



# **TONGA TOURISM AUTHORITY ACT 2012**

**Act No. 25 of 2012**





# TONGA TOURISM AUTHORITY ACT 2012

## Arrangement of Sections

### Section

<b>PART I - PRELIMINARY</b>	<b>5</b>
1 Short title and commencement.....	5
2 Interpretation.....	5
<b>PART II – OBJECTIVES AND GUIDING PRINCIPLES</b>	<b>8</b>
3 Objectives .....	8
4 Guiding principles.....	9
5 Application of other laws.....	9
<b>PART III – TONGA TOURISM AUTHORITY</b>	<b>10</b>
6 Establishment of the Tonga Tourism Authority .....	10
7 Assets .....	10
<b>PART IV – ADMINISTRATION</b>	<b>11</b>
8 Board of Directors .....	11
9 Appointment of Directors .....	11
10 Board meetings and quorum .....	12
11 General Manager.....	13
12 Support staff.....	13
13 Committees .....	13
14 Delegation of powers .....	14
<b>PART V – POWERS, FUNCTIONS AND DUTIES</b>	<b>14</b>
15 Powers of the Minister .....	14
16 Functions of the Authority .....	15
17 Powers of the Authority .....	16
18 Fiduciary obligations of Directors .....	17

19	Policy directions.....	17
20	Industry associations .....	18

---

**PART VI - FINANCE** **18**

21	Revenue and expenditure .....	18
22	Grants .....	18
23	Management of funds.....	19
24	Accounts.....	19
25	Audit of Accounts .....	19
26	Powers of the Auditor .....	20

---

**PART VII – ACCOUNTABILITY** **20**

27	Business plan.....	20
28	Half-yearly report.....	21
29	Annual report .....	21

---

**PART VIII – MISCELLANEOUS** **22**

30	Information.....	22
31	District planning.....	22
32	Tourism sites .....	22
33	Tourism signage .....	23
34	Indemnity .....	23
35	Forms and Fees .....	23
36	Regulations.....	23
37	Public Services Act and Public Enterprises Act.....	23
38	Tourist Act repeal.....	23



# **TONGA TOURISM AUTHORITY ACT 2012**

**Act No. 25 of 2012**

## **AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND ADMINISTRATION OF THE TONGA TOURISM AUTHORITY AND TO PROVIDE FOR MATTERS RELATING TO THE DEVELOPMENT OF TOURISM IN THE KINGDOM**

I assent,  
TUPOU VI,  
4<sup>th</sup> January 2013.

**BE IT ENACTED** by the King and Legislative Assembly of Tonga in the  
Legislature of the Kingdom as follows:

### **PART I - PRELIMINARY**

#### **1 Short title and commencement**

- (1) This Act may be cited as the Tonga Tourism Authority Act 2012.
- (2) This Act shall come into force on a date to be approved by Cabinet, and published in the Government Gazette.

#### **2 Interpretation**

In this Act, unless the context otherwise requires —

“**accommodation**” includes all premises and places where businesses offer accommodation to guests in a financial transaction, however the premises are

titled, including as a resort, hotel, motel, time-share, tourist villa, guest house, beach fale, backpacker, home stay, camp, yacht or other floating vessel;

“**airlines**” means any persons or companies involved in any scheduled or charter operations of any domestic and international air flight services;

“**Authority**” means the Tonga Tourism Authority established under section 6;

“**bar**” means any shop or premises holding proper licenses selling alcoholic and non-alcoholic drinks and beverages for the internal consumption of the general public;

“**Board**” means the Board of Directors of the Authority;

“**Chairman**” means the chairman of the Board of Directors of the Authority;

“**Chief Executive Officer**” means the Chief Executive Officer responsible for tourism;

“**Director**” means a member of the Board;

“**duty free and gift shops**” means and includes shops and premises selling duty free goods and gift items;

“**entertainment provider**” means any persons or companies involved in any type of entertainment in exchange for financial reward;

“**financial year**” means the period of 12 months ending with the 30<sup>th</sup> day of June in any year;

“**General Manager**” means the general manager of the Authority;

“**handicrafts**” means products which are locally made utilising raw materials found and grown within the Kingdom of Tonga, and “**handicrafts seller**” means persons or companies involved directly or indirectly in manufacturing and/or selling of arts and crafts;

“**MICE**” means persons or companies marketing to and providing services for travelers for meetings, incentives, conferences, and events to be held in the Kingdom of Tonga;

“**Minister**” means the Minister responsible for tourism;

“**Ministry**” means the Ministry responsible for tourism;

“**rental and taxi services**” means and includes persons or companies involved in hiring or renting out of any type of motor vehicles, boats, and yachts or providing paid transport to and from any destinations including land and water within the Kingdom of Tonga;

“**restaurant**” means and includes any shop, premises or land in or on which meals or food is prepared for consumption by members of the public in or on such shop, premises or land irrespective of whether any charge is made or payment given for such meals or food;

“**Tongan culture and traditions**” means Tongan way of life, culture, heritage and traditions;

**“tour operator”** means and includes a travel agent, persons or companies specialising in the planning and operation of pre-paid, pre-planned holidays, sightseeing tours, shore excursions, and transfers, and who or which makes these arrangements available to the general public, including VFRs, either through his or their own office, the offices of other travel agents or direct with any principal; but excludes shipping agents, general agents and common carriers, provided that they do not carry out any of the functions specified in this paragraph;

**“tourism business”** includes any business in the Kingdom which provides –

- (a) tourism accommodation services;
- (b) in-bound “tour operator” services provided by destination management companies;
- (c) water based tourism-related activities;
- (d) rental car and taxi services;
- (e) attractions and activities;
- (f) Professional Conference organisers;
- (g) MICE (Meetings, Conferences, Incentives and Events);
- (h) handicrafts;
- (i) duty free and gift shops;
- (j) restaurants, bars and entertainment providers;
- (k) airlines;
- (l) travel agents;
- (m) tourism operations providing-
  - (i) adventure and other recreational tours, activities and attractions;
  - (ii) village visits and visits to other places of significance to the Tongan culture;
  - (iii) tour bus services;
  - (iv) rental car services;
  - (v) whale watching or related activities;
  - (vi) any other service, product, facility or activity primarily provided for tourists and which is required to be licensed under any legislation;

**“tourism sector”** includes any business in the Kingdom which involves tourism accommodation or tourism business;

**“tourist”** means and includes any visitor entering Tonga;

**“tourist facility”** means and includes accommodation, restaurant, beach operator, night club, boat hirer, entertainment or sporting complex and any other attraction or facility used by tourists;

**“travel agent”** means any person or company appointed by principals and therefore qualified to provide to the public as a service all elements of travel including transportation by land, sea and air, tours, cruises, hotel accommodation, meals, sightseeing, and transfers, but excludes shipping agents, general agents and common carriers, provided that they do not carry out any of the functions specified in this paragraph;

**“VFR”** means any persons or families who migrated overseas or have lived overseas returning back home to the Kingdom of Tonga to visit friends and relatives;

**“water based activities”** means any type of water and marine activities in the oceans, rivers, and waters of the Kingdom of Tonga in exchange for money or financial benefits, and **“water based activities provider”** means and includes any persons or companies who provide this.

## PART II – OBJECTIVES AND GUIDING PRINCIPLES

### 3 Objectives

The objectives of this Act include -

- (a) To encourage whole of nation approach to engage all sectors and stakeholders to work together to make greater contribution to the development of Tonga’s tourism;
- (b) To foster stronger partnership between the Industry and Government to work together in order to achieve the best results that will lead a strong future for Tonga’s Tourism;
- (c) To ensure sound governance and management of Tonga’s Tourism so that it develops, and implements an innovative mid-term destination marketing strategy with annual tactical marketing plans, targeting of prioritised market segments and focused on priority source markets, to increase Tonga’s market profile and competitiveness in the region and international marketplace;
- (d) To drive further increase in the contribution of tourism as a key sector to delivering ongoing economic benefits through increases in tourist arrivals, tourism receipts, and tourism investments;
- (e) To enhance stronger tourism growth that facilitates sustainable economic, social/cultural, and environmental development that would deliver benefits for all Tongans;
- (f) To increase Tonga’s competitiveness in the tourism market through the active inclusion of Tongan culture and traditions in appropriate tourism related activities and through strategies and programmes which enhance cultural preservation and development.



#### **4 Guiding principles**

When applying the provisions of this Act to any matter affecting the tourism sector, the following guiding principles shall be observed as far as is practicable to promote the interest of the tourism sector:

- (a) tourism development must be -
  - (i) sustainable in the long-term and for the general benefit of the people of this Kingdom;
  - (ii) consistent with the Tongan culture and traditions;
- (b) environmental impacts from tourism developments are to be minimised, and due regulatory processes are to be applied to ensure the protection and conservation of biodiversity, water resources and terrestrial and marine environments;
- (c) adverse and undesirable impacts of tourism are to be addressed by effective controls over criminal activity, the generation of wastes, the introduction of diseases, and the imitation of traditional artefacts to intellectual property;
- (d) public safety and security are to be preserved.

#### **5 Application of other laws**

- (1) Nothing in this Act shall affect the operation of any other law prescribing requirements applying to the tourism sector, including laws dealing with –
  - (a) registration and regulation of investment;
  - (b) land tenure, conservation, improvement or other interest in land;
  - (c) development planning and control;
  - (d) building regulation;
  - (e) public health, sanitation, water quality and waste management;
  - (f) environmental impact assessment, and the avoidance or minimisation of adverse effects on the environment;
  - (g) fisheries and forestry;
  - (h) labour and employment, and occupational safety and health;
  - (i) revenue and custom laws;
  - (j) business licensing;
  - (k) liquor licensing;
  - (l) fair trading and other aspects of commercial activity;
  - (m) currency and exchange control;
  - (n) transportation by land, sea or air;
  - (o) fire prevention and control; and
  - (p) Sunday operation laws.

- (2) In achieving the objectives of this Act, the Authority shall –
- (a) liaise with other Government ministries, departments and agencies in relation to issues affecting the tourism sector;
  - (b) assist other Government ministries and departments in relation to meeting their obligations relating to the development of the tourism sector, promoting the growth of tourism and development of the natural resources of Tonga in ways that are consistent with the objects of this Act;
  - (c) cooperate with other Government ministries and department to formulate and assist in the formulation of procedures and arrangements which streamline the processes whereby the tourism sector can achieve compliance with the requirements applying under those laws to the fullest extent possible without compromising the proper and effective application of those laws.

## **PART III – TONGA TOURISM AUTHORITY**

### **6 Establishment of the Tonga Tourism Authority**

- (1) The Tonga Tourism Authority is hereby established.
- (2) The Authority is a body corporate with perpetual succession and a common seal and is capable of:
  - (a) acquiring, holding and disposing of real and personal property;
  - (b) suing and being sued; and
  - (c) doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.

### **7 Assets**

- (1) The Cabinet may transfer or assign, without any further conveyance, any assets of government to the Authority to assist with the carrying out of its functions.
- (2) The Minister shall, on behalf of the government, execute all transfers or assignments to the Authority under subsection (1).
- (3) The transfer or assignment under this section shall not entitle any person to terminate, alter, or in any way affect the rights or liabilities of the Authority, the transferee or assignee under any other Act or agreement.

## PART IV – ADMINISTRATION

### 8 Board of Directors

- (1) There shall be a Board of Directors of the Authority.
- (2) The Board is the governing body of the Authority and shall exercise the powers and perform the functions of the Authority.
- (3) Without limiting the generality of subsection (2), the Board shall have the power to –
  - (a) hold, improve, manage, develop, alter, extend, equip, furnish, repair and maintain any real or personal property;
  - (b) enter into any covenants or agreements in respect of the Authority;
  - (c) sell or dispose of, turn to account or otherwise deal with any property vested in the Authority;
  - (d) exercise any functions or rights and undertake and perform any liability in respect of or in connection with the Authority as if the Authority were a natural person;
  - (e) borrow money for the purposes of the Authority;
  - (f) do all such other things as are incidental or conducive to the exercise of the powers of the Authority.

### 9 Appointment of Directors

- (1) There shall be 9 Directors in the Board, consisting of –
  - (a) Two *ex officio* Directors who shall be the Chief Executive Officers of the respective ministries responsible for tourism and national planning. The *ex officio* directors shall have no voting rights;
  - (b) Five Directors appointed by Cabinet, on the recommendation of the Minister, subject to the competency, experience and skills outline in paragraph (c);
  - (c) The appointed Directors shall have skills and proven experience in one or more of the following :
    - (i) organisational governance with a clear understanding of the distinction between management and governance;
    - (ii) financial management and/ or strategic planning;
    - (iii) corporate directorship;
    - (iv) extensive knowledge and recognised experience in Tongan culture and tradition;
    - (v) extensive knowledge and understanding of tourism sector and strategic marketing.

- (2) The Cabinet, on the recommendation of the Minister, shall –
  - (a) appoint the Chairperson from any of the Directors appointed under subsection (1)(b);
  - (b) fix the remunerations that Directors shall receive.
- (3) Each Director shall be appointed for a term of 3 years, and may be reappointed.
- (4) The Directors shall be appointed after due process of recruitment, by Cabinet in consultation with the Minister.
- (5) A Director shall not be a person who is –
  - (a) under 18 years of age;
  - (b) an undischarged bankrupt;
  - (c) prohibited from being a director under the Companies Act;
  - (d) not a natural person;
  - (e) convicted of an indictable offence;
  - (f) who has any judgment against him/her for an amount of TOP\$5,000 or more; and/ or have an unpaid judgment of TOP\$3,000 or more; and
  - (g) a candidate to and/ or a member of the Legislative Assembly
- (6) Any Director who found guilty of an indictable offence and/ or have a judgment against him or her for an amount of TOP\$50,000 shall be removed from the Board immediately. Any Director(s) who registered as a candidate to the Legislative Assembly or a member of the Legislative Assembly shall be deemed to have resigned effecting immediately.
- (7) A Director may be removed from the Board by the Minister, with the consent of Cabinet and after due investigation, for incompetence, incapacity, bankruptcy, neglect of duty, or serious misconduct.
- (8) Any Director of the Authority may at any time resign his/her office by giving four weeks written notice to the Minister.
- (9) If any Director of the Authority dies, or resign, or is removed from office, the vacancy shall be filled by the appointment of a Director by Cabinet on the recommendation of the Minister.
- (10) Every person appointed to fill a vacancy shall be appointed for the remainder of the term for which the vacating Director was appointed.

## **10 Board meetings and quorum**

- (1) The Board shall meet every two months and any other times as the Chairperson may require.
- (2) A Board meeting shall have a quorum of four Directors, of which three appointed Directors must be present.

- (3) If the Chairperson is not present in any meeting, the Directors present shall elect an acting Chairperson for that meeting.
- (4) A vacancy in the number of Directors shall not, by virtue of that reason alone, invalidate any decision of the Board.
- (5) Resolutions of the Board shall be made by majority voting of members present and voting.
- (6) Subject to this Act, the Board shall regulate its own procedures in such manner as it sees fit.

## **11 General Manager**

- (1) The General Manager shall be appointed following due process approved by the Board, and shall be the secretary of the Board.
- (2) The General Manager shall be employed under a written performance based contract of employment with the Board which shall contain the following minimum provisions –
  - (a) the objectives to be achieved by the Authority;
  - (b) the performance expected of the Authority;
  - (c) a review of the performance of the General Manager;
  - (d) adherence by the General Manager to the Authority's business plan.
- (3) The General Manager shall hold office for a period, not exceeding three years, specified in the instrument of appointment, but is eligible for re-appointment.
- (4) The General Manager shall be paid such remuneration or allowances, or both, as may be determined by the Board.
- (5) The General Manager shall be responsible for managing and implementing the decisions of the Board.

## **12 Support staff**

The General Manager may, with the approval of the Board, employ such support staff as are necessary for the effective and efficient administration of the Authority, whether in the Kingdom or overseas.

## **13 Committees**

- (1) The Board may by special resolution establish advisory committees to be part of the Authority, and when establishing such committees the Board may –
  - (a) appoint the members;
  - (b) determine the roles and responsibilities;
  - (c) set times for reporting or action;

- (d) determine any other matter for the effective discharge by a committee of its roles and responsibilities.
- (2) A committee established under this section may include representatives of approved tourism industry associations, and such other persons as the Board considers may contribute to the performance of the functions of the Authority, and the roles and functions of that committee.
- (3) Subject to this Act and any directions given to it by the Board, every committee may regulate its procedures in such manner as it sees fit but to remain within the parameters set by the Board.

## **14 Delegation of powers**

- (1) The Board may, from time to time, delegate any of its powers under this Act, in writing, to –
  - (a) any of its committees;
  - (b) any director or directors; or
  - (c) the General Manager.
- (2) Subject to any general or special direction given by the Board, any committee or person to whom any powers are delegated may exercise those powers in the same manner and with the same effect as if they have been conferred directly by this Act.
- (3) No delegation under this section may prevent the exercise by the Board of any of those powers at any time.
- (4) Every person purporting to act under any delegation made under this section shall, in the absence of proof to the contrary, be presumed to be acting within the terms of the delegation.
- (5) Any delegation pursuant to this section may be revoked by the Board at any time, but the revocation shall not affect the validity of any act or thing done under the delegated power.

# **PART V – POWERS, FUNCTIONS AND DUTIES**

## **15 Powers of the Minister**

The Minister shall have the power —

- (a) to develop and put in place the right setting for the tourist industry in Tonga for the benefit of all and in partnership with the Authority set out any plan or manifesto in connection therewith;
- (b) to promote and increase tourist and other traffic from overseas and foster internal and external accessibility and transportation for tourists and the public;

- (c) to engage in or arrange for continuing publicity for the Kingdom by any means of communication with particular emphasis on the Kingdom's unique tourist attractions and facilities;
- (d) to endeavour at all times to preserve the Tongan way of life, culture and language, and to decide on a type of tourism development most in keeping with the interests of Tonga;
- (e) to ensure at all times all tourist facilities and developments are planned for the improvement of amenities which will be of benefit to the community as a whole as well as for tourists;
- (f) co-operate and assist the Authority in the carrying out of its functions, and the implementation of any recommendation received therefrom;
- (g) with the prior approval of Cabinet to act as an agent for Government for any person in connection with the development or transaction of any business connected with tourism in Tonga;
- (h) to ensure that policy changes related to the tourist industry receives the prior view of the Authority.

## **16 Functions of the Authority**

- (1) The Authority shall be responsible for the development and implementation of strategies and plans which deliver the objectives as outlined in this Act.
- (2) The Authority shall be responsible for providing policy advice to Government, through the Minister, for the marketing, development, administration, promotion and investment in the tourism sector to ensure sustainable economic growth of the tourism sector.
- (3) Without limiting the generality of subsection (1), the functions, roles and responsibilities of the Authority shall include –
  - (a) implementation of marketing strategies and promotional activities to effectively promote the Kingdom in the local and international market place;
  - (b) provision of industry leadership and work effectively with the private sector to deliver tourism in Tonga;
  - (c) preservation of the Tongan culture as it relates to tourism;
  - (d) undertaking of market research concerning the tourism sector, and monitor the effectiveness of marketing and promotional activities;
  - (e) assisting Government in formulating proposals for investment strategies for the development of the tourism sector;
  - (f) assisting Government in developing a strategy for tourism development in Tonga;
  - (g) ensuring the human resource development of the local tourism industry and communities to deliver quality tourism experiences;

- (h) ensuring that consultation takes place with other government agencies in relation to the enforcement of laws affecting the tourism sector;
- (i) ensuring that appropriate standards and systems of ratings are recommended for the tourism sector;
- (j) co-operating and assisting in the administration of the accreditation requirements applicable to the tourism sector;
- (k) disseminating information relevant to the tourism sector in Tonga;
- (l) implementing this Act and the provisions of any other laws under which it has functions, powers and responsibilities;
- (m) maintaining records, statistics and accounts in relation to its functions;
- (n) assisting and co-ordinating with other government ministries and agencies to facilitate capacity building and product developments' needs of all tour and tourism operators and the Tourism industry;
- (o) any other relevant functions pertinent to tourism development in Tonga.

## **17 Powers of the Authority**

- (1) The Authority shall have all the powers and authorities necessary for the effective performance of its functions.
- (2) The Authority shall be responsible for uniting the industry and demonstrating comprehensible leadership and work together to find innovative ways to grow and develop tourism in Tonga.
- (3) The Authority shall also be responsible to coordinate the many issues to most or all tourism businesses and represent with one voice the industry's real strength to lead change and contribute to economic growth.
- (4) Set a clear industry wide vision to help all tourism and related businesses set their own priorities.
- (5) The Authority shall provide policy advice to Government, through the Minister, for the marketing, development, administration, promotion and investment in the tourism sector to ensure sustainable economic growth of the tourism sector.
- (6) Without limiting the generality of subsection (1), the Authority shall have the power to –
  - (a) establish any committee, task force or entity for the purposes of implementing the provisions of this Act;
  - (b) produce or cause to be produced, and to sell or distribute free of charge magazines, pamphlets, advertising material, online information and other similar devices containing information;
  - (c) require the provision of information, records and statistics in accordance with this Act from both government and private sector agencies, and to distribute or supply (with or without charge) any such



- information, or the results of, or conclusions drawn from, the Authority's consideration of any such information;
- (d) act as agent for any person or organisation, and to collect fees there from;
  - (e) cooperate and assist the Government in formulating proposals for investment strategies and development of tourism-based activities in Tonga;
  - (f) identify potential tourism opportunities and collaborate with the Government in formulation of relevant proposals for development of those opportunities;
  - (g) otherwise undertake or assist in any product development within the tourism sector, and any necessary capacity building program or activity;
  - (h) raise any funds;
  - (i) do anything incidental to the exercise of the foregoing powers.
- (3) For the purposes of more effectively performing the functions of the Authority, the Board may give approval to –
- (a) enter into any partnership arrangement by way of joint venture, agency or otherwise;
  - (b) establish and empower any subsidiary or separate operational unit of the Authority.

## **18 Fiduciary obligations of Directors**

- (1) The provisions of the Companies Act 1995 relating to fiduciary obligations of directors shall apply to the Board, collectively and individually.
- (2) No obligation shall arise under subsection (1) by reason of any action taken by the Board pursuant to a direction given under this Act by the Minister or the Cabinet.

## **19 Policy directions**

- (1) The Minister may give directions subject to sections 3, 15, 16, 17, to the Authority with respect to matters of policy approved by Cabinet, including directions with respect to the general nature and extent of the operations of the Authority, and the Board shall comply with any such direction.
- (2) The Minister shall be responsible for the exercise or performance of the powers, duties and functions conferred or imposed upon him by this Act, and he may refer any matter he deems necessary for consideration and direction by the Cabinet.

## **20 Industry associations**

- (1) The Authority shall recognise associations formed for the representation of interests within the tourism sector, whether in the Tonga or overseas, and shall facilitate their involvement in the management of the tourism industry by:
  - (a) permitting their representative on committees and other forums;
  - (b) coordinating responses from government to issues raised by them concerning any aspect of the promotion and management of the tourism sector;
  - (c) any other means which provides opportunities for their effective involvement and participation in the promotion and management of the tourism sector.
- (2) The Authority may prepare and approve guidelines stating criteria upon which the recognition of industry associations is determined under this section.

## **PART VI - FINANCE**

### **21 Revenue and expenditure**

- (1) The Legislative Assembly shall appropriate monies for –
  - (a) expenses incurred in the administration of this Act; and
  - (b) contributions by government to defraying the costs of the operation including marketing and promotional activities and administration of the Authority.
- (2) The appropriation made under subsection (1) shall have regard to other monies received by the Authority –
  - (a) under section 22;
  - (b) from levies collected pursuant to any regulations made under this Act;
  - (v) raised by any other means.

### **22 Grants**

- (1) The Authority may accept any grants, donations, gifts or assistance from any person, company or government agency.
- (2) Any monies received by the Authority under subsection (1) shall be exempted from any tax or impost that may otherwise be levied against the giver under any law.
- (3) Any monies received by the Authority under subsection (1) from the Ministry will be governed under a Purchase Agreement between the Ministry and the Authority.

- (4) The Purchase Agreement will outline the key performance indicators mutually agreed between the Ministry and the Authority and reporting requirements necessary for monitoring of Tonga Tourism Authority performance and use of monies granted by the Ministry.

## **23 Management of funds**

- (1) The monies of the Authority shall be held in such accounts as the Board may determine from time to time.
- (2) The Board may approve the management of monies in special funds dedicated for purposes associated with –
  - (a) the marketing or promotional activities undertaken by or on behalf of the Authority;
  - (b) any aspect of the administration or operation of the Authority;
  - (c) any joint venture, agency or other relationship between the Authority and a partner of the Authority.

## **24 Accounts**

- (1) The Authority shall:
  - (a) keep full and proper accounts of its financial affairs and other records of its operations at all times;
  - (b) prepare financial statements and other statements of accounts in accordance with international best accounting practice, and which are necessary to fully and accurately show the financial position of the Authority and the financial results of its operations during that year, as soon as reasonably practicable after the end of each financial year.
- (2) The accounts of the Authority shall be audited each year by the auditor in accordance with section 25, and the requirements of other applicable laws.
- (3) The Chairperson and General Manager must sign off on all accounts and reports kept or prepared in accordance with this section, and must certify that:
  - (a) proper books of account have been maintained by the Authority;
  - (b) the accounts and reports accurately reflect affairs of the Authority, and the accounts maintained by the Authority;
  - (c) adequate procedures of internal control have been applied by the management of the Authority.

## **25 Audit of Accounts**

- (1) The Authority shall, within four months after the end of each financial year, cause to be prepared full and true statements and accounts of all its income

and expenditure in that year and of its assets and liabilities at the end of that year.

- (2) The accounts of the Authority shall be audited by any auditor, approved by the Minister, who is qualified under section 208 of the Companies Act 1995.
- (3) The Minister may at any time require the Auditor General to conduct an audit of the accounts of the Authority. Upon receipt of such a request in writing from the Minister, the Auditor General shall conduct an audit forthwith.

## **26 Powers of the Auditor**

- (1) The Auditor, or any person authorised to act by the Auditor, shall be entitled at all reasonable times to -
  - (a) have full and free access to all accounts, papers, records and other documents relating to the activities of the Authority;
  - (b) take copies of such materials, or to require copies to be provided;
  - (c) require and receive any information or materials from any person, for the purpose of carrying out duties in accordance with this part.
- (2) Any person who hinders or obstructs the Auditor, or an authorised person under subsection (1) in the carrying out of duties under this Act, commits an offence and shall be liable upon conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding three months, or both.

# **PART VII – ACCOUNTABILITY**

## **27 Business plan**

- (1) The Board shall deliver to the Minister a draft business plan not later than two months before the commencement of each financial year.
- (2) The draft business plan shall specify, in respect of the next financial year, and the two years thereafter –
  - (a) a summary of:
    - (i) how the objective of the Authority will be achieved;
    - (ii) the strategies to be pursued to achieve the objectives; and
    - (iii) key performance targets, which shall include but not be limited to the general tourism indicators;
  - (b) the nature and scope of the activities to be undertaken;
  - (c) the performance targets and other measures by which the performance of the Authority may be judged in relation to its objectives;
  - (d) a forecast statement of the financial performance for each financial year of the plan;

- (e) a forecast statement of the financial position for each financial year of the plan;
  - (f) a statement of any anticipated borrowing;
  - (g) such other matters as agreed by the Minister and the Board; and
  - (h) projections of cash flow for the following six years, or such longer terms as agreed between the Board and the Minister, including explanations of the strategies and the key assumptions upon which the projections are based.
- (3) Prior to the Board adopting the business plan it shall be submitted to the Minister for review and the Minister shall submit comments to the Board for consideration no later than 30 days of receiving the draft business plan.
- (4) The Board shall consider any comments made on the draft business plan by the Minister and shall deliver the completed business plan to the Minister on or before the commencement of the financial year.

## **28 Half-yearly report**

- (1) The Board shall deliver to the Minister a report of the operation of the Authority within two months after the end of the first half of each financial year.
- (2) The report required under subsection (1) shall include the information to be provided in the business plan required under this Act.

## **29 Annual report**

- (1) The Board shall send to the Minister, within three months after the end of each financial year:
- (a) an annual report of its proceedings and the operations and achievements of the Authority for that year, together with a copy of its audited accounts for that year;
  - (b) any other report of the Auditor in relation to its accounts.
- (2) The Minister shall table the annual report in Cabinet, within one month of receiving them.
- (3) A copy of the annual report together with the audited accounts shall be tabled before the Legislative Assembly by the Minister as soon as practicable after the Minister has received them.
- (4) The Board shall cause a summary of the annual report to be published within two months, in a Tongan newspaper, in both Tongan and English language after the annual report is adopted by the Board. Such publication shall include –

- (a) a comparison of revenues, average equity, return on average equity, and non-financial performance targets with those projected in the business plan for the same year;
- (b) projected revenues, net profit and return on average equity and non-financial performance targets in the business plan for the next financial year;
- (c) any grants, donations, gifts or assistance received.

## **PART VIII – MISCELLANEOUS**

### **30 Information**

- (1) The Board shall supply, when request, to any person such information relating to the affairs of the Authority that is already publicly available and not regarded confidential to the affairs of the Authority, as the Minister may direct.
- (2) No person who acts in accordance with this section shall be liable under any Act as a result of complying with a direction under subsection (1).

### **31 District planning**

The Board may, in consultation with the Minister and relevant authorities and tourism stakeholders', implement arrangements for the development of the tourism sector in any district by -

- (a) facilitating and recognising the formation of industry association at district level;
- (b) arranging for aspects of the Tourism Development Plan to apply to specific districts;
- (c) undertaking programs and activities in certain districts;
- (d) any other program or initiative that the Minister approves from time to time.

### **32 Tourism sites**

- (1) The Authority may, with the approval of the Minister, prepare policy dealing with -
  - (a) matters related to access, use and development of sites of tourism interest;
  - (b) any fees that may be charged for the use of such sites.
- (2) A policy prepared under subsection (1) shall be effective upon approval by the Minister.

**33 Tourism signage**

- (1) The Authority may, with the approval of the Minister, consult with relevant Government Departments, assess the need for signage to be placed for the assistance of tourists and the identification of sites of tourism interest, and may -
  - (a) recommend the nature, design and details of such signage;
  - (b) identify the locations at which such signage is to be located;
  - (c) liaise with government ministries and agencies having responsibilities relating to road reserves and road signage to ensure that appropriate signage is provided as determined.
- (2) Any person who removes, destroys, defaces or otherwise interferes with any signage installed for the purposes of this section commits an offence and shall be liable upon conviction to a fine not exceeding \$1000 or to imprisonment for a term not exceeding 3 months, or both.

**34 Indemnity**

No director, officer or other employee of the Authority, or any person appointed to a committee of the Authority shall be personally liable for any act done or omitted to be done in good faith in pursuance or intended pursuance of the powers, duties and functions of the Authority under this Act.

**35 Forms and Fees**

- (1) The Board may approve forms to be used for any purpose under this Act.
- (2) The Board may, with the approval of the Minister, determine the fees to be paid for any purpose under this Act.

**36 Regulations**

The Board may, in consultation with the Minister and with the consent of Cabinet, make regulations that are necessary or expedient for giving full effect to this Act, and for its due administration.

**37 Public Services Act and Public Enterprises Act**

The Public Services Act and the Public Enterprises Act 2002 do not apply to the Authority.

**38 Tourist Act repeal**

The Tourist Act (Cap 117) is hereby repealed.

Passed by the Legislative Assembly this 17<sup>th</sup> day of October 2012.