



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 261 2000

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 21 of 2000: Namibia Tourism Board Act, 2000.

Act No. 21, 2000

NAMIBIA TOURISM BOARD ACT, 2000

ACT

To establish the Namibia Tourism Board and to provide for its functions; to provide for the registration and grading of accommodation establishments; to provide for the declaration of any sector of the tourism industry as a regulated sector and for the registration of businesses falling within a regulated sector; and to provide for matters incidental thereto.

(Signed by the President 7 November 2000)

ARRANGEMENT OF SECTIONS

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SCHEDULE

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

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NAMIBIA TOURISM BOARD ACT, 2000**Definitions**

1. In this Act, unless the context otherwise indicates -

"accommodation" means facilities for overnight stay and the services commonly associated therewith, including facilities provided on any premises where camping in caravans, tents or similar devices is allowed;

"accommodation establishment" means any premises in or on which the business of providing accommodation with or without meals against payment to tourists is or is intended to be conducted;

"Board" means the Namibia Tourism Board established by section 2;

"chairperson" means the chairperson of the Board;

"Chief Executive Officer" means the Chief Executive Officer of the Board appointed in terms of section 11.

"committee" means a committee of the Board established in terms of section 9;

"environmentally sustainable tourism" means the development and operation of the tourism industry in such a manner that the assets and attractions on which the industry depends, are protected, and in particular the safeguarding and maintaining of ecological processes, biodiversity, aesthetic and cultural qualities for the long-term benefit of the tourism industry and Namibia's people;

"financial year" means the period from 1 April in any year to 31 March in the ensuing year;

"insignia", in relation to an accommodation establishment, means the depictions, signs and symbols which by themselves or in conjunction with one another, and together with the emblem of the Board, indicate the grading which has been allocated in terms of this Act in respect of the accommodation establishment;

"inspector" means any person appointed in terms of section 17 as an inspector;

"member" means a member of the Board;

"Minister" means the Minister responsible for Tourism;

"Ministry" means the Ministry charged with the administration of tourism affairs;

"Permanent Secretary" means the Permanent Secretary of the Ministry;

"prescribed" means prescribed by regulation under section 30;

"record" includes any data contained in electronic form in a computer or on a computer disc;

"regulated business" means a business which falls within the category of a regulated sector;

"regulated sector" means a sector of the tourism industry which has been declared a regulated sector under section 23;

"this Act" includes any regulation made under section 30;

"tourism" means the activities of foreign visitors and Namibian residents travelling to and staying at places outside of their usual environment for not more than one year for the purposes of visiting, experiencing and enjoying Namibia's natural, social and self-constructed amenities, and for business and other purposes;

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"tourism industry" means the businesses, enterprises and activities which provide services and facilities and cater for, attract and meet the needs of international and domestic tourists;

"tourism private sector" means the tourism industry owned and operated by persons not in government employment; and

"tourist" means any person who travels to a destination away from his or her normal place of residence for recreational or business purposes.

Establishment of Namibia Tourism Board

2. There is established a juristic person to be known as the Namibia Tourism Board.

Functions of the Board

3. The functions of the Board are -
- (a) to promote tourism by encouraging persons to travel to and within Namibia;
 - (b) to take measures to ensure that services rendered and facilities provided to tourists comply with the prescribed standards;
 - (c) to consider and decide on applications for registration of accommodation establishments and regulated businesses and to grade accommodation establishments;
 - (d) to promote the training of persons engaged or to be engaged in the tourism industry to ensure that they are adequately trained to provide services pertaining to that industry;
 - (e) to promote the development of the tourism industry and to promote environmentally sustainable tourism by actively supporting the long-term conservation, maintenance and development of the natural resource base of Namibia;
 - (f) to give advice and guidance to persons engaged in the tourism industry;
 - (g) to promote tourism activities on a national, regional and local level, including the promotion of private sector associations to represent their members in the tourism industry;
 - (h) to advise the Minister on any matter relating to -
 - (i) the formulation or implementation of national policy on tourism, including the creation of incentives to encourage tourism development projects; and
 - (ii) the administration of this Act or any other law relating to the tourism industry;
 - (i) to carry out any other function conferred or imposed on the Board by or under this Act or any other law.

Constitution of the Board

4. (1) The Board shall consist of five members appointed by the Minister of whom-
- (a) one shall be a staff member of the Ministry;
 - (b) one shall be a staff member of the Ministry of Trade and Industry nominated by the Minister of Trade and Industry;

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- (c) one shall be a staff member of the Ministry of Finance nominated by the Minister of Finance; and
- (d) two shall be persons to represent the tourism private sector who shall be selected by the Minister from nominations made by that private sector.

(2) The Minister shall by notice in the *Gazette* announce the names, positions and nationalities of the members appointed in terms of subclause (1).

(3) Members shall be appointed for their knowledge of and ability and experience in the tourism industry or for their suitability otherwise for appointment as members.

(4) The Minister shall appoint one member as chairperson and another member as vice-chairperson of the Board.

(5) If the chairperson is for any reason unable to act the vice-chairperson shall perform the functions of the chairperson.

Disqualifications for appointment as member

5. A person is not eligible for appointment as a member if he or she -
- (a) is not a Namibian citizen or the holder of a permanent residence permit issued under the laws relating to immigration: Provided that if the Minister is convinced that it is in the interest of the tourism industry in Namibia, the Minister may appoint as a member a person who is not a Namibian citizen or the holder of a permanent residence permit and who has extensive expertise in tourism administration;
 - (b) is a member of the National Assembly or of a regional council established under section 2 of the Regional Councils Act, 1992 (Act No. 22 of 1992);
 - (c) is an unrehabilitated insolvent;
 - (d) is under the age of 21 years;
 - (e) has been convicted of an offence, other than a political offence committed before the date of Namibia's independence, for which he or she has been sentenced to a term of imprisonment without the option of a fine for a period of 12 months or more.

Vacation of office by members of the Board

6. (1) The office of a member shall become vacant if he or she -
- (a) becomes subject to a disqualification referred to in section 5;
 - (b) submits his or her resignation in writing to the Minister;
 - (c) is absent from three consecutive meetings of the Board without the consent of the chairperson;
 - (d) is removed from office under subsection (2).

(2) The Minister, on the recommendation of the Board, may remove a member from office if the Minister is satisfied, after affording the member a reasonable opportunity to be heard -

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- (a) that the member is mentally or physically incapable of efficiently performing his or her duties as a member; or
- (b) has been guilty of conduct which renders him or her unfit to serve as a member.

Term of office of members and filling of vacancies

7. (1) Subject to section 6, a member shall hold office for such period, not exceeding three years, as the Minister may determine on his or her appointment.

(2) On the death of, or the vacation of office by, a member, the Minister may appoint, subject to section 4(1) if applicable, a person to fill the vacancy until the expiration of the period during which the member would, but for his or her death or vacation of office, have continued in office.

- (3) A retiring member is eligible for reappointment as a member.

Meetings of the Board

8. (1) The first meeting of the Board shall be held at such time and place as the Minister may determine and thereafter the Board shall meet at such times and places as the Board determines.

- (2) At least four meetings of the Board shall be held in a year.

(3) The chairperson may at any time of his or her own accord, and shall at the written request of not less than three members, convene an extraordinary meeting of the Board which shall be held at the time and place determined by the chairperson.

(4) A notice whereby an extraordinary meeting of the Board is convened shall specify the purpose of that meeting.

- (5) Three members shall form a quorum for a meeting of the Board.

(6) If both the chairperson and the vice-chairperson are absent from a meeting of the Board, the members present shall from among their number elect a person to preside at that meeting.

(7) The decision of a majority of the members present at a meeting of the Board shall constitute a decision of the Board, and in the event of an equality of votes on any matter, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(8) No decision taken by or act performed on the authority of the Board shall be invalid merely because of a vacancy on the Board or because any person who was not entitled to sit as a member, sat as a member at the time when the decision was taken or the act was authorized, provided the decision was taken or the act was authorized by a majority of the members who were then present and entitled to vote.

Committees of the Board

9. (1) The Board may establish committees to assist it in the performance of such functions of the Board as the Board may delegate or assign to the committee under section 12.

(2) The members of a committee appointed under subsection (1) may consist of members of the Board as well as other persons.

- (3) The Board shall designate the chairperson of a committee.

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NAMIBIA TOURISM BOARD ACT, 2000**Disclosure of interest**

10. (1) A member shall not participate in the deliberations or vote on any matter which is the subject of consideration at a meeting of the Board or a committee if in relation to such matter, such member has any interest, whether direct or indirect, which precludes such member from performing the functions of a member in a fair, unbiased and proper manner.

(2) If at any stage during a meeting of the Board or a committee it appears that a member has or may have any interest which may cause a conflict of interests to arise, that member shall forthwith fully disclose the nature of such interest and leave the meeting so as to enable the remaining members to discuss such disclosure and determine whether the member is precluded from participating in such meeting by reason of a conflict of interests.

(3) A disclosure by a member in accordance with subsection (2), and the decision taken by the members in connection therewith, shall be recorded in the minutes of that meeting.

(4) A member who contravenes subsection (1) or fails to comply with subsection (2) commits an offence and shall on conviction be liable to a fine not exceeding N\$20 000 or to imprisonment not exceeding two years or to both such fine and such imprisonment.

Chief Executive Officer

11. (1) The Board shall appoint a person approved by the Minister to be Chief Executive Officer of the Board.

(2) The remuneration and other conditions of service of the Chief Executive Officer shall be determined by the Board.

(3) The Chief Executive Officer shall be appointed for a period of 5 years and shall be eligible for reappointment upon the expiry of that period.

(4) The Chief Executive Officer shall perform such functions as are conferred on him or her by this Act or as may be delegated or assigned to him or her by the Board.

(5) Except if the Board decides otherwise, the Chief Executive Officer shall attend a meeting of the Board and may take part in discussions on any matter under consideration before the Board, but he or she shall not be entitled to vote on any such matter.

Delegation

12. (1) The Board may delegate or assign to any committee or any employee of the Board any function conferred or imposed on the Board by or in terms of this Act.

(2) The delegation or assignment of any function to a committee or an employee in terms of subsection (1) shall not divest the Board of that function, and the Board may amend or rescind any decision of the committee or an employee in the exercise of that function.

Remuneration and allowances

13. A member of the Board or of a committee who is not a staff member of the Public Service shall be paid from the funds of the Board such remuneration and allowances as the Minister, with the concurrence of the Minister of Finance, may determine.

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NAMIBIA TOURISM BOARD ACT, 2000**Funds of the Board**

14. (1) The funds of the Board shall consist of -
- (a) moneys appropriated by Parliament for the purpose;
 - (b) moneys which accrue to the Board in terms of this Act or any other law;
 - (c) donations or contributions received by the Board from any source, including contributions by members of the tourism industry in respect of any specific tourism promotion project;
 - (d) interest earned on investments made by the Board; and
 - (e) moneys derived from advertisements placed in publications or promotional material issued by the Board.

(2) Subject to subsection (4), the Board shall use its funds to defray expenditure incurred in connection with the performance of its functions in accordance with the statement of its estimated income and expenditure approved in terms of subsection (3), but the Board -

- (a) may use any amount or part of an amount which is in accordance with such statement required to be used in connection with a particular matter, for any other purpose in connection with the performance of its functions, provided any requirements for authorisation for variation of appropriation of funds in terms of the financial policy of the Board are adhered to; and
 - (b) shall use donations and contributions contemplated in subsection (1)(c) in accordance with the conditions, if any, imposed by the donor or contributor.
- (3) The Board shall -
- (a) in every financial year before or on the date determined by the Minister submit a statement of its estimated income and expenditure during the ensuing financial year;
 - (b) in respect of additional expenses in connection with its functions in any financial year, submit a supplementary statement of its estimated income and expenditure in respect of that financial year;

to the Minister for his or her approval, granted with the concurrence of the Minister of Finance.

(4) The Board shall not incur any expenditure which may cause the total amount approved under subsection (3) to be exceeded.

Accounts, audit and annual report

15. (1) The Chief Executive Officer shall be the accounting officer of the Board and is charged with accountability in respect of all moneys received and all payments made by the Board.

- (2) The accounting officer shall -
- (a) keep full and correct accounts and records of all moneys received or spent by the Board and of the assets, liabilities and financial transactions of the Board;

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- (b) as soon as possible, but not more than three months after the end of any financial year of the Board, prepare annual financial statements which shall, with appropriate details, show the moneys received by the Board and the expenditure incurred by the Board and its assets and liabilities at the end of the financial year concerned.
- (3) The accounts and records and financial statements referred to in subsection (2) shall be audited annually by the Auditor-General.
- (4) The Board shall within 6 months after the end of every financial year submit to the Minister an annual report containing -
- (a) its audited balance sheet;
 - (b) its audited income statement;
 - (c) an audited statement of the source and application of its funds;
 - (d) a report on the affairs and activities of the Board during the preceding financial year, which must also indicate the planned activities of the Board for the forthcoming financial year; and
 - (e) such other information as the Minister may direct in writing.
- (5) The Minister shall, within 30 days of the date of receipt of the report submitted in terms of subsection (4), lay copies thereof upon the Table of the National Assembly if it is then in ordinary session, or, if it is not then in ordinary session, within 14 days after the commencement of its first ensuing ordinary session.
- (6) A copy of the annual report of the Board referred to in subsection (4)(d) shall at all times during the office hours be open to inspection, free of charge, by the public at the principal office of the Board.

Powers of the Board

16. In order to perform its functions the Board may -
- (a) buy, hire or otherwise acquire movable and immovable property, and sell, let or otherwise dispose of such property;
 - (b) negotiate or co-operate with any government or authority or any body or person, in Namibia or elsewhere, with regard to any matter aimed at the achievement of the functions of the Board;
 - (c) in Namibia or elsewhere, open and conduct offices necessary or convenient for the performance of its functions;
 - (d) insure itself against losses, damages and risks which it may incur;
 - (e) open and conduct banking accounts;
 - (f) accept grants and donations, and with the approval of the Minister, make grants and donations;
 - (g) invest moneys of the Board not immediately required by the Board;
 - (h) draw up, make, publish and sell or make available free of charge, books, guides, maps, publications, photographs, films, videos and similar matter, intended to inform persons of attractions in Namibia;

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- (i) gather, evaluate, process and publish information relating to tourism in Namibia;
- (j) with a view to the effective marketing of, and providing information relating to, any service, facility or product offered in connection with tourism, determine such informative and distinguishing signs, and make them known by such means, as the Board thinks fit;
- (k) employ, on such terms and conditions as the Board may determine, such persons as are necessary for conducting the Board's affairs;
- (l) pay or render available to its employees such remuneration, allowances, bonuses and other service benefits as the Board may determine;
- (m) provide pecuniary benefits for its employees on their retirement, resignation, discharge or other termination of service and in the event of their sickness or injury and for their dependants, and for that purpose effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for its employees and former employees and their dependants any or all of such pecuniary benefits;
- (n) negotiate and co-operate with any educational institution approved by the Minister with a view to the initiating, continuation or expansion of courses for the training of persons engaged in or to be engaged in the tourism industry;
- (q) generally do anything that is calculated to facilitate or is incidental or conducive to the performance of its functions under this Act or any other law.

Appointment of inspectors

17. (1) The Board shall appoint such of its employees as it considers necessary as inspectors to carry out the functions assigned to them by this Act.

(2) The Chief Executive Officer shall issue to an inspector a certificate of appointment which such inspector, on request by any person affected by the performance of his or her functions in terms of this Act, shall show to that person.

Powers of inspectors

18. (1) Subject to subsections (2) and (3), an inspector may -
- (a) at any reasonable time enter and inspect the premises of any accommodation establishment -
 - (i) for the purpose of making a report in relation to an application for registration or grading which has been made in respect of that accommodation establishment; or
 - (ii) to determine whether the requirements for registration or for any specific grading are being maintained in respect of any accommodation establishment registered or graded under this Act;
 - (b) at any reasonable time enter and inspect the premises, equipment, vehicles, books and records of any regulated business -
 - (i) for the purpose of making a report in relation to an application for registration which has been made in respect of that regulated business; or

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- (ii) to determine whether the requirements for registration are being maintained in respect of any regulated business registered under this Act;
 - (c) at any reasonable time, without a warrant, enter any premises in or on which he or she on reasonable grounds believes any accommodation establishment or regulated business is being conducted without being registered under this Act and, after having informed the person who is at such time in charge or control of such premises, of the purpose of his or her visit, make such examination and enquiry as he or she may consider necessary;
 - (d) while he or she is in or on any premises referred to in paragraph (a), (b) or (c), question any person who is at the time in charge or control of such premises, or any agent or employee of such person, with regard to any matter which the inspector considers necessary to execute his or her duties under this Act or to determine whether the provisions of this Act are complied with;
 - (e) require from the person in charge or control of premises referred to in paragraph (a), (b) or (c) or any agent or employee of such person to produce any book, record or other document which is or has been in or on the premises or in the possession of such person, agent or employee if, in his or her opinion, inspection of such book, record or other document is necessary for the purpose of any investigation which he or she is carrying out;
 - (f) examine, make extracts from or copies of any book, record or other document referred to in paragraph (e) and require an explanation of any entry therein from the person in charge or control of the premises or any agent or employee of such person;
 - (g) without warrant seize any such book, record or other document if he or she has reasonable grounds for believing that it may afford evidence of an offence under this Act.
- (2) In exercising the powers conferred by subsection (1) an inspector shall not enter and search any premises which is the private home of any person, unless such entry and search has been authorised by a warrant issued by a judge of the High Court or a magistrate with competent jurisdiction upon application by the inspector who has satisfied such judge or magistrate on oath that -
- (a) there are reasonable grounds for believing that any provisions of this Act are being contravened in that home or that a book, record or any other document or other article required for inspection is in that home; and
 - (b) that such entry and search is necessary for a purpose referred to in Article 13(1) of the Namibian Constitution.
- (3) The search of the home of a person by virtue of a warrant issued in terms of subsection (2) -
- (a) shall not be excessively intrusive, having regard to the contravention suspected; and
 - (b) shall comply with the provisions of subsections (3)(a) and (4) of section 21 and section 29 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- (4) Any person who is in charge or control of any premises entered by an inspector in terms of subsection (1) shall furnish such reasonable facilities and assistance as the inspector may require for the performance of his or her functions under this Act including access to any computer on the premises concerned and shall render assistance to such inspector to search any data contained in such computer and, on request of the inspector, provide any data contained in that computer in printed form to such inspector.

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- (5) Any person who, without just cause -
- (a) refuses to permit an inspector to enter any premises referred to in subsection (1) or to conduct any examination or inquiry in terms of that subsection;
 - (b) fails or refuses to produce any book, record or other document which an inspector has required him or her to produce in terms of subsection (1);
 - (c) fails or refuses to explain any entry in a book, record or other document which an inspector has required him or her to explain in terms of subsection (1);
 - (d) fails or refuses to furnish an inspector with reasonable facilities required by the inspector for the exercise of his or her powers as required by subsection (4);
 - (e) hinders or obstructs an inspector in the exercise of his or her powers in terms of subsection (1);
 - (f) wilfully and knowingly furnishes false or misleading information to an inspector; or
 - (g) removes or tampers with any book, record or other document seized by an inspector under subsection (1),

commits an offence and shall on conviction be liable to a fine not exceeding N\$20 000 or to imprisonment not exceeding two years or to both such fine and such imprisonment.

Accommodation establishments to be registered

19. Any person who provides accommodation to a tourist in an accommodation establishment which is not registered under section 20 commits an offence and shall on conviction be liable to a fine not exceeding N\$20 000 or to imprisonment not exceeding two years or to both such fine and such imprisonment.

Application for registration of accommodation establishment

20. (1) Any person who intends to conduct an accommodation establishment shall apply to the Board for the registration of such accommodation establishment.

(2) Any application in terms of subsection (1) shall be submitted to the Chief Executive Officer in duplicate on the prescribed form and shall be accompanied by the prescribed application fee.

(3) The Chief Executive Officer shall hand a copy of an application received in terms of subsection (2) to an inspector who shall inspect the premises of the accommodation establishment to determine whether it complies with the prescribed requirements.

(4) The Chief Executive Officer shall submit the application together with the inspector's report to the Board.

(5) The Board shall, if it is satisfied that the prescribed requirements for registration -

- (a) have been complied with, grant the application;
- (b) have not been complied with, refuse the application.

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(6) If the Board grants an application, the Chief Executive Officer shall register the accommodation establishment and issue to the applicant a certificate of registration in the prescribed form.

Application for grading of accommodation establishment

21. (1) The owner of an accommodation establishment registered under this Act, and being an accommodation establishment of a kind for which grading requirements are prescribed, may apply to the Board for the grading of such accommodation establishment.

(2) An application in terms of subsection (1) shall be submitted to the Chief Executive Officer in duplicate on the prescribed form and shall be accompanied by the prescribed fee.

(3) The Chief Executive Officer shall hand a copy of an application received in terms of subsection (2) to an inspector who shall inspect the premises of the accommodation establishment.

(4) The Chief Executive Officer shall submit the application, together with the inspector's report, to the Board, which shall, with due regard to the prescribed requirements and the inspector's report, allocate the appropriate grading to the accommodation establishment concerned.

(5) If the Board allocates a grading to an accommodation establishment, the Chief Executive Officer shall provide the applicant with a certificate of grading together with the prescribed insignia.

Regrading of accommodation establishment

22. (1) The owner of an accommodation establishment which has been graded may, subject to such conditions and accompanied by such fee as may be prescribed, apply to the Board in the prescribed form for the allocation of a higher grading.

(2) An application in terms of subsection (1) shall be submitted to the Chief Executive Officer in duplicate and shall be dealt with and determined in accordance with the procedures prescribed in subsections (3), (4) and (5) of section 21 for a first application for grading, subject to necessary amendments.

(3) The owner or manager of an accommodation establishment which has been graded under this Act may in writing notify the Chief Executive Officer -

(a) to regrade that accommodation establishment to such lower grade as may be indicated in the notification; or

(b) to remove the grading allocated to that accommodation establishment,

and the Chief Executive Officer shall give effect to that notification.

(4) If in the opinion of the Board the requirements prescribed for the particular grading which has been allocated to an accommodation establishment are no longer being complied with in respect of that accommodation establishment, the Board may, after giving the owner of that accommodation establishment a reasonable opportunity of making written representations in the matter, regrade that accommodation establishment to a lower grading or revoke the grading allocated to it.

(5) Upon the regrading of an accommodation establishment in terms of subsection (3) or (4), the Chief Executive Officer shall, subject to such conditions as may be prescribed, issue in respect of that accommodation establishment the appropriate certificate of grading and insignia in accordance with such regrading.

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NAMIBIA TOURISM BOARD ACT, 2000**Declaration of regulated sector**

23. (1) The Minister, after consultation with the Board, may by notice in the *Gazette* declare any sector of the tourism industry to be a regulated sector, and which notice shall stipulate that with effect from a date specified in the notice, which shall not be less than 6 months after the date of publication of the notice, any person who conducts or intends to conduct any business which falls within the category of such regulated sector shall be required to hold in respect of that business a certificate of registration issued in terms of section 24.

(2) With effect from the date specified in a notice in terms of subsection (1) no person shall conduct any business which falls within the category of the regulated sector concerned unless that business is registered in terms of section 24.

(3) A person who contravenes subsection (2) commits an offence and shall on conviction be liable to a fine not exceeding N\$20 000 or to imprisonment not exceeding two years or to both such fine and such imprisonment.

Application for registration of regulated business

24. (1) Any person who wishes to obtain a certificate of registration in respect of a regulated business conducted or to be conducted by that person shall apply to the Board, in the form and manner prescribed, for the registration of that business.

(2) An application in terms of subsection (1) shall be submitted to the Chief Executive Officer and shall be accompanied by the prescribed fee.

(3) The Chief Executive Officer shall -

(a) call for an inspection to be carried out and a report to be submitted by an inspector on whether the prescribed requirements for registration have been complied with in respect of the business concerned; and

(b) submit the application, together with the inspector's report, to the Board.

(4) The Board shall, if it is satisfied that the prescribed requirements for registration -

(a) have been complied with, grant the application;

(b) have not been complied with, refuse the application.

(5) If the Board grants an application the Chief Executive Officer shall register the business and issue to the applicant a certificate of registration in the prescribed form.

Conditional registration of accommodation establishment or regulated business

25. (1) If the Board is of the opinion that an accommodation establishment or regulated business in respect of which an application for registration has been received does not fully comply with the minimum requirements prescribed, but that such non-compliance will not substantially affect the standard of the service to be provided, the Board may register such accommodation establishment or regulated business conditionally for a period not exceeding six months.

(2) If, after the expiry of the period of six months the accommodation establishment or regulated business still does not comply with the prescribed minimum requirements, such conditional registration may either, for good cause shown, be extended for a further period not exceeding six months, or be revoked, as the Board may decide.

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NAMIBIA TOURISM BOARD ACT, 2000**Withdrawal of registration of accommodation establishment or regulated business**

26. (1) Subject to subsection (2), the Board may withdraw the registration of an accommodation establishment or a regulated business, if -

- (a) upon inspection by an inspector it is found that the prescribed requirements for registration are no longer complied with in respect of such accommodation establishment or regulated business; or
- (b) the owner of the accommodation establishment or regulated business concerned applies for such withdrawal in writing.

(2) The Board shall not withdraw the registration of an accommodation establishment or regulated business in terms of subsection (1)(a), unless the owner of such accommodation establishment or regulated business has been informed in writing of the Board's intention to withdraw the registration and has been afforded an opportunity to make written representations in the matter to the Board within 30 days of receipt of the notice.

Register to be kept by Chief Executive Officer

27. The Chief Executive Officer shall keep a register in the prescribed form in which the particulars of accommodation establishments and regulated businesses registered in terms of this Act shall be entered.

Secrecy

28. (1) A member or an inspector or any other person who, in the performance of his or her functions under this Act, acquires any information in relation to the business or affairs of any accommodation establishment or any regulated business or any persons who applied for a licence in terms of this Act shall not disclose such information to any person, except -

- (a) for the purpose of the performance of his or her functions under this Act; or
- (b) when required to do so by any court of law or under any law.

(2) A person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding N\$4 000 or to imprisonment not exceeding two years or to both such fine and such imprisonment.

Levies

29. (1) The Minister, after consultation with the Board, may by regulation under section 30 impose levies to be paid by persons or any category of persons engaged in the tourism industry and stipulate -

- (a) the basis for the calculation of the levy;
- (b) the persons responsible for the payment and collection of the levy;
- (c) the manner in which and times at which the levy shall be paid or collected.

(2) Levies imposed under subsection (1) shall be payable for the benefit of the Board.

Regulations

- 30.** (1) The Minister may make regulations prescribing anything which in terms of this Act is required or permitted to be prescribed or which, in the Minister's opinion, is necessary or convenient to be prescribed for carrying out the provisions of or giving effect to this Act.
- (2) Regulations made in terms of subsection (1) may provide for -
- (a) the classification of accommodation establishments into different classes;
 - (b) the requirements to be complied with before any accommodation establishment may be registered;
 - (c) the exemption of any accommodation establishment or class of accommodation establishments from any or all of the requirements for registration;
 - (d) the different grades which may be allocated to accommodation establishments and the qualification requirements for each such grade;
 - (e) the form of certificates of registration and of insignia in respect of the different grades that may be allocated in respect of accommodation establishments, and the circumstances under which and the manner in which they shall be used or displayed;
 - (f) the circumstances under which certificates of registration or insignia shall be returned to the Board;
 - (g) the licensing of persons, other than persons conducting an accommodation establishment or a regulated business, who provide or assist in providing any specified service or facility to tourists, including -
 - (i) the requirements to be complied with or the qualifications to be held by persons in order to obtain a licence;
 - (ii) the duties of licensed persons in relation to the provision of such a service or facility;
 - (iii) the suspension or withdrawal of a licence;
 - (h) the fees and charges payable for any application, the issue of certificates, licences or other documents, the carrying out of inspections or the performance of any other function in terms of this Act;
 - (i) the keeping of registers by persons conducting an accommodation establishment or a regulated business or by licensed persons, the form thereof and the particulars to be entered therein;
 - (j) the regulation of any sector of the tourism industry including the registration of members of such sector and the requirements which have to be satisfied for such registration;
 - (k) the publication and display of particulars relating to the nature or grading of an accommodation establishment or information relating to a regulated business or a licensed person on or in letterheads, brochures, publications or other articles;
 - (l) the issue of replacement certificates of registration, insignia or licences or other documents issued in terms of this Act;

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- (m) the furnishing of statistics by the owner or manager of an accommodation establishment or regulated business or by a licensed person in relation to matters pertaining to the accommodation establishment or business conducted by that person;
 - (n) in general any matter which the Minister may consider necessary or expedient to prescribe in order to ensure the effective execution of the provisions of this Act.
- (2) Regulations under this section may -
- (a) make different provisions for different cases or circumstances;
 - (b) provide that any contravention or any failure to comply with the provisions thereof constitutes an offence and prescribe penalties for any such offence not exceeding a fine of N\$4 000 or imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Transitional provisions

31. (1) The Minister shall in consultation with the Board, and on a date determined by the Minister -

- (a) transfer in ownership or make available under an agreement of lease to the Board, as the Minister with the concurrence of the Minister of Finance may decide, any State land which immediately before the commencement of this Act was being used by or for the purpose of the Subdivision Tourism Promotion of the Ministry; and
- (b) transfer and assign to the Board such other assets and such liabilities, rights and obligations of the State which relate to or are connected with the functions performed by the Subdivision Tourism Promotion of the Ministry as the Minister may determine.

(2) The Minister shall cause the date of transfer determined under subsection (1) to be notified in the *Gazette*.

(3) Except in the case of State land made available to the Board under an agreement of lease as contemplated in subsection (1)(a), the Board shall, with effect from the transfer date, be vested with the ownership of the assets and rights and be charged with the liabilities and obligations transferred or assigned to it by virtue of the provisions of subsection (1).

(4) A certificate issued by the Minister in which it is stated that any State land or a servitude or other real right or lease or any other asset or right described in such certificate has been transferred to the Board in terms of subsection (1), shall be sufficient proof that the asset or right so described vests in the Board.

(5) Upon the submission of a certificate referred to in subsection (4) to the Registrar of Deeds or to any other person in charge of any other office where a register or record is being kept of the ownership of or entitlement to an asset or right described in such certificate, the Registrar or such person, as the case may be, shall make such entries in or on any relevant register, title deed or other document in his or her office or submitted to him or her as may be necessary to effect the transfer in the name of the Board.

(6) Notwithstanding the provisions of any other law, the Board is exempt from the payment of any stamp duty, transfer duty or registration fees payable in terms of any law in relation to the transfer to the Board of assets or rights in terms of subsection (1).

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(7) The Minister shall determine any question as to whether or not any asset, liability, right or obligation was used for the purposes of, or relates to or is connected with the functions performed by, the Subdivision Tourism Promotion of the Ministry.

Staff matters

32. (1) Staff members of the Ministry performing functions pertaining to tourism promotion shall be transferred to the service of the Board and they shall be offered employment by the Board on such terms and conditions of service which, in the aggregate, shall not be less favourable financially than those which applied to them in the Ministry at the date of transfer of service: Provided that the post of Chief Executive Officer and other managerial posts with the Board may be filled by open competitive candidacy.

(2) A staff member referred to in subsection (1) who elects to enter into an employment agreement with the Board shall -

- (a) notify the Permanent Secretary: Environment and Tourism forthwith in writing of that election; and
- (b) notwithstanding the provisions of the Public Service Act, 1995 (Act No. 13 of 1995), become an employee of the Board, without interruption of service, from the date that employment agreement is entered into, subject to the conditions of employment agreed upon.

(3) If the question arises whether a staff member of the Ministry performs functions pertaining to tourism promotion, such question shall, for the purposes of subsection (1), be decided by the Minister whose decision shall be final.

(4) For the purposes of the Income Tax Act, 1981 (Act No. 24 of 1981), it shall be deemed that no change of employer occurred if a staff member referred to in subsection (1) takes up employment with the Board in accordance with the provisions of this section.

(5) A staff member referred to in subsection (1) who enters into an employment agreement with the Board shall -

- (a) retain all vacation and sick leave which, on the date immediately preceding his or her employment with the Board, stands to his or her credit with the Ministry, including all monetary benefits attached thereto;
- (b) continue to be a member of the Government Institutions Pension Fund referred to in section 2(b) of the Pension Matters of Government Institutions Proclamation, 1989 (Proclamation AG. 56 of 1989), and for such purpose the Board shall be deemed to be a statutory institution which has been admitted to membership under the Rules of that Pension Fund;
- (c) in respect of any disciplinary steps instituted or contemplated against such staff member for alleged misconduct committed prior to his or her employment with the Board, be liable to be dealt with in accordance with the disciplinary rules applied by the Board as if such misconduct had been committed in the service of the Board;

(6) A staff member referred to in subsection (1) who elects not to enter into an employment agreement with the Board shall be deemed to have remained in the public service and shall be dealt with in terms of the Public Service Act, 1995.

(7) For the purposes of subsection (1), "managerial posts" means any post which falls directly under that of the Chief Executive Officer, the incumbent of which is required to report directly to the Chief Executive Officer.

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NAMIBIA TOURISM BOARD ACT, 2000**Liquidation of the Board**

33. The Board shall not be wound up except by an Act of the Parliament.

Exemption from income tax

34. Notwithstanding the provisions of any other law, the Board is not subject to taxation of its income.

Repeal of laws and savings

35. (1) Subject to subsection (2), the laws mentioned in the Schedule are hereby repealed to the extent indicated in the Schedule.

(2) Anything done under any law repealed by subsection (1) which could have been done in terms of a corresponding provision of this Act, shall be deemed to have been done under that provision.

Short title and commencement

36. This Act shall be called the Namibia Tourism Board Act, 2000, and shall come into operation on a date fixed by the Minister by notice in the *Gazette*.

SCHEDULE**LAWS REPEALED**

COLUMN 1	COLUMN 2	COLUMN 3
No. and year of law	Short title	Extent of repeal
Ordinance 20 of 1973	Accommodation Establishments and Tourism Ordinance, 1973	Sections 2 to 47A and paragraphs (b) to (1) of section 56(1)
Ordinance 12 of 1975	Accommodation Establishments and Tourism Amendment Ordinance, 1975	The whole
Ordinance 14 of 1977	Accommodation Establishments and Tourism Amendment Ordinance, 1977	The whole
Ordinance 4 of 1978	Accommodation Establishments and Tourism Amendment Ordinance, 1978	The whole
Ordinance 11 of 1978	Accommodation Establishments and Tourism Amendment Ordinance, 1978	The whole
Ordinance 14 of 1979	Accommodation Establishments and Tourism Amendment Ordinance, 1979	The whole

