
TOURISM DEVELOPMENT ACT 1973.

ANALYSIS.

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**TOURISM DEVELOPMENT.**

No. 69 of 1973.

AN ACT to amend the *Tourism Development Act 1970*.
[28 November 1973.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Tourism Development Act 1973*. Short title and citation.

(2) The *Tourism Development Act 1970*, as subsequently amended, is in this Act referred to as the Principal Act.

Interpretation.

2 Section three of the Principal Act is amended—

- (a) by omitting from the definition of “ Authority ” the word “ eight ” and substituting therefor the word “ thirteen ”;
- (b) by inserting after the definition of “ Authority ” the following definition:—
 - “ ‘ certificate of satisfactory standards of service ’ means a certificate issued under section twenty-two A; ”
- (c) by omitting from the definition of “ Director ” the word “ thirteen ” and substituting therefor the word “ eight ”;
- (d) by omitting from the definition of “ Director-General ” the word “ twelve ” and substituting therefor the word “ seven ”; and
- (e) by omitting from the definition of house the words “ boarding-house and holiday flats ” and substituting therefor the words “ guest-house, holiday flats, and caravan parks ”.

Functions of the Department.

3 Section five of the Principal Act is amended—

- (a) by inserting in paragraph (d) of subsection (2), after the word “ establish, ”, the word “ provide, ”;
- (b) by inserting in that paragraph, after the word “ establish-ment, ”, the word “ provision, ”; and
- (c) by adding at the end thereof the following subsection:—

“(3) Where the Department—

- (a) provides houses or road-houses for travellers pursuant to paragraph (d) of subsection (2) of this section; or
- (b) carries on, in pursuance of paragraph (f) of that subsection, an undertaking that comes into the Minister’s possession in consequence of a loan or guarantee made or given under Part VI and default ensuing,

the officer or other employee immediately responsible for the conduct of the facility shall, if required by the *Licensing Act 1932* or any other Act to be the holder of a licence, certificate, permit, or any other qualification or permission, be the holder thereof and the provisions of any Act, where applicable, shall be complied with in all

respects and shall be applicable to the officer or other employee as if the facility were being conducted by him on his own account.”.

4 Section six of the Principal Act is amended—

Powers of
Minister.

- (a) by omitting from subsection (2) the words “ powers set forth in paragraphs (b) and (c)” and substituting therefor the words “ power as to loans set forth in paragraph (b) and the power as to the giving of a guarantee set forth in paragraph (c)”;
- (b) by omitting from subsection (3) all the words after the word “ office ”; and
- (c) by adding at the end thereof the following subsections:—

“(4) The Minister may, in relation to any transaction or to any act in the course of any transaction for the purposes of paragraph (a) of subsection (1) of this section, in writing, authorize the Director-General to execute a deed by affixing the seal of office, and signing for and on behalf of the Minister and to enter into a contract for and on behalf of the Minister, and to do for and on behalf of the Minister any other act that it is lawful for the Minister to do, and such written authorization shall have the same force and effect in relation to the transaction or act in the course of the transaction as a power of attorney duly executed in that behalf.

“(5) Where on any document it appears the seal of the Minister referred to in this section was affixed by the Director-General for and on behalf of the Minister, or it appears the document was signed by the Director-General acting for and on behalf of the Minister, it shall for all purposes be conclusively presumed that the Director-General was authorized as required by subsection (4) of this section so to act.”.

5 The Principal Act is amended by omitting Parts III and IV and substituting therefor the following Parts:—

“ PART III.

“ ADMINISTRATION.

“ 7—(1) For the purposes of this Act, the Governor may appoint a person to be Director-General of Tourism and Immigration.

Appointment
of Director-
General of
Tourism and
Immigration.

“(2) The Director-General is the permanent head of the Department and shall, subject to the direction of the Minister, have the power and authority and shall discharge and exercise the duties and functions vested in or imposed or conferred on him or the Department by this Act.

“(3) The Director-General shall keep the Minister continuously and fully informed with respect to all matters under the management and control of the Department, and the Minister may at any time require the Director-General to supply him any information that he may require concerning the operations and affairs of the Department, which the Director-General shall supply accordingly.

Appointment
of Director
of Tourism;
Transfer of
Director.

“8—(1) For the purposes of this Act, there shall be a Director of Tourism who shall be appointed under and subject to the *Public Service Act 1973*.

“(2) On the commencement of the *Tourism Development Act 1973*, the Director shall become subject to the *Public Service Act 1973* and shall for all purposes be deemed to have been so appointed and included in the Second Division within the meaning of that Act on the date on which he was appointed Director pursuant to the *Tourist and Immigration Department Act 1934* (repealed by the Principal Act).

“(3) The Public Service Board shall, at an appropriate time after the commencement of the *Tourism Development Act 1973*, classify the Director in accordance with section thirty-nine of the *Public Service Act 1973* in respect of some principal award as nearly as possible applicable to his office or position so that his salary and, so far as they depend on such an award, his allowances and conditions of service can be determined by reference only to the classification and the award.

“(4) The classification to be made under subsection (3) of this section is a salary determination within the meaning of the *Public Service Act 1973* and section sixty-seven of that Act applies in respect of it as if it were made to have effect from the date on which any relevant principal award came into force and had effect, and were the first so made, after the award was made.

“(5) Where by reason of subsection (4) of this section an application is made under paragraph (a) of subsection (1) of section sixty-seven of the *Public Service Act 1973*, an order made thereon has effect on and from the date of the classification under subsection (3) of this section on which the application is based, and not as provided in subsection (6) of that section.

“(6) The Director shall, in consequence of the classification under subsection (3) of this section, be paid a salary and be subject to conditions of service being no less advantageous to him than that which was paid and those to which he was subject immediately before the commencement of this Act.

“(7) The salary and allowances paid to the Director shall, during the period between the last payment of salary by virtue of his appointment as Director and the Public Service Board’s determination under subsection (3) of this section, be deemed to have been paid under the authority of such a determination.

“9—(1) The Director-General may, in relation to a particular matter or class of matters or in respect of a particular part of the State or elsewhere, by instrument in writing under his hand delegate to the Director such of his authority, powers, functions, and duties under or by virtue of this Act (except the power of delegation) as may be specified in the instrument and any authority, power, function, or duty so delegated may be exercised by the Director as fully and effectually as by the Director-General.

Delegation by
Director-
General to
Director.

“(2) A delegation under this section shall be revocable at the will of the Director-General and no such delegation shall prevent the exercise of any authority, power, function, or duty by the Director-General.

“10—(1) The Director-General shall not be subject to the *Public Service Act 1923*.

Conditions of
service of
Director-
General.

“(2) The Director-General shall be paid such salary as the Governor may appoint, and be entitled to such allowances and reimbursements as may be prescribed.

“(3) Subsection (2) of section fifteen applies to regulations made for the purposes of subsection (2) of this section.

“(4) The conditions of service of the Director-General shall be such as the Governor determines.

“(5) If an officer as defined by section four of the *Public Service Act 1973* is appointed Director-General his service thereas shall for the purpose of determining his existing and accruing rights be deemed to be service as such an officer.

Tenure of office
of Director-
General.

“ 11—(1) Subject to subsection (2) of this section, the Director-General—

- (a) shall hold office for a term of five years or, if he might attain the age of sixty-five years within five years from the date of his appointment, until he attains that age; and
- (b) is, if under that age, eligible for reappointment.

“(2) The Governor may remove the Director-General from office—

- (a) if he engages during his term of office in paid employment outside the duties of his office;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt and insolvent debtors, compounds with his creditors, or makes an assignment for their benefit;
- (c) if he becomes permanently incapable of performing his duties;
- (d) if he resigns his office by writing under his hand;
- (e) if he absents himself (except on leave granted by the Minister) from all meetings of the Authority held during three consecutive months;
- (f) if he fails to carry out his duties under this Act, or takes to absenting himself from his place of duty without the Minister’s leave;
- (g) if he in any way participates or claims to be entitled to participate in the profit of, or in any benefit or emolument arising from any contract or agreement made by or on behalf of the Minister or the Department, other than a contract or agreement for the supply of goods or services ordinarily supplied by the Department on the same terms as they are supplied by the Department to members of the general public;
- (h) if he votes at any meeting of the Authority in respect of any matter in which he is (otherwise than as a member of the general public or as a shareholder in an incorporated company in which there are more than twenty members and of which he is not a director or officer) directly or indirectly interested or if he remains at any meeting while the matter is under discussion; or
- (i) if he contravenes subsection (7) of section sixteen.

“ 12—(1) The Director-General may engage and dismiss employees, whether permanent, casual, or part-time, for any purpose related to the carrying out of the functions of the Department. Employees not being Public Service officers.

“(2) Where the Director-General engages an employee under subsection (1) of this section, he shall give notice thereof to the Public Service Board constituted under the *Public Service Act 1973* together with a statement of the duties to be performed by the employee.

“(3) If the Public Service Board is of the opinion that any function or duty being performed by a person employed under subsection (1) of this section should be performed by an officer appointed under the *Public Service Act 1973*, it shall communicate its opinion to the Director-General who, on receiving the communication of that opinion shall forthwith, or within such period as the Board may recommend, terminate the employment of that person.

“(4) Nothing in subsection (3) of this section shall be construed as disentitling a person whose employment has been, or is about to be, terminated as provided by that subsection from applying for appointment as an officer in the Public Service of Tasmania.

“ PART IV.

“ THE TOURISM DEVELOPMENT AUTHORITY.

“ 13—(1) For the purposes of this Act, there shall be a board known as the Tourism Development Authority which shall have the powers, authorities, functions, and duties conferred on it by this Act. Constitution of Authority

“(2) The Authority shall consist of the Director-General, the Director, and four other persons appointed by the Governor.

“(3) The Authority may act notwithstanding any vacancy in its membership so long as there are enough members to form a quorum for its meetings.

“ 14—(1) A member of the Authority, other than the Director-General and the Director— Tenure of office.

(a) shall, subject to this section, hold office for a term of three years or, if he might attain the age of sixty-five years within three years from the date of his appointment, until he attains that age; and

(b) is, if under that age, eligible for reappointment.

“(2) The Governor may remove from office any member of the Authority, other than the Director-General and Director, who—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes an assignment for their benefit;
- (b) becomes permanently incapable of performing his duties;
- (c) resigns his office by writing under his hand given to the Minister;
- (d) absents himself (except on leave granted by the Minister) from all meetings of the Authority held during three consecutive months;
- (e) obtains or attempts to obtain by virtue of his office any special benefit for himself or his employer or a company of which he is a member; or
- (f) contravenes subsection (7) of section sixteen.

**Remuneration
and expenses.**

“15—(1) Members of the Authority, other than the Director-General and Director, shall be paid such allowances and be reimbursed such expenses as may be prescribed.

“(2) Regulations made for the purposes of this section may provide that any allowance payable shall be paid at prescribed rates or at rates determined in such manner as may be prescribed.

Meetings.

“16—(1) The Authority shall hold such meetings as in the opinion of the Director-General are necessary for the efficient conduct of its business, and a meeting of the Authority with the approval of the Minister shall be held at any time if requested by a member.

“(2) The Minister may—

- (a) summon a special meeting of the Authority; and
- (b) attend any meeting of, and confer with, the Authority.

“(3) The Director-General shall preside at all meetings of the Authority at which he is present, and in his absence from any meeting the Director shall preside.

“(4) Four members, of whom the Director-General or Director shall be one, shall constitute a quorum of the Authority for the transaction of business.

“(5) Any question arising at a meeting of the Authority shall be determined by a majority of the votes of the members present and voting on the question, each of whom shall have only one vote.

“(6) The Authority shall cause minutes of its proceedings to be kept.

“(7) A member of the Authority who is interested in any way, whether directly or indirectly, in any contract, agreement, or transaction entered into, or proposed to be entered into, by the Crown or the Minister for the purposes of this Act shall disclose the nature of his interest at a meeting of the Authority and the disclosure shall be recorded in the minutes of the meeting.

“(8) Subject to this section, the Authority may regulate its own procedure.

“ 16A The Authority—

- (a) shall, where it thinks fit, make written recommendations to the Minister as to suitable persons to whom loans may be made as provided by section twenty, and the amount of any loan so recommended;
- (b) shall, where it thinks fit, make written recommendations to the Minister as to suitable cases in relation to which the repayment of moneys borrowed or to be borrowed may be guaranteed as provided by section twenty-one;
- (c) shall, either itself or by a committee established under Part V, conduct or instigate such investigation in relation to any matter related to research, promotion, marketing, or transport within the tourist industry or otherwise for the development of the industry, as the Minister may direct or as the Authority may think necessary or desirable, and report in writing thereon to the Minister; and
- (d) shall perform such other duty or function as the Minister, for the purposes of this Act, may impose on it.

Powers and
functions of
the Authority.

“ 16B—(1) The Authority shall, once in every year, make a report to the Minister on its activities during the preceding year.

Annual report
by the
Authority.

“(2) The report referred to in subsection (1) of this section may, by arrangement with the Director-General, be incorporated in the report made by him in accordance with section twenty-nine.

“(3) The Minister shall cause the yearly report of the Authority, if not incorporated with that of the Director-General, to be laid before both Houses of Parliament within thirty days after the receipt thereof if Parliament is then sitting, and if not, within thirty days after the next meeting of Parliament.

Communication
between the
Minister and
the Authority.

“16C—(1) The Director-General shall be the intermediate of all official correspondence between the Authority and the Minister.

“(2) The Director-General, in transmitting correspondence from the Authority to the Minister, shall append such comments as the Director-General thinks fit.”.

Grants for
facilities.

6 Section nineteen of the Principal Act is amended by omitting the words “on the recommendation of” and substituting therefor the words “after consultation with”.

Registration
of houses.

7 Section twenty-two of the Principal Act is amended—

(a) by inserting at the end of paragraph (c) of subsection (1) the words “and as prescribed require that deficiencies detected as a result of any such inspection be rectified”; and

(b) by omitting paragraph (e) of that subsection and substituting therefor the following paragraph:—

“(e) as prescribed, revoke the registration granted in respect of any of those houses or alter the classification of any of those houses;”.

8 The Principal Act is amended by inserting the following section in Part VI after section twenty-two:—

Certificate of
satisfactory
standards of
service.

“22A—(1) The Governor may prescribe a form of a certificate of satisfactory standards of service in relation to the services rendered to tourists and other persons resorting to road-houses and other facilities for tourists and, in doing so, may prescribe different forms in respect of road-houses and other facilities for tourists and in respect of different classes of those other facilities for tourists.

“(2) On application being made in that behalf by the proprietor of a facility for tourists, the Authority may, if the standards of management, maintenance, and conduct of the facility are not known to it, inspect the facility, the subject of the application, or cause such an inspection to be made.

“(3) If being, or on becoming, aware that a facility for tourists is managed, maintained, and conducted in a manner that in its opinion justifies the issue of a certificate under this section, the Authority may issue a certificate in respect of that facility being a facility which is the subject of an application under this section.

“(4) The Authority may publish lists of facilities for tourists in respect of which a certificate under this section has been issued.

“(5) A certificate under this section shall remain on issue until it is revoked by the Authority and it may be so revoked if, at any time, the Authority is of the opinion that the standards of management, maintenance, or conduct have fallen below a satisfactory level.”.

9 Section twenty-nine of the Principal Act is amended—

Annual report.

- (a) by omitting from subsection (1) the word “ Authority ” and substituting therefor the word “ Director-General ”; and
- (b) by omitting from subsection (2) the word “ Authority ” and substituting therefor the word “ Director-General ”.

10 Section thirty of the Principal Act is amended—

Offences.

- (a) by omitting from subsection (1) the word “ Authority ” and substituting therefor the word “ Director-General ”;
- (b) by transposing the word “ or ” from the end of paragraph (b) to the end of paragraph (c) of subsection (2); and
- (c) by inserting after paragraph (c) of that subsection the following paragraph:—

“(d) display or cause to be displayed a certificate of satisfactory standards of service, or any sign or representation that is calculated to induce any reasonable person to think that the sign or representation is such a certificate, at or on any place not being a facility for tourists at which the display of such a certificate is authorized under this Act.”.

11 Section thirty-one of the Principal Act is amended—

Regulations.

- (a) by omitting from paragraph (b) of subsection (2) the words “ refusal to register ” and substituting therefor the words “ a refusal to register or revocation of registration ”;
- (b) by inserting in that subsection, after the word “ classifica- tion ”, the words “ or alteration of classification ”;

(c) by adding at the end thereof the following paragraph and subsection:—

“(c) provide for an appeal against a refusal to issue, or the revocation under section twenty-two A of, a certificate of satisfactory standards of service.

“(3) The regulations may provide for penalties not exceeding one hundred dollars for breaches of the regulations.”; and

(d) by transposing the word “and” from the end of subparagraph (vi) of paragraph (a) of subsection (2) to the end of paragraph (b) of that subsection.

Transition provisions

12 For the purposes of the Principal Act, from the commencement of this Act—

- (a) the person being the Director-General shall be deemed to have been appointed under the Principal Act as amended by this Act and subject to the Principal Act he shall continue in office under the Principal Act for the unexpired portion of the term for which he was appointed;
- (b) until a salary determination in relation to the Director is made as provided by subsection (3) of section eight of the Principal Act (as amended by this Act) the Director shall continue to be paid such salary as was last determined under the Principal Act;
- (c) each member of the Authority other than the Director-General and the Director shall be deemed to have been appointed under the Principal Act as amended by this Act and shall continue in office under the Principal Act for the unexpired portion of the term for which he was appointed;
- (d) any person engaged for casual work by the Authority and continuing so engaged shall be deemed to have been engaged by the Director-General acting under the Principal Act as amended by this Act; and
- (e) a written authorization of the Authority under section thirty of the Principal Act, shall, to the extent that it continues to be effective at the commencement of this Act, be deemed to have been given by the Director-General.