

THE TOURISM AND HOSPITALITY ACT, 2007

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GOVERNMENT OF ZAMBIA

ACT

No. 23 of 2007

Date of Assent: 29th November, 2007

An Act to provide for the development of the tourism industry through tourism planning, management and co-ordination; to provide for the functions of the Director of Tourism; to provide for incentives for investors in the tourism industry; to provide for the control and regulation of hotels and the enforcement of reasonable standards of cleanliness, sanitation and service; to provide for the authorisation and licensing of tourism enterprises; to provide for the granting of casino licences; to provide for the constitution of the Hotel Managers Registration Council; to provide for the establishment and administration of the Tourism Development Fund; to repeal the Tourism Act, 1979, the Hotels Act, 1987 and the Casinos Act, 1992; and to provide for matters connected with or incidental to the foregoing.

[30th November, 2007

ENACTED by the Parliament of Zambia

Enactment

PART I
PRELIMINARY

1. This Act may be cited as the Tourism and Hospitality Act, 2007, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title
and
commencement

2. In this Act, unless the context otherwise requires —
- “authorisation ” means the written consent of the Director granted under section *sixteen*;
 - “Board ” means the Zambia Tourism Board established under the Zambia Tourism Board Act, 2007;
 - “card game ” means any game of cards specified in a casino licence;
 - “casino ” means any premises kept and managed for the purpose of gaming;
 - “casino licence ” means a licence issued under section *forty-eight*;

Interpretation

Act No. 24
of 2007

- “Committee” means the Tourism Enterprise Authorisation and Licensing Committee constituted under section *nine*;
- “Council” means the Hotel Managers Registration Council constituted by section *sixty-six*;
- “Director” means the Director of Tourism appointed under section *three*;
- “Fund” means the Tourism Development Fund established under section *sixty-two*;
- “gaming” means the playing of a game of chance for winnings in money or money’s worth;
- “game of chance” does not include any athletic game or sport;
- “gaming machine” means a machine for playing a game of chance, being a game which requires no action by any player other than the actuation or manipulation of the machine;
- “gross revenue” means the total income derived or received from gaming at a casino and includes credit extended to customers, any hiring charge, or commission paid on gaming machines and the entry fee to the casino less only the total of all sums paid out as losses by the licensee in respect of games played under a casino licence;
- “hotel” means a motel, lodge, boarding house, guesthouse, camp, camping site and any building or premises used for accommodation of the public in which lodgings are provided and provisions are supplied by the manager thereof but does not include any Government rest house, hostel, school or such council rest house as the Minister may, by statutory instrument, exclude;
- “hotel-keeper” means a person to whom a hotel licence has been issued under this Act and includes a person to whom a licence has been transferred under section *thirty-six*;
- “hotel licence” means a licence issued under section *thirty-four*;
- “hotel manager’s certificate” means a practising certificate issued under section *seventy* and “hotel manager” shall be construed accordingly;
- “inspector” means a person who is designated an inspector under section *seventy-four*;
- “intoxicating liquor” has the meaning assigned to it in the Liquor Licensing Act;
- “licence” means a tourism enterprise obtained under section *sixteen*, by an owner of a tourism enterprise;
- “prescribed” means prescribed by the Minister, by statutory instrument;

“ restaurant ” includes any premises on which is carried out the business of preparing and or supplying for reward any food or beverage whether there is the provision of waiters services to individual customers or otherwise, but does not include—

- (a) a bona-fide worker’s or staff canteen maintained for the use of persons employed in any particular undertaking, by that undertaking;
- (b) any premises where food or beverage is supplied only to persons who reside or board at, or work at, such premises;
- (c) any informal eating outlets which fall below the minimum requirement of a restaurant; or
- (d) any portion of a licensed hotel which is not let out or sublet to a different manager other than being run by the management directly.

“ tourism enterprise ” includes the construction, reconstruction, renovation and rehabilitation of an hotel, casino, a tour operating business, a travel agency, amusement and theme parks and an air charter business, water sports, a vehicle or vessel leasing business, a restaurant or café adiscotheque, a convention centre and such other enterprise catering for tourists as the Minister may, by statutory instrument, declare to be a tourism enterprise;

“ tourism officer ” includes a tourism development officer, provincial tourism development co-ordinator, tourism research officer, tourism field officer, tourism projects officer and such other officer as may be appointed by the Public Service Commission under this Act;

“ tourism product ” means such tourism resources and activities as the Minister may, by the statutory instrument prescribe which resources and activities give, or are intended to give, Zambian tourism a competitive edge in the international market; and

“ winnings ” include any amount deducted for the benefit of the licensee from any stake or bank in a game not being an amount deducted from the receipts of any slot machine.

PART II

ADMINISTRATION

Director of
Tourism

3. (1) There shall be a Director of Tourism who shall be a public officer and who shall be appointed by the Public Service Commission.

(2) The Director shall, subject to the general or specific directions of the Minister, be responsible for the administration of this Act and shall perform the functions and exercise the powers conferred upon the Director by or under this Act.

(3) The Director may, subject to the other provisions of this Act and to the general or special directions of the Minister, delegate any of the Director's functions under this Act to the Chief Tourism, Policy, Planning and Co-ordination Officer, Chief Tourism, Research and Product Development Officer, the Chief Standards Officer or such other officer as the Director may determine.

Chief
Tourism,
Policy,
Planning and
Co-
ordination
Officer and
Chief
Tourism
Research
and Product
Development
Officer

4. (1) There shall be a Chief Tourism, Policy, Planning, and Co-ordination Officer appointed by the Public Service Commission, as a public officer, and who shall, subject to the direction of the Director, be responsible for initiating tourism policy, planning of tourism and co-ordination of tourism activities.

(2) There shall be a Chief Tourism, Research and Product Development Officer appointed by the Public Service Commission, as a public officer and who shall, subject to the direction of the director be responsible for tourism research and product development.

Chief
Standards
Inspector

5. There shall be a Chief Standards Inspector appointed by the Public Service Commission, as a public officer, and who, subject to the direction of the Director, shall be responsible for tourism standards, inspection and licensing.

Appointment
of other staff

6. There shall be appointed by the Public Service Commission, as public officers, such other officers who shall include provincial tourism development officers, tourism development officers, tourism research officers, tourism extension officers, tourism projects officers, tourism licensing officers, tourism standards inspectors and tourism credit officers as may be necessary for the proper administration of this Act.

7. Subject to the other provisions of this Act, the functions of the Director shall be to —

Functions of
Director

- (a) initiate and recommend to the Minister policies relating to the development of the tourism sector;
- (b) develop tourism plans and programmes to encourage the development of the tourism industry in Zambia;
- (c) cause to diversify the tourism product portfolio to ensure the maximum exploitation of Zambia's tourism potential;
- (d) in collaboration with other relevant Ministries and authorities, reflect tourism interests in land and other natural resource use and management decisions;
- (e) in consultation with the Ministry responsible for culture and the National Arts Council of Zambia, encourage the development and preservation of Zambian arts and cultural values as a tourist attraction;
- (f) in consultation with the Technical Education, Vocational and Entrepreneurship Training Authority —
 - (i) participate in the development of standards to be maintained by institutions that provide training programmes for persons employed or seeking employment in the tourism industry; and
 - (ii) recommend the focus for training programmes for persons employed or seeking employment in the tourism industry;
- (g) in collaboration with the Zambia Development Agency and other relevant authorities, streamline and facilitate the acquisition of licences by investors in the tourism industry;
- (h) monitor trends in the tourism industry by conducting research and analysis;
- (i) assist in carrying out any regional or national plan for the development and promotion of tourism;
- (j) carry out surveys and collect and compile on a regular basis statistics on the performance of the tourism industry;
- (k) collaborate with relevant authorities on labour, HIV/AIDS, social and welfare matters and other inter-sectoral matters that have an impact on tourism and tourism development;
- (l) carry out, undertake or commission tourism research, studies and surveys to facilitate decision making and identify tourism priority areas, tourism marketing circuits and zones for the development and promotion of tourism;

- (m) collect tourism data or information and establish and maintain a data base of tourism statistics in the country and to establish and maintain a system of tourism satellite accounting;
- (n) implement the decisions of the Committee; and
- (o) do such other things as may be necessary to perform the Director's functions under this Act.

Performance
of Director's
functions
during
absence

8. Whenever the Director is absent or is for any cause unable to perform the functions of the Director's office, such functions shall be performed by the Chief Tourism Policy, Planning and Co-ordination Officer or the Chief Tourism Research and Product Development Officer or the Chief Standards Inspector.

Constitution
of
Tourism
Enterprise
Authorisation
and
Licensing
Committee

9. (1) There is hereby constituted a Tourism Enterprises Authorisation and Licensing Committee which shall consist of eleven part-time members appointed by the Minister.

(2) The members appointed under subsection (1) shall be persons who have expertise in economic empowerment, financial management, hotel management, civil engineering, architecture and physical planning and shall include a representative each of —

- (a) the Ministry responsible for tourism;
- (b) the Immigration Department of the Ministry responsible for home affairs;
- (c) the Ministry responsible for finance;
- (d) the Attorney-General; and
- (e) the Tourism Council of Zambia.

(3) The Director shall be the Secretary to the Committee.

(4) The Minister shall appoint the Chairperson and the Vice-Chairperson of the Committee from amongst the members referred to in subsection (1).

(5) Subject to subsection (6), a member of the Committee shall hold office for a period of three years from the date of appointment but may be eligible for reappointment for a further term of three years.

(6) The office of a member shall become vacant —

-
- (a) if that member is absent without reasonable excuse ~~from~~ three consecutive meetings of the Committee of which the member had notice;
- (b) upon the member's death;
- (c) if the member is adjudged bankrupt;
- (d) on a member ceasing to hold the office by virtue of which the member was appointed;
- (e) if the member becomes mentally or physically incapable of performing the duties of a member of the Committee; or
- (f) if the member is convicted of an offence under any written law and sentenced therefor to imprisonment for a term exceeding six months.
- (7) Where a vacancy occurs in terms of subsection (6), the Minister may appoint a new member in accordance with subsection (1), to hold office for the unexpired part of that member's term.
- (8) A member of the Committee shall be paid such allowances as the Minister may determine.
- (9) Subject to the other provisions of this Act, the Committee may regulate its own procedure.
- (10) The Committee shall meet for the transaction of business as often as is necessary or expedient for the conduct of its business at such places and times as the Chairperson may determine.
- (11) The quorum at any meeting of the Committee shall be six members of the Committee.
- (12) There shall preside at any meeting of the Committee —
- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice-Chairperson; or
- (c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from their number for the purpose of that meeting.
- (13) The determination of any matter before the Committee shall be according to the votes of the majority of the members present and considering the matter.

(14) The Committee may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the Committee but such person shall have no vote.

(15) The Committee shall cause minutes to be kept of the proceedings of every meeting of the Committee.

(16) The Minister shall assign persons employed in the Department of Tourism of the Ministry responsible for tourism to perform such secretarial and administrative functions in connection with the Committee.

Functions of
Committee

10. The functions of the Committee shall be to—

- (a) receive and approve applications for authorisation and licencing forwarded to the Committee in terms of section *sixteen, thirty-four and forty-eight*;
- (b) receive and approve applications for renewals and transfers of licences granted under this Act; and
- (c) perform such other functions as may be assigned to the Committee by or in terms of this Act.

Committees

11. (1) The Minister may, on the recommendation of the Director, constitute such other committees as the Minister may consider necessary for the purposes of this Act and for exercising any of the Director's functions under this Act.

(2) The Committees constituted pursuant to subsection (1) may include as members of the committees such experts as the Minister may consider necessary.

PART III

TOURISM PLANNING AND DEVELOPMENT

General
functions
of Minister

12. The Minister shall, for the purposes of this Act—

- (a) develop policies for efficient and effective integrated planning and optimum development of the tourism industry in the national interest;
- (b) encourage and support tourism marketing and development for the promotion of tourism within and outside Zambia;
- (c) promote or facilitate the provision of training facilities for persons providing services in tourism related industries;
- (d) promote the participation and involvement of local communities in the tourism industry;

- (e) promote partnerships between public and private sector organisations in tourism development;
- (f) encourage professionalism and enhance the job creation potential of the tourism industry in Zambia by developing and sponsoring training programmes, seminars and other activities through which information can be shared and expertise developed;
- (g) cause to develop and enforce standards for the tourism industry;
- (h) encourage, promote and support investment in the tourism industry and the participation of Zambians in the tourism industry;
- (i) encourage the use of environmentally friendly technology in tourism businesses;
- (j) ensure that gender considerations are fully integrated into all the policies, programmes and activities relating to the tourism industry;
- (k) encourage the enhancement of the standards of accommodation, facilities, tourism services and related amenities and support structures necessary to facilitate and support tourists in Zambia;
- (l) in consultation with the appropriate authorities, encourage and facilitate the development of amenities and facilities designed to attract tourists to Zambia;
- (m) cause to be carried out studies and surveys, designed to identify areas which may be declared as tourism priority areas, and cause to be prepared regional or national plans for the development and promotion of tourism in such areas;
- (n) give effect to any international or regional agreement, to which Zambia is a State Party, on tourism, in the spirit of mutual cooperation;
- (o) ensure that research is carried out, and information obtained and kept, by the Director relating to tourist traffic into Zambia;
- (p) in consultation with relevant authorities mobilise resources for the development of the tourism industry in the national interest;
- (q) facilitate the development of tourism and tourism-related infrastructure to, and in, tourism areas; and
- (r) administer the Tourism Development Fund established under section *sixty-two*

Tourism
Ethics

13. The Minister shall, in consultation with stakeholders, develop a code of ethics in accordance with the United Nations World Tourism Organisation Code of Ethics.

Director to
liaise with
Board, etc.

14. The Director shall liaise with the Board, the Zambia Wildlife Authority, the National Heritage Conservation Commission, the National Museums Board, the Hotels and Tourism Training Institute and other relevant authorities and organisations to —

- (a) facilitate the growth and development of the tourism industry;
- (b) improve and maintain standards in the tourism industry; and
- (c) co-operate on matters of mutual interest in the tourism industry.

PART IV

AUTHORISATION AND LICENSING OF TOURISM ENTERPRISES

Prohibition
of
operating
tourism
business
without
licence or
authorisation

15. (1) A person shall not commence the construction, reconstruction, renovation, rehabilitation or in any way effect any changes to the structure of a tourism enterprise unless the person has previously applied to, and obtained from the Committee, an authorisation to construct, renovate, rehabilitate, reconstruct or effect changes, as the case may be, to the tourism enterprise.

(2) A person shall not operate as a tour operator or travel agent or operate any tourism enterprise except under and in accordance with a licence issued by the Committee.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

(4) In addition to the penalty specified in subsection (3), the court may make such order as it considers necessary to give effect to the provision of this Act.

Application
for
authorisation
or licence

16. (1) Any person who desires to—

- (a) construct, renovate, rehabilitate, reconstruct or in any way effect any changes to the structure of a tourism enterprise; or

- (b) set up and operate as a tour operator or travel agent or any tourism business;

shall submit an application to the Director in the prescribed form for an authorisation or a licence and the Director shall upon receipt of such application, as soon as practicable, forward it to the Committee.

- (2) An application for an authorisation or a licence shall —
- (a) describe the nature and scope of the proposed tourism enterprise to which it relates;
 - (b) state the place where such tourism enterprise is to be established or carried on;
 - (c) state the estimated time of completion of the development or of each phase thereof;
 - (d) be accompanied by —
 - (i) details and proof of the financial viability of such tourism enterprise;
 - (ii) the prescribed fee;
 - (iii) information on the safety measures to be adopted in the course of developing the enterprise;
 - (iv) information on measures taken to protect the environment;
 - (v) information on the employment, empowerment and training of Zambian citizens; and
 - (vi) such other information and documentation required by the Committee for the determination of the application as may be prescribed under this Act.

17. (1) Where in the opinion of the Director, additional information is required on any matter contained in an application for an authorisation or licence, the Director may, before forwarding the application to the Committee, call upon the applicant to furnish additional information and may, if the applicant fails to supply those particulars within such period as the Director may specify, reject the application without referring the application to the Committee,

Power to call for additional information on application

(2) The Director may consult any other authority for the supply of additional particulars in respect of an application for an authorisation or licence.

Notification
of
lodging of
application

18. The Director shall, before forwarding an application for an authorisation or a licence to the Committee, cause to be published in two newspapers of general circulation a notice of such application giving such particulars about the applicant and the tourism enterprise for which the application is made, as may be sufficient to enable an objection to be made to the application as provided in section *nineteen*.

Objection to
issuance of
licence
or
authorisation

19. (1) Any person who has any reason for objecting to the issuance of a licence or an authorisation may, within twenty-one days of the date of publication of a notice under section *eighteen*, lodge an objection by submitting to the Director and to the applicant a notice in writing, stating the grounds for the objection.

(2) The Director shall upon receipt of an objection under subsection (1), as soon as practicable, forward it to the Committee:

Provided that if it appears to the Committee that the objection made under subsection (1) is frivolous and vexatious and has no merit, the Committee may reject such an objection and shall immediately inform the objector in writing of the decision stating the reasons for the rejection.

(3) The Committee shall consider the objection referred to it under subsection (2) within thirty days of receiving the objection.

(4) In considering an objection under this section, the Committee may require the objector to answer such questions or furnish such particulars to the Committee as the Committee may consider necessary to enable it determine the objection and may rely on any other evidence not submitted by the applicant or the objector.

(5) The Committee shall sustain the objection, if it is satisfied that the objection has merit, and shall overrule the objection if the Committee is not so satisfied; and

(6) Where the Committee recommends that the objection be sustained or that the objection has no merit, the Director shall, in writing, notify the objector of the decision and where the objection is dismissed the Director shall give reasons for the decision.

(7) The objector may if aggrieved by the decision of the Committee made under subsection (5), appeal in writing to the Minister to review the decision of the Committee and may tender additional evidence or further and better particulars to be taken into consideration by the Minister in determining the appeal.

(8) A notice of appeal shall be given in writing to every party concerned.

(9) The Minister may, in considering an appeal under this section, set aside, vary or uphold the Committee's decision and shall in writing communicate to the objector the Minister's decision.

(10) Any person who is aggrieved by the decision of the Minister under subsection (9) may appeal to the High Court within thirty days of the date of receipt of notification of the Minister's decision.

20. (1) Subject to the other provisions of this Act, the Committee may issue a licence or authorisation, as the case may be, to the applicant specifying the terms and conditions of the licence or authorisation.

Approval or refusal of application for licence or authorisation

(2) Where the Committee considers that an application for an authorisation or a licence should not be approved, the Committee may reject the application and shall in writing inform the applicant of the decision and state the reasons for the rejection.

21. (1) Any person aggrieved by the refusal of the Committee to approve the application for a licence or authorisation under section *twenty* may, within thirty days of the decision being communicated to that person, appeal, in writing, to the Minister:

Appeal against refusal to issue licence or authorisation

Provided that the Minister may consider an appeal after the expiry of the thirty days specified in this subsection if satisfied that the appellant was prevented by sufficient cause from filing the appeal within the specified period.

(2) The Minister may, before reaching a decision in any appeal —

(a) refer the matter to the Committee for further inquiry and consideration; or

(b) make such further inquiry and investigation into the matter as the Minister considers necessary.

(3) In any appeal under subsection (1), the Minister may confirm, vary or set aside the decision of the Committee and shall notify the appellant of the Minister's decision in the matter.

(4) Any person who is aggrieved by the decision of the Minister to uphold the Committee's decision as specified under subsection (3) may appeal to the High Court within thirty days of the receipt of the notification of the Ministers decision.

Restriction
on
transfer and
variation of
licence
or
authorisation

22. (1) A licence or authorisation shall not be transferred or varied except with the prior written approval of the Committee.

(2) The Committee may vary or amend any condition attached to a licence or authorisation under subsection (2), on application by the licensee or authorisation holder to vary the terms and conditions attached or relating to the licence or authorisation or of the Committee's own volition at the time of renewal of a licence or authorisation if there are any changes relating to the tourism enterprise:

Provided that the Committee shall not vary any term or condition of the licence of the Committees' own volition without first giving the licensee or authorisation holder a reasonable opportunity to make representations in that regard.

(3) Any variation of a term or condition of a licence by the Committee under subsection (2) shall be endorsed on the licence or authorisation together with the date when the variation is made and the date when it will take effect.

Period of
validity of
licence or
authorisation

23. (1) Subject to the other provisions of this Act, a licence for a tourism enterprise other than a hotel or casino shall be valid for a period of twelve months from the date of issue to the 31st day of December of the year in which the licence is issued.

(2) An authorisation to construct, reconstruct, renovate, rehabilitate or in any way effect changes to the structure of a tourism enterprise shall be valid for a period of twenty-four months from the date of issue, during which period the applicant shall implement the proposed developments.

(3) An authorisation to operate a tourism enterprise shall be valid for a period of twelve months from the date of issue.

(4) Where for any reason a holder of an authorisation referred to in subsection (2) is unable to implement the developments described in the authorisation, the holder of the authorisation shall notify the Committee of their inability to implement such developments, stating the reasons for such inability within thirty days of the holder of the authorisation becoming aware of the inability to implement the development.

(5) A licence holder may apply for the renewal of a licence to operate a tourism enterprise sixty days prior to the expiration of the period of validity of the existing licence and shall pay the prescribed renewal fee:

Provided that the Committee may, upon payment of the prescribed fee accept an application lodged after the expiry of the sixty days specified in this subsection if satisfied that a licensee was prevented by sufficient cause from lodging the application within the specified period.

(6) Where an application for a licence is received under subsection (5) the Director shall, as soon as practicable after receipt of the application forward it to the Committee and the Committee shall consider the application and approve or reject the application, as the case may be, within sixty days of receiving it.

(7) A licence holder who submits an application for renewal of a licence under this section may continue to operate the tourism enterprise until a decision is made by the Committee on the application.

24. (1) The Director shall maintain or cause to be maintained a register of —

Register of
licences or
authorisation

- (a) licensed tourism enterprises;
- (b) licences or authorisations, including any conditions subject to which each licence or authorisation is issued; and
- (c) any amendments, suspensions or revocations of licences or authorisations.

(2) The register kept in terms of subsection (1) shall be open for inspection by members of the public at all reasonable times at the office of the Director or at such other place as the Director may determine on payment of the prescribed fee.

25. Every licence holder shall exhibit the licence or a certified copy thereof in a conspicuous place at the licence holder's principal place of business and at every branch where the licence holder carries on the tourism enterprise.

Display of
licence

26. (1) Every holder of an authorisation, or licence, shall be required to comply with such conditions as the Minister may determine.

Obligations
of
authorisation
or
licence
holder

(2) The conditions in subsection (1) may require a holder of an authorisation or licence to—

- (a) submit to the Director at the end of each financial year, an audited financial statement relating to the operations;
- (b) submit to the Director, at the end of the financial year, production and cost accounts of operations;
- (c) submit to the Director at the end of the financial year, an annual report outlining developments within the tourism enterprise, to which the authorisation or licence relates;
- (d) submit to the Director a report advising plans for any significant changes within the tourism enterprise;
- (e) allow the inspection of premises, records and statements relating to the tourism enterprise;
- (f) allow interviews or investigations with, or on behalf of, the Director regarding any matter provided for under this Act;
- (g) adhere to any plans, programmes, projects or other reports submitted to the Director; and
- (h) provide a project brief or Environmental Impact Assessment and to adhere to any Environmental Management Plan or monitoring arrangements as may be approved under the Environmental Protection and Pollution Control Act and as included as terms and conditions of the authorisation or licence.

Cap. 204

Returns to be submitted to Director

27. Every holder of a licence to operate a tourism enterprise shall submit half-yearly returns to the Director in such form as the Minister may, by a statutory instrument, prescribe, giving such details as may be specified in the statutory instrument.

Suspension or revocation of licence or authorisation

28. (1) The Committee may suspend or revoke a licence or authorisation where the licensee or authorisation holder —

- (a) obtained the licence or authorisation on the basis of fraud or negligent misrepresentation or any false or misleading statement;
- (b) assigns, cedes or otherwise transfers an authorisation and licence to another person without the prior approval of the Committee;

(c) has failed to comply with any term or condition of the licence or authorisation; or

(d) operated the tourism enterprise in contravention of this Act or any other written law.

(2) The Committee shall, before suspending or revoking a licence or authorisation under subsection (1), notify the licensee of the Committee's intention to suspend or revoke the licence or authorisation and the reason therefor, and call upon the licensee or holder of the authorisation to show cause, within such reasonable period as may be specified in the notice, why the licence or authorisation should not be so suspended or revoked, as the case may be.

(3) If, at the expiration of the period specified in the notice given under subsection (2), and after considering any representations made by the licensee, the Committee is satisfied for any reason specified in subsection (1) that the licence or authorisation should be suspended or revoked, the Committee may, by notice in writing to the licensee or holder of the authorisation, suspend or revoke the licence or authorisation.

29. The Director shall, in consultation with the Tourism Committee formulate a licensing, classification and grading system for hotels and tourism enterprises.

Licensing, classification and grading system

30. (1) An operator of a tourism enterprise shall—

Prepaid package tours

(a) submit to the Director records and information on, and account for, all foreign exchange earned on prepaid package tours ; and

(b) pay all taxes due to the State in respect of those packages.

(2) The Minister may in consultation with the Minister responsible for finance, make Regulations in respect of prepaid package tours.

31. (1) An operator of a tourism enterprise, or a hotel or casino shall not display the words "Private Property" or "Residents Only" at the entrance or in proximity to the tourism enterprise as a way of restricting access to the property by members of the public.

Prohibitions

(2) An operator of a tourism enterprise or a hotel or casino may display the words "right of admission reserved":

Provided that the operator of a tourism enterprise shall not, on the basis of any person's race or sex, restrict the access of such person to such tourism enterprise.

(3) A person shall not —

(a) disturb another person in the quiet enjoyment of the facilities in a tourism enterprise;

(b) wilfully interfere with or destroy any facility within a tourism enterprise which is provided for the enjoyment of the patrons of such tourism enterprise; or

(c) in any way be a nuisance within the premises or grounds of a tourism enterprise.

(4) Any person who contravenes subsection (1), (2) or (3) commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

Safety of
tourists
and workers

32. (1) An operator of a tourism enterprise shall take measures to ensure the safety and security of local and international tourists and other patrons within the tourism enterprise.

(2) An operator of a tourism enterprise shall take measures to ensure the safety and welfare of the workers of such tourism enterprise.

(3) An operator of a tourism enterprise shall have adaptable emergency evacuation plans on the premises for emergencies caused by, *inter alia*, fire, floods, attacks by wild animals, thunder storms and every other conceivable emergency that may require emergency action to be taken.

PART V

LICENSING AND GRADING OF HOTELS

Operating
without
hotel licence
prohibited

33. (1) A person shall not operate an hotel except under and in accordance with an hotel licence issued by the Committee specifying the premises in respect of which the licence is granted.

(2) A person shall not manage an hotel unless the person is registered to practise as an hotel manager by the Council in accordance with Part IX of this Act.

(3) An hotel licence shall be valid from the day on which it is issued and, unless previously cancelled, shall expire on the 31st December following the date of issue.

34. (1) An application for an hotel licence shall be made in the prescribed form and be lodged with the Director.

Application
for
hotel licence

(2) The application referred to in subsection (1) shall be accompanied by the prescribed fee and such information in support of the application as the Minister may, by statutory instrument, prescribe.

(3) Where an application is received under subsection (1), the Committee shall, if the Committee is satisfied that the application is made in accordance with the provisions of this Act, as soon as practicable, but not later than twenty-one days, issue an hotel licence.

35. (1) A hotel licence shall not be granted by the Committee unless the Committee is satisfied that—

Conditions
under
which
licences shall
be granted

(a) the premises in respect of which the application is made are structurally adapted for use as an hotel;

(b) proper provision has been made for the sanitation of the hotel;

(c) proper provision has been made for the hotel to be managed in an efficient manner;

(d) proper provision has been made for the storage, preparation, cooking and serving of food in the hotel;

(e) the premises in respect of which the application is made comply with the Public Health Act and regulations made under the Act, and a certificate to that effect is produced; and

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(f) the applicant meets such additional requirements relating to the welfare of guests as the Committee may determine.

(2) A hotel manager's licence shall not be granted by the Council unless the Council is satisfied that the applicant is of good character and meets such other conditions as the Council may determine.

36. Where a holder of an hotel licence notifies the Committee that the holder intends to transfer that licence to some other person, the Committee may, authorise the transfer if the conditions specified in or under subsection (1) of section *thirty-five* have been complied with.

Transfer of
hotel
licence

Revocation of
licence

37. (1) Where it appears to the Director after an inspection that after the grant of an hotel licence or an hotel manager's licence—

- (a) an hotel is being conducted in an unclean or insanitary manner;
- (b) an hotel is not being conducted in an efficient manner;
- (c) the food served in an hotel is not properly prepared, cooked or served;
- (d) any condition specified in or under subsection (1) of section *thirty-five* is not being complied with;
- (e) the hotel-keeper or the hotel administration is involved in, encourages, or condones, crime being committed in or around the hotel; or
- (f) the hotel keeper is convicted of an offence under the Control of Goods Act or regulations made thereunder;

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the Committee may, subject to subsections (2) and (3), on the recommendation of the Director revoke the hotel licence or the hotel manager's licence, or both:

Provided that a hotel manager's licence shall not be revoked if the Committee is satisfied that any contravention under this subsection took place without the manager's knowledge, consent or connivance.

(2) Where there is a contravention under subsection (1) the Director may require the hotel-keeper, by notice in writing, to correct the contravention within a period, not being less than thirty days, and if the hotel keeper fails to do so to the satisfaction of the Director within the specified period, the Committee may revoke in writing the hotel licence or the hotel manager's licence, but the revocation of either licence shall not take effect until the expiration of thirty days from the date of the notice to revoke:

Provided that where the nature or extent of the contravention is serious, the Committee may order that the revocation of the hotel licence or hotel manager's licence shall take effect immediately.

(3) Revocation of an hotel licence shall result in the immediate closure of the premises.

38. (1) The Committee shall, on the recommendation of the Director, classify and grade hotels every two years.

Classification
and
grading of
Hotels

(2) A certificate which is issued in respect of a hotel specifying the classification and grading of such hotel shall be displayed in a prominent place within the reception of the hotel premises.

(3) Where it appears to the Director that an hotel is not being managed in a manner conforming to the class in which the hotel is graded, the Committee may, upon giving notice to the hotel-keeper, remove the name of the hotel from the class in which it is registered and place it in a lower class, but the regrading shall not take effect until the expiration of thirty days from the date of the notice.

39. The Committee shall not refuse an application for an hotel licence or an application to transfer an hotel licence or cancel an hotel licence granted under subsection (3) of section *thirty-four* or re-grade an hotel under section *thirty-eight* unless the hotel manager or hotel-keeper has been furnished, in writing, by the Committee, with the reasons for the refusal, cancellation, grading or regrading and has been give an opportunity of appearing before the Committee and of being heard in support of the application, or in opposition to the cancellation or re-grading.

Refusals,
cancellations,
grading and
re-grading

40. (1) A person aggrieved by—

Appeal to
Minister

(a) a refusal by the Committee to permit the transfer of an hotel licence;

(b) the cancellation of a licence by the Committee; or

(c) the classification, grading or re-grading of an hotel by the Committee;

may, within thirty days from the date of receipt of notification of the refusal, cancellation, grading or re-grading, appeal to the Minister:

Provided that the Minister may consider an appeal after the expiry of the thirty days specified in this subsection if satisfied that the appellant was prevented by sufficient cause from filing the appeal within the specified period.

(2) In every case in which an appeal under this section has been lodged, the Committee shall submit to the Minister in writing the grounds for the decision.

(3) The Minister may, before reaching a decision in any appeal—

(a) refer the matter to the Committee for further inquiry and consideration; or

(b) make such further inquiry and investigation into the matter as the Minister considers necessary.

(4) In any appeal under subsection (1), the Minister may confirm or set aside the decision of the Committee and shall notify the appellant of the Minister's decision in the matter.

(5) Any person who is aggrieved by the decision of the Minister to uphold the Committee's decision as specified under subsection (4) may appeal to the High Court within thirty days of the receipt of the notification of the Minister's decision.

Entry,
inspection
and
information

41. Any person authorised in writing by the Director in that behalf may, with an identification card, at any reasonable time, enter and inspect the premises of an hotel and may require the hotel-keeper to furnish such information as is necessary to enable the Director to carry out the Director's functions.

Register of
guests

42. (1) Every hotel-keeper shall keep a register in which shall be recorded the name of every guest and such other particulars as may be prescribed.

(2) Every hotel-keeper shall —

(a) present the register to every person who intends to stay at the hotel and request the person to write that person's name in the register together with such other particulars as may be prescribed;

(b) present the register for inspection when so requested by the Director, an inspector, an immigration officer or by a police officer of or above the rank of sub-inspector; and

(c) supply to any inspector, immigration officer or police officer of or above the rank of sub-inspector the original of any entry in the register or duplicate thereof when requested by that inspector, immigration or police officer;

Provided that a police officer who intends to inspect a register under paragraph (b) or to obtain the original or duplicate copy of any entry in the register under paragraph (c) shall produce to the hotel-keeper a search warrant obtained for that purpose prior to inspecting the register.

(3) An hotel-keeper who fails to comply with subsection (2) commits an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or imprisonment not exceeding three months, or both.

(4) An hotel-keeper may refuse to allow into the hotel a guest who refuses or fails to give the particulars prescribed by or under this Act.

(5) A guest who makes a statement in the register of guests knowing that statement to be false commits an offence and is liable, upon conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding three months, or both.

43. (1) An hotel-keeper may detain goods brought into the hotel or left in the hotel by a guest indebted to the hotel-keeper for board and may continue to detain the goods until the debt is paid but may not detain the clothing which the person is wearing.

Lien of
hotel-keeper

(2) An hotel-keeper shall have the right to sell by public auction goods detained under subsection (1) and shall, after the sale recover out of the proceeds of the sale the amount of the debt due to the hotel-keeper for board together with the costs and expenses of the sale, and shall make reasonable efforts to pay to the guest whose goods have been sold, the surplus, if any, remaining after the sale.

(3) No sale of the goods referred to in subsection (1) shall be made until after the goods have been for six weeks in the charge or custody of the hotel-keeper or in the hotel without the debt having been paid or satisfied.

(4) At least one month before any sale is made under this section, the hotel-keeper shall cause to be published in at least one newspaper circulating in the district where the hotel is situated, an advertisement containing notice of such intended sale and giving briefly a description of the goods intended to be sold, together with the name of the guest who brought, deposited or left the goods, if known.

(5) Where goods are sold under subsection (2) the hotel-keeper shall, before the expiration of the period of seven days beginning with the date of the sale of the goods, prepare a record in relation to the goods containing the following particulars:

- (a) a sufficient description of the goods;
- (b) the method, date and place of the sale;
- (c) the name and principal place of business of the auctioneer;
- (d) the amount of the proceeds of the sale; and
- (e) a statement of each item of the charges of the hotel-keeper in relation to the goods and the transaction to which each item relates;

and shall during the period of six years beginning with the date on which the record is prepared, keep the record together with a copy of the notice of the hotel-keeper to sell the goods and shall at any reasonable time during the period of six years, if so requested by or on behalf of the guest, produce the record, copy and certificate, or any of them, for inspection by the guest or a person nominated in that behalf by the guest.

(6) A person who fails to comply with this section, commits an offence and is liable upon conviction, to a fine not exceeding ten thousand penalty units or imprisonment for a term not exceeding three months, or to both.

Liabilities of
an
hotel-keeper

44. (1) Without prejudice to any other liability incurred by the hotel-keeper with respect to any property brought into the hotel by a guest, a hotel-keeper shall, except as otherwise provided in this section, be liable to make good to that guest any loss or damage to the property where—

(a) the loss or damage was incurred in the hotel; and

(b) the loss or damage occurred during the period the guest has been residing at the hotel or has left the goods in custody of the hotel-keeper.

(2) Without prejudice to any other liability or right of the hotel-keeper with respect thereto, an hotel-keeper shall not, as such, be liable to make good to any guest any loss of, or damage to, or have a lien on, any motor vehicle or any property left therein.

(3) Where the hotel-keeper is liable as such to make good the loss of or any damage to property brought to the hotel, the hotel-keeper's liability to any one guest shall not exceed fifty-six hundred thousand fee units in respect of any one article, or in the aggregate, except where—

(a) the property was stolen, lost or damaged through the default, neglect or wilful act of the hotel-keeper or the hotel-keeper's servant or agent;

(b) the property was deposited by or on behalf of the guest expressly for safe custody with the hotel-keeper or the hotel-keeper's servant or agent authorised or appearing to be authorised for the purpose and, if so required by the hotel-keeper or that servant or agent, put into a container fastened or sealed by the depositor; or

- (c) at any time after the guest had arrived at the hotel, either the property in question was offered for deposit and the hotel-keeper or the hotel-keeper's servant or agent refused to receive it, or the guest or some other person acting on his behalf wished to so offer but through the default of the hotel-keeper or the hotel-keeper's servant or agent, was unable to do so:

Provided that the hotel-keeper shall not be entitled to the protection of this subsection unless, at the time when the property in question was brought to the hotel, a notice to that effect printed in plain type was conspicuously displayed in a place where it could conveniently be read by the guest at or near the reception office or desk or, where there is no reception office or desk, at or near the main entrance to the hotel.

45. A person who leaves an hotel without either paying their bill for board or making arrangements with the hotel-keeper, the hotel keeper's agent or servant that the bill may be left in abeyance commits an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three months, or to both.

Settlement of
bill

46. (1) A hotel shall add to every bill a service charge of ten per centum of the bill, which shall be paid in equal shares to all the employees except employees in management.

Service
charge and
tips

(2) An hotel-keeper who contravenes the provisions of subsection (1) commits an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three months, or both.

(3) The court convicting a hotel-keeper for contravention of subsection (1), shall in addition to the penalties prescribed in subsection (2), enter civil judgment in favour of the workers affected and order the hotel-keeper to pay the money owing.

(4) No person is obliged to give a tip for any service rendered in an hotel and the hotel-keeper of each hotel shall display a notice to that effect printed in plain type in a conspicuous place in the hotel where it can conveniently be read by a guest in the hotel.

PART VI

LICENSING OF CASINOS

Operating
without
casino licence
prohibited
Application
for casino
licence

47. A person shall not operate a casino without a valid licence issued by the Committee under this Part.

48. (1) An application for a casino licence shall be made in the prescribed form and be lodged with the Director.

(2) The application referred to in subsection (1) shall be accompanied by the prescribed fee and such information in support of the application as the Minister may, by statutory instrument, prescribe.

(3) When an application is received under subsection (1), the Director shall, as soon as practicable, forward it to the Committee and the Committee shall consider it and within sixty days of receiving the application—

(a) issue the applicant with a casino licence on such terms and conditions as the Committee may specify in the licence; or

(b) reject the application and, within seven days of taking the decision, notify the applicant, in writing, of the decision to reject the application, and state the reasons for the rejection.

(4) Any person aggrieved by the refusal of the Committee to approve the application for a casino licence under subsection (3) may, within thirty days of the decision being communicated to that person, appeal, in writing, to the Minister:

Provided that the Minister may consider an appeal after the expiry of the thirty days specified in this subsection if satisfied that the appellant was prevented by sufficient cause from filing the appeal within the specified period.

(5) The Minister may, before reaching a decision in any appeal —

(a) refer the matter to the Committee for further inquiry and consideration; or

(b) make such further inquiry and investigation into the matter as the Minister considers necessary.

(6) In any appeal under subsection (4), the Minister may confirm or set aside the decision of the Committee and shall notify the appellant of the Minister's decision in the matter.

(7) Any person who is aggrieved by the decision of the Minister to uphold the Committee's decision as specified under subsection (6) may appeal to the High Court within thirty days of the receipt of the notification of the Minister's decision.

49. (1) A casino licence shall remain in force every calendar year.

Duration of
licence

(2) A casino licence shall authorise —

- (a) the playing in or such part of the licenced premises as is specified in the casino licence of such games, tables and gaming machines as are specified in it;
- (b) subject to the provisions of Part V, the carrying on and maintenance of a hotel on the licenced premises;
- (c) the sale on the licensed premises to any person at any time of the day and night of intoxicating liquor for consumption on the licensed premises; and
- (d) the carrying on by the licensee in the licensed premises of any trade or business specified in the casino licence.

(3) A casino licence shall specify the number of tables authorised under the casino licence for the playing of any game and the number of gaming machines authorised under the casino licence.

(4) No licensee shall operate or allow to be operated, any tables for the playing of any game or gaming machines in excess of the number authorised under the casino licence.

(5) Any person who —

- (a) keeps or allows to be kept on any premises a gaming machine for the purpose of gaming without a casino licence; or
- (b) contravenes any of the provisions of this section; commits an offence and shall be liable to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(6) When a person is convicted of an offence under subsection (5), the court which convicts that person shall, in addition to any penalty imposed under subsection (5), order the forfeiture to the Government of the tables or gaming machines which were the subject matter of the offence.

Conditions
under
which a
licence shall
be granted

50. (1) The Committee shall not grant a casino licence under section *forty-eight* to any person unless —

- (a) the premises in respect of which the application for a casino licence is made are structurally adapted for use as a casino;
- (b) proper provision has been made for the sanitation of the casino;
- (c) proper provision has been made for surveillance cameras to be fitted for the monitoring of the game and other activities in the gaming premises; and
- (d) proper provision has been made for competent management of the premises.

(2) The Committee may prescribe other conditions to a casino licence —

- (a) relating to the method of operation of any game;
- (b) relating to the operation of any hotel carried on and maintained on the licensed premises;
- (c) for the purposes of ensuring that the operation of the licensed premises does not detract from the natural beauty and amenities of any place near the licensed premises;
- (d) for the purposes of ensuring that the operation of the licensed premises accords with decency, dignity, good taste and honesty;
- (e) requiring the keeping of such books, forms, accounts and records relating to casino operations in such form as the Director may prescribe; and
- (f) relating to any other matters which the Director may consider necessary or incidental to a casino licence.

Revocation of
casino
licence

51. (1) The Committee may on the recommendation of the Director, revoke a casino licence where—

- (a) the licensee or any employee of the licensee has been convicted of an offence under this Act;
- (b) the licensee has contravened or failed to comply with any of the conditions of the casino licence;
- (c) the licensee has failed to carry on and to maintain the premises in accordance with the conditions of the casino licence; or
- (d) the licensee has failed to pay the licence fees payable for the licence and for the games in operation.

(2) The Committee shall not revoke a casino licence under paragraph (a) of subsection (1) unless —

- (a) the licensee has been informed in writing of the grounds upon which it is proposed to revoke the casino licence and shall give the licensee an opportunity of making representations, in writing, in relation to the proposed revocation;
- (b) the Committee is satisfied that the offence is of such a serious nature or was committed in circumstances of such seriousness as in the Committee's opinion warrants such revocation; or
- (c) that the licensee or any employee of the licensee has on a previous occasion been convicted of an offence under this Act.

52. (1) A casino licence shall be transferable only with the consent of the Committee, on recommendation of the Director.

Transfer and verification of a casino

(2) The Committee may, on the application of the licensee, at any time, during the currency of a casino licence, vary any condition of the casino licence:

Provided that where the conditions to be varied relate to the fees for the games listed in the licence, the Committee shall before having such conditions varied, direct an inspection of the games to be carried out.

53. (1) Any person who on any licensed premises —

Gaming by minors prohibited

- (a) plays any game with or permits the playing of any game by any young person;

(b) allows any young person to enter any part of the licensed premises where any game is played, whether for the purpose of gaming or otherwise;

(c) employs in the organisation or for the management of any game any young person;

commits an offence and shall be liable on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(2) In this section “young person” means any person under the age of eighteen years.

(3) It shall not be a defence for any licensee or employee of the licensee charged with an offence under subsection (1) that the licensee did not know of the presence of any young person or that such young person was present without the licensee’s consent, unless the licensee shows, to the satisfaction of the court that the licensee took all reasonable steps to ensure that no young person was admitted to such licensed premises.

Submission of
statement of
account

54. (1) The Director may at any time, and shall at least once in every twelve months, require a licensee to submit to the Director —

(a) a properly audited statement of accounts stating the gross winnings of the casino on each day, or during such other period as the Director may require;

(b) a declaration that the fees payable in respect of the gross winnings of any particular period calculated in accordance with this Act have been paid; and

(c) such returns or other information relating to the operations of a casino as the Director may require.

(2) Any person who refuses or fails to submit a statement of accounts as and when required by the Director or who knowingly submits a false or misleading statement commits an offence and liable on conviction to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

Assessment
by
Director

55. (1) Notwithstanding any other provisions of this Act, if the Director has reason to believe that any amount of fees has been incorrectly computed by a licensee or when any licensee fails in any month to submit to the Director a statement in accordance with section *fifty-four*, the Director may assess the amount of fees, if any, payable by the licensee as may, in the circumstances, appear proper to the Director under the provisions this Act.

(2) Where any fees are assessed by the Director in accordance with this section, the Director shall give notice in writing to the licensee stating the amount so assessed and such amount of fees shall be due and payable by the licensee within such period following the date of such notice as the Director may, in the notice, direct:

Provided that a licensee may, in the first instance, appeal within thirty days of the date of such notice to the Minister and, if aggrieved by the Minister's decision, to the High Court within thirty days of receipt of the Minister's decision.

56. (1) The holder of a casino licence shall not require any licence under the Liquor Licensing Act for the purpose of the sale of intoxicating liquor and nothing in the said Act relating to the hours of sale of intoxicating liquor shall apply to sales of intoxicating liquor under a casino licence.

Non-application of certain provisions
Cap. 167

(2) Subject to the provisions of subsection (1), a casino licence shall, for the purpose of Parts VII and IX of the Liquor Licensing Act, be deemed to be a licence under that Act and licensed premises under this Act shall be deemed to be licensed premises under the Liquor Licensing Act.

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Cap. 167

(3) The holder of a casino licence shall not be required to hold a licence under the Trades Licensing Act in respect of any trades specified in the casino licence and the provisions of that Act shall not apply.

Cap. 393

(4) For the purpose of subsection (3) of section *one* of the Trades Licensing Act, a casino licence shall not be deemed to relate to any goods.

Cap. 393

57. Without prejudice to any other remedy, any tax, penalty or other sum payable under this Act shall be a debt due to the Government and may be recovered as a civil debt by a suit in the name of the Attorney-General.

Tax to be recovered as civil debt

58. (1) There shall be paid in respect of every casino licence issued under this Act such annual fee as the Minister may, by statutory instrument, prescribe.

Fees

PART VII

INCENTIVES

Incentives
Act No. 11
of 2006
Cap. 323

59. The holder of an authorisation or licence shall be eligible for such incentives as may be applicable to the authorisation or licence holder under the Zambia Development Agency Act, 2006 or the Income Tax Act, as the case may be.

Micro, small
and
medium
enterprise
development

60. (1) A tourism enterprise, that is a micro, small or medium enterprise shall be entitled to privileges and benefits under the Zambia Development Agency Act, 2006.

Act No. 11 of
2006

(2) The Minister may, by statutory instrument, declare a tourism enterprise to be a micro, small or medium tourism enterprise for purposes of promoting or broadening its participation in the tourism industry, and shall, in so doing, consider the income generated or to be generated by the tourism enterprise.

Withdrawal
of
benefits

61. (1) The Minister may withdraw any benefit granted to a tourism enterprise under this Act if the operator of such tourism enterprise fails to comply with the provisions of this Act or the conditions of the licence issued to such tourism enterprise.

(2) A person aggrieved by the decision of the Minister to withdraw any benefit under this Act may appeal to the High Court against the decision within thirty days of receipt of the notification of the withdrawal.

Act No. 11 of
2006

(3) In this section “benefit” means any advantage or targeted intervention given by the Minister to a micro, small or medium sized tourism enterprise in order to promote the development of such tourism enterprise and ensure its participation in the tourism industry but does not include any incentive that may accrue to such tourism enterprise under the Zambia Development Agency Act, 2006.

PART VIII

THE TOURISM DEVELOPMENT FUND

Establishment
of
Fund

62. (1) There is hereby established the Tourism Development Fund for purposes of product development, marketing, training, research and support to participating councils for tourism-related infrastructure.

(2) The Fund shall consist of —

- (a) such moneys as may be appropriated by Parliament for the purposes of the Fund;
- (b) moneys collected from such tourism levies as the Minister responsible for finance may, in consultation with the Minister, prescribe;
- (c) such moneys as may be received by the Fund from donations and grants from any source;
- (d) such other moneys as may vest in or accrue to the Fund; and
- (e) such other moneys as may, by or under any law, be payable to the Fund.

63. (1) The Fund shall be vested in the Minister responsible for finance and shall be managed and administered by the Minister responsible for tourism.

Administration
of
Fund

(2) The Minister shall, in consultation with the Minister responsible for finance, by statutory instrument, constitute a Tourism Development Fund Committee to administer the Fund.

(3) The Committee constituted pursuant to subsection (2) shall —

- (a) be responsible to the Minister; and
- (b) have such functions and comprise such number of members not exceeding seven as the Minister shall prescribe in the statutory instrument.

64. The Ministers referred to in section *sixty-three* shall apply the moneys of the Fund for the purpose of tourism product development, tourism research, tourism marketing, training in tourism research and support to participating councils for tourism-related infrastructure.

Application
of
moneys of
Fund

65. The Ministers referred in section *sixty-three* shall cause an annual statement of income and expenditure to be prepared and laid before the National Assembly.

Statement of
income
and
expenditure

PART IX

THE HOTEL MANAGERS REGISTRATION COUNCIL

Hotel
Managers
Registration
Council

66. (1) There is hereby constituted an Hotel Managers Registration Council which shall consist of the following part-time members appointed by the Minister:

- (a) the Director of the Hotel and Tourism Training Institute;
- (b) three members of the Hotels Catering International Management Association;
- (c) a representative of the Tourism Council of Zambia;
- (d) a representative of the Hotel Catering Association of Zambia;
- (e) a representative of the Zambia Institute of Certified Accountants;
- (f) a representative of the Attorney-General; and
- (g) a representative of the Ministry responsible for tourism.

(2) The Minister shall, on receiving the names of the proposed representatives from the institutions or organisations referred to in subsection (1), consider the representatives and may, where the Minister thinks fit in the Ministers discretion, reject any such representative or appoint the representative as a member of the Council:

Provided that where the Minister rejects any proposed representative, the Minister shall direct the institution concerned to avail the Minister with the name of another representative.

(3) The Minister shall appoint the Chairperson and the Vice-Chairperson of the Council.

(4) Subject to subsection (5), a member of the Council shall hold office for a period of three years from the date of appointment and shall be eligible for reappointment for a further term of three years.

(5) The office of a member of the Council shall become vacant —

- (a) if that member is absent without reasonable excuse from three consecutive meetings of the Council of which the member had notice;
- (b) upon the member's death;
- (c) if the member is adjudged bankrupt;
- (d) on a member ceasing to hold the office by virtue of which the member was appointed;
- (e) if the member becomes mentally or physically incapable of performing the duties of a member of the Council; or
- (f) if the member is convicted of an offence under any written law and sentenced therefor to imprisonment for a term exceeding six months.

(6) Where a vacancy occurs in terms of subsection (5), the Minister may appoint a new member in accordance with subsection (1), to hold office for the unexpired part of that member's term.

(7) A member of the Council shall be paid such allowances as the Minister may determine.

(8) Subject to the other provisions of this Act, the Council may regulate its own procedure.

(9) The Council shall meet for the transaction of business as often as is necessary or expedient for the conduct of its business at such places and times as the Chairperson may determine expedient for the conduct of its business.

(10) The quorum at any meeting of the Council shall be five members of the Council.

(11) There shall preside at any meeting of the Council —

- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice-Chairperson;
or
- (c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from their number for the purpose of that meeting.

(12) The determination of any matter before the Council shall be according to the votes of the majority of the members present and considering the matter.

(13) The Council may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the Council but such person shall have no vote.

(14) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council.

(15) The Minister shall appoint a Secretary to the Council from among suitably qualified persons employed in the Department of Tourism of the Ministry responsible for tourism to perform such secretarial and administrative functions in connection with the Council.

Functions of
Council

67. The functions of the Council shall be to —

- (a) consider applications for registration for hotel managers;
- (b) prepare programmes of training including the acquiring of acceptable practical experience by trainees and graduates of hotel management for registration as hotel managers;
- (c) liaise with approved institutions of hotel management on practical training for hotel managers and monitoring and working out modalities of the diary ;and
- (d) conduct interviews for professional competence at such times and places as the Council shall determine.

Registration
of Hotel
Managers

68. (1) A person shall apply, in the prescribed form, to the Secretary of the Council for registration.

(2) The Council shall register a person who qualifies for registration as an hotel manager in terms of section *sixty-nine*.

(3) The Secretary shall keep a register of persons registered by the Council.

(4) The register referred to in subsection (3) shall show such particulars as the Council may consider necessary and the Secretary shall register all changes relating to the manager that may occur after registration.

69. (1) A person shall not be registered as a hotel manager unless the person —

Qualification
for
registration
as hotel
manager

- (a) is resident in Zambia;
- (b) has attained the age of twenty-one years;
- (c) holds a degree, diploma or such other qualification in hotel management as the Minister may, by statutory instrument, on the recommendation of Council, prescribe or equivalent qualifications recognised by the Council;
- (d) has acquired at least two years of post graduate practical experience from full time employment under the supervision of a registered hotel manager; and
- (e) has paid the registration fee prescribed by the Council.

(2) A person shall not qualify to be registered as an hotel manager if the person —

- (a) has been convicted of an offence involving dishonesty or any offence under this Act or any other written law and sentenced therefor to imprisonment for a term exceeding six months, without the option of a fine;
- (b) has been adjudged or declared of unsound mind under any written law ;
- (c) is an undischarged bankrupt;
- (d) due to mental or physical incapacity, is unable to perform the duties of a hotel manager.

70. (1) The Council shall issue a practising certificate to every hotel manager registered under section *sixty-eight*.

Practising
certificate

(2) Every practising certificate issued under subsection (1) shall take effect on the date it is issued and shall continue in force until the 31st of December next following the date of issue.

(3) A practising certificate shall be renewed annually upon payment of such fee as may be prescribed.

Cancellation
of
practising
certificate

71. (1) The Council may cancel a practising certificate issued under section *seventy* if—

(a) it is proved to the satisfaction of the Council that the registration was obtained through fraud, misrepresentation or concealment of any material fact; or

(b) the person ceases to be qualified for registration in terms of subsection (2) of section *seventy-one*.

(2) The Council shall, before cancelling the practising certificate under subsection (1), give a registered hotel manager thirty days notice in writing of the intention to cancel the practising certificate and give the registered hotel manager an opportunity to show cause why the practising certificate should not be cancelled, within such reasonable period as may be specified in the notice.

(3) If—

(a) at the expiration of the period specified in the notice given under subsection (2), and after considering any representations made by the hotel manager, the Council is satisfied for any reason specified in subsection (1) that the practising certificate should be cancelled; or

(b) the registered hotel manager fails to show cause why the practising certificate should not be cancelled within the period specified in the notice given under subsection (2);

the Council shall, within seven days of taking the decision, in writing, notify the hotel manager of the cancellation of the practising certificate and state the reasons for such cancellation.

(4) The Council shall, after cancelling the practising certificate issued under subsection (1), publish a notice of cancellation in a newspaper of general circulation.

(5) A registered hotel manager whose practising certificate is cancelled shall immediately cease to practise as a hotel manager.

(6) Any person who contravenes the provisions of subsection (5), commits an offence and shall be liable, on conviction to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(7) A person aggrieved by a decision of the Council under subsection (3) may within thirty days of receiving the notification of the cancellation appeal to the Minister.

(8) In any appeal under subsection (7), the Minister may confirm, vary or set aside the decision of the Council and shall notify the appellant of the Minister's decision in the matter.

(9) Any person who is aggrieved by the decision of the Minister to uphold the Council's decision as specified under subsection (3) may appeal to the High Court within thirty days of the receipt of the notification of the Minister's decision.

72. (1) A person not registered by the Council shall not—

- (a) practice or offer their services as, or hold themselves out to be, a qualified hotel manager;
- (b) adopt, use or exhibit the title "hotel manager" or any other term of similar description; or
- (c) do any thing likely to lead persons to infer that the person is a registered hotel manager.

Offences
relating to
practising
certificate

(2) A person shall not employ as a hotel manager a person who is not registered by the Council.

(3) Any person who contravenes the provisions of subsection (1) or (2), commits an offence and shall be liable, on conviction to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(4) Where an offence under subsection (1) or (2) is committed by a body corporate, every director and manager of the body corporate shall be deemed to have committed the offence, unless the director or manager proves to the satisfaction of the court that the offence was committed without the knowledge, consent or connivance of the director or manager or that the director or manager took sufficient steps to prevent the commission of the offence.

Offences
related to
registration

73. A person who—

- (a) makes or causes to be made an unauthorised entry, alteration or erasure in a register, practising certificate, or any copy thereof;
- (b) procures or attempts to procure for oneself or any other person a practising certificate by means of fraud, misrepresentation or concealment of any material fact;

commits an offence and shall be liable, on conviction to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

PART X

INSPECTIONS

Appointment
of
inspectors

74. (1) In order to ensure compliance with the provisions of this Act, or any condition imposed under this Act, the Minister shall appoint such number of competent persons to exercise the powers of and perform the functions of an inspector under this Act.

(2) Every inspector shall be provided with a certificate of appointment which shall be *prima facie* evidence of the inspector's appointment as such.

(3) An inspector shall, on demand by any person affected by the exercise of the inspector's powers under this Act, produce for inspection a certificate referred in subsection (2). Powers of inspectors

Powers of
Inspectors

75. (1) In the performance of duties an inspector shall have power—

- (a) at any time to enter and inspect the licenced premises;
- (b) to inspect all equipment and supplies in or about the licenced premises;
- (c) to have access to and inspect, examine and audit all papers, books and records of the licensee representing the gross revenue produced by an hotel and or by the games played under the casino licence;
- (d) to seize and remove from the licensed premises any equipment or supplies for the purpose of examination and inspection;

- (e) to be present at and supervise the counting at the close of business of the casino on any day of the money received by the casino in gaming during that day; and
- (f) to be present at and supervise the calculation of the gross winnings made, at the casino on any day.

76. (1) A person shall not—

Obstruction
and
impersonation
of
inspectors

- (a) delay or obstruct an inspector in the exercise or performance of the inspector's powers or functions;
- (b) refuse to give an inspector such reasonable assistance as the inspector may require for the purpose of the exercise of the inspector's powers under this Act;
- (c) provide an inspector with false or misleading information in answer to any inquiry made by the inspector; or
- (d) insult, interrupt or assault an inspector.

(2) A person shall not—

- (a) impersonate an inspector;
- (b) hold out to have the powers of an inspector; or
- (c) procure an inspector to do or refrain from doing anything in connection with duties of an inspector.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall be liable, upon conviction, to a fine of not less than one hundred thousand penalty units, or to imprisonment for a term not less than two years, or to both.

77. (1) Each inspector shall furnish the Director with such records, reports and other information relating to matters referred to the inspector, as the Director may direct.

Inspector to
provide
reports

(2) The Director shall forward a copy of the report and other information referred to in subsection (1) to the owner of the tourism enterprise.

(3) Where an inspection establishes that a tourism enterprise does not comply with the requirements of this Act, the operator of the tourism enterprise shall take measures to comply with the requirements of the Act within such period as the Director may specify.

Prohibition
of
publication
or disclosure
of
information
to un-
authorised
persons

78. (1) A person shall not, without the consent, in writing, given by the Director publish or disclose to any other person, than in the course of that person's duties, the contents of any document, communication or information, which relates to, and which has come to that person's knowledge in the course of that person's duties under the Act.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units, or to imprisonment for a term not exceeding six months, or to both

(3) If a person having information which to that person's knowledge has been published or disclosed in contravention of the provisions of subsection (1) unlawfully publishes or communicates that information to any other person, that person commits an offence and shall be liable, upon conviction to a fine not exceeding ten thousand penalty units, or to imprisonment for a term not exceeding six months, or to both.

PART XI

SAVINGS AND TRANSITIONAL PROVISIONS

Licensing of
existing
tourist
enterprises,
hotels, etc

79. (1) Every person who, at the commencement of this Act, is carrying on any tourism enterprise other than a casino shall, within six months after such commencement, apply to the Committee for a licence.

(2) At the commencement of this Act, an hotel licence or an hotel manager's licence which is issued under the repealed Act shall continue to be valid until its expiry on the 31st December following the date of its issue.

(3) At the commencement of this Act a casino licence which is issued under the repealed Act shall, until its expiry, continue to be valid as if it was issued under this Act.

Offences and
penalties

80. Any person who—

- (a) wilfully publishes or causes or allows to be published in any manner false or misleading information relating to any hotel, restaurant, tour operator, tour guide, courier, other accommodation establishment, or tourism enterprise or amenity;

- (c) being the person responsible therefor fails or refuses to pay any fee or to collect and remit any such fee in terms of this Act; or
- (d) hinders or obstructs the Director or any tourism officer or inspector in the performance of their functions under this Act or gives false or misleading information to the Director or any tourism officer or inspector; commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

81. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), the regulations may provide for—

- (a) the forms of licences issued under this Act and the manner of applying for authorisations and licences under this Act;
- (b) the fees payable in respect of authorisations or licences issued under this Act;
- (c) the terms and conditions under which a tourism enterprise may be operated;
- (d) the condition in which premises of a tourism enterprise, hotel or casino shall be kept;
- (e) the terms and conditions under which a person may invest in, establish, maintain or operate any tourism enterprise;
- (f) the classification or grading of tourism enterprises and hotels;
- (g) tourism planning;
- (h) the tourism enterprises, other than hotels, which may require the payment of a service charge; and
- (i) anything which may be or is required to be prescribed under this Act.

82. The Tourism Act, 1979, the Hotels Act, 1987, and the Casino Act, 1992 are hereby repealed.

Repeal of
Cap. 155,
Cap. 153 and
Cap. 157