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ACT NO. 1 OF 2006

Tourism (Amendment) Act, 2006

An Act to amend the Tourism Act, 2002¹.

Enacted by the Parliament of Lesotho

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Tourism (Amendment) Act, 2006 and shall come into operation on the date of its publication in the Gazette.

Interpretation

2. Section 2 of the Tourism Act, 2002 (hereinafter referred to as “the principal law”) is amended by -

- (a) deleting the definition of “Deputy Director”;
- (b) deleting the definition of “Minister” and substituting the following -
“**“Minister”** means the Minister responsible for tourism;”;
- (c) deleting the definition of “Ministry” and substituting the following -
“**“Ministry”** means the Ministry responsible for tourism”;
- (d) deleting the definition of “Deputy Chairman”;
- (e) deleting the definition of “Director”;
- (f) inserting the following definition in the appropriate alphabetical order -

“**Fund**” means the Tourism Development Trust Fund established under section 18A;”.

PART II LESOTHO TOURISM DEVELOPMENT CORPORATION

Establishment of the Corporation

3. Section 3 of the principal law is amended by -

(a) inserting the following subsection after subsection (2) -

“(2A) The Corporation shall be under the general supervision of the Minister.”;

(b) inserting the following subsection after subsection (6) -

“(7) The seal of the Corporation shall be kept in the custody of the Chief Executive.”.

Insertion of new section

4. The principal law is amended by inserting the following new section after section 3 -

“ Historic sites

3A. (1) The Minister may, by notice published in the Gazette, designate historic sites.

(2) No person shall destroy or damage any historic site or make any alteration thereto.”.

Functions of the Corporation

5. Section 4 of the principal law is amended by -

(a) deleting the figure “ (1)”

- (b) deleting paragraph (i) and substituting the following -
 - “(i) to facilitate private sector investment in the establishment of tourism undertakings;”;
- (c) deleting paragraph (k) and substituting the following -
 - “(k) to facilitate private sector investment in -
 - (i) the provision or adaptation of sites, the modernisation or construction of premises for tourism undertakings;
 - (ii) assisting any other person to do any of the things mentioned in sub-paragraph (i); and
 - (iii) providing or assisting in the provision of related services or facilities;”;
- (d) deleting paragraph (1) and substituting the following -
 - “(1) to facilitate or assist the private sector in the management of sites and premises for tourism undertakings;”.

Powers of the Corporation

6. Section 5 of the principal law is amended in subsection (2) by deleting “, after consultation with the Corporation,”.

Establishment and composition of the Board

7. Section 5 of the principal law is amended -
- (a) in subsection (2)(a) by deleting “Director” and substituting “Principal Secretary”;
 - (b) in subsection (2)(c) by deleting “who shall be the Deputy

Chairman”;

- (c) by inserting the following after subsection (2)(e) -
“ (f) the Corporate Secretary of the Corporation who shall be the Secretary to the Board.”;
- (d) in subsection (4) by deleting “ Subsection (2)(c)” and substituting “ Subsection (2)(e)”;
- (e) by deleting subsection (6).

Insertion of a new section

8. The principal law is amended by inserting the following new section after section 6 -

“Functions of the Board

- 6A. (1) The functions of the Board are to -
- (a) Direct and oversee the overall operations of the Corporation;
 - (b) direct the organisational structure of the Corporation which appropriately assigns authority, reporting relationships and responsibility;
 - (c) approve terms and conditions of employment of the staff of the Corporation;
 - (d) approve and oversee the annual allocation and utilization of funds for the Corporation’s operational expenses and capital requirements;
 - (e) consider and determine, from time to time, the management’s need to create employment positions in accordance with the organisational

structure and operational needs of the Corporation;

- (f) establish committees and delegate to them or to the Chief Executive the authority to carry out, on its behalf, such duties as it may, from time to time, determine;
 - (g) make requisition for such information as it may think necessary to monitor the performance of the Corporation; and
 - (h) make recommendations to the Minister on administrative and operational matters which require the Minister's approval in terms of the Act."
- (2) The Minister may, from time to time, give directions in writing to the Board with respect to the operations or proceedings of the Board, and its functions generally or with respect to a particular matter, and the Board shall give effect to the directions."

Meetings of the Board

9. Section 8 of the principal law is amended in subsection (2) by deleting "the Deputy Chairman shall preside" and substituting "the members present shall elect one of their number to preside".

General amendment

10. The principal law is amended by deleting " of Finance" wherever it appears and substituting " responsible for finance".

Committees

11. Section 12 of the principal law is amended -

- (a) by deleting subsection (2) and substituting the following -

“(2) The membership of the committees referred to in subsection (1) may consist of -

- (a) members of the Board; or
- (b) all or any of the persons listed in the Schedule to this Act.”;

- (b) by inserting the following new subsection after subsection (2)

“(2A) The Minister may, by notice published in the Gazette and on the advice of the Board, amend the Schedule.”; and

- (c) by deleting subsection (3) and substituting the following -

“(3) The Corporation shall pay members of any committee established under subsection (1) who are not employees of the Corporation travelling and other allowances as may be determined by the Minister after consultation with the Minister responsible for finance.”.

PART III

STAFF OF THE CORPORATION AND CONDITIONS OF SERVICE

Staff of the Corporation

12. Section 13 of the principal law is amended in subsection (1)(a) by deleting sub-paragraph (ii).

PART IV

FINANCIAL PROVISIONS

Share capital

13. Section 16 of the principal law is amended by deleting subsection (1) and substituting the following -

“(1) The share capital of the Corporation shall be determined by the Minister and the Government shall be the sole shareholder.”

Insertion of new sections

14. The principal law is amended by inserting the following new sections after section 18 -

“Trust Fund

18A. (1) There is established a Tourism Development Trust Fund for the development of tourism in which the levy referred to in section 18B(1) and other monies that may be obtained from any source shall be deposited.

(2) The Minister, acting in consultation with the Minister responsible for finance, may make regulations for the administration of the Fund and any other matter incidental and necessary for its effective administration.

Tourism Levy

18B. (1) The Minister may, by notice published in the Gazette, charge tourism enterprises a levy to be known as the Tourism Levy.

(2) The Minister may, by regulations -

- (a) declare tourism enterprises which shall be subject to the tourism levy;
- (b) prescribe a percentage of the tourism receipts collected which is to be paid into the Fund; and
- (c) appoint a collecting agency to be responsible for the collection of the tourism levy.”.

Annual report

15. The principal law is amended by deleting section 23 and substituting the following -

“ 23. The Corporation shall, not later than 3 months after the end of the financial year, submit to the Minister, a report of the operations of the Corporation during the financial year and the Minister shall table the report before Parliament.”.

Designation of tourism development areas

16. Section 24 of the principal law is amended by deleting “following consultation with the Minister of Local Government” and substituting “after consultation with the Minister responsible for Local Government”.

Schemes of financial assistance

17. Section 25 of the principal law is amended -

- (a) in subsection (3) by deleting “with or without modification, after consultation with the Minister of Finance.”;
- (b) by inserting the following new subsection after subsection 3 -

“ (3A) The Minister may, after consultation with the Minister responsible for Finance, approve the scheme referred to in subsection (1) with or without modifications.”.

Development and improvement of environment

18. Section 29 of the principal law is amended -

in subsection (1) by deleting “ the Minister of Environment”;

- (a) in subsection (2) by deleting “following consultation with the Minister of Agriculture, the Minister of Environment and the Minister of Planning” and substituting “after consultation with the Minister responsible

for Agriculture and the Minister responsible for Development Planning.”;

- (b) in subsection (6) by deleting “operation” and substituting “activity or project” set out in the Schedule to the Environment Act, 2001² ;”.

Offences and penalties

19. Section 30 of the principal law is amended by inserting the following subsection after subsection (4) -

“(5) A person who contravenes the provisions of subsection 3A (2) commits an offence and is liable on conviction to a fine not exceeding M50,000 or to imprisonment for a period not exceeding 10 years or both.”

Schedule

20. The Schedule to the principal law is amended -

- (a) in paragraph (5) by deleting “Ministry of Tourism, Sports and Culture” and substituting “Ministry responsible for tourism”;
- (b) in paragraph (6) by deleting “Ministry of Home Affairs” and substituting “Ministry responsible for Home Affairs”.

NOTE

- 1. Act No. 4 of 2002
- 2. Act No. 15 of 2001