

COMMONWEALTH OF DOMINICA

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Amendment of section 2.
4. Repeal and replacement of section 6.
5. Repeal and replacement of section 7.
6. Repeal and replacement of section 9.
7. Amendment of section 10.
8. Amendment of section 11.
9. Repeal and replacement of section 12.
10. Amendment of section 13.
11. Amendment of the heading of Part III.
12. Amendment of section 17.
13. Amendment of section 20.
14. Amendment of section 21.
15. Amendment of section 22.
16. Amendment of section 24.
17. Amendment of section 26.
18. Repeal and replacement of section 35.
19. Repeal and replacement of section 36.
20. Repeal and replacement of section 38.
21. Amendment of the Act.
22. Insertion of New Second Schedule.

2016

**TOURISM
(REGULATION AND STANDARDS)
(AMENDMENT)**

ACT 13

131

COMMONWEALTH OF DOMINICA

ACT NO. 13 of 2016

I assent



CHARLES A. SAVARIN
President

23rd November, 2016

**AN ACT TO AMEND THE TOURISM (REGULATION
AND STANDARDS) ACT, 2005.**

(Gazetted 24th November, 2016.)

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

1. This Act may be cited as the –

Short title.

**TOURISM (REGULATION AND STANDARDS)
(AMENDMENT) ACT, 2016.**

Interpretation.
 Act No. 19 of 2005.

2. In this Act the Tourism (Regulation and Standards) Act, 2005 is referred to as “the Act”.

Amendment of section 2.

3. Section 2 of the Act is amended by –

(a) deleting the definition of “Chief Executive Officer” and by inserting the following new definitions in their appropriate alphabetical order -

““Director of Tourism” means the Chief Executive Officer appointed by the Authority under section 9 of the Discover Dominica Authority Act, 2007;

“Licensing Committee” means the Committee established by section 16 of the Act;”;

(b) inserting after the definition of “standards” the following definition -

““Standards Committee” means a Committee established under section 13 of the Act;”;

(c) deleting the definition of “tourism services” and substituting the following definition -

““tourism services” means any service offered to tourists, such as, a service connected with accommodation, bus tours, taxis, tour guiding, vending, water sports, and food and beverage offered wholly or mainly to tourists;” and

(d) inserting after the definition of “tourism services” the following definition -

““tourism service provider” means a person who provides a tourism service;”.

Act No. 8 of 2007.

4. Section 6 of the Act is repealed and the following is substituted therefor -

Repeal and replacement
of section 6.

“Consultation with
Bureau and Standards
Committee.

6. The Director of Tourism shall, in the development of standards, consult with the Bureau and the relevant Standards Committee, which shall provide such advice and guidance, as may be appropriate, for the development of any particular standard.”.

5. Section 7 of the Act is repealed and the following is substituted therefor -

Repeal and replacement
of section 7.

“Relevant
considerations.

7. The Director of Tourism, the Bureau and the relevant Standards Committee, shall have regard, in the development of standards, to the objectives of such standards set out in section 5.”.

6. Section 9 of the Act is repealed and the following is substituted therefor -

Repeal and replacement
of section 9.

“Enforcement of
standards and
conditions.

9. The standards developed under this Act shall, upon publication in the *Gazette*, be mandatory in relation to the tourism service to which they apply and every person who is licensed to offer any tourism service shall -

(a) comply with the conditions of his licence; and

(b) comply with and maintain the relevant standards respecting the tourism service that he is licensed to offer.”.

7. Section 10 of the Act is amended in subsection (3), by deleting paragraph (c) and substituting therefor the following -

Amendment of
section 10.

“(c) issue –

- (i) notices in the Gazette specifying the training and certification required for obtaining licences as tourism service providers or for the renewal of such licences; and
- (ii) non-compliance notices to tourism service providers within the tourism sector;”.

Amendment of
section 11.

8. Section 11 of the Act is amended -

(a) by repealing subsection (1) and substituting therefor the following -

“(1) A Quality Assurance Officer may at any reasonable time enter a tourist accommodation, establishment, vehicle or other location where a tourism service is being offered, for the purpose of inspecting the same and for ascertaining -

- (a) whether any action that is to be taken by a person under a non-compliance notice, has been taken within the time specified therein, or forthwith if so specified; or
- (b) whether or not the standards established under this Act or any Regulations made thereunder are being complied with by a licensee.”;

(b) in subsection (2) by deleting the words “subsection (2)” and substituting the words “subsection (1)”; and

(c) by inserting the following subsection as subsection (4) -

“(4) A Quality Assurance Officer may for the purposes of subsection (1) or any other provision of this Act or Regulations, request the assistance of a police officer who shall for such purpose exercise such powers as are vested in him for the prevention of offences and the enforcement of law and order.”.

9. Section 12 of the Act is repealed and the following is substituted therefor –

Repeal and replacement
of section 12.

“Non-compliance
procedures.

12. (1) Where a licensee continues to offer a tourism service after the expiration of his license and there has been no application for the renewal of the licence, the Unit shall issue a notice in writing to the licensee informing him of the breach and requiring that corrective action be taken within the period stipulated in the notice, such period not to exceed twenty-one days.

(2) No licensee who fails to apply for the renewal of the license within the period stipulated in the notice issued under subsection (1) shall continue to offer the tourism service for which he was formerly licensed.

(3) Where the Unit determines that a licensee has violated any conditions of the licence or is in breach of or is not complying with any of the standards developed under this Act or 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 violation, breach or non-compliance and stipulating a time within which the violation, breach or non-compliance 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 Licensing Committee, if the licensee fails to remedy the violation, breach or non-compliance.

(4) A licensee who receives a notice pursuant to subsection (3) shall, upon receipt of the notice, forthwith cease to offer the tourism service for which he was licensed to provide and surrender his licence to the Licensing Committee within 48 hours of receipt of the notice.

(5) Where a licensee referred to under subsection (4) remedies the violation, breach or non-compliance within the time stipulated in the notice to the satisfaction of the Unit, the Minister shall, on the recommendation of the Licensing Committee, reinstate the licence and return the surrendered licence to the licensee.

(6) Upon receipt of a report under subsection (3), the Licensing Committee, after considering the report, may recommend to the Minister –

- (a)* the suspension of the licence for such period as the Committee shall determine or until the violation, breach or non-compliance is remedied to the satisfaction of the Committee;
- (b)* the revocation of the licence; or
- (c)* some other appropriate manner to deal effectively with the matter.”.

(7) Notwithstanding -

- (a) subsection (1), a person offering a tourism service respecting bus tours, taxis, or water sports shall forthwith cease to offer the service for which he was licensed to provide on the expiration of his license;
- (b) subsections (3) to (6), where an officer of the Unit reasonably believes that a licensee's violation of any condition of his licence or breach of any of the standards established under the Act or Regulations threatens the tourism industry, the Unit may forthwith serve a notice of suspension on the licensee and the suspension shall continue until such time as the notice of suspension is reviewed by the Licencing Committee; such review to be undertaken by the Committee within twenty-one days of the issuance of the notice.

(8) When a suspension notice issued under subsection (7)(b) is reviewed by the Committee, the Committee may recommend to the Minister -

- (a) the continued suspension of the licence until the violation or breach is remedied;
- (b) the reinstatement of the licence;
- (c) the revocation of the licence; or
- (d) some other appropriate manner to deal effectively with the matter.”.

10. Section 13 of the Act is amended by renumbering

Amendment of
section 13.

subsection (2) as subsection (3), and by inserting after subsection (1), the following as subsection (2) –

“(2) When the Minister is determining the number of Committees required, and establishing the Committees pursuant to subsection (1), he shall consult with the Director of Tourism.”.

Amendment of the
heading of Part III.

11. The heading of Part III of the Act is amended by inserting after the words “TOURISM SERVICES” the words “AND APPEALS”.

Amendment of
section 17.

12. Section 17 of the Act is amended -

(a) by deleting subsection (1) and substituting therefor the following -

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

(b) in subsection (3), by deleting the word “revocatin” appearing after the words “suspension or” and substituting therefor the word “revocation”;

(c) in subsection (4), by deleting the words “this section” appearing after the words “in accordance with” and substituting therefor the words “section 16”;

(d) in subsection (6), by deleting the word “suffered” appearing before the words “in good faith” and substituting therefor the words “omitted to be done”; and

(e) by inserting the following subsection as subsection (7):

“(7) Notwithstanding subsection (1), the Minister may issue, refuse, renew, suspend, revoke or reinstate a licence to a person or former licensee, after consultation with the Director, if the Minister considers that it is in the best interest of the development of the tourism industry.”.

13. Section 20 of the Act is amended –

Amendment of
section 20.

- (a) in the marginal note by inserting the words “Regulations deemed conditions,” before the word “Fees”;
- (b) in subsection (1) by deleting the word “the” appearing before the word “conditions”;
- (c) by repealing subsection (2) and substituting therefor the following –

“(2) No licence shall be issued by the Minister unless the applicant has produced evidence of the payment of the relevant licence fee specified in the Second Schedule.”; and

Second Schedule.

- (d) in subsection (3) by deleting the word “on” appearing after the word “held” and substituting therefor the word “in”.

14. Section 21 of the Act is amended by deleting paragraph (c) and substituting therefor the following –

Amendment of
section 21.

“(c) is renewable, subject to the continued compliance with the relevant conditions current at the time, and upon proof that the training and certification required by the Authority has been obtained.”.

15. Section 22 of the Act is amended as follows –

Amendment of
section 22.

(a) in subsection (1) -

(i) in the introductory words by inserting after the words “subsection (2),” the words “and notwithstanding any other provisions of this Act,”;

(ii) in paragraph (a) by deleting the words “imposed by the Minister” and substituting therefor the words “or conducted himself in a manner that could threaten the development of the tourism industry”;

(iii) in paragraph (b) by deleting the words “six months after being requested so to do” and substituting therefor the words “the time specified in the notice”; and

(b) in subsection (2), by inserting after the word “revoked” the words “under any of the provisions of this Act”.

Amendment of
section 24.

16. Section 24 of the Act is amended in subsection (2) (a) by inserting the words “or renew” after the word “issue”.

Amendment of
section 26.

17. Section 26 of the Act is amended by deleting the word “Second” appearing before the word “Schedule” and substituting therefor the word “Third”.

Repeal and replacement
of section 35.

18. Section 35 of the Act is repealed and the following is substituted therefor -

“Offences and
penalties.

35. (1) A person -

(a) who, not being in possession of a licence, offers or carries on a tourism service;

(b) who, not being in possession of a licence, allows any tourism service to be offered or

carried on from or in a property or vehicle of which he is the owner or co-owner from which he could have carried on such service, if he were in possession of a licence;

- (c) who, being in possession of a licence, fails to comply with any applicable provisions of the Act or Regulations made thereunder or with any condition to which the licence is subject;
- (d) who fails to comply with and maintain the relevant standards published in the *Gazette*;
- (e) who fails to apply for a renewal of a licence within the period stipulated in a notice issued under section 12 (1), yet continues to offer a tourism service in contravention of section 12 (2);
- (f) who, having been served with a notice under section 12 (3), fails to comply with section 12 (4);
- (g) who fails to comply with section 17 (3) after his licence has been suspended or revoked;
- (h) who fails to comply with section 17 (4) within the time specified;
- (i) who hinders, obstructs, molests or interferes with, or attempts to hinder, obstruct, molest, or interfere with, a Quality Assurance officer or any other officer of the Authority, or any police officer, in the execution of his duties under the Act and Regulations made thereunder, or fails to comply with any reasonable requirement demanded of him by any such officer, or police officer;

(j) who knowingly furnishes a Quality Assurance Officer, any other officer of the Authority, or police officer with false information required for the purposes of this Act which is false, misleading or incorrect in any material respect; or

(k) who advertises or causes to be advertised any tourism accommodation that indicates a classification or rating not issued under this Act,

commits an offence and is liable on summary conviction to a fine of five thousand dollars and a further fine of one thousand dollars for each day on which the offence continues after a first or subsequent conviction.

(2) Subject to subsection (3), a certificate signed by or purporting to be signed by the Director of Tourism, the Head of Product Development or a Quality Assurance Officer is admissible in evidence in any proceeding for an offence under this Act or Regulations and, in the absence of evidence to the contrary, is proof of the statements set out in the certificate, without proof of the signature or appointment of the Director, the Head of Product Development or the Quality Assurance Officer.

(3) The person against whom a certificate is produced under subsection (2) may, with leave of the court, require the attendance of the Director of Tourism, the Head of Product Development or the Quality Assurance Officer, as the case may be, for the purpose of cross-examination.

(4) The court, besides awarding the penalties referred to in subsection (1), may order the offender to remove the cause of the offence, or to comply with a notice or with a condition to which the licence is subject, as the case may be, within a time sufficient for the purpose to be fixed by the court, but in any case not exceeding three months from the date of the judgment; and if the offender fails to comply with any order within the time so fixed, he is liable to a further fine of five thousand dollars and to imprisonment for six months.

(5) Without prejudice to any penalties that may be prescribed under any other law, if a tourism service provider engages in any conduct that is not specifically prohibited under this Act or Regulations made thereunder, but which in the opinion of the Minister could threaten the development of the tourism industry in the Commonwealth of Dominica, or if a tourism service provider is convicted of a serious offence, the Minister may, in consultation with the Licensing Committee, impose on such tourism service provider any of the following disciplinary measures, namely –

- (a) a written reprimand;
- (b) suspension of the licence of the tourism service provider for such period as may be considered necessary;
- (c) refusal to renew the licence of the tourism service provider for such period as may be considered necessary; or
- (d) revocation of the licence of the tourism service provider.

(6) For the purposes of this section the expression “serious offence” means an offence for which the sentence is fixed by law or for which a person (not previously convicted) may under or by virtue of an enactment be sentenced on conviction to imprisonment for a term of five years; and the expression includes an attempt to commit such offence.

(7) An offence under this Act or Regulations may be prosecuted on the complaint of an officer of the Authority or a member of the Police Service.

(8) When an officer of the Authority makes a complaint against a person, any other officer of the Authority may appear before the court, and shall have the same privileges as to addressing the court and as to examining the witnesses adduced in the matter as the officer who made the complaint would have had.”

Repeal and replacement
of section 36.

19. Section 36 of the Act is repealed and the following is substituted therefor –

“Regulations.

36. (1) The Minister may, on the recommendation of the Licensing Committee, make Regulations to regulate or otherwise provide for any matter relating to tourism services in order to give fuller effect to the provisions of this Act, and, without limiting the generality of the foregoing, may make Regulations –

- (a) respecting classifications and ratings relating to tourism services;
- (b) respecting licences for tourism services, including –

- (i)* the eligibility of applicants for licences;
 - (ii)* the application for licences;
 - (iii)* the issuance and renewal of licences;
 - (iv)* the circumstances in which training or certification may be required before a licence may be issued or renewed;
 - (v)* the fees for licences;
 - (vi)* the suspension or revocation of licences;
and
 - (vii)* the conditions that may be imposed on licences;
- (c)* respecting the hearing by the Minister under section 22 (2);
- (d)* governing the operations and practices of tourism service providers;
- (e)* requiring tourism service providers to maintain records respecting their tourism activities;
- (f)* respecting the public liability insurance that tourism service providers shall maintain;
- (g)* respecting the conduct, training, qualifications and certification of tourism service providers and their employees;
- (h)* requiring tourism service providers to meet minimum safety standards and to implement safety measures, including having an emergency response plan;

- (i) respecting the circumstances in which consultation may be required before the Minister may make, amend or revoke regulations relating to tourism services, the persons or groups that must be consulted and the process for conducting the consultation;
- (j) respecting a fixed penalty ticketing system for certain offences to be specified;
- (k) prescribing the powers and duties of Quality Assurance Officers and other employees of the Authority and for the purpose of administering and enforcing this Act and the Regulations; and
- (l) prescribing anything that by this Act is to be prescribed.

(2) A fine of five thousand dollars or imprisonment for six months, or both such fine and imprisonment may be attached to Regulations made under this Act.”.

Repeal and replacement
of section 38.

20. Section 38 of the Act is repealed and the following is substituted therefor –

“Delegation.

38. Where a power or function is conferred on the Minister or the Director of Tourism by or under this Act, such power or function may be delegated -

- (a) in the case of the Minister, by an instrument in writing, to the Director of Tourism; and
- (b) in the case of the Director of Tourism, by an instrument in writing, to a suitable officer of the Authority.”.

21. The Act is amended by deleting the words “Chief Executive Officer” wherever they appear therein and substituting therefor the words “Director of Tourism”.

Amendment of the Act.

22. The Act is amended by inserting the following new Second Schedule -

Insertion of new Second Schedule.

“SECOND SCHEDULE

Section 20 (2)

TOURISM SERVICE PROVIDER FEES

1 year Licence

SECTORS	FEE STRUCTURE
Accommodation	10 rooms or less - \$50.00 11-25 rooms - \$100.00 Every additional room - \$5.00
Watersports	\$100.00
Car Rentals	\$100.00
Tour Operators	\$100.00
Food & Beverage	\$100.00
Travel Agencies	\$100.00
Taxi Operators	\$ 50.00
Vending	\$ 50.00
Tour Guide	\$ 50.00
Hair braiding	\$ 50.00

2 Year Licence

SECTORS	FEE STRUCTURE
Accommodation	10 rooms or less - \$75.00 11-25 rooms - \$150.00 Every additional room - \$5.00
Watersports	\$150.00
Car Rentals	\$150.00
Tour Operators	\$150.00
Food & Beverage	\$150.00
Travel Agencies	\$150.00
Taxi Operators	\$ 75.00
Vending	\$ 75.00
Tour Guide	\$ 75.00
Hair braiding	\$ 75.00

3 year Licence

SECTORS	FEE STRUCTURE
Accommodation	10 rooms or less - \$125.00 11-25 rooms - \$250.00 Every additional room - \$5.00
Watersports	\$250.00
Car Rentals	\$250.00
Tour Operators	\$250.00
Food & Beverage	\$250.00
Travel Agencies	\$250.00
Taxi Operators	\$125.00
Vending	\$125.00
Tour Guide	\$125.00
Hair braiding	\$125.00

Late fee

Any application for renewal of licence submitted after the expiration date will be subject to a late fee of **\$25.00** plus **\$5.00** for each day the service provider operates without certification. This is payable upon submission of the application.

**TOURISM
(REGULATION AND STANDARDS)
(AMENDMENT)**

Vehicular (Decal) Stickers:	\$15.00 each
Identification Card (ID) Replacement:	\$25.00.”.

Passed in the House of Assembly this 24th day of October, 2016.

MR. DANIEL JAMES

Clerk of the House of Assembly (Ag.)

DOMINICA

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