

Portfolio Committee on Tourism Workshop

Tourism Act No. 3 of 2014

17 April 2015

Department of Tourism
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tourism

Department:
Tourism
REPUBLIC OF SOUTH AFRICA



Inspiring new ways



Contents

Policy, Legislative and Strategic Framework

- Tourism Act 1993.
- Constitution of South Africa, 1996.
- White Paper on the Development and Promotion of Tourism in South Africa, 1996.
- National Tourism Sector Strategy, 2011.

Tourism Act, 2014

- Review Process.
- Provisions.
- List of Regulations and state of readiness.

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

- The main objective was to promote tourism.
- This Act provided for -
 - the establishment of the South African Tourism (SAT) for the effective domestic and international marketing of South Africa as a tourist destination.
 - Grading and classification of establishments and prescribed sectors.
 - The management of the affairs of tourist guides.
- The Act was more than 15 years old and was amended only three times, that is in the years 1996, 2000 and 2002 (Re: Tourist guides)
- It pre-dated the Constitution and the White Paper on Tourism.
- It fell short on being an overarching national legislative framework for the management of tourism.



Policy, Legislative and Strategic Framework (Constitution, 1996)

- Constitution, 1996 - Tourism is a functional area of national and provincial concurrent legislative competence. (Schedule 4)
- Local Government has executive authority over local tourism. (Section 156, Part B of Schedule 4)
- National, Provincial and Local government have developed legal frameworks which needed a framework for alignment to provide for co-operative government in the management of tourism.

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

- Developed by a panel of experts.
- Provides a policy framework and guideline for the development of 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.
- 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.



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

- Lack of transformation and access.
- Lack of involvement.
- Poor Service within the industry.
- Defined the role of key players. (national, provincial and local government including the role of the private sector)
- Responsible Tourism. (based on the three pillars of economic, social and environmental benefits)



Policy, Legislative and Strategic Framework (National Tourism Sector Strategy)

- Developed by a panel of experts.
- Approved by Cabinet in 2010.
- Recognises that the Tourism Act, 1993 did not support the implementation of the White Paper on the Development and Promotion of Tourism, 1996 as a broader policy framework since the main objectives of this Act were marketing and the management of tourists guides.
- Action - Create a legislative and regulatory environment for tourism development and promotion.



Tourism Act, 2014

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.
- 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.



Tourism Act, 2014

Review Process cont...

- The Draft Bill was presented and negotiated in NEDLAC over a period of six weeks.
- 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 Bill was introduced into Parliament on 4 December 2012.



Tourism Act, 2015

Chapter 1: Interpretation and Objects

- The Chapter 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. (Sections 1 to 3)
- AIM - To provide for the development and promotion of sustainable tourism for the benefit of the Republic, its residence and visitors; to provide for the continued existence of the Board, to provide for the establishment of the Tourism Grading Council ; to regulate the tourist guide profession; to repeal certain laws and to provide for matters connected therewith.



Tourism Bill

Chapter 1: Interpretation and Objects cont...

- Preamble - recognises the following about tourism:
 - Tourism has grown considerably.
 - Planning is inadequate, uncoordinated, inconsistent and fragmented
 - Transformation is vital to ensure sustainable growth and development of the sector;
 - Challenges are best addressed by the three spheres of government and the private sector working together to create a conducive environment for the growth of tourism.
- Objects - 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.



Tourism Act, 2014

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

- NTSS - empowers 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. (Section 4)
- Knowledge and Information - empowers 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. (Sections 5 and 6)

Tourism Act, 2014

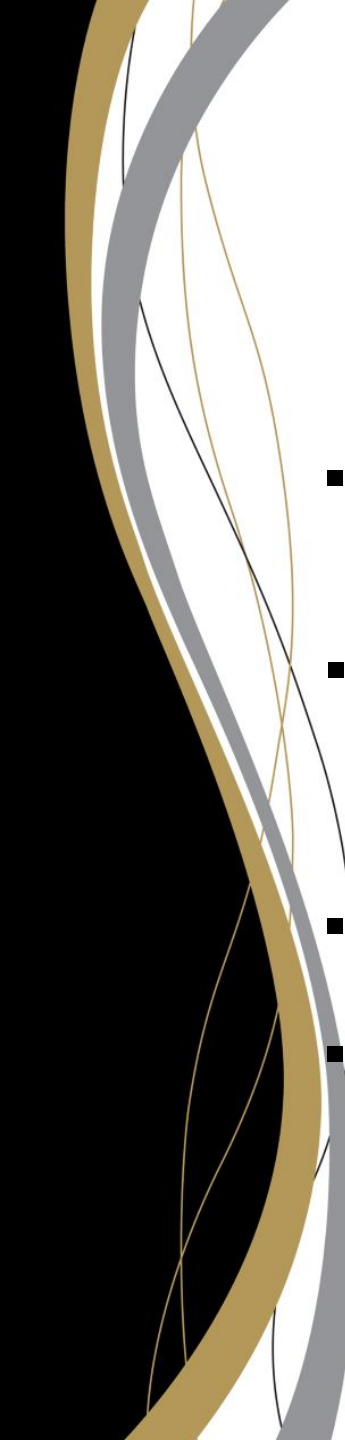
(Chapter 2 : National Tourism Sector Strategy, Norms and Standards, Codes of Good Practice cont...)

- Provision is made for the Minister to determine norms and standards and indicators to measure compliance with such norms and standards for:
 - practicing responsible tourism contemplated in section 2(2);
 - achieving service excellence in the tourism sector;
 - promoting the objects of this Act; and
 - the provisioning of tourism information services to the public.
- The norms and standards and indicators must be determined after a consultative process with the members of the executive councils of provinces and after public participation (Section 7)
- Empowers the Minister to issue codes of good practice within the tourism sector to guide conduct relating to tourism services, facilities and products. (Section 8)

Tourism Act, 2014

(Chapter 3:South African Tourism Board)

- Provide for the continued existence of the South African Tourism Board.
- The functions of the Board are to:
 - market South Africa as a domestic and international tourist destination;
 - market South African tourism products and facilities internationally and domestically;
- develop and implement a marketing strategy for tourism that promotes:
 - the objects of this Act; and
 - the national tourism sector strategy.
- advise the Minister on any other matter relating to tourism marketing;
- with the approval of the Minister, establish a National Conventions Bureau to market South Africa as a business tourism destination by:
 - coordinating bidding for international conventions; and
 - liaising with other organs of state and suitable bodies to promote South Africa as a business tourism destination; and



Tourism Act, 2014

(Chapter 3:South South African Tourism Board cont....)

- report to the Minister on the work performance of the National Conventions Bureau.
- The Board must perform any function imposed upon it in accordance with a policy direction not in conflict with this Act issued by the Minister.
- Composition - The Board will consist of at least 9 and no more than 13 members appointed by the Minister on the basis of knowledge, experience and qualification. The Act sets out a process that Minister must follow for the appointment of Board members.
- Powers of the Board relating to the opening of offices, borrowing of money, insurance, employing staff and signing of agreements.
- 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.



Tourism Act, 2014

(Chapter 3:South South African Tourism Board cont....)

- Further provisions of the Chapter provide for matters relating to meetings, funding, financial accountability and remuneration of members, amongst others. (Sections 13 to 23.)
- Provision is also made for the appointment of the chief executive officer of the Board, who is responsible for the efficient management of the business and the affairs of the Board. (Section 24)
- 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. (Section 27)



Tourism Act, 2014

(Chapter 4: Grading System)

- This Chapter empowers the Minister to develop a national grading system for tourism with a view to maintaining or enhancing the standards and quality of tourism services, facilities and products. The grading system must promote the objects of the Act, the NTSS and excellence in the provision of tourism services, facilities and products.
- 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.(Section 28)



Tourism Act, 2014

(Chapter 4: Grading System cont...)

- The Chapter furthermore establishes the Tourism Grading Council (“Council”) which must implement and manage the national grading system. The Minister will have oversight of the Council. (Sections 29 and 30.)
- As in the case of the Board provided for in Chapter 3 of the Act, Chapter 4 contains various sections, usually associated with the establishment of a statutory body. Since several of those sections would have been exactly the same as those relating to the Board, the relevant section relating to the Board have been made applicable to the Council with the changes required by the context.



Tourism Act, 2014

(Chapter 4: Grading System cont....)

- The Chapter provide for the 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. The chief quality assurance officer must ensure conformity to standards and appoint staff to assist in performing functions (Section 40 to 43)
- Section 44 authorises the Minister to assign oversight of the Council and 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).



Tourism Act, 2014

(Chapter 5: Tourism Protection)

- This Chapter empowers the Minister to designate an official of the Department as the Tourism Complaints Officer. Functions of the Tourism Complaints Officer are to:
 - Recommend 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.
 - Receive complaints in respect of tourism services, facilities or products and to channel such complaints to appropriate functionaries specified in section 47.



Tourism Act, 2014

(Chapter 6: Tourist Guides)

- The Act 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. (Section 48)



Tourism Act, 2014

(Chapter 6: Tourist Guides cont....)

- Section 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 section further 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.



Tourism Act, 2014

(Chapter 6: Tourist Guides cont...)

- The procedure relating to the registration of tourist guides is provided for in section 50. The section furthermore requires tourist guides to show proof of competence determined by the South African Qualifications Authority. The section also seeks to specify the grounds for disqualification from registration as a tourist guide.
- The rest of Chapter 6 of the Act deals 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. (Sections 52 to 58)



Tourism Act, 2014

(Chapter 7: General)

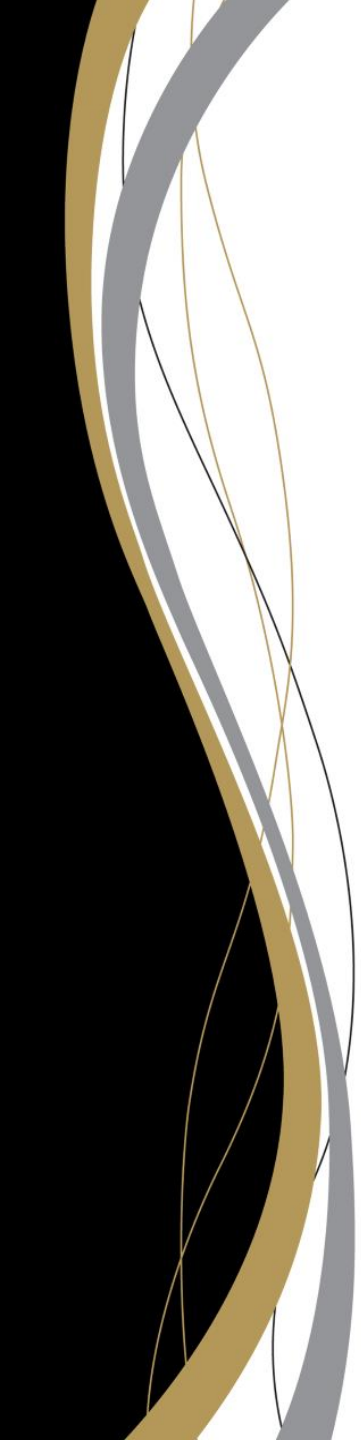
- Chapter 7 seeks to deal with matters such as offences and penalties; regulations by the Minister; repeal of laws; transitional provisions and savings and the short title of the Act. (Sections 59 to 64) It would, for example, be an offence to use, in relation to tourist services, facilities or services, 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 Act repeals certain laws, provision is made in section 63 and Schedule 1 to the Act 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.



Tourism Act, 2014

(Transitional Provisions and Savings)

- The following transitional provisions and savings are provided in Schedule 1:
 - Members of the Board are to remain as members until a date determined by the Minister, by notice in the Gazette
 - Anything done or any decision or step taken by the Board in terms of the old Act which could have been done by the Board in terms of the provisions of the Act is regarded as having been done by the Board in terms of the new Act
 - Grading and classification schemes established in terms of the old Act.
 - Any grading system, differentiation and classification established in terms of the old Act remains of force and effect.
 - A person who is a member of a grading and classification scheme established in terms of the Old Act remains a member.



Tourism Act, 2014 (Schedule 1)

- Until a date determined by the Minister in the Gazette, the Tourism Grading Council of South Africa which is a business unit of the Board is regarded as the Tourism Grading Council established by section 29 of the Act.
- Registration of a person as a tourist guide, area of specialisation, the term of registration and any application of renewal of registration done before the Act, must be dealt with as having been done in terms of the provisions of the Act.



Regulations in Terms of the Tourism Act, 2014

- Existing regulations in terms of the Tourism Act, 1993, saved in terms of section 63 of the Tourism Act, 2014:
 - Regulations Pertaining to Tourist Guides of 1994; and
 - Regulations in Respect of Tourist Guides of 2001.
 - Code of conduct and ethics with which every registered Tourist Guide must comply.

Regulations cont....

- National Tourism Information and Monitoring System:
 - the nature and form of the system;
 - the categories, content and form of the data and information to be captured on the system;
 - the content, form and manner in which organs of state must provide the Minister with data and information and the intervals at which the information and data must be provided; and
 - any other matter necessary for the proper administration and functioning of the system.



Regulations cont...

- Grading System
 - Regulations prescribing the insignia for use and display.
- Tourism Protection
 - Regulations on the manner and the procedure for lodging complaints with the Tourism Complaints Officer.

Notices In terms of the Tourism Act, 2014

- Norms and Standards for:
 - Practising responsible tourism.
 - Achieving Service Excellence.
 - Promoting the object of the Act.
 - The provisioning of tourism information services to the public.
- Codes of Good Practice to:
 - Guide conduct relating to tourism services, facilities and products.
 - Guide conduct of organs of state responsible for developing and managing tourism.
- Promote the achievement of the objects of the Act.
- Notice to publish the name of the:
 - National Registrar of Tourists Guides.
 - Tourism Complaints Officer.
 - Provincial Registrar of Tourist Guides.



Implementation Plan

- Priority Projects for the Annual Performance Plan
 - Review of the NTSS
 - Regulations on Tourist Guides
- Frameworks being developed
 - The manner and procedure for the lodging of tourists complaints
 - National Tourism Information and Monitoring System.



THANK YOU!