

The Swaziland Tourism Authority Act, 2001

Legal Notice No. 7 of 2001

AN ACT

entitled

An Act to make provision for the establishment of the Swaziland Tourism Authority.

ENACTED by the King and the Parliament of Swaziland.

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Short title and commencement

1. This Act may be cited as the Swaziland Tourism Authority Act, 2001, and shall come into force on a date to be appointed by the Minister by Notice published in the Gazette.

Interpretation

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

"Authority" means the Swaziland Tourism Authority constituted in terms of section 3;

"Board" means the Swaziland Tourism Authority Board constituted in terms of section 7;

"Committee" means a committee of the Board constituted in terms of section 12;

"domestic tourist" means any person normally resident in Swaziland, who travels within the borders of the country to any of the designated tourist facilities;

"financial year" means the financial year of the Authority as set out in terms of section 23;

"fund" means the Fund referred to in section 25;

"member" means a member of the Board;

"Minister" means the Minister responsible for Tourism.

"operator" means a person who conducts or operates a tourist facility;

"tourist" means a person who spends at least a night in Swaziland for any one or more of the following purposes -

- a. holiday;
- b. sports and recreation;
- c. study;
- d. religion;
- e. business;
- f. cultural activities;
- g. meetings or conferences.

"tourism industry" means any business, enterprise or activity which provides tourist facilities or related services including cultural, environmental and local communities that are directly involved in tourism;

"visitor" means any person who travels to a place other than his usual place of residence or business for a period of less than a year and whose main purpose is other than the exercise of an activity remunerated from within that place.

Swaziland Tourism Authority Act, 2001, and shall come into force on a date to be appointed by the Minister by Notice published in the Gazette.

Establishment of the Swaziland Tourism Authority

3. (1) There is hereby established the Swaziland Tourism Authority, which shall be a body corporate, having perpetual succession and a common seal, capable of suing and being sued in its name.

(2) The Authority shall be a category A public enterprise for purposes of the Public Enterprises (Control and Monitoring) Act, 1989.

Objectives of the Authority

4. The Objectives of the Authority are to -

- a. develop the tourism sector as a national priority in an environmentally sustainable and culturally acceptable manner;
- b. co-ordinate and facilitate the implementation of Government policies and strategies on tourism;
- c. market Swaziland as a tourism destination through the provision of a platform for industry stakeholders;
- d. encourage, facilitate and promote local and foreign investment in the tourism industry; and
- e. ensure the contribution of tourism to the socio-economic development and continued improvement of quality of life in the Kingdom of Swaziland.

Functions of the Authority

5. (1) The functions of the Authority are to -

- a. translate the general and specific objectives of the [National Tourism Policy](#) into strategies and action plans, for effective and efficient implementation of the Policy;
- b. advise government and stakeholders on tourism trends, activities and all matters relating to tourism development, thereby optimizing investment in the industry and facilitating the continuing evaluation of tourism policy and objectives;
- c. establish Swaziland's image as a distinctive, friendly, peaceful, safe and very desirable country to visit, through specific marketing and public relations campaigns, including promotional activities and being a mouthpiece for the tourism industry both domestically and internationally.
- d. develop and market the tourism industry through sound planning and consultation with stakeholders and to undertake promotional campaigns, either singularly or jointly with industry stakeholders, in local, region and international markets, in a manner most appropriate for applying the resources available for such activities;
- e. raise development, promotional and administrative funding through, inter alia, the implementation of tourism levies and other charges, and to otherwise attract, facilitate and utilize whatever sources of finances that may be available to further the development in Swaziland;
- f. research and advise Government on suitable funding strategies relating to the development and marketing of tourism;
- g. co-ordinate information gathering for the tourism industry, through research and the development of tourism databases, to be made available to the industry for planning and decision-making purposes;
- h. facilitate the development of business management and marketing skills amongst emerging entrepreneurs through training and development initiatives;
- i. promote and facilitate the development of tourism infrastructure, facilities and services in Swaziland, which are either specifically identified as of key importance to the development of the National Tourism Product, or which comply with the guidelines and objectives of the National Tourism Policy;
- j. define strategic zones for tourism development in order to focus developmental efforts for maximum long-term socio-economic benefit and to adequately motivate and ensure that potential tourism opportunities are not compromised by alien development;
- k. liaise with Government Ministries and departments, local authorities, or other statutory bodies in order to achieve the objectives of the [National Tourism Policy](#);
- l. provide advice and facilitate interaction with any bodies officially mandated with promoting local and foreign investment in Swaziland;
- m. identify and encourage expansion and new investment by the existing tourism industry in Swaziland;
- n. advise and assist Government in all matters pertaining to regional and international co-operation in the sphere of tourism development; and
- o. do all such things as are necessary or incidental or conducive to the functions specified in this Act.

(2) In the performance of its functions, the Authority shall have regard to the environmental impact of the activities which constitute the tourism industry.

Powers of the Authority

6. For the better exercise of its functions, the Authority shall have the power to -

- a. hold, manage, develop, let, hire, buy or subscribe for or otherwise acquire or sell or otherwise dispose of hypothecate or otherwise deal in immovable property of any sort; open and operate banking accounts and make, draw, accept or endorse negotiable instruments in the ordinary course of business;
- b. make representations to any public official, person, body or Minister in pursuit of its functions;
- c. instruct any public official or authority to decide and act promptly and in accordance with written law on any matter pertaining to the execution of its functions under this Act;
- d. investigate complaints made by tourists, inquire or cause to be inquired into the reasons for such a complaint and to report cases of laxity, inefficiency and ineptitude by any public official or tourist facility in the performance of his or its duties in connection with the [National Tourism Policy](#).

Establishment and Composition of the Board of Directors

7. (1) There is hereby established a Board of Directors of the Authority which shall be the governing body of the Authority and shall be responsible for carrying out the functions and exercising the powers conferred on the Authority.

(2) The Board shall consist of not more than nine members appointed in terms of section 6 of the Public Enterprise (Control and Monitoring) Act, 1989, made up as follows -

- a. the Senior Tourism Officer or representative in the Ministry responsible for Tourism;
- b. the Principal Secretary or representative in the Ministry responsible for Finance;
- c. a representative of the Swaziland National Trust Commission;
- d. the Chief Executive Officer appointed in terms of Section 13 who shall be the secretary of the Board;
- e. subject to section 8, not more than five members, three of whom are directly involved in tourism;
- f. all of whom shall be appointed by the Minister.

(3) The members of the Board shall be appointed for a period not exceeding three years on such terms and conditions as the Minister may determine.

(4) A member, other than a Principal Secretary, may be appointed for only two further terms after the expiry of the initial period of his appointment.

(5) The Minister shall appoint the Chairperson from amongst the members of the Board.

Disqualification for appointment to the Board

8. (1) A person shall not qualify for appointment as a member if -

- a. he is not a citizen of Swaziland or ordinarily resident in Swaziland;
- b. he has been declared insolvent and has not been rehabilitated;
- c. within a period of five years preceding the date of appointment, he has been convicted in Swaziland, or in any other country, of an offence involving fraud or dishonesty;
- d. within a period of five years preceding the date of appointment, he has been convicted in Swaziland, or in any other country, of an offence and was sentenced to a period of imprisonment without the option of a fine; or
- e. he is of unsound mind.

Vacation of office

9. (1) A member shall vacate office if he -

- a. is absent from two consecutive meetings of the Board without leave of the Chairperson;
- b. tenders his resignation in writing addressed to the Minister; or
- c. he ceases to reside in Swaziland.

(2) If a member vacates office or is disqualified from being a member after his appointment, the Minister shall, subject to section 8, appoint a person to fill in the vacancy for the period left by that member.

Ordinary meetings and procedures of the Board

10. (1) The Board shall hold its first meeting on a date and at a place fixed by the Minister, and shall thereafter, meet for the dispatch of business at such time and place as the Chairperson may determine.

(2) The Board shall hold no fewer than four meetings in each financial year.

(3) If the Chairperson is absent from any meeting of the Board, the members present may elect a member to preside over that meeting.

(4) Five members, one of whom shall be the Principal Secretary of Finance or his representative or Senior Tourism Officer or his representative, shall form a quorum at any meeting of the Board.

(5) Decisions taken shall be by a majority vote at any meeting for the Board.

(6) A member present at a meeting shall have one vote on any matter before the Board and in the event of an equality of votes, the Chairperson presiding over the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Board shall regulate its procedure.

Special meetings of the Board

11. (1) Upon the request of the Minister or Board Members forming a quorum the Chairperson shall convene a special meeting.

(2) Notice of a special meeting shall be sent to each member not later than 48 hours before the meeting and shall specify the business or agenda of the special meeting.

Committees of the Board

12. (1) For the exercise of its functions, the Board may establish Committees in which the Board may vest such of its functions as it considers appropriate.

(2) On the establishment of a committee, the Board shall appoint at least one of its members to be a member of the committee, and that member or one of those members, as the case may be, shall be Chairperson of the Committee.

(3) Meetings of a committee may be convened at any time and place determined by the Chairperson of the Committee.

Appointment of Chief Executive Officer and staff

13. (1) The Minister shall appoint a person with extensive tourism experience as the Chief Executive Officer of the Authority in accordance with section 8 of the Public Enterprises (Control and Monitoring) Act, 1989, on such terms and conditions as the Minister may determine.

(2) The Chief Executive Officer shall, with the approval of the Board, appoint such staff of the Authority as may be necessary for the proper performance of the functions of the Authority.

(3) The salaries, wages or other remuneration of the staff shall be determined by the Board.

Termination of Appointment of the Chief Executive Officer

14. The appointment of the Chief Executive Officer shall be terminated in the manner provided for in the Public Enterprise (Control and Monitoring) Act, 1989 where he -

- a. violates the terms and conditions of his appointment; or
- b. fails to carry out any of his duties.

Duties of the Chief Executive Officer

15. The Chief Executive Officer shall -

- a. be responsible for the day to day administration of the Authority;
- b. carry out or perform any duties which are expedient for the achievement of the purposes of this Act, subject to any specific or general directives of the Board;
- c. prepare a budget including the staff complement for the Authority for approval by the Board.

Appointment of Chief Financial Officer

16. There shall be appointed a Chief Financial Officer as provided in section 8 (2) of the Public Enterprises (Monitoring and Control) Act, 1989.

Duties of the Chief Financial Officer

17. The Chief Financial Officer shall -

- a. keep all proper books of accounts and other books and records in relation to the funds, undertakings, activities and property of the Authority;
- b. prepare such statements of accounts as may be necessary to indicate the financial status of the Authority at the end of each financial year;
- c. cause the accounts of the Authority to be examined, audited and reported on annually by auditors appointed by the Board;
- d. carry out other duties assigned to him by the Chief Executive Officer;
- e. be answerable to the Chief Executive Officer.

Termination of appointment of the Chief Financial Officer

18. The appointment of the Chief Financial Officer shall be terminated in the manner provided in the Public Enterprises (Control and Monitoring) Act, 1989 where -

- a. he violates the terms and conditions of his appointment; or
- b. he fails to carry out any of his duties.

Funds of the Authority

19. (1) The funds of the Authority shall consist of all monies -

- i. received as remuneration for its services;
- ii. appropriated by Parliament for purposes of this Act;
- iii. donated to the Authority for purposes of this Act.

(2) The Authority shall, out of its funds:

- i. pay to the members of the Board such remuneration and allowances as approved by the Minister;
- ii. pay salaries, wages and allowances to the employees of the Authority;
- iii. pay or authorize the payment of all such sums of money as may be legally due from the Authority.

Annual programmes and budget of the Authority

20. (1) Before the beginning of each financial year, and, on or before such date as the Minister may direct, the Authority shall prepare and submit to the Minister for his approval:

- a. a programme of the projects and activities which the Authority seeks to undertake during that financial year; and
- b. a budget showing the income and expenditure which the Authority will incur in respect of that financial year.

(2) During the course of a financial year, the Authority may submit to the Minister a supplementary budget relating to anticipated income and expenditure which was not provided for in the annual budget.

(3) A supplementary budget shall form part of the annual budget of the Authority for the financial year to which it relates.

(4) The Authority shall furnish the Minister with such additional information in regard to any budget submitted as the Minister may require.

Accounts of the Authority

21. (1) The Authority shall keep proper books of accounts and other records relating to such accounts in respect of all its activities, funds or assets.

(2) The Authority shall prepare and submit to the Minister an audited statement of accounts in respect of each financial year, within ninety days after the end of that financial year.

Audit of Authority's accounts

22. (1) A reputable firm of auditors shall be appointed in the manner provided in the Public Enterprises (Control and Monitoring) Act, 1989, as auditors of the Authority for such period as the Minister shall determine.

(2) A person shall not be appointed an auditor if he -

- a. is a member of the Board or an employee of the Authority;
- b. is a partner of a member of the Board or a partner of an employee of the Authority;
- c. is an employer or employee of a member of the Board or of the Authority; or
- d. has any pecuniary interest in the Authority or in any of its activities.

Financial Year

23. The Financial Year of the Authority shall be from the 1st April in a calendar year to the 31st March in the next calendar year, unless the Minister indicates otherwise by Notice published in the Gazette.

Report on the Activities of the Authority

24. At the end of each financial year, the Authority shall present to the Minister an annual report on its activities in relation to that financial year and the Minister shall in turn present such report to Parliament.

Establishment of Fund

25. (1) The Minister may, in consultation with the Minister for Finance, establish by Regulation, a Fund to be known as the Swaziland Tourism Authority Fund.

(2) In establishing the Fund, the Minister shall provide for its functions, composition and administration.

Designated Tourist Facility

26. The Minister, after consultation with the Authority, may, by Notice in the Gazette, declare that:

- a. any service provided for tourists;
- b. any premises or place in or which any service referred to in paragraph (a); or
- c. any premises, place or thing which in the Minister's opinion affords amenity to tourists, be designated a tourist facility.

Regulations

27. The Minister may, in consultation with the Authority make Regulations in order to carry into effect the principles and purposes of this Act.