

TOURIST ACT 1975

(Chapter 19)

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GENERAL NOTES

1. The maximum fines in this Act are as increased by the Fines Act 1986 and by the Criminal Justice (Penalties, Etc.) Act 1993 s 1.
2. The reference to a Board of Tynwald is to be construed in accordance with the Government Departments Act 1987 s 7.

AN ACT

to consolidate and revise the law relating to tourism, and for connected purposes.

1 The Department of Economic Development

The Department of Economic Development (in this Act referred to as 'the Department') shall be charged with the duty of carrying into effect the provisions of this Act and of any regulations made thereunder.

[S 1 amended by GC122/86 and by SD155/10 Sch 2.]

2 Functions of the Department

(1) The Department shall maintain, encourage, develop, protect, promote and facilitate tourism in, to and from the Island to the best advantage of the Island.

[Subs (1) amended by GC122/86.]

(2) Without prejudice to the generality of subsection (1) above, the Department may exercise any of the powers specified in Schedule 1 to this Act.

[Subs (2) amended by GC122/86.]

3 Registration Officers

(1) Registration officers shall be appointed for the purposes of this Act and of any regulations made thereunder.

[Subs (1) substituted by Civil Service Act 1990 Sch 3.]

(2) A Registration Officer shall carry out such functions as may be conferred on him by this Act or by regulations under this Act.

4 Registration of tourist premises

(1) The Department shall cause to be established and maintained such registers as may be prescribed for the purpose of registering tourist premises according to their classification.

[Subs (1) amended by GC122/86.]

(2) There shall be entered in the several registers respectively such matters as may be prescribed.

(3) Tourist premises registered in any one of the registers shall not, while so registered, be capable of being registered in any other of the registers.

5 Classification of tourist premises

The Department shall classify all tourist premises, in accordance with regulations under this Act, for the purpose of registering those premises under section 4 of this Act.

[S 5 amended by GC122/86.]

6 Restrictions on unregistered tourist premises

Except with the prior approval of the Department, no person shall use or permit to be used any land as tourist premises unless the land is registered as tourist premises under this Act.

[S 6 amended by GC122/86.]

7 Applications for registration

The owner or occupier of any land who wishes that land to be registered as tourist premises shall apply to the Department in a form approved by the Department at the prescribed time, shall furnish such information as may be prescribed and shall pay the prescribed fee.

[S 7 amended by GC122/86.]

8 Issue of registration certificates

Where any land is registered as tourist premises under this Act, the Department shall issue to the applicant for registration a registration certificate in a form approved by the Department.

[S 8 amended by GC122/86.]

9 Refusal of registration

(1) When the Department is of opinion that any land is not, for any reason, eligible for registration under this Act as tourist premises, the Department may, after giving the applicant an opportunity of being heard either in person or by his advocate, refuse to register that land as tourist premises and, if so, shall serve a notice of such refusal on the applicant for registration.

[Subs (1) amended by GC122/86.]

(2) A notice of refusal under subsection (1) above shall state the reasons why the land is not regarded by the Department as eligible for registration and shall contain a statement informing the applicant for registration of his right to appeal to the Appeal Tribunal against the refusal in accordance with the provisions of this Act.

[Subs (2) amended by GC122/86.]

10 Cancellation of registration

The Department may cancel the registration of any tourist premises under this Act-

- (a) at the request of the person who applied for their registration; or
- (b) if the Department is satisfied that the land has ceased to be eligible for registration as tourist premises under this Act; or

[Para (b) amended by GC122/86.]

- (c) if the Department is satisfied that the registration under this Act was made in error or as a result of any false statement made by the applicant; or

[Para (c) amended by GC122/86.]

- (d) if the Department is satisfied that the proprietor of the tourist premises has carried on his business on or in those premises in such a manner as to bring the tourist industry into disrepute.

[S 10 amended by GC122/86. Para (d) amended by GC122/86.]

11 Duration of registration

Every registration and renewed registration under this Act shall, unless the registration has been sooner cancelled under section 10 of this Act, continue in force until the 11th February next after the date of registration or, as the case may be, after the date on which the registration was last renewed, and shall then terminate, unless the registration is renewed, in the prescribed manner and on payment of the prescribed fee, before the end of that month.

12 Custody of registers and proof of contents

(1) Every register shall be-

(a) deemed to be in proper custody when in the custody of the Department or of an officer of the Department authorised in that behalf by the Department; and

[Para (a) amended by GC122/86.]

(b) admissible in evidence, without further proof, on production from proper custody.

(2) *Prima facie* evidence of any entry in any register may be given in any court or in any legal proceedings by the production of a copy of the entry purporting to be certified to be a true copy by the Secretary or any other officer of the Department authorised in that behalf by the Department, and it shall not be necessary to prove the signature of that officer, or that he was in fact that officer, or was in fact so authorised.

[Subs (2) amended by GC122/86.]

(3) A certificate, purporting to be signed by the Secretary or any other officer of the Department authorised in that behalf by the Department, that any premises specified in the certificate are not registered under this Act as tourist premises for any registration year specified in the certificate shall be conclusive evidence of the matters so certified, and it shall not be necessary to prove the signature of that officer, or that he was in fact that officer, or was in fact so authorised.

[Subs (3) amended by GC122/86.]

13 Grading of tourist premises

(1) The Department may from time to time grade, in such manner as it thinks proper, any tourist premises.

[Subs (1) amended by GC122/86.]

(2) Where any tourist premises have been graded under this section, the Department may at any time, if it thinks proper, and after notice to the proprietor, withdraw the grade then allotted to any such premises and allot a different grade thereto.

[Subs (2) amended by GC122/86.]

14 Transmission and devolution of registration

(1) Where the proprietor of any tourist premises registered under this Act dies, the

following provisions shall have effect, that is to say-

- (a) the death of the registered proprietor shall not of itself terminate the registration of those premises;
- (b) the personal representatives of the deceased registered proprietor or, with the assent of such personal representatives, any other person shall be entitled, on making application to the Department in such form and manner as may be prescribed, to be registered as the registered proprietor of those premises for the remainder of the registration year;

[Para (b) amended by GC122/86.]

- (c) until such registration as aforesaid, the person actually carrying on the business conducted on or in the premises shall be deemed to be the registered proprietor thereof for the purposes of so much of this Act as relates to things to be done on or in the premises.

(2) When any tourist premises and the business carried on thereon or therein are transferred by the registered proprietor (in this section referred to as 'the transferor') on sale or otherwise to another person (in this section referred to as 'the transferee'), the following provisions shall have effect, that is to say-

- (a) the transferee shall be entitled, on making application to the Department on a form approved by the Department and on satisfying the Department that he has become the proprietor of the premises, to be registered as the registered proprietor of the premises for the remainder of the registration year;

[Para (a) amended by GC122/86.]

- (b) the transferee shall, on being registered as aforesaid, be entitled to the benefit of any application to the Department made by the transferor in relation to the premises and then pending, and shall be entitled to prosecute the application as if it had been made by him.

[Para (b) amended by GC122/86.]

(3) Subsection (2) above shall apply, in every case where a receiver or manager appointed by the High Court or by a debenture holder goes into possession of registered tourist premises, in like manner as if those tourist premises had been transferred by the registered proprietor thereof to that receiver or, as the case may be, that manager.

15 Appeals from the Department

(1) There shall be constituted a Tourist Premises Appeal Tribunal (in this Act referred to as 'the Appeal Tribunal') in accordance with paragraph 1 of Schedule 2 to this Act, and the provisions of that Schedule shall have effect in relation to the practice and procedure of the Appeal Tribunal and to the other matters specified in that Schedule.

[Subs (1) amended by Tribunals Act 2006 Sch 3.]

(2) Any person aggrieved by-

- (a) any refusal of the Department to register any land as tourist premises; or

[Para (a) amended by GC122/86.]

- (b) the cancellation of the registration of any tourist premises; or
- (c) the grading, regrading, classification or reclassification of any tourist premises; or
- (d) any other matter which may be prescribed;

may appeal to the Appeal Tribunal in accordance with the said Schedule 2 and, subject to subsection (3) below, the decision of the Appeal Tribunal on any such appeal shall be final.

(3) An appeal shall lie, in accordance with rules of court, to the Staff of Government Division from a decision of the Appeal Tribunal where that decision involves a point of law.

16 Power of the Department to obtain certain information

(1) The Department may, for the purpose of obtaining statistical information relating to the number, districts of origin, duration of stay and requirements of tourists, by a direction given with respect to any tourist premises or class of tourist premises, require the proprietor of those premises or, as the case may be, the proprietors of that class of premises-

- (a) to keep such records as may be required by the Department for the purposes of supplying statistical information;

[Para (a) amended by GC122/86.]

- (b) to furnish in a form approved by the Department, at such times and in such manner as may be prescribed, such statistical information relating to the premises or to the business carried on thereon or therein as may be prescribed.

[Subs (1) amended by GC122/86. Para (b) amended by GC122/86.]

(2) Subject to subsection (3) below, no information relating to any particular tourist premises shall be published or otherwise disclosed without the prior consent in writing of the person by whom the information was furnished.

(3) Nothing in subsection (2) above shall restrict the use of information for the purpose of being included in statistics relating to tourism.

17 Powers of entry of Registration Officers

A Registration Officer may, at all reasonable times and on production, if so required, of evidence of his authority, enter and inspect-

- (a) any land in respect of which an application has been made for its registration as tourist premises, for the purpose of seeing if the land is eligible for registration as tourist premises and, if so, of classifying and grading it;
- (b) any tourist premises, for the purposes of seeing whether the premises require to be reclassified or regraded;
- (c) any tourist premises in respect of which a complaint has been made to the Department by a tourist in the prescribed manner, for the purpose of investigating that complaint and making a determination thereon;

[Para (c) amended by GC122/86.]

- (d) any land, for the purpose of ascertaining whether there has been a contravention of, or failure to comply with, this Act or of any regulations under this Act,

and may require the proprietor or any person employed on that land or, as the case may be, on or in those premises to furnish to the Registration Officer such information relating to that land or, as the case may be, those premises and to the business carried thereon or therein as may be reasonably necessary for the purposes of this Act or of any regulations under this Act.

18 Offences

(1) Any person who uses, or permits to be used, any land in contravention of section 6 of this Act shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

(2) Any person who-

(a) with intent to deceive-

(i) makes, in order that it may be used as genuine, or alters or uses, or lends to any other person to be used by that other person, any registration certificate; or

(ii) makes, or has in his possession, any document so closely resembling a registration certificate as to be calculated to deceive; or

(b) for the purpose of procuring, whether for himself or for any other person, the issue or the variation of a registration certificate-

(i) makes any statement which he knows to be false in a material particular; or

(ii) recklessly makes any statement which is false in a material particular; or

(c) in furnishing any information in compliance with a requirement made under section 16(1) or 17 of this Act or under any regulations under this Act-

(i) makes any statement which he knows to be false in a material particular; or

(ii) recklessly makes any statement which is false in a material particular,

shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000, or to both.

(3) Any proprietor of any tourist premises who describes or holds out, or permits any person to describe or hold out, any tourist premises to be tourist premises of a classification or grade other than the true classification or grade of those premises shall be guilty of an offence and shall be liable-

(a) on conviction on information, to imprisonment for two years or to a fine, or to both;

(b) on summary conviction, to a fine not exceeding £5,000.

(4) Any person who-

- (a) fails, without reasonable excuse, to comply with any requirement made under section 16(1) or 17 of this Act or under any regulations under this Act; or
- (b) obstructs a Registration Officer in the exercise of any of his functions under this Act,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

(5) Where an offence under this section is committed by a body corporate and is proved to have been so committed with the consent or approval of, or to have been facilitated by neglect or default on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

19 Regulations

(1) The Department may make regulations for all or any of the matters specified in Schedule 3 to this Act, but no regulation prescribing fees shall be made except after consultation with the Treasury.

[Subs (1) amended by Treasury Act 1985 Sch 2 and by GC122/86.]

(2) No regulations under subsection (1) above shall have effect until they have been approved by Tynwald.

20 Expenses

There shall be paid out of money provided by Tynwald any expenditure incurred by the Department under or by virtue of this Act.

[S 20 amended by GC122/86.]

21 Interpretation

In this Act, unless the context otherwise requires-

'the Appeal Tribunal' means the Tourist Premises Appeal Tribunal constituted in accordance with paragraph 1 of Schedule 2 to this Act;

[Definition of 'the Appeal Tribunal' amended by Tribunals Act 2006 Sch 3.]

'the Board'

[Definition of 'the Board' repealed by GC122/86.]

'business', in relation to any tourist premises, means the business of providing lodging for tourists, with or without board;

'the Department' means the Department of Economic Development;

[Definition of 'the Department' inserted by GC122/86 and by SD155/10 Sch 2.]

'functions' includes powers and duties;

'proprietor', in relation to any tourist premises, means the person owning the business carried on thereon or therein and includes a manager and any person having charge or control of the business.

'register' means a register established and maintained under this Act, and **'registered'** shall be construed accordingly;

'Registration Officer' means an officer of the Department appointed as such under section 3(1) of this Act;

[Definition of 'Registration Officer' amended by GC122/86.]

'registration year' means the year beginning on the 12th February in any year and ending on the 11th February in the following year;

'tourist' includes visitor;

'tourist premises' means land of any of the descriptions specified in Schedule 4 to this Act.

22 Transitional provisions

The transitional provisions set out in Schedule 5 to this Act shall, without prejudice to section 10 of the Interpretation Act 1970 (effect of repeals), have effect for the purposes of the transition to the provisions of this Act from the law in force immediately before this Act takes effect.

23

[S 23 repealed by Statute Law Revision Act 1983 Sch 2.]

24 Short title and commencement

(1) This Act may be cited as the Tourist Act 1975.

(2) This Act shall, subject to subsection (3) below, come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys.

(3) This section shall take effect on the coming into operation of this Act and the remaining provisions of this Act shall take effect from such day or days as the Governor may by order appoint, and different days may be so appointed for different purposes.

[ADO (whole Act except s 13) 12/11/1977 (GC198/77); (s 13) 1/1/1985 (GC275/84).]

Schedule 1 Specific Powers of the Department

1. To provide or assist financially (by way of grant, loan, guarantee or indemnity) or in any other manner competitions, exhibitions, services, sports, races, amusements, carnivals, attractions, entertainments and other facilities relating to tourism.
2. To assist, financially or otherwise, in the provision, extension or improvement of facilities

or amenities (including transport arrangements) likely to encourage or develop tourism.

3. To engage in any kind of publicity in connection with tourism.
4. To facilitate travelling and provide for tourists and travellers, and to promote the provision of conveniences of all kinds in the way of through tickets, circular tickets, sleeping cars or berths, reserved places, hotel and lodging accommodation, guides, tours, inquiry bureaux, baggage transport or otherwise.
5. To prepare and publish guide books, maps, accommodation lists, itineraries, timetables and other publications for the benefit or assistance of tourists, and to make reasonable charges in respect of such publications.
6. To accept advertisements for publication in such guides or lists, to make reasonable charges for such advertisements, to impose terms and conditions upon advertisers and to refuse to accept or publish any advertisement or information without assigning any reason for such refusal.
7. To provide or assist financially or otherwise in the provision of schemes for the training of persons in relation to tourist traffic.
8. To make representations relative to wireless telegraphy, postal or telephonic facilities or other forms of communication of public interest.
9. To enter into any arrangements with the Government or any local authority which may be conducive to the objects of the Department or any of them, to obtain from the Government or any local authority any rights, privileges or concessions which the Department might think it advisable to obtain and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions.

[Para 9 amended by GC122/86.]

10. Notwithstanding anything to the contrary contained in any enactment or rule of law, to institute proceedings in the High Court on behalf of any tourist, where it appears to the Department that there has been a breach of contract by the proprietor of any tourist premises with that tourist, and to pay the costs of any such proceedings.

[Para 10 amended by GC122/86.]

11. To do all such other things as are instrumental or conducive to the attainment of the objects of the Department.

[Para 11 amended by GC122/86.]

12. In this Schedule, '**Government**' includes a Board of Tynwald and a Statutory Board.

Schedule 2

The Appeal Tribunal and Matters Relating Thereto

1. The Appeal Tribunal shall be composed of the following members appointed in accordance with the Tribunals Act 2006-

- (a) a chairman, and
- (b) 4 other members, of whom 2 shall be appointed after consultation with such body or bodies representative of persons engaged in the tourist industry as may be selected by the Appointments Commission.

[Para 1 substituted by Tribunals Act 2006 Sch 3.]

- 2. Three members of the Appeal Tribunal shall form a quorum.
- 3. If the chairman of the Appeal Tribunal is not present at any sitting thereof, the members present shall appoint one of themselves to be chairman at the sitting.
- 4. The Appeal Tribunal may from time to time appoint an expert to sit with and assist the Appeal Tribunal, but that expert shall take no part in the decision of the Appeal Tribunal.
- 5. The clerk of the Appeal Tribunal shall be a person appointed from time to time by the Chief Minister.

[Para 5 amended by Transfer of Governor's Functions Act 1992 Sch 1.]

- 6. (1) Any person appealing, in pursuance of section 15(2) of this Act, from a decision of the Department shall, within fourteen days after receiving notice of that decision, appeal to the Appeal Tribunal, and the Appeal Tribunal may allow or dismiss the appeal, or may reverse or vary any part of the decision appealed against, and, subject to section 15(3) of this Act, the Department shall register or refrain from registering the premises, the subject of the appeal, in accordance with the decision of the Appeal Tribunal.

[Subpara (1) amended by GC122/86.]

(2) The costs of an appeal to the Appeal Tribunal shall be in the discretion of the Tribunal, which may direct to and by whom those costs, or any part thereof, shall be paid, and those costs may be recovered as a civil debt.

- 7. (1) Every appeal to the Appeal Tribunal shall be commenced by the appellant lodging with the clerk of the Appeal Tribunal a petition addressed to the chairman of the Appeal Tribunal, stating the general grounds of appeal and signed by him or by his advocate on his behalf.

(2) The appellant shall also, not later than three days next following the day on which the petition of appeal is lodged, give notice of the appeal to the Department by serving a copy of the petition on the Secretary of the Department.

[Subpara (2) amended by GC122/86.]

- 8. (1) Within fourteen days of service of a petition of appeal upon it, the Department shall state and sign a case setting forth the facts and the ground of its decision, and lodge the same with the clerk of the Appeal Tribunal, and shall serve a copy thereof on the appellant.

[Subpara (1) amended by GC122/86.]

(2) The Department may, by resolution, authorise a case to be signed on behalf of the Department by the Secretary or other officer of the Department.

[Subpara (2) amended by GC122/86.]

9. The chairman of the Appeal Tribunal shall fix the date, time and place for the hearing of the appeal, and shall cause at least eight days notice of the hearing to be sent by the clerk to the appellant and the Department, and notice of the hearing shall also be sent by the clerk to each member of the Appeal Tribunal.

[Para 9 amended by GC122/86.]

10. (1) The hearing of an appeal shall be in public.

(2) The appellant and the Department shall be entitled to be heard by the Appeal Tribunal at the hearing of the appeal, and may be represented by an advocate or, in the case of the Department, either by an advocate or by any member or officer of the Department.

[Subpara (2) amended by GC122/86.]

11. On the hearing of an appeal, the Appeal Tribunal shall have full discretionary power to receive evidence upon questions of fact, such evidence to be taken on oath or otherwise, and either by oral examination or by affidavit, or in such other manner as the Appeal Tribunal may direct.

12. An appellant may withdraw his appeal by giving notice in writing, not later than the third day before the date fixed for the hearing of the appeal, addressed to the chairman of the Appeal Tribunal and to the Secretary of the Department.

[Para 12 amended by GC122/86.]

13. Subject to the provisions of this Schedule, the Appeal Tribunal shall regulate its own procedure.

14. (1) Upon receipt of a notice of appeal under paragraph 7(2) above relating to-

- (a) a refusal to register any land as tourist premises in the register for which application has been made; or
- (b) a cancellation of the registration of any tourist premises in any premises,

the Department shall-

- (i) temporarily register the land in the register for which application has been made or, as the case may require, temporarily re-register the tourist premises in the register in which it had been registered prior to the cancellation of the registration; or
- (ii) grant temporary exemption of the land or, as the case may be, the tourist premises from the provisions of this Act.

[Subpara (1) amended by GC122/86.]

(2) A temporary registration or re-registration, or a temporary exemption, under this paragraph shall lapse-

- (a) on the withdrawal of the appeal; or
- (b) on the expiration of the time, subsequent to the determination of the appeal by the Appeal Tribunal, within which an appeal to the Staff of Government Division may be lodged,

whichever first occurs, or, if a further appeal is duly made to the Staff of Government Division, until that appeal is withdrawn or determined, whichever first occurs.

Schedule 3

Regulation-making Powers of the Department

1. Prescribing any matter which is required to be, or may be, prescribed under this Act.
2. Prescribing the general character of the land, the type of accommodation or other services, or both, to be provided therein and other matters incidental thereto which shall be required for the purpose of classifying the land as tourist premises of a prescribed classification and of qualifying it as eligible for registration in a prescribed register.
3. Exempting any particular land or category of land from all or any of the provisions of this Act.
4. Correcting clerical errors in any register.
5. Providing for the display of registration certificates, and for the production and delivery to the Department of registration certificates which have expired or which relate to tourist premises whose registration has expired.

[Para 5 amended by GC122/86.]

6. Amending or endorsing registration certificates.
7. Providing for the replacement of registration certificates which have been lost, destroyed or mutilated.
8. Providing for the display of charges by proprietors of tourist premises, or of any class of such premises.
9. Providing for the display of external signs relating to the classification and grading of premises.
10. Providing for the making of complaints by tourists and for the manner in which such complaints shall be investigated and dealt with.
11. Providing for the publication of lists of registered tourist premises.
12. Prohibiting the advertisement of tourist premises of any classification specified in the regulations, being a classification of such a standard as appears to the Department not to be conducive to the good of tourism in the Island.

[Para 12 amended by GC122/86.]

13. Restricting the use of the expressions 'hotel', 'inn' and 'guest house'.
14. Prescribing the manner in which notices or documents under or for the purposes of this Act may be served, and providing for different methods of service in respect of different classes of notices and documents.
15. Prescribing the fees to be paid under or for the purposes of this Act.

16. Prescribing the maximum penalties, not exceeding a fine of £1,000, which may be imposed on summary conviction for contravention of, or failure to comply with, any of the provisions of the regulations.

17. Generally for giving effect to the provisions of this Act.

Schedule 4 **Descriptions of Land Included in Expression 'Tourist Premises'**

1. Any premises used for the lodging for reward of tourists or visitors.
2. Residential hotels.
3. Holiday hotels.
4. Private hotels.
5. Tourist inns.
6. Motor inns.
7. Road houses.
8. Guest houses.
9. Boarding houses.
10. Lodging houses.
11. Flats, flatlets or other rented accommodation used or intended to be used for accommodating tourists.
12. Holiday hostels.
13. Holiday camps.
14. Holiday villages.
15. Camping sites.
16. Caravan sites.

Schedule 5 **Transitional Provisions**

1. Any reference in any enactment or other document to the Isle of Man Publicity Board shall be construed as a reference to the Department.

[Para 1 amended by GC122/86.]

2. Any reference in any enactment or document to any register maintained under any enactment repealed by this Act shall be construed as a reference to the appropriate register

established and maintained under this Act.

3. Any appointment made to the Appeal Tribunal under section 7(1) of the Tourist (Isle of Man) Act 1961 shall be deemed to have been made to the Appeal Tribunal under paragraph 1 of Schedule 2 to this Act.

Schedule 6

[Sch 6 repealed by Statute Law Revision Act 1983 Sch 2.]
