

CHAPTER 65

THE TOURIST AGENTS (LICENSING) ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 65

THE TOURIST AGENTS (LICENSING) ACT

An Act to make provision for licensing, regulating and controlling the business of tourist agents and for related matters.

[1st March, 1969]

Act No. 2 of 1969

[PCh65s1]1. Short title

This Act may be cited as the Tourist Agents (Licensing) Act.

[PCh65s2]2. Interpretation

In this Act, unless the context otherwise requires—

"business of a tourist agent" includes negotiating, whether by correspondence or otherwise, soliciting, canvassing or accepting business connected with the tourist industry;

"hotel" includes a lodge, inn or any establishment intended for the reception of tourists or visitors;

"licensed tourist agent" means a tourist agent licensed under the provisions of this Act;

"licensing authority" means any person or body of persons appointed to be a licensing authority under the provisions of section 15;

"Minister" means the Minister for the time being responsible for tourism;

"public service vehicle" shall have the meaning assigned to that term in the Transport Licensing Act *;

"tourist agent" includes a travel agent or tour operator or any person who for reward, undertakes to provide for tourists and other members of the public in relation to tours and travel within or outside Tanzania, transport, whether by air, sea, railway or road, including procurement of tickets, accommodation, professional advice on tourism and other travel matters relating to tourism, and also includes any person who for reward, operates as an agent of a transporter for the purpose of soliciting customers for such transporter;

"transporter" means any person who operates any transport service whether by sea, air railway or road for the carriage of passengers.

[PCh65s3]3. Tourist agents to be licensed

(1) No person shall carry on, or hold himself out as carrying on, business of a tourist agent, or operate, or hold himself out as operating, as a tourist agent except under a licence granted by a licensing authority under the provisions of this Act.

(2) No person shall take and use the title of, or describe himself as, a tourist agent or a travel agent or take and use any other term which might reasonably imply that he is a licensed tourist agent, unless he is the holder of a licence granted by a licensing authority under the provisions of this Act.

(3) The provisions of subsection (1) shall not apply to any person who is employed by any licensed tourist agent in respect of any act or thing done on behalf of his employer and in the course of his employment.

(4) Any person who contravenes the provisions of subsection (1) or subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to a term of imprisonment not exceeding two years or to both.

[PCh65s4]4. Disqualification for obtaining licence

A licence to carry on the business of a tourist agent shall not be granted to any person who—

- (a) has not attained the apparent age of twenty-one years; or
- (b) has been convicted of any offence under this Act or any offence involving fraud or dishonesty under any other written law within five years immediately preceding the date of application for a licence; or
- (c) is an undischarged bankrupt having been adjudicated bankrupt by any court of competent jurisdiction in the United Republic or, in the case of a corporation, the corporation is in liquidation or has been wound up or in respect of which a winding-up order made by any court of competent jurisdiction in the United Republic, is subsisting; or

(d) except with the approval of the Minister, in the case of a natural person, is not a citizen of the United Republic or, in the case of a corporation, is not a corporation incorporated by or under any written law; or

(e) in the opinion of the licensing authority, does not have at his disposal the means, the resources, the vehicles or other necessary facilities or equipment for the proper and efficient carrying out of the business and running of the services to which the application for a licence relates.

[PCh65s5]5. Licensing authority may refuse to grant licence

(1) A licensing authority may refuse to grant a licence to any person to carry on the business of a tourist agent.

(2) Any person aggrieved by the grant refusal of a licensing authority to grant a licence may appeal to the Minister and the Minister may, where satisfied that such a refusal was without sufficient cause, reverse the decision of the licensing authority and direct the licensing authority to grant a licence to such person.

[PCh65s6]6. Duration of licence

Every licence to carry on the business of a tourist agent shall expire on the thirty-first day of December immediately following the grant of such licence.

[PCh65s7]7. Contents of licence

Every licence to carry on the business of a tourist agent shall be in the prescribed form and shall specify—

- (a) the name and address of the person to whom it is granted;
- (b) the premises where the business of the tourist agent may be carried on;

(c) the nature of the business which the licensee may operate, and shall be subject to such conditions as the licensing authority may impose, which conditions shall be specified in the licence.

[PCh65s8]8. Breach of condition to be an offence

Any person granted a licence under this Act to carry on the business of a tourist agent who fails to comply with any of the conditions of the licence specified in the licence, or carries on the business of a tourist agent other than the business specified in the licence, shall be guilty of an offence.

[PCh65s9]9. Revocation of licence

(1) The licensing authority may revoke a licence granted to any person under the provisions of this Act if such person—

(a) is convicted of any offence under this Act or is convicted of any offence involving fraud or dishonesty, under any other written law; or

(b) if, in the opinion of the licensing authority, he has obtained the licence by fraud or by misrepresentation or by non-disclosure of any material fact; or

(c) in the opinion of the licensing authority, has ceased to have at his disposal the means or the vehicles or other equipment necessary for the proper and efficient running of the services to which the licence relates.

(2) Any person aggrieved by the revocation of a licence by the licensing authority may appeal to the Minister and the Minister may, where satisfied that the revocation was without sufficient cause, reverse the decision of the licensing authority and set aside the revocation.

(3) Where any person who has been granted a licence under the provisions of this Act has conducted himself in such a manner that in the opinion of the Minister it is in the public interest that such person should cease to carry on the business of a tourist agent, the Minister may revoke licence and such revocation shall be final and shall not be questioned in any court.

[PCh65s10]10. Variation of conditions attached to licence

A licensing authority may at any time vary the conditions attached to a licence granted to any person under the provisions of this Act.

[PCh65s11]11. Licensee to be given opportunity to be heard before revocation of conditions

Notwithstanding the preceding provisions of this Act, a licensing authority shall not revoke any licence or vary the to be conditions of any licence granted under this Act without first having given the licence holder an opportunity to or variation show cause why the licence should not be revoked or, why the conditions should not be varied and the licence holder shall have a right to make representations to the licensing authority in such manner as may be prescribed.

[PCh65s12]12. Appeals relating to conditions

Where any person who is or has been granted a licence is aggrieved by any condition imposed by the licensing authority, either at the time when the licence is granted or subsequently under the provisions of section 10, that person may appeal to the Minister and the Minister may vary or cancel any such condition.

[PCh65s13]13. Application for licence

Every application for a licence under the provisions of this Act shall be in the prescribed form and shall be submitted to the licensing authority in accordance with the provisions of regulations made under this Act.

[PCh65s14]14. Power to enter premises

(1) The licensing authority, or any person authorised by the licensing authority in writing, may, in the performance of his duties—

(a) enter and inspect, at any reasonable time, any premises of a tourist agent on which that person has reasonable cause to believe that the business of a tourist agent is being carried on in contravention of the provisions of this Act, and may—

(i) examine and take copies of any books, accounts and documents found in those premises relating to or appearing to relate to the business of a tourist agent;

(ii) seize any books, documents or accounts found on those premises which that person has reasonable ground to believe to contain evidence of an offence committed against this Act;

(iii) question any person who appears to be engaged in, or carrying on, or employed in, the business of a tourist agent on those premises on any matter concerning the application of or compliance with any provision of this Act;

(b) require, by notice in writing, any person who appears to him to be engaged in, or carrying on, the business of a tourist agent to produce at such time and place as that person may specify in such notice all or any of the books, accounts and documents relating to the business of a tourist agent; or

(c) stop and seize or search any vehicle which he has reasonable grounds for suspecting that it is being used or contains any matter which may be used as evidence in respect of an offence committed under this Act.

(2) No premises shall be entered into forcibly under this section except by or under the direction of police officer of or above the rank of inspector unless the licensing authority or the person authorised by the licensing authority in writing, has reasonable cause to believe that the delay which may be occasioned by summoning the police officer would, or would tend to, defeat the purposes of this section.

(3) Every person who—

(a) hinders or obstructs a licensing authority or any person authorised by the licensing authority in writing, acting in pursuance of the provisions of subsection (1); or

(b) fails to comply with any requirement made of him under the provisions of subsection (1),
shall be guilty of an offence.

(4) Any person seizing anything by virtue of the provisions of paragraph (c) of subsection (1) of this section, shall, at the time of such seizure give a receipt for things seized.

[PCh65s15]15. Appointment of licensing authority

(1) The Minister may, by notice in the Gazette, appoint any person or body of persons to be a licensing authority either for the whole, or for a specific area, of Mainland Tanzania.

(2) The Minister may give to any licensing authority directions of a general or special character as to the exercise and performance of the powers and duties under this Act which the Minister may consider reasonable in the interests of the proper regulation of the tourist industry and the licensing authority shall give effect to any directions so given.

[PCh65s16]16. General penalty

Any person guilty of an offence under this Act or under any regulations made under this Act shall, unless some other penalty has been prescribed, be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding one year or to both.

[PCh65s17]17. Court's power in relation to offences under this Act

Where any person is convicted of an offence under this Act by a court of a resident magistrate, such court may, notwithstanding the provisions of section 170 of the Criminal Procedure Act * impose maximum fine prescribed by this Act for such offence.

[PCh65s18]18. Offences by corporate bodies

Where an offence under this Act is committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to have been facilitated by, any neglect on the part of any officer, member or servant of such body corporate or by any person who was purported to act in any such capacity, such officer, member or servant or such person as well as the body corporate shall be guilty of the offence, and shall be liable to be proceeded against and punished accordingly.

[PCh65s19]19. Decision of Minister to be final

The decision of the Minister on any appeal under this Act shall be final and shall not be subject to review by any court.

[PCh65s20]20. Regulations

The Minister may make regulations for the better carrying out of the provisions and purposes of this Act and without prejudice to this generality, may make regulations—

- (a) prescribing the fees to be charged for licences granted under this Act;
- (b) prescribing the forms to be used for the purposes of this Act;
- (c) prescribing the conditions to be attached to, or for the grant of, a licence;
- (d) requiring licensed tourist agents to submit returns and information relating to their business;
- (e) regulating the activities of tourist agents with respect to the issuing of air travel tickets and making of reservation of hotel or lodge accommodation;
- (f) regulating the activities of tourist agents in order to maintain a high standard in the tourist industry;
- (g) prescribing anything which, under the provisions of this Act, may be prescribed.

[PCh65s21]21. Exemption from Act

- (1) Nothing in this Act shall apply or be deemed to apply to—
- (a) the business of a tourist agent carried on by the Government;
 - (b) the proprietor of any hotel in respect of business relating to such hotel or to any employee of any such proprietor;

(c) the business of carriage of persons by a proprietor of any taxi-cab or a private hire vehicle plying for hire or reward within the area of jurisdiction of a local authority under whose by-laws such taxi-cab or vehicle is registered, or to any employee of any such proprietor;

(d) the business of carriage of persons by a proprietor of a public service vehicle, in respect of whom a licensing authority is satisfied that the proprietor does not use such vehicle solely or mainly for the transport of tourists, or to any employee of any such proprietor.

(2) The Minister may, by order in the Gazette, exempt any person or class of persons specified in such order from all or any of the provisions of this Act.

[PCh65s22]22. Publication of list of tourist agents

The Minister shall cause to be published in the Gazette, at such intervals as he may think fit, a list of all tourist agents licensed under the provisions of this Act.