tourism industry in South Africa will lead to global 'best practice' in socially, environmentally and culturally responsible tourism.

# **Policy, Legislative and Strategic Framework**

## **(Tourism White Paper on the Development and Promotion of Tourism in South Africa, 1996) cont...**

- Recognised the following about tourism:
  - **as strategically important to the economy;**
  - **Complete lack of knowledge and understanding;**
  - **Lack of inclusive, effective national, provincial and local structures for the management of tourism;**
  - **Lack of transformation and access;**
  - **Lack of involvement; and**
  - **Poor service.**
- Defined the role of key players ( national, provincial and local government including the private sector).
- Responsible Tourism( based on the three pillars of economic, social and environmental benefits).

## Creation of the Department

- Government recognised the tourism sector's potential to grow the economy and create jobs.
- In 2009, the President announced the creation of the Ministry of Tourism and the Department of Tourism was then established as a standalone Department in 2010
- Tourism is one of the six core pillars of growth in the New Growth Path framework

# National Tourism Sector Strategy

- Vision - to be a top 20 tourism destination in the world by 2020.
- The strategy is premised on three themes:
  - Tourism Growth and the Economy
  - An enhanced visitor experience
  - Sustainability and Good Governance
- NTSS recognised the need to create a legislative and regulatory environment conducive to tourism development and promotion
- The policy framework that is set out in the White Paper has been incorporated into the NTSS.

## Tourism Bill

### ( Aims)

- To provide for the development and promotion of sustainable tourism for the social, economic and environmental benefit of South African citizens and for the enjoyment of all its residents and foreign visitors.



## Tourism Bill (Objectives)

- To promote responsible tourism for the benefit of South Africa and for the enjoyment of all its citizens and foreign visitors;
- To provide for the effective domestic and international marketing of South Africa as a tourist destination;
- To promote quality tourism products and services;
- To promote for growth and development of the tourism sector; and
- To enhance co-operation and co-ordination between all spheres of government in developing and managing tourism.

## Gaps addressed by the draft Bill

- National Tourism Sector Strategy sets three themes for the tourism sector:
  - grow the economy
  - enhance visitor experiences
  - sustainability and good governance
- National Tourism Information and Monitoring System and Call for Information from Tourism Businesses:
  - For Knowledge and Information Management, Monitoring and Evaluation.
- Norms and standards:
  - Service Excellence.
  - Responsible tourism.

## Gaps addressed by the draft Bill cont...

- Codes of Good Practice as guidelines for the management of tourism.
- Tourism Protection - complaints management mechanism including the promotion of self regulation.
- Reaffirms the marketing mandate of South African Tourism.
- Conventions Bureau to co-ordinate bids.
- Tourism Grading Council of South Africa will be a statutory entity responsible for quality assurance of tourism product, services and facilities.



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# **TOURISM BILL**

(Annexure B)

## **Towards a new Tourism Act**

**12 February 2013**

# Contents

- Purpose of the Tourism Bill.
- Review process.
- Consultation process.
- Key areas of discussion.
- Implementation plans.

# Tourism Bill

## Purpose

- Enabling legal framework for the development and management of tourism.
- Clarify roles and responsibilities.
- Ensure the most cost effective and efficient use of limited resources.

## Review Process

- The process to review the Tourism Act, 1993 started in earnest during 2009.
- Consultation on the need to review the Tourism Act, 1993 and the scope of the review took place with the Provinces (MIPTECH and MINMEC), local municipalities and the private sector mainly represented by TBCSA

## Consultation Process

- Cabinet approved the Tourism Draft Bill on 26 July 2011 for publication.
- The Draft Bill was published in GN34506 in August 2011 for comments.
- More than 450 comments were received and dealt with.
- The Draft Bill was presented and negotiated in NEDLAC.
- Cabinet approved the Draft Bill for introduction into Parliament on 31 May 2012.
- The Chief State Law Adviser certified the Bill in November 2012.
- The Tourism Bill was introduced into Parliament on 4 December 2012.



## Key discussion areas during consultation

- Information by tourism businesses
  - Voluntary or mandatory?
- Norms and Standards
  - MINMEC approved that Minister issue Norms and Standards
- Tourism Protector
  - Enforcement powers on tourists complaints or to refer complaints to existing relevant authorities e.g. NCC, Equality Court, for resolution?

## Key discussion areas during consultation

- Transformation
  - As a stand alone objective of the Tourism Act or for it to form the objectives found in the NTSS?
    - NTSS addressed transformation and the B-BBEE Amendment Act and the BEE Tourism Charter
  - Prohibition for a tourist guide to drive a motor vehicle with a carrying capacity of 10 people and guide simultaneously
    - Removed since it was covered by legislation administered by the Dept of Transport.

## Implementation plan for the Bill

- NTSS approved by Cabinet in 2011.
- Re -organisation of the Department to deliver on the legal mandate completed in 2012.
- Norms and Standards on Responsible Tourism and Service Excellence in place.
- Knowledge and information management (database) in place

## Implementation plan for the Bill

- Conventions Bureau established within South African Tourism.
- The grading system has been transformed to international best practice.
- Provincial Departments requested to upgrade establishments to more senior positions
- A standardised budget structure for Provincial Departments has been approved by National Treasury.



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# **TOURISM BILL**

(Annexure C)

**12 February 2013**

## Chapter 1: Interpretation and objects

The Chapter seeks to define certain words and expressions. It sets out the general objectives of the Bill and determine how conflicts with other laws are to be dealt with. (Clauses 1 to 3.)

## Chapter 2 : National Tourism Sector Strategy, Norms and Standards, Codes of Good Practice

- The Chapter also authorises the Minister, following a consultative process, to establish a National Tourism Sector Strategy to promote the objects of the envisaged Act.
- The Strategy must at least provide for strategies, objectives, indicators, targets, plans, guidelines, procedures and institutional arrangements relating to the promotion, development and transformation of tourism. (Clause 4.).

## Chapter 2 : National Tourism Sector Strategy, Norms and Standards, Codes of Good Practice **cont...**

- The Chapter furthermore seeks to authorise the Minister to gather information relating to tourism and to create a database of information on tourism business for the purposes of planning, and with a view to the development and growth in the tourism sector. (Clauses 5 and 6.).
- Provision is made for the Minister to determine norms and standards, and indicators to measure compliance with such norms and standards, for-
  - (i) practicing responsible tourism contemplated in clause 2(2);
  - (ii) achieving service excellence in the tourism sector;
  - (iii) promoting the objects of this Act; and
  - (iv) the provisioning of tourism information services to the public.



## Chapter 2 : National Tourism Sector Strategy, Norms and Standards, Codes of Good Practice cont...

- The norms and standards and indicators must be determined after a consultative process with the members of the executive councils of provinces and with the public (Clause 7.).
- The Bill seeks to authorise the Minister to issue codes of good practice within the tourism sector to guide conduct relating to tourism services, facilities and products. Clause 8.)

## Chapter 3: South African Tourism Board

Chapter 4 seeks to provide for the continued existence of the South African Tourism Board (“Board”).

Clause 10 of the Bill seeks to specify the functions of the Board. The clause aims to reaffirm the mandate of the Board to market South Africa, its products and facilities internationally and domestically. ( Clause 10)

The Board is authorised to establish a National Conventions Bureau to market the Republic as a business event destination. (Clauses 10 and 11.)

The Board will consist of at least nine and no more than 13 members appointed by the Minister.

## Chapter 3: South African Tourism Board cont...

Provision is further made for matters usually associated with the establishment of a statutory body, such as the term of office of members of the Board, their disqualification from membership and their vacating of office.

Further provisions seek to provide for matters relating to meetings, funding, financial accountability and remuneration of members, amongst others. (Clauses 13 to 23.)

Provision is also made for the appointment of the chief executive officer of the Board, who will be responsible for the efficient management of the business and the affairs of the Board. Provision is furthermore made for the Board to determine an employment and remuneration policy applicable to personnel of the Board and for the chief executive officer to appoint personnel. (Clause 24.)

## Chapter 4: Grading System

This Chapter seeks to authorise the Minister to develop a national grading system for tourism. The grading system must promote excellence in the provision of tourism services, facilities and products, amongst others. The grading system must make provision for schemes of which tourist businesses can obtain membership and for the use and display of insignia, such as a star or number of stars, indicating the grading awarded in terms of the scheme. (Clause 28.)

The Chapter furthermore seeks to establish the Tourism Grading Council (“Council”) which must implement and manage the national grading system. The Minister will have oversight of the Council. (Clauses 29 and 30.)

## Chapter 4: Grading System cont...

As in the case of the Board provided for in Chapter 3 of the Bill, Chapter 4 contains various clauses usually associated with the establishment of a statutory body. Since several of those clauses would have been exactly the same as those relating to the Board, were they to be inserted in Chapter 4, relevant clauses relating to the Board have been made applicable to the Council with the changes required by the context.

The Bill seeks to provide for appointment of a chief quality assurance officer who will be responsible for supervising the process of grading and for the strategic management of the grading system. (Clauses 40 to 43.)

## Chapter 4: Grading System cont...

Clause 44 seeks to authorise the Minister to assign oversight of the Council and of the performance of any function of the Council to the Department, the Board or any other suitable body which is subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999). The purpose of the provision is to give the Minister a discretion which may be exercised as circumstance requires.

## Chapter 5: Tourism Protection

This Chapter seeks to provide for the designation of an official of the Department as the Tourism Protector. Functions of the Tourism Protector include recommending to the Minister the accreditation of a scheme or arrangement established by or for a particular tourism sector to resolve tourist complaints, and to monitor the effectiveness of accredited schemes.

The Chapter furthermore makes provision for the Tourism Protector to receive complaints in respect of tourism services, facilities or products and to channel such complaints to appropriate functionaries specified in clause 47.

## Chapter 6: Tourist Guides

Section 22 of the Constitution provides that every citizen has the right to choose a trade, occupation or profession freely and that the practice of a trade, occupation or profession may be regulated by law. The Bill, and in particular Chapter 6, seeks to regulate the practice of the tourist guide profession.

The Bill seeks to provide for the appointment of an official as the National Registrar of Tourist Guides. The National Registrar will, amongst others, be responsible to maintain a central database of tourist guides; to prepare a code of conduct and ethics for tourist guides; to hear and determine appeals lodged against decisions of Provincial Registrars of Tourist Guides; and to liaise with role players in the tourist sector with a view to facilitating growth in the sector and improving and maintaining standards in the tourist guiding sector. (Clause 48.)



## Chapter 6: Tourist Guides cont...

Clause 49 seeks to provide for the appointment of Provincial Registrars of Tourist Guides by Members of the Executive Councils responsible for tourism in each province.

The clause sets out the functions of Provincial Registrars, which include to register and maintain a registers of tourist guides within their province; to provide the National Registrar with applicable information; deal with complaints against tourist guides; exercise disciplinary powers over tourists guide; and disseminate information about registered tourist guides.

## Chapter 6: Tourist Guides cont...

Provides for the procedure relating to the registration of tourist guides is provided for in clause 50. The clause furthermore requires tourist guides to show proof of competence determined by the South African Qualifications Authority. The Clause also seeks to specify the grounds for disqualification from registration as a tourist guide.

The rest of Chapter 6 of the Bill seeks to deal with matters such as the code of conduct and ethics with which tourist guides must comply; complaints against tourist guides; powers of a Provincial Registrar regarding the disqualification of tourist guides; disciplinary measures against tourist guides and appeals and reviews. (Clauses 52 to 58.)

## Chapter 7: General

Chapter 7 seeks to deal with matters such as offences and penalties; regulations by the Minister; repeal of laws; transitional provisions and savings and the short title of the Bill (clauses 59 to 64). It would, for example, be an offence to use, in relation to tourist services, facilities or services, insignia depicting a star or number of stars which is greater than the number authorised to be depicted. It would furthermore be an offence to act as a tourist guide while not being registered as such.

Since the Bill seeks to repeal certain laws, provision is made in clause 63 and Schedule 1 to the Bill for certain transitional provisions and savings. The provisions in question seek to ensure a smooth transition between the old and new dispensation, and with the retention of any rights that may have accrued.

# Thank You

