



**TURKS AND CAICOS ISLANDS**

**CHAPTER 17.05**  
**TOURISM ORDINANCE**

**Revised Edition**  
showing the law as at 31 August 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

**TOURISM ORDINANCE**

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Ordinance 27 of 1990 .. in force 28 December 1990 (G.N. 1/1991)

Amended by Ordinances: 4 of 1995 .. in force 1 December 1995

9 of 1998 .. in force 15 May 1998

No Subsidiary Legislation has been made under this Ordinance





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**CHAPTER 17.05**  
**TOURISM ORDINANCE**

*(Ordinances 27 of 1990, 4 of 1995 and 9 of 1998)*

AN ORDINANCE TO REGULATE TOURISM, TO ESTABLISH A TOURIST BOARD AND FOR CONNECTED PURPOSES.

**Commencement**

*[28 December 1990]*

PART I

PRELIMINARY

**Short title**

1. This Ordinance may be cited as the Tourism Ordinance.

**Interpretation**

2. In this Ordinance—

“Board” means the Turks and Caicos Islands Tourist Board established under Part III;

“Chairman” means the Chairman of the Board appointed under section 7;

“Director” means the Director of Tourism appointed under section 5;

“function” includes powers, duties, responsibilities, authorities and jurisdictions;

“Governor” means Governor in Cabinet;

“Minister” means the member of the Cabinet to whom the Governor has assigned responsibility for tourism;

“tourism” means the range of activities related to meeting the needs and preferences of tourists; and

“tourist” means a person who visits the Islands or who travels within the Islands for the sole or partial purpose of recreation.

PART II

THE ADMINISTRATION OF TOURISM

**Responsibility for tourism**

3. Responsibility for tourism in the Islands shall be shared between the Minister, the Board and the Director according to the functions and relationships set out in this Ordinance.

### Objectives of tourism

4. Subject to this Ordinance, the responsibility referred to in section 3 shall be fulfilled so as to render tourism a means of enhancement of the reputation of the Islands and a means of improvement of the national economy to the benefit of both the Government and the people of the Islands.

### Director of Tourism

5. (1) The Board shall appoint a Director of Tourism whose office shall be a position on the establishment of its staff within the meaning of section 17.

(2) The Director shall have such functions as are assigned to him by or under this Ordinance and such other functions as may be assigned to him in writing by the Board, acting on the advice of the Minister.

## PART III

### THE TOURIST BOARD

#### *Establishment and Membership of the Board*

### Establishment of the Board

6. There is hereby established for the purposes of this Ordinance a Board which shall—

- (a) be a body corporate by the name of the Turks and Caicos Islands Tourist Board having perpetual succession and a common seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) in its corporate name be capable of contracting and being contracted with;
- (d) be capable of acquiring, holding and disposing of any property, movable or immovable, for the purpose of performing its functions under this Ordinance.

### Membership of the Board

7. (1) The Board shall consist of the following members, namely—

- (a) a Chairman;
- (b) a Deputy Chairman; and
- (c) not less than three nor more than eight other members.

(2) The members of the Board shall be appointed by the Governor by instrument in writing to hold office during good behaviour for such period, not exceeding one year, as may be specified in the instrument of appointment.

(3) Subject to subsection (4), any member of the Board may be removed at any time by the Governor, by giving notice in writing to the member and,

from the date specified in the notice or, if no date is specified, from the date of the receipt by the member of the notice, he shall cease to be a member of the Board. (*Amended by Ord. 4 of 1995*)

(4) In removing a member under subsection (3), the Governor shall act in accordance with the advice of the Minister, who may in his discretion, in giving such advice, have regard to any recommendation of the Board relating to such removal.

(5) Every appointment of a member of the Board and every removal of a member of the Board shall be notified in the *Gazette*.

(6) Any member of the Board may at any time resign by giving notice in writing to the Governor and from the date specified in the notice or, if no date is specified, from the date of the receipt by the Governor of the notice, the member shall cease to be a member of the Board.

(7) The performance of the functions of the Board shall not be affected by reason of there being a vacancy or vacancies in the membership of the Board.

(8) The appointment of a member of the Board shall not be invalid and shall not be called into question by reason of a defect or irregularity in or in connection with his appointment.

(9) The provisions of the Schedule 1 shall have effect with respect to the Board.

*General Functions and Powers of the Board;  
Relationship to Government*

**General functions and powers of the Board**

8. (1) The functions of the Board shall be—
- (a) to promote the development of tourism in the Islands;
  - (b) to promote the efficiency of the tourism industry of the Islands;
  - (c) to formulate and institute measures calculated to enhance the role and image of the Islands as a tourist resort;
  - (d) to promote understanding in the Islands of the implications, importance and economic benefits of tourism;
  - (e) to classify tourist facilities according to their quality and standards;
  - (f) to promote the training of people for employment in the tourism industry;
  - (g) to obtain, collate and evaluate information concerning all aspects of the tourism industry of the Islands;
  - (h) to provide advice and recommendations to the Minister concerning tourism in the Islands;

- (i) to cooperate and maintain contacts with any person or bodies within or outside the Islands wherever such cooperation and contacts would assist the Board in the performance of its functions; and
- (j) to promote the cultural life and activities of the Islands, including sports and entertainments, in respect of events held within or outside the Islands.

(2) Subject to this Ordinance and to any other enactment or rule of law, the Board shall, for the purpose of performing its functions under this Ordinance, have—

- (a) such powers as are conferred upon it by this Ordinance;
- (b) power to do all such acts as appear to it to be requisite, advantageous or convenient for or in connection with the performance of those functions or to be incidental to their proper discharge,

and the Board may carry on any activities in that behalf either alone or in association with any other person.

### **Relationship of Minister and Board**

9. (1) The Minister may give to the Board directions in writing of a general or specific nature concerning the policy to be observed in the performance of any of its functions.

(2) The Minister may in writing require the Board to provide to him advice, recommendations, information and assistance, in such form as he may consider appropriate, concerning matters which fall within the Board's functions under this Ordinance or concerning the performance by the Board of those functions.

(3) On receipt of a written direction given under subsection (1) or of a written requirement made under subsection (2), the Board shall give effect to it to the fullest extent allowed by law and by the financial and other resources available to the Board.

### **Board not servant or agent of Crown**

10. The Board shall not be regarded as the servant or agent of the Crown, or as enjoying any status, immunity or privilege of the Crown, and the property of the Board shall not be regarded as property of, or property held on behalf of the Crown.

*Financial Provisions*

**Funds and resources of the Board**

11. The funds and resources of the Board shall consist of—

- (a) any money appropriated by the House of Assembly and paid to the Board for the purposes of the Board;
- (b) any property which may in any manner become payable to or vest in the Board in the performance of its functions; and
- (c) any other property lawfully received by the Board for the purposes of the Board.

**Borrowing powers**

12. (1) The Board, may with the approval of the Minister of Finance, borrow moneys from time to time in such amounts as the Minister of Finance certifies are, in his opinion, necessary for the performance of its functions under this Ordinance.

(2) The Minister of Finance may, on behalf of the Government, out of moneys appropriated by the House of Assembly for the purpose, lend to the Board, at such rates of interest and on such other terms and conditions as he determines, moneys that the Board is authorized to borrow under subsection (1).

(3) The Board may give security over the whole or any part of its assets for the repayment of amounts borrowed under this section and the payment of interest on amounts so borrowed.

(4) The Minister of Finance may, on behalf of the Government, guarantee the repayment by the Board of amounts borrowed under this section otherwise than from the Government and the payment of interest on amounts so borrowed.

(5) The Board shall not borrow moneys except in accordance with this section.

**Maintenance of records and accounts**

13. (1) Without prejudice to the obligations imposed by any other law, the Board shall create and maintain the accounts and records and the details and evidence thereof of the nature and in the manner set out in the Schedule 2.

(2) The Governor may by Order published in the *Gazette* amend, repeal or repeal and replace the Schedule 2.

**Examination of affairs**

14. (1) The Minister of Finance may at any time by written direction appoint a person to examine the financial affairs of the Board.

(2) A person appointed under subsection (1), or the Minister of Finance, may request in writing the delivery to him of records, accounts and property of the Board and may make such request of a member, servant or agent of the

Board, including its attorneys, accountants and bankers, and it shall be the duty of any person who receives such a request to comply with it as soon as reasonably practicable.

(3) The Supreme Court may, on the application of the Attorney General, whether or not proceedings for an offence under this section have been or may be lawfully taken, make such order as it thinks fit to require any person under the duty mentioned in subsection (2) to carry out that duty.

(4) A person who wilfully obstructs, by act or omission, the exercise of the powers conferred by this section commits an offence and is liable upon summary conviction to a fine of \$5,000.

### Annual budget

**15.** (1) The financial year of the Board shall commence on the 1st April in each year and expire on the 31st March in the next following year.

(2) Not later than the 1st December in each year, the Board shall submit to the Minister of Finance its budget for the following financial year.

(3) The budget referred to in subsection (2) shall set out estimates of the revenue and expenditure of the Board for the following financial year in the same form and detail as the estimates of the revenue and expenditure of the Government prepared by the Minister of Finance and laid before the House of Assembly before the commencement of the Government's financial year in accordance with section 7 of the Finance and Audit Ordinance, and shall contain a statement of any sum required as a subvention by the Government to the Board or as a prospective borrowing by the Board from any source.

(4) The Minister of Finance shall consult the Minister on the contents of the budget proposals and shall then submit the budget to the Governor in Cabinet with his own comments and those of the Minister.

(5) The Governor may approve the budget, approve it in an amended form, or return it to the Board for resubmission in an amended form with a reasoned statement of his objections to it.

(6) A budget which is the subject of the resubmission referred to in subsection (5) shall be subject to the procedure, *mutatis mutandis*, set out in subsection (4).

(7) The budget of the Board for any financial year shall be that which has been approved by the Governor under subsection (5).

(8) If at the commencement of a financial year, there is not an approved budget in respect of that year, the Minister of Finance may give directions in writing to the Board concerning its expenditure and the Board shall comply with such directions.

(9) The Board shall so exercise and perform its functions as to ensure that its funds are sufficient to meet all sums properly chargeable to the Board, taking one year with another. (*Inserted by Ord. 9 of 1998*)

(10) In respect of any item of expenditure of the Board which is not authorised by a budget approved under this section or by other lawful authority

each member of the Board shall be personally, jointly and severally liable for it, provided that a member shall not be liable for such expenditure incurred by reason of a decision made when—

- (a) that member was not a member of the Board; or
- (b) that member was not present at the meeting at which the decision was made; or
- (c) that member was present at such meeting but voted against such decision.

### **Annual account**

16. (1) Not later than the 1st July in any year, the Board shall prepare an account in respect of the immediately preceding financial year and shall submit it to the Minister of Finance as soon as possible thereafter.

(2) The account referred to in subsection (1) shall be in the same form and detail as a budget submitted under section 15 and in addition thereto shall contain such information as the Minister of Finance may require.

(3) Within the period of four months after the 31st day of March of each year the Board shall prepare and submit to the Chief Auditor in respect of the year ending on the 31st March —

- (a) a statement of assets and liabilities of the Board;
- (b) a statement of revenue and expenditure by the Board during that year; and
- (c) such other statements as may be specified by the Minister responsible for finance.

(4) On receipt of the statements referred to in subsection (3), the Chief Auditor shall examine and audit the statements and certify the statements, subject to such report, if any, which he may think fit to make.

(5) The Chief Auditor shall, within a period of four months after the receipt of the statements, return to the Board the statements as certified together with his report, if any.

(6) Within one month of receipt from the Chief Auditor of the certified statements and his report, if any, the Board shall prepare and submit to the Minister and the Minister responsible for finance a report of the financial and other activities of the Board during the year to which the certified statements relate, which report shall include a copy of the certified statements and of the Chief Auditor's report, if any, together with the observations of the Board on any matter raised by the Chief Auditor in such report.

(7) The report of the Board together with a copy of the Chief Auditor's report, if any, shall be laid by the Minister on the table of the House of Assembly as soon as practicable after he receives it.

(8) In relation to the certified statements and the Chief Auditor's report, if any, section 63(2) of the Finance and Audit Ordinance shall apply to the Minister as it applies to the Minister responsible for finance.

*(Amended by Ord. 9 of 1998)*

### *Staffing Arrangements*

#### **Establishment of staff**

17. (1) Subject to this section, for the purpose of performing its functions under this Ordinance, the Board shall determine the positions to comprise the establishment of its staff and the salary and other benefits which are to be attached to any such position.

(2) In fixing the salary and other benefits referred to in subsection (1), the Board shall ensure that they are no less favourable to the holder of such position than those which would attach to an equivalent position in the public service, having regard to the qualifications, experience and age necessary to the adequate fulfillment of the duties concerned.

(3) The benefits referred to in subsection (1) may include provisions for pensions and for contributions by the employee concerned towards such pension.

(4) In the event of the Board failing to make a decision on a question arising under subsection (2), the Board may refer that question to the Minister of Finance whose decision thereon shall be final and binding upon the Board.

(5) The Board shall not make or alter a determination under subsection (1) otherwise than in accordance with a valid resolution and unless it is satisfied that—

- (a) the full financial implications of such a resolution have been accurately communicated to all the members; and
- (b) the costs to the Board resulting from such a resolution can be met from the funds available to the Board for that purpose.

#### **Employment of persons**

18. (1) Subject to this section, the Board may employ such persons, on a full-time or part-time basis or for limited or indefinite periods of time, as it considers necessary for the purpose of performing its functions under this Ordinance, to fill the positions comprising the establishment of its staff determined under section 17, either upon the terms and conditions as to salary and benefits attaching to that position by virtue of such a determination or upon such other special terms and conditions as to salary and benefits as the Board considers appropriate in a particular case.

(2) Subject to this section, the Board may enter into arrangements, upon such terms and conditions as it thinks fit, with persons, firms or agencies for the supply of such services or facilities to the Board as it considers necessary for the proper performance of its functions under this Ordinance, and in so doing may act jointly with other persons and share remunerations and expenses accordingly.

(3) The Board shall not employ any person under subsection (1) or enter into any arrangement for the supply of services or facilities under subsection (2) otherwise than in accordance with a valid resolution and unless it is satisfied that—

- (a) the full financial implications of such a resolution have been accurately communicated to all the members; and
- (b) the costs to the Board resulting from such a resolution can be met from the funds available to the Board for that purpose.

#### PART IV

#### MISCELLANEOUS

##### **Personal immunity of members**

19. Subject to section 15(9), no legal action shall lie against a member of the Board personally for or in respect of any act done *bona fide* by that member in the course of his duties as a member.

##### **Membership of Board not public office**

20. Membership of the Board shall not of itself be regarded or construed as a public office for the purposes of the Turks and Caicos Islands Constitution.

##### **Regulations**

21. The Governor may make Regulations prescribing all matters that are required or permitted by this Ordinance to be prescribed, or that are necessary or convenient to be prescribed for giving effect to the purposes of this Ordinance and, in particular, without restricting the generality of the foregoing, may make Regulations concerning the operation of the Board and the payment of allowances to its members.

**SCHEDULE 1***(Section 7(9))***THE BOARD****Meetings of the Board**

1. The Board shall meet—
  - (a) at such times and places as the Chairman may in his discretion, by notice in writing to the other members, direct; and
  - (b) at such other times and places as the Chairman, acting in accordance with a request of not less than three other members, may by notice in writing to the other members specifying the matter to be discussed, direct.

**Quorum; procedure**

2. At a meeting of the Board—
  - (a) convened in accordance with paragraph 1(a), five of the members constitutes a quorum;
  - (b) convened in accordance with paragraph 1(b), five of the members, including the members on whose request the meeting was convened, constitutes a quorum;
  - (c) the Chairman, or in his absence, the Deputy Chairman shall preside;
  - (d) all questions shall be decided by a majority of the votes of the members present, other than the vote of the person presiding, who shall have only a casting vote.

**Minutes of meetings**

3. (1) Minutes of every meeting of the Board shall be kept by such person as the Board may appoint for the purpose, or in his absence, by the person presiding.
  - (2) The minutes of every meeting shall accurately set out the details of any matter or question before the Board at that meeting and shall record the decision of the Board on that matter or question.
  - (3) The minutes of every meeting shall be signed by the person presiding.
  - (4) If the minutes of any meeting do not comply with subparagraph (2) or are not signed in accordance with subparagraph (3), any decision taken by the Board at that meeting shall be invalid.

**Meetings to be held in private**

4. The Board may invite any person to attend a meeting but, unless it does so, meetings of the Board shall be held in private.

### **Seal**

5. (1) The seal of the Board shall be kept in the custody of the Chairman or of such other person as the Board may appoint for the purpose and shall be judicially and officially recognised.

(2) All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Board—

(a) if sealed with the seal of the Board and signed by the Chairman or the Deputy Chairman and one other member; or

(b) if executed in that behalf by the Chairman or Deputy Chairman and one other member appointed by the Board for the purpose.

(3) A deed, instrument, contract or other document shall, if executed in accordance with subparagraph (2), be binding on the Board and its successors and may be varied in the same manner as it was executed.

(4) A deed, instrument, contract or other document executed otherwise than in accordance with subparagraph (2) shall not be binding on the Board or its successors.

### **Service on the Board**

6. Any notice or other document to be served on the Board shall be served by delivery of the notice or other document to the principal office of the Board in the Islands.

### **Board may regulate its own procedure**

7. Subject to this Ordinance and to any other law, the Board may regulate its own procedure and business.

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**SCHEDULE 2***(Section 13)***ACCOUNTING DETAILS**

1. The Board shall maintain the following accounts and records, which may be in writing or in the form of computer data—
  - (a) details of all revenue, income and borrowings;
  - (b) details of all expenditure;
  - (c) details of all property owned by or in the possession of the Board; and
  - (d) details of all liabilities actual, prospective or contingent.
2. The details required by paragraph 1 shall be sufficient to show—
  - (a) the date of receipt or provision of money, credit or property;
  - (b) the person from whom or to whom such money, credit or property passed;
  - (c) the value of any such money, credit or property;
  - (d) the whereabouts of any such money, credit or property; and
  - (e) the source and extent of any liability and any fact or matter relevant thereto.
3. Any document or thing which is or may be relevant to any detail required by this Schedule to be recorded or maintained shall be preserved in its original state and kept in the possession or control of the Board for not less than three years commencing on the date on which such document or thing first comes into existence.
4. In addition to the provisions of paragraphs 1 to 3 of this Schedule, the Board shall create and maintain accounts and records in such form and with such detail as may be required by the Minister of Finance by written directions to the Board.

