



Tonga

TOURIST ACT

1988 Revised Edition



TOURIST ACT

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TOURIST ACT

Acts 19 of 1976 and 6 of 1979

**AN ACT TO CONTROL AND REGULATE TOURISM BY THE
ESTABLISHMENT OF AN ADVISORY BOARD AND BY THE
INTRODUCTION OF A SYSTEM OF LICENSING OF TOURIST
FACILITIES AND MATTERS RELATIVE THERETO**

Commencement [1st January, 1977]

1 Short title.

This Act may be cited as the Tourist Act.

PART I - PRELIMINARY

2 Interpretation.

In this Act, unless the context otherwise requires —

“**Accommodation**” means and includes hotels, motels, boarding houses, guest houses, apartments, caravans, motor vehicles and vessels (whether on land or afloat) used to provide board and/or lodgings for tourists and members of the public and all land, buildings and premises used to provide such board and/or lodgings;

“**Board**” means the Tonga Tourist Board established under this Act;

“**Minister**” means the Minister responsible for the time being for tourism;

“**Restaurant**” means and includes any shop, premises or land in or on which meals or food is prepared for consumption by members of the public in or on such shop, premises or land irrespective of whether any charge is made or payment given for such meals or food;

“**Tour operator**” means and includes a travel agent, persons or companies specialising in the planning and operation of pre-paid, pre-planned holidays, sightseeing tours, shore excursions, and transfers, and who or which makes these arrangements available to the general public either through his or their own office, the offices of other travel agents or direct with any principal; but excludes shipping agents, general agents and common carriers, provided that they do not carry out any of the functions specified in this paragraph;

“**Tourist**” means and includes any visitor entering Tonga;

“**Tourist facility**” means and includes beach operator, night club, boat hirer, entertainment or sporting complex and any other attraction or facility used by tourists;

“**Tourist officer**” means and includes the Tourist Officer or other such person appointed by Cabinet;

“**Travel agent**” means any person or company appointed by principals and therefore qualified to provide to the public as a service all elements of travel including transportation by land, sea and air, tours, cruises, hotel accommodation, meals, sightseeing, and transfers, but excludes shipping agents, general agents and common carriers, provided that they do not carry out any of the functions specified in this paragraph.

PART II - TONGA TOURIST BOARD

3 Tonga Tourist Board.

There shall be a Tourist Board to be known as Tonga Tourist Board, which shall be an advisory Board and shall advise the Minister on all matters related to Tourism in Tonga, which are referred to it by the Minister.

4 Members of Board.

- (1) The Board shall consist of:
 - (a) four persons appointed by Cabinet to represent Government; and

- (b) five persons appointed by the Minister to represent the private sector and who shall hold office for 2 years provided that they or any of them may be re-appointed; and
- (c) the Tourist Officer who shall also be Secretary of the Board.
- (2) The Board shall elect any member, other than the Tourist Officer, to be Chairman for 2 years, provided such member may be re-elected as Chairman. In the absence of the Chairman, the members present at any meeting shall elect from among them a Chairman for that meeting.
- (3) Members may be paid such remuneration or allowances as Cabinet may determine. (*Substituted by Act 6 of 1979.*)

5 Termination of appointment.

If any member of the Board becomes permanently incapable of performing his duties, or becomes bankrupt, or compounds with his creditors, or resigns his office by writing addressed to the Chairman, or is absent, except on leave granted by the Chairman, from all the meetings of the Board held during 3 consecutive months, or is convicted of an indictable offence, or is found guilty upon enquiry of contravening, evading or misapplying the provisions of this Act, he shall cease to be a member of the Board.

PART III - POWERS AND DUTIES

6 Powers of the Minister.

The Minister shall have the power: —

- (a) to develop in a rational manner the tourist industry in Tonga for the benefit of all and as he thinks fit to set out any plan or manifesto in connection therewith;
- (b) to promote and increase tourist and other traffic from overseas;
- (c) to engage in or arrange for continuing publicity for the Kingdom by any means of communication with particular emphasis on the Kingdom's unique tourist attraction and facilities;
- (d) to endeavour at all times to preserve the Tongan way of life, culture and language;
- (e) to ensure at all times all tourist facilities and developments are planned for the improvement of amenities which will be of benefit to the community as a whole as well as for tourists;

- (f) to operate offices of the Tonga Visitors Bureau in Tonga, and arrange for representation of the Tonga Visitors Bureau overseas whose main purpose will be to supply information on the Kingdom as a holiday destination and arrange such advertising and publicity as he thinks necessary; (*Amended by Act 6 of 1979.*)
- (g) to encourage and maintain close liaison with the private sector of the tourist industry;
- (h) with the prior approval of His Majesty in Council to act as an agent for Government for any person in connection with the development or transaction of any business connected with tourism in Tonga;
- (i) with the prior approval of His Majesty in Council, to acquire by lease any land, buildings, easements or other property which it thinks necessary for the purposes of this Act and to engage in relevant businesses and business transactions;
- (j) to license, regulate and control accommodation, restaurants, travel agents, tour operators, and any other tourist facility;
- (k) to provide services and amenities for tourists and the public and to promote such services and amenities;
- (l) to regulate and control the use and development of scenic attractions, recreational and sporting facilities both on land and sea;
- (m) to determine from time to time the kind of licences to be issued and to authorise the issue of such licences in accordance with the provisions of this Act;
- (n) to prescribe standards to be complied with in the provision of accommodation, restaurants, services of travel agents and tour operators and any other tourist facility;
- (o) to initiate and conduct any education or training programme for the benefit of those directly or indirectly involved in the tourist industry;
- (p) to hold such enquiries in such manner as he thinks fit, and gather such information as will enable him to determine the requirements of tourists and the public as to the provision of services of all kinds on premises or land licensed under the provisions of the Act;
- (q) to conduct enquiries into any matters at the request of or with the approval of Government and to make recommendations to Government;
- (r) to do such other things as he may be required or authorised to do by this or any other Act or as may in the opinion of Government be necessary or desirable for the purpose of this Act;
- (s) to ensure at all times in the implementation of this Act that due consideration is given to the establishment, promotion and licensing

of Tongan owned and operated businesses provided these businesses meet such standards as may be laid down in pursuance of this Act. (*Amended by Act 6 of 1979.*)

PART IV - LICENCES

7 Licences.

- (1) The Minister is authorised in his discretion and on payment of the prescribed fee to the Deputy Commissioner of Inland Revenue to register businesses and to issue licences in respect of the following: —
 - (a) accommodation;
 - (b) restaurants;
 - (c) travel agents;
 - (d) tour operators;
 - (e) tourist facilities.
- (2) The Minister is authorised in his discretion to renew, review or revoke the said licences.
- (3) Every licence issued or renewed under the provisions of this section: —
 - (a) shall terminate on the 31st day of December next after the date of issue;
 - (b) shall not be transferable without the prior written approval of the Minister;
 - (c) shall be subject to such conditions as the Minister may think fit in accordance with the provisions of this Act or any regulations made thereunder.

8 Form of application.

- (1) Every application for a licence under this Part of this Act must be made on the prescribed form as set out in the Schedule to this Act and the said form must be lodged with the Minister at least 56 days before the date of the requested commencement of the licence.
- (2) In the case of an application for a licence for an hotel or restaurant, the applicant shall furnish to the Minister an accurate plan of the premises, and any licence holder wishing to carry out structural alterations to premises in respect of which a licence has been granted shall furnish to the Minister accurate plans of the proposed alterations and no such

alterations shall be carried out without the consent in writing of the Minister.

9 Provisional approval for new business.

Any person desiring to establish a new business of the kind specified in section 7(1) of this Act, shall first make application on the prescribed form to the Minister, enclosing a plan of any premises involved and details of the project, and the Minister, with due regard to the implementation of this Act, will consider all such applications, and may grant his provisional approval subject to such conditions as the Minister may think fit.

10 Refusal etc., of licence.

In the event of the Minister deciding to refuse an application for provisional approval or an application for licence or an application for renewal of same, or an application for transfer of same, or an application to carry out structural alterations or to revoke an existing licence, the Minister shall advise the applicant in writing of his decision and the reasons for same, and the applicant may within 28 days of the receipt of said written decision, appeal in writing to the Cabinet against the said decision giving reasons for the appeal. The Cabinet shall thereupon arrange to hear representations on behalf of the applicant. The decision of the Cabinet thereafter will be final.

11 Without licence an offence.

- (1) Any person carrying on any of the businesses specified in section 7(1) of this Act without being in possession of a licence as provided by this Part of this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1000 and to a further penalty of \$100 for each day on which business is transacted after conviction.
- (2) Any person carrying out alterations to any premises in respect of which a licence has been issued without obtaining the consent specified in section 8(2) of this Act shall be guilty of an offence and shall be liable on conviction to a fine of \$100 and the Court may order restoration of the premises to the state at the time of the granting of the licence.

12 Power to inspect.

- (1) The Minister or any person authorised in writing by him shall have power to enter and inspect at all reasonable times any facility licensed under this Act for the purpose of satisfying himself that the provisions of this Act and the licence relating to the facility are being complied with and every

person holding a licence under this Act and the employees of any such person shall afford to the Minister or any such authorised person all reasonable assistance for the inspection of the facility licensed under this Act.

- (2) Any person, whether a licence holder or otherwise, who refuses to allow or obstructs an inspection in terms of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$50.

13 No exemption from other licences.

- (1) A licence obtained in terms of this Act does not exempt the holder from obtaining any other licence required in connection with his business by any other Act.
- (2) The Deputy Commissioner of Inland Revenue shall be responsible for the collection of all fees and monies payable under the terms of this Act.
- (3) Trading licences in respect of:
 - (a) accommodation;
 - (b) restaurants;
 - (c) travel agents;
 - (d) tour operators;
 - (e) tourist facilities

shall only be issued by the Deputy Commissioner of Inland Revenue after the requirements of this Act have been satisfied.

PART V - MEETINGS AND PROCEDURE AT MEETINGS

14 Ordinary meeting.

- (1) Every meeting of the Board and any business to be transacted in such meeting shall be convened by the Chairman with the approval of the Minister, or in the absence of the Chairman, by any member with the approval of the Minister.
- (2) Notwithstanding anything to the contrary in this Act, the Minister may in his discretion convene and preside as Chairman in a special meeting of the Board.
- (3) Except in the case of a special meeting, the Secretary shall notify each member at least 4 working days in advance of the time, place of and business to be transacted in each meeting of the Board. (*Substituted by Act 6 of 1979.*)

15 Adjournment of meeting.

Any Meeting may be adjourned to another day and notice of such adjourned Meeting shall be given to each member.

16 Quorum and procedure.

- (1) No business shall be transacted at any meeting of the Board unless at least 5 members are present at least one of whom shall be a representative of the private sector. (*Amended by Act 6 of 1979.*)
- (2) The Board shall control its own procedures and make its own regulations for the conduct of its meetings in so far as these are not laid down in this Act.

17 Chairman to have a deliberative vote.

At any Meeting of the Board the Chairman shall have a deliberative vote, and in the event of the votes being equal, a second or casting vote.

18 Majority to decide.

- (1) All acts of the Board and all questions coming or arising before the Board may be done and decided by the majority of such members as are present and vote at a duly constituted meeting held in pursuance of this Act.
- (2) Every question coming before the Board shall be decided by open voting.

19 Revocation or alteration of resolutions.

Any resolution of the Board may be revoked or altered at the same meeting by the unanimous vote of the members present when it was passed, or by a resolution passed at a subsequent meeting of the Board.

20 Minutes to be kept by Secretary.

- (1) The Secretary shall keep the minutes of the proceedings of the Board in a book in which he shall enter the names of the members attending each meeting and every resolution, order or other proceedings of the Board, and any other matter directed by the Board to be entered in the minutes.
- (2) The minutes of the proceedings of every meeting shall be read at the next meeting succeeding and, if approved by the Board or when amended as directed by the members, shall be signed by the Chairman of such succeeding meeting. (*Amended by Act 6 of 1979.*)

- (3) The minute book of the Board shall be kept by the Secretary and shall be open to inspection during all office hours by any member of the Board.

21 Disqualification of members.

- (1) A member of the Board shall not vote (but may take part in the discussion) on any matter before the Board in which he has a direct pecuniary interest, apart from an interest in common with the public.
- (2) Any member having such an interest in any matter arising before the Board shall immediately declare the same, which will be noted in the minute book by the Secretary.
- (3) A member of the Board shall not use information gained from any matter discussed by the Board for his own financial gain, or pass on such information to a third party for his financial gain.
- (4) Any member who knowingly offends against this section shall be guilty of misconduct and shall be dismissed from the Board.

PART VI - FINANCE

22 Revenue and expenditure.

All fees and other monies collected by the Deputy Commissioner of Inland Revenue in terms of this Act shall be paid to the Tonga Government Revenue Account, and all expenses incurred in respect of the administration of the Board and of this Act shall be paid out of monies to be from time to time appropriated by the Legislative Assembly or by His Majesty by Order in Council.

PART VII - TONGA VISITORS BUREAU

23 Tonga Visitors Bureau.

In pursuance of the object, powers and functions of the Minister, the Minister is authorised to establish, maintain and staff, both within the Kingdom and abroad, public offices to be known as Tonga Visitors Bureau and is further authorised to arrange for representation abroad of the Tonga Visitors Bureau.

24 Functions of Tonga Visitors Bureau.

- (1) The Tonga Visitors Bureau within the Kingdom shall have the functions of supplying information to all visitors to Tonga, assisting tourists in every way possible during their stay, other than the giving of financial assistance, and undertaking any promotion, advertising, printing or literature or other duties as may be directed by the Minister.
- (2) The Tonga Visitors Bureau overseas, or such representatives as are appointed, shall have the functions of supplying information to the travel trade and to any prospective visitors to the Kingdom on the attractions and facilities of the Kingdom as a holiday venue and may undertake any promotion, advertising, printing of literature or other duties as may be directed by the Minister.

25 Tonga Visitors Bureau to comply with Minister's directions.

The Tonga Visitors Bureau shall at all times comply with all directions from the Minister in respect of any policy in relation to any aspect of the tourist industry within Tonga.

26 Cost.

The cost of establishing and maintaining offices and staff of the Tonga Visitors Bureau shall be financed from monies appropriated for the purpose by the Legislative Assembly or by His Majesty in Council.

27 Tourist Officer responsible.

The Tourist Officer shall be responsible for the operation of the Tonga Visitors Bureau both at home and overseas and shall make regular reports to the Minister thereon.

PART VIII - MISCELLANEOUS

28 Restrictions on use of "Tonga" and "Tongan".

A person shall not, without the prior written permission of His Majesty in Council, use in the name of any business, profession or calling, the words "Tonga" or "Tongan".

29 Regulations.

- (1) The Minister may, with the consent of His Majesty in Council, from time to time make such Regulations as are in his opinion necessary or expedient for giving effect to the provisions of this Act and the due administration thereof.
- (2) All such Regulations shall be duly published in the Gazette.

30 Penalties.

Every person who commits or attempts to commit or is concerned in committing or attempting to commit a breach or violation of the provisions of this Act shall be guilty of an offence and in the event of conviction of such an offence for which no specific penalty is provided in this Act, shall be liable to a fine not exceeding \$100 and if the breach or violation is a continuing one to a further fine not exceeding \$10 for every day or part thereof during which the said breach or violation continues.

SCHEDULE

**APPLICATION TO OPERATE A BUSINESS AS DETAILED UNDER THE
TOURIST ACT**

1. Business Name:

2. Address:

(a) In Tonga:

(b) Overseas:

3.

(a) Type of Business engaged in at present:
.....

(b) Annual Sales last year:
.....
.....

(c) Average number of employees:
.....

4.

(a) Business to be established in Tonga, with full details of directors, or partners or owners:
.....
.....

(b) Give details of local ownership/participation:
.....
.....
.....

5.

(a) In which island group do you wish to establish the Business:
.....
.....

(b) Exact Location:

(c) If on Tongatapu, how close to the capital, Nuku'alofa, would you construct your premises?

.....
.....
.....

6. How much land will the business require and what length of lease would you desire.? (20 to 50 leases are normal)

.....
.....
.....

7.

(a) What plant machinery and equipment will be imported for the initial setting up of the business, and approximate value?

.....
.....

(b) What locally available products will be used?

.....
.....

8. What products will you require to import? Approximate annual value?

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.....