

## COMMONWEALTH OF DOMINICA

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COMMONWEALTH OF DOMINICA

ACT No.19 OF 2005

*I assent*



(Sgd.) N.J.O. Liverpool  
*President*

23<sup>rd</sup> January, 2006

**AN ACT TO PROVIDE FOR THE CREATION OF STANDARDS FOR THE TOURISM INDUSTRY, THE REGULATION AND CERTIFICATION OF CERTAIN TOURISM SERVICES IN THE COMMONWEALTH OF DOMINICA AND FOR MATTERS CONNECTED THEREWITH.**

(Gazetted 2<sup>nd</sup> February, 2006)

BE IT ENACTED by the Parliament of the Commonwealth of Dominica as follows:

PART I  
**PRELIMINARY**

**1.** This Act may be cited as the-

Short title.

**TOURISM (REGULATION AND STANDARDS) ACT, 2005.**

**2005 TOURISM (REGULATION AND STANDARDS) ACT 19**

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Interpretation.

**2.** In this Act, unless the context otherwise requires -

“Bureau” means the Bureau of Standards established by section 3 of the Standards Act, 1999;

“Corporation” means the National Development Corporation established by section 3 of the National Development Corporation Act;

“General Manager” means the person employed as the General Manager of the National Development Corporation;

“Minister” means the Minister responsible for tourism;

“NISE” means the Nature Island Standards of Excellence programme developed under this Act;

“programme” means the Nature Island Standards of Excellence programme (“NISE”) developed under this Act;

“standards” means the Nature Island Standards of Excellence developed under this Act;

“tourism services” means all services connected with all types of accommodation, bus tours, taxis, tour guiding, vending, water sports and food and beverage offered wholly or mainly to tourists;

“tourist accommodation” includes hotels, resorts, apartment hotels, motels, inns, boarding houses and guest houses;

“Unit” means the Quality Assurance Unit Established under Section 10 of the Act;

“vending” means the selling or offering for sale of any goods or services, wholly or mainly to tourists.

3. (1) This Act has as its purpose the creation of a legislative basis for the creation of sustainable, internationally accepted and holistically approached programme, to be known as the Nature Island Standards of Excellence (NISE), to be applied by persons in the public and private tourism sectors and to regulate and certify certain tourism services.

Statement of purpose.

(2) This Act shall be given such large and liberal construction in order that its purpose may be attained.

**PART II  
DEVELOPMENT AND ENFORCEMENT  
OF STANDARDS**

4. (1) For the purpose of enhancing and developing the tourism industry in the Commonwealth of Dominica, there shall be a programme of standards to be known as the Nature Island Standards of Excellence (NISE).

Power to develop standards.

(2) The Minister may cause the General Manager to develop and implement the programme in such manner and within such time as the Minister determines.

5. The objectives of the programme of standards developed under section 4 are:

Objective of standards.

- (a) to serve as criteria by which any tourism service may be classified, rated and certified;
- (b) to provide a development mechanism for the tourism industry;
- (c) to serve as a basis for the acquisition and application of accepted international service and facility standards;
- (d) to strengthen the economic and human resource competitiveness of the tourism industry in the international and regional context.

**2005 TOURISM (REGULATION AND ACT 19  
STANDARDS)**

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Consultation with Bureau.

**6.** The General Manager shall, in the development of the standards, consult the Dominica Bureau of Standards which shall provide such advice and guidance as may be appropriate for the development of any particular standard.

Relevant considerations.

**7.** The General Manager and the Bureau, in the development of standards, shall have regard to the objectives of such standards as set out in section 5.

Publication of standards.

**8.** The Minister shall cause all standards developed under section 4 to be published in the *Gazette* and in such other manner that is likely to result in the widest dissemination locally, regionally and internationally.

Status and enforcement of standards.

**9.** (1) All standards developed under this Act shall, upon publication, be mandatory in relation to the tourism service to which they apply.

(2) Without prejudice to anything contained in section 19, where a person who is licensed to offer any tourism service fails or refuses to maintain the relevant standard the Minister may -

(a) in writing, order that person to comply with the standard within a period, not exceeding three months as specified by the Minister; or

(b) change the classification or rating, if any, given to a tourism service offered by that person;

but any such change in the classification or rating may be restored by the Minister if he is satisfied that there is subsequent compliance with the relevant standard.

Quality assurance unit.

**10.**(1) There is hereby established a unit to be known as the Quality Assurance Unit.

(2) The General Manager shall employ such number of suitably qualified persons to be known as Quality Assurance Officers.

(3) The Unit shall be responsible to carry out all functions which are required for the effective monitoring of the tourism services and tourist accommodation and to ensure compliance with the standards, classifications and ratings established under this Act and Regulations made thereunder and without prejudice to the generality of the foregoing the Unit shall-

- (a) carry out periodic inspections of tourist accommodations, vehicles and locations where tourism services are offered;
- (b) investigate complaints concerning standards within the tourism sector;
- (c) issue non-compliance notices to service providers within the tourism sector;
- (d) require remedial or corrective measures be taken where non-compliance has been identified;
- (e) recommend, implement and administer approved programs and measures to ensure compliance with the Act and Regulations;
- (f) circulate, publish and otherwise disseminate updated information relating to standards, classifications and ratings;
- (g) undertake and carry out surveys, monitoring investigations and collate data on compliance within the tourism sector; and
- (h) prepare and submit compliance reports on Licensees.

**11.** (1) A Quality Assurance Officer may at any reasonable time enter any tourist accommodation, establishment, vehicle or other location where a tourism service is being offered, for the purpose of inspecting the same and for ascertaining whether or not the standards established under this Act or any Regulations made thereunder are being complied with by a licensee.

Power of entry.

**2005 TOURISM (REGULATION AND ACT 19  
STANDARDS)**

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(2) Any person claiming the right of entry pursuant to subsection (2) shall produce a photo identification card issued by the Corporation authorising him in that behalf.

(3) A document purporting to be signed by the General Manager shall be deemed, until contrary is proved, to have been signed by that person.

Non-compliance procedures.

**12.** (1) Where the Unit has determined that a person is offering a tourism service without a licence the Unit shall -

- (a) serve that person with a notice in writing specifying the breach and requiring that corrective action be taken within a time stipulated in the notice;
- (b) if the breach continues, issue a second notice within two months after service of the first notice; and
- (c) if within one month of the issue of the second notice no application is made for a licence, submit a report on the matter to the General Manager.

(2) At least two months before the expiry date of a licence issued under the Act, the Unit shall issue a notice in writing to the licensee informing him of the expiration date of the licence.

(3) Where a licensee continues to offer a tourism service after the expiration of his licence and there has been no application for the renewal of the licence the Unit shall-

- (a) within one month after the expiration date of the licence issue a notice in writing to the licensee informing him of the breach and requiring that corrective action be taken within the time stipulated in the notice;
- (b) if the breach continues, issue a second notice within one month of the service of the first notice;
- (c) if no application is made for the renewal of the licence, submit a report to the General Manager.



(4) Where the Unit determines that a licensee is in breach of any of the provisions of the Regulations or the Standards established thereunder, the Unit shall -

- (a) issue a notice in writing to the licensee identifying the breach and stipulating a time within which the breach must be remedied;
- (b) carry out a further inspection of the tourist accommodation, vehicle or other location where a tourism service is offered, after the expiration of the time set out in the notice; and
- (c) submit a report to the General Manager if the licensee fails to remedy the breach.

(5) Upon receipt of a report under subsection (4), the General Manager shall refer the report to the Licensing Committee who shall consider the report and make recommendations to the Minister.

**13.** (1) The Minister may for the purpose of the development of standards establish such number of committees as he determines, to be known as Standards Committees, which shall consist of a Chairman and not more than six other members from both the private and public sectors.

Standards committee.

(2) A Committee established for the purposes of subsection (1) shall regulate its own procedure.

**14.** (1) The members of the Committees appointed by the Minister under section 13 shall hold office for a period not exceeding three years as the Minister determines.

Tenure, removal, remuneration.

(2) A member of any such committee may at any time resign his office and the Minister may at any time remove any such member if he is satisfied that it is in the public interest so to do.

(3) The members of the committees shall receive such allowance as the Minister determines.

**PART III  
LICENSING OF PROVIDERS OF  
TOURISM SERVICES**

Necessity for licence to offer tourism service.

**15.** No person shall offer any tourism service specified in the First Schedule for reward or otherwise unless a licence has been issued by the Minister to offer such service.

Licensing committee.

**16.** (1) There is hereby established a committee to be known as the Licensing Committee.

(2) An application for a licence to offer a tourism service must be made to the Minister through the Licensing Committee.

(3) The Licensing Committee shall consist of -

- (a) the Director of Tourism or his nominee;
- (b) the Commissioner of Police or his nominee;
- (c) the Director of the Bureau of Standards or his nominee;
- (d) the Chief Environmental Health Officer or his nominee;
- (e) the Director of Forestry and National Parks or his nominee; and
- (f) one other person involved in the tourism industry appointed by the Minister.

(4) A member of the Licensing Committee appointed by the Minister shall hold office for a period not exceeding two years, as the Minister may determine, and shall be eligible for re-appointment.

(5) The General Manager shall provide such staff and other support as may be required by the Licensing Committee for the effective exercise of its functions.

(6) Decisions of the Licensing Committee shall be by majority vote.

(7) Subject to the approval of the Minister, the Licensing Committee shall regulate its own procedure.

(8) The Licensing Committee shall -

- (a) receive and review applications for licences;
- (b) make recommendations to the Minister on the issuance or non-issuance of licences based on the report of the Unit;
- (c) receive and review compliance reports from the Unit; and
- (d) make recommendations to the Minister in respect to the suspension, revocation or reinstatement of licenses based on the report of the Unit.

**17.** (1) The Minister shall issue, refuse, suspend, revoke or reinstate a licence, in accordance with the recommendations of the Licensing Committee.

Issue, suspension, etc. of licences.

(2) Upon the suspension or revocation of a licence, the Minister shall inform the licensee of his right to appeal to the Appeals Tribunal.

(3) A licensee whose licence has been suspended or revoked shall forthwith cease to offer tourism services and shall not offer tourism services during the period of suspension or revocation notwithstanding that he has filed an appeal to the Appeals Tribunal.

(4) A person who at the commencement of this Act offers a tourism service must apply for a licence in accordance with this section, within six months of such commencement.

(5) A licence issued under this Act shall be displayed in a conspicuous manner at the place of business of the licensee.

(6) No personal liability shall attach to the Minister or any member of the Corporation, Unit or Licensing Committee in

respect of anything done or suffered in good faith under the provisions of this Act or Regulations made thereunder; and no sum of money, damages or costs may be recovered against the Minister or any member of the Corporation, Unit or Licensing Committee in respect of any act or thing done *bona fide* for the purposes of this Act and Regulations made thereunder.

Content of application for licence.

**18.** (1) An application for the purposes of section 16 shall contain the following information:

- (a) the name and address of the applicant;
- (b) the type of tourism service to be offered;
- (c) the location from which the service is to be offered;
- (d) the number of persons employed or to be employed in offering the service;
- (e) the type of building or other structure from which the service is offered or is to be offered.

(2) An application for the purposes of section 16 must be accompanied by the prescribed fee.

Processing of applications.

**19.** The Licensing Committee shall cause all applications received for the purposes of section 16 to be investigated, processed and forwarded to the Minister with a recommendation.

Fees, Tourism Fund.

**20.** (1) Regulations made pursuant to section 36 shall be deemed to be the conditions to which every licence issued under this Act shall be subject.

(2) No licence shall be issued by the Minister unless the applicant has produced evidence of the payment of the prescribed licence fee.

(3) There shall be established a Tourism Fund which shall be under the control and administration of the Corporation and which shall be held on an interest bearing account at the National

Bank of Dominica or such other financial institution as the Minister shall direct.

(4) Notwithstanding anything to the contrary contained in any other written law, all licence and other fees payable under this Act and Regulations made thereunder shall be paid to the Corporation.

(5) All such licence and other fees received pursuant to subsection (4) shall be deposited into the Tourism Fund after the deduction therefrom of a 10% administrative fee to be deposited into the Consolidated Fund.

(6) The proceeds of the Tourism Fund shall be applied to the expenses incurred in the general administration, implementation and application of the provisions of this Act and Regulations made thereunder and for such other related purposes as may be approved by the General Manager.

**21.** A licence issued under this Act-

Duration of licence etc.

- (a) shall be issued for such period, not to exceed three years, as the Minister may determine;
- (b) shall not be transferred or assigned; and
- (c) is renewable.

**22.** (1) Subject to subsection (2), the Minister may revoke a licence if he is satisfied that -

Revocation of licence.

- (a) the licensee has violated any conditions of the licence imposed by the Minister;
- (b) the licensee has not maintained or applied the relevant standard and has not remedied the same within six months after being requested so to do;  
or
- (c) the licensee has falsely advertised a standard, classification or rating which does not comply to the tourism service for which the licence was issued.

(2) A person whose licence is to be revoked shall be given a hearing by the Minister prior to such revocation.

Appeals Tribunals.

**23.** (1) There is hereby established an Appeals Tribunal for the purposes of this Act.

(2) The Appeals Tribunal shall consist of three members appointed by the Minister from among persons trained and experienced in -

(a) law; and

(b) tourism

(3) Each member of the Appeals Tribunal shall hold office for a period not exceeding two years but such members shall be eligible for reappointment.

(4) The General Manager shall provide such staff and other support as may be required by the Appeals Tribunal for the effective exercise of its functions.

(5) The decisions of the Appeals Tribunal shall be by majority vote.

(6) It shall be the duty of a member of the Appeals Tribunal who is in any way directly or indirectly interested in a matter coming before the Appeals Tribunal to declare the nature of his interest in the matter as soon as it is practicable for him to do so, and he shall take no part directly or indirectly in any deliberation, discussion, consideration or decision of the Appeals Tribunal on that matter.

(7) Where a member of the Appeals Tribunal is disqualified from participating in the hearing of a matter under subsection (6), the Minister shall appoint a person to replace the member so disqualified, for the duration of the hearing of the matter in which the member has an interest.

(8) Subject to the approval of the Minister, the Appeals Tribunal shall regulate its own procedure.

**24.** (1) A person who is aggrieved by or dissatisfied with a decision of the Minister under this Act may appeal to the Appeals Tribunal. Appeals procedure.

(2) An appeal shall lie to the Appeals Tribunal against any decision made by the Minister-

- (a) refusing to issue a licence;
- (b) suspending a licence;
- (c) revoking a licence;
- (d) refusing to reinstate a licence;
- (e) removing a classification or rating; or
- (f) refusing to reinstate a classification or rating.

(3) A person wishing to appeal under subsection (2) shall, within 30 days of the decision which is to be appealed against, submit a Notice of Appeal to the Appeals Tribunal, the Minister and the General Manager.

(4) A Notice of Appeal given under subsection (2) shall set out -

- (a) the name of the appellant;
- (b) the decision appealed against; and
- (c) concisely the grounds on which the appellant wishes to appeal against the decision.

(5) Within 10 working days of receipt of the Notice of Appeal the Appeals Tribunal shall notify the Appellant and the Minister of a date for the hearing of the appeal.

(6) On the hearing of the appeal the Appeals Tribunal may -

- (a) allow the appeal in whole or in part and set aside the decision of the Minister;
- (b) if it allows the appeal, vary the decision of the Minister;

(c) correct any procedural defect in the decision of the Minister or error of law in the order of the Minister; or

(d) dismiss the appeal and confirm the decision of the Minister.

(7) The Appeals Tribunal shall give all parties written notification of its decision.

Decision of Tribunal.

**25.** (1) Save as provided in subsection (2), a decision of the Appeals Tribunal shall be final.

(2) An appeal shall lie to the High Court from a decision of the Appeals Tribunal on a point of law but not on any matter of fact and not in any manner upon the merits of the policies applied by the Minister or the Appeals Tribunal in reaching the relevant decision.

(3) No member of the Appeals Tribunal shall in any way be liable in respect of anything done or omitted to be done in the discharge of their functions, or of any words spoken or written for the purposes of the hearing of an appeal under this act, unless the thing was done or omitted to be done or the words were spoken or written in bad faith.

#### PART IV CLASSIFICATION AND RATING OF TOURISM SERVICES

Power to classify tourist accommodation.

**26.** The Minister may cause the General Manager to develop a system of classification with respect to tourist accommodation specified in the Second Schedule.

Objectives of classification.

**27.** The objectives of the system of classification are -

(a) to apply established international standards to tourist accommodation situate in the Commonwealth of Dominica;



- (b) to ensure that certain types of tourist accommodation maintains particular standards; and
- (c) to ensure that there is a price differential among different types of tourist accommodation.

**28.** The General Manager shall cause the results of the classification to be published in such a manner that will result in the widest dissemination, locally, regionally and internationally.

Publication of classification.

**29.** The Minister shall cause the General Manager to develop a system for the rating of the tourism services specified in the First Schedule.

Rating of tourism services.

**30.** The General Manager shall cause the rating of the tourism services to be published in such a manner that is likely to result in the widest dissemination, locally, regionally and internationally.

Publication of ratings.

**31.** (1) The classification or rating assigned or given to a tourism service may be removed by the Minister if he is satisfied that a false or misleading classification was used in advertising or otherwise in relation to a tourist accommodation or tourist service.

Removal of classification or rating.

(2) Any removal of classification or rating by the Minister under subsection (1) shall be published by the General Manager in such a manner that will ensure the widest dissemination, locally, regionally and internationally.

**32.** The General Manager may from time to time cause the systems of classification and rating to be reviewed so as to ensure that all tourist accommodation and tourist services are properly classified or rated.

Review of classification and rating.

**33.** (1) The Minister may reinstate a classification or rating if he is satisfied that the basis for the removal has been removed or remedied.

Reinstatement of classification.

(2) The Minister shall cause any reinstatement under subsection (1) to be published in such a manner that will ensure the widest dissemination, locally, regionally and internationally.

Status of Corporation re classification, rating, etc.

**34.** The publication of any classification, rating and related matters under this Part must be done under the authority of the National Development Corporation which fact must be so indicated.

**PART V  
MISCELLANEOUS**

Offences.

**35.** (1) A person who offers a tourism service without a licence commits an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars and a further fine of one thousand dollars for each day on which the offence continues after a first conviction.

(2) A person who advertises or causes to be advertised any tourism accommodation which indicates a classification or rating not issued under this Act commits an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars and a further fine of five hundred dollars for each day on which the offence continues after a first or subsequent conviction.

Rules and regulations.

**36.** (1) The Minister may make rules and regulations generally in order to give effect to the provisions of this Act.

(2) A fine of five thousand dollars or imprisonment for six months, or both such fine and imprisonment may be attached to rules and regulations made pursuant to subsection (1).

Special powers of Minister.

**37.** The Minister may by Order amend or vary any of the Schedules to this Act.

Delegation.

**38.** Where a duty is conferred on the Minister or General Manager by or under this Act, such a duty may be delegated, by an instrument in writing, to the General Manager or an officer of the Corporation as the case may be.

**39.** The Tourism (Regulation and Standards) Act, 2001 is hereby repealed.

Repeal of Act No. 9 of 2001.

**FIRST SCHEDULE**

Section 15.

**Tourism Services**

1. All types of accommodation offered wholly or mainly to tourists
2. Transportation services
3. Vending
4. Tour guide
5. Water sports
6. Food and beverage
7. Hair braiding
8. Sites and attractions
9. Travel agencies
10. Tour operators

**SECOND SCHEDULE**

Section 26.

1. Hotels
2. Apartment hotels/cottages
3. Motels
4. Resorts
5. Inns
6. Guest houses
7. Bed & breakfast
8. Camp Ground
9. Speciality lodging
10. Host homes

Passed in the House of Assembly this 20<sup>th</sup> day of December, 2005.

*ALEX F. PHILLIP (MRS.)  
Clerk of the House of Assembly.*

**DOMINICA**

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