



REPUBLIC OF VANUATU

TOURISM COUNCILS ACT NO. 23 OF 2012

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REPUBLIC OF VANUATU

Assent: 13/11/2012
Commencement: 04/03/2013

TOURISM COUNCILS ACT NO. 23 OF 2012

An Act to provide for the establishment, operation and regulation of the Tourism Council of Vanuatu and the Local Government Tourism Councils and for related matters.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY

1 Interpretation

In this Act, unless a contrary intention appears:

Director means the Director of the Department of Tourism;

Department means the Department of Tourism;

destination marketing means the act of promoting Vanuatu as a tourist destination for holidays and business purposes;

Local Government Region has the same meaning given to it under the Decentralisation Act [CAP 230];

Minister means the Minister responsible for tourism;

tourist means a person who travels to Vanuatu for leisure, recreational or business purposes;

tourism business means the business of organising and operating tours and services for a tourist;

tourism industry association means an association that has been created by tourism operators to enhance the relevance tourism business in the tourism sector;

tourism operator means a person who carries on tourism business.

PART 2 THE TOURISM COUNCIL OF VANUATU

Division 1 – Establishment, Composition, Objectives, Functions and Meetings of the Tourism Council of Vanuatu

2 Definition

In this Part unless a contrary intention appears:

Council means the Tourism Council of Vanuatu established under section 3;

member means a member of the Council appointed under section 4;

Secretary means the Secretary of the Council referred to under subsection 9(1).

3 Establishment of the Tourism Council of Vanuatu

The Tourism Council of Vanuatu is established.

4 Composition of the Council

The Council consists of the following persons appointed in writing by the Minister:

- (a) the Director General of the Ministry of Trade and Business Development;
- (b) the Chairpersons of all Local Government Tourism Councils; and
- (c) the Director of the Department of Public Works; and
- (d) the Director of the Cultural Centre of Vanuatu; and
- (e) the Chief Executive Officer of Air Vanuatu; and
- (f) the Chief Executive Officer of Airports Vanuatu Limited; and
- (g) a representative of the tourism industry in the Chamber of Commerce; and
- (h) a representative of the Vanuatu Investment Promotion Authority; and
- (i) the General Manager of the Vanuatu Tourism Office; and

- (j) the Chairperson of the Vanuatu Hotels and Resorts Association; and
- (k) the Chairperson of the Vanuatu Island Bungalows and Tourism Association; and
- (l) the Director of the Department of Lands, Geology and Mines; and
- (m) the Director of the Department of Environment; and
- (n) the Director of the Department of Local Authorities.

5 Chairperson and Deputy Chairperson of the Council

- (1) The Director General of the Ministry responsible for Tourism is the Chairperson of the Council.
- (2) The members of the Council are to elect from amongst themselves a Deputy Chairperson. The member elected must be a member referred to in paragraphs 4(d), (e), (f), (g), or (i).
- (3) The Deputy Chairperson is to hold office for a period of 3 years.

6 Objectives of the Council

The Council has the following objectives:

- (a) to strengthen partnership and co-operation in tourism development between the Government, private sector and civil society; and
- (b) to optimize the contribution of tourism to the sustainable development of the country; and
- (c) to enhance through tourism activities the human, economic, natural, cultural and other resources of Vanuatu; and
- (d) to increase creative capacities and promote cultural identities within the country.

7 Functions of the Council

The Council has the following functions:

- (a) to enhance the competitiveness of Vanuatu as a destination for tourists and investors in tourism; and
- (b) to encourage local and foreign investors to invest in the tourism industry; and
- (c) to develop partnership between all tourism stakeholders to enhance tourism development and growth; and
- (d) to facilitate the establishment of tourism industry associations as a strategy for expanding tourism development; and
- (e) to facilitate the development of appropriate social, economic and physical infrastructure to enhance tourism development; and
- (f) to be responsible for approving all plans and policies governing tourism development in each Local Government Region and to coordinate and facilitate their implementation; and
- (g) to advise the Ministry responsible for tourism and the Government on tourism development; and
- (h) to ensure that all members of tourism industry associations comply with established standards and all written laws of the country that impact on tourism; and
- (i) to provide direction and guidance to the Department as the product development, policies and destination management arm of the Council; and
- (j) to liaise with the Vanuatu Tourism Office on destination marketing; and
- (k) to be the policy making body for tourism at both the Local Government Region and national level and to report to the Minister on such policy development for his or her endorsement; and

- (l) to establish and regulate a system for appraising investment proposals for local and foreign investors to invest in the tourism industry in accordance with accreditation system and other tourism related industry standards; and
- (m) to establish and manage the reserve list of investments within the tourism sector that are restricted only to citizens of Vanuatu; and
- (n) such other functions as are conferred on the Council by this Act or any other Act.

8 Meetings of the Council

- (1) The Council is to meet at least 2 times in a year at a place and time to be determined by the Chairperson, and may hold such other meetings as are necessary for the performance of their functions under this Act.
- (2) The quorum for a meeting is a simple majority of the members of the Council present at the meeting.
- (3) If there is no quorum on the day appointed for the meeting, such meeting is to be reconvened 1 day later and one third of the members present will constitute the quorum for that meeting.
- (4) Each member present at the meeting has 1 vote and questions arising at a meeting are to be decided by a majority of votes. If the voting at the meeting is equal, the member chairing the meeting has a casting vote.
- (5) The Secretary must provide to the members at least 2 weeks before the date of the meeting, a notice in writing of the date, venue and time of the meeting.
- (6) The Chairperson is to preside at all meetings of a Council and if the Chairperson is absent, the Deputy Chairperson is to chair that meeting. In the absence of the Deputy Chairperson the Council is to nominate from amongst its members a member to chair the meeting.
- (7) Subject to this Act, the Council may determine and regulate its own procedures.

Division 2 – Secretary and Sitting allowance of the Tourism Council of Vanuatu

9 Secretary of the Council

- (1) The Director is the Secretary of the Council.
- (2) The Secretary has the following functions:
 - (a) to prepare and circulate agenda and issue papers for meetings of the Council; and
 - (b) to take minutes of meetings of the Council and circulate to members of the Council at least 3 weeks after each meeting; and
 - (c) to coordinate and facilitate the implementation of the decisions of the Council; and
 - (d) to coordinate the presentation of monitoring reports on the implementation of decisions of previous meetings of the Council; and
 - (e) to mobilise appropriate resources for the efficient implementation of all the decisions of the Council; and
 - (f) to prepare annual work programmes of the Council; and
 - (g) to be responsible for the proper administration and good management of the Council and its affairs; and
 - (h) to organize general meetings of the Council; and
 - (i) to manage expenditure on behalf of the Council; and
 - (j) to strengthen linkages between different sectors and the tourism sector; and
 - (k) to strengthen the working relationship between different agencies and the Department on matters related to tourism; and
 - (l) such other functions as are imposed on the Secretary by this Act or any other Act.

- (3) To avoid doubt, the Secretary has no voting rights at any meetings of the Council.

10 Sitting allowances

- (1) The members of the Council including the Chairperson are entitled to a sitting allowance of not more than VT5, 000 for each day in which the Council sits for a meeting.
- (2) The sitting allowance is to be determined by the Minister by Order.

PART 3 LOCAL GOVERNMENT TOURISM COUNCILS

Division 1 – Establishment, Composition; Objectives, Functions and Meetings of a Local Government Tourism Council

11 Definition

In this Part unless the context otherwise requires:

Council means a Local Government Tourism Council established under subsection 12(1);

member means a member of a Local Government Tourism Council appointed under subsection 13 (1) of this Act;

Secretary means the Secretary of a Council referred to under subsection 18(1).

12 Establishment of a Local Government Tourism Council

- (1) The Local Government Tourism Council of each Local Government Region in Vanuatu is established.
- (2) The Local Government Tourism Councils are:
- (a) TORBA Tourism Council; and
 - (b) SANMA Tourism Council; and
 - (c) PENAMA Tourism Council; and

- (d) MALAMPA Tourism Council; and
- (e) SHEFA Tourism Council; and
- (f) TAFEA Tourism Council.

13 Composition of a Council

(1) A Council consists of the following members appointed in writing by the Minister:

- (a) the Chairpersons of each Tourism Committee; and
- (b) the Manager of the Department of Public Works in the relevant Local Government Region; and
- (c) the Senior Cooperative and Business Development Officer of the Department of Cooperatives; and
- (d) the Chairperson of the relevant Island Council of Chiefs; and
- (e) the Clerk of the relevant Municipal Council; and
- (f) the President of the relevant Local Government Region Tourism Association; and
- (g) the relevant Local Government Region Forestry Officer; and
- (h) a representative of the Department of Customs nominated by the Director of Customs; and
- (i) the relevant Local Government Region Fisheries Officer; and
- (j) the Officer in Charge of the office of the Vanuatu Police Force in the relevant Local Government Region; and
- (k) a representative of the Department of Agriculture; and
- (l) the Secretary General of a relevant Local Government Council.

- (2) In this section **Tourism Committee** means a group of persons elected or appointed to perform some services or functions related to tourism within a relevant Local Government Region.

14 Chairperson and Deputy Chairperson of a Council

A Council is to elect its Chairperson and Deputy Chairperson from amongst the members of the Council.

15 Objectives of a Local Government Tourism Council

The objectives of a Council are:

- (a) to strengthen Local Government cooperation and partnership in tourism between the Government, private sector and civil society; and
- (b) to optimize the contribution of tourism to the sustainable development of each Local Government Region; and
- (c) to stimulate national awareness of each Local Government Region and promote tourism to each Local Government Region; and
- (d) to enhance through tourism activities the human, economic, social, and natural resources of each Local Government Region; and
- (e) to increase creative capacities and promote cultural identities within each Local Government Region.

16 Functions of a Local Government Tourism Council

A Local Government Tourism Council has the following functions:

- (a) to coordinate the implementation of the Local Government Tourism Plan; and
- (b) to develop tourism zones to facilitate tourism investment in the relevant islands; and
- (c) to ensure that the benefits of tourism development are shared equitably throughout the relevant islands; and

- (d) to promote and facilitate the increasing participation and ownership of citizens of Vanuatu on tourism businesses in the relevant islands; and
- (e) to ensure the competitiveness of the relevant Local Government Region as a sub-destination within Vanuatu for tourists and investors in tourism; and
- (f) to liaise with the relevant Local Government Council:
 - (i) to approve proposals submitted to it by the relevant Secretary; and
 - (ii) to monitor progress in the implementation of decisions that were made by previous meetings of the relevant Council; and
 - (iii) to monitor and make decisions on expenditure of the budget of the relevant Council; and
 - (iv) to approve a budget for the relevant Council; and
 - (v) to receive and approve regular monitoring reports on the implementation of the Local Government Tourism Plan and annual report of activities undertaken by the relevant Council; and
 - (vi) to discuss and approve tourism development proposals for the relevant Local Government Region; and
 - (vii) to receive regular monitoring reports and make decisions on the implementation of the relevant Local Government Tourism Plan; and
- (g) to strengthen the partnership between all stakeholders in the relevant islands to enhance tourism development and growth; and
- (h) to facilitate the establishment of appropriate infrastructures to increase investment in tourism in the relevant islands; and
- (i) to facilitate the establishment and operation of appropriate tourism industry associations for promoting increased participation of citizens of Vanuatu in tourism and for ensuring compliance to established policies and laws in the relevant islands; and
- (j) to discourage the abuse and misuse of local culture and customs from the relevant islands to other islands for commercial purposes; and

- (k) to promote the sustainable use of the natural environment for tourism development in the relevant islands; and
- (l) to present monitoring reports of tourism businesses in the relevant islands at any sitting of a Local Government Council meeting; and
- (m) to report to the relevant Local Government Council twice a year in the month of May and November of each calendar year; and
- (n) to create and manage annual events in the relevant islands to promote tourism to other Local Government regions; and
- (o) to promote and facilitate the development of innovative tourism products for marketing in the relevant islands; and
- (p) to promote the beautification of all villages throughout the relevant islands; and
- (q) to facilitate the establishment of foreign investors in tourism business in the relevant islands; and
- (r) such other functions that are conferred by this Act or any other Act.

17 Meetings of a Council

- (1) A Council must hold at least a meeting once in every quarter of a year, and such other meetings as may be required to be held for the performance of its functions under this Act.
- (2) The Chairperson is to preside at all meetings of a Council and if the Chairperson is absent, the Deputy Chairperson is to chair that meeting. In the absence of the Deputy Chairperson the Council is to nominate from amongst its members a member to chair the meeting.
- (3) At the meeting of a Council, a quorum consists of not less than half of the members present at the meeting.
- (4) Each member present at the meeting has 1 vote and questions arising at a meeting are to be decided by a majority of votes. If the voting at the meeting is equal, the member chairing the meeting has a casting vote.

- (5) Subject to this Act, a Council may determine and regulate its own procedures.

Division 2 – Secretary and Sitting allowance of a Council

18 Secretary of a Council

- (1) A Manager of the Department at a Local Government Region Office is to be the Secretary of the Council and has the following functions:
- (a) to convene meetings of the Council at the request of a Council; and
 - (b) to prepare and circulate agendas and issue papers for meetings of a Council; and
 - (c) to take minutes of meetings and circulate at least 3 weeks after each meeting; and
 - (d) to coordinate and facilitate the implementation of the decisions of a Council; and
 - (e) to coordinate the presentation of monitoring reports on implementation of decisions of previous meetings of a Council; and
 - (f) to ensure that meetings are held according to the approved schedule of the meetings; and
 - (g) to mobilise appropriate resources for the efficient implementation of all decisions of a Council; and
 - (h) to prepare annual work programmes of a Council; and
 - (i) such other functions that are conferred by this Act or any other Act.
- (2) To avoid doubt, the Secretary has no voting rights at a meeting of the Council.

19 Sitting allowances

- (1) The members of a Council including the Chairperson are entitled to a sitting allowance of not more than VT5, 000 for each day in which the Council sits for a meeting.

- (2) The sitting allowance is to be determined by the Minister by Order.

PART 4 TOURISM BUSINESS

20 Definition

In this Part unless the context otherwise requires:

Council means a Local Government Tourism Council established under subsection 12(1).

21 Application for permit to operate tourism business

- (1) A tourism operator must apply to the relevant Council for a permit to carry on a tourism business.
- (2) An application for a permit under subsection (1) must:
 - (a) be in the form prescribed by the Minister; and
 - (b) be accompanied by a fee prescribed by the Minister; and
 - (c) have with it such information or documents as may be requested by the relevant Council.

22 Application for permit to operate tourism business by an existing tourism operator

- (1) An existing tourism operator must apply for a permit to carry on a tourism business.
- (2) The Council is to issue a permit to an existing tourism operator who has applied under subsection (1) and is to require such operator to comply with the minimum requirements prescribed by the Director under section 21 within 24 to 36 months after the commencement of this Act.

23 Issue of permit

A Council must not issue a permit to an applicant to carry on tourism business under subsection 21(1) unless the Council is satisfied that the applicant has complied with the minimum requirements prescribed by the Director for establishing a tourism business and the National Classification System.

24 Appeals on decision of a Council

- (1) If the relevant Council refuses to issue a permit under section 22, a tourism operator may lodge an appeal on that decision to the Tourism Council of Vanuatu within 30 days from the date on which the decision is made.
- (2) The Tourism Council of Vanuatu may vary, quash or confirm a decision taken under subsection (1).
- (3) If the Tourism Council of Vanuatu refuses to issue a permit under section 22, a tourism operator may lodge an appeal on that decision to the Minister within 30 days from the date on which the decision is made.
- (4) The Minister may vary, quash or confirm a decision taken under subsection (2). The Minister's decision is final.

PART 5 ACCREDITATION OF TOURISM BUSINESS

25 Definition

In this Part:

Council means either the Tourism Council of Vanuatu established under section 3 or a Local Government Tourism Council established under subsection 12 (1).

26 Application for accreditation of tourism business

- (1) A tourism operator must apply to the Director for the accreditation of the person's tourism business.
- (2) An application for accreditation must:
 - (a) be in the form approved by the Director, and be accompanied by such fee, as is prescribed by the Minister; and
 - (b) identify the area or areas of land comprising the tourism business by way of a map or plan; and
 - (c) be accompanied by such other particulars and supporting evidence relating to the tourism business as may be required by the Director.

27 Determination of application for accreditation

- (1) Within 60 days after receiving an application for accreditation that complies with the requirements of subsection 26(2), the Director must determine the application:
 - (a) by accrediting the tourism business; or
 - (b) by refusing to accredit the tourism business .
- (2) If the Director has not determined the application within 60 days, the Minister may, in writing, direct the Director to determine the application within the period specified in the direction. The Director must comply with a Direction under this subsection.

- (3) The Director may engage 1 or more independent persons as assessors to provide services in relation to determining an application for accreditation of a tourism business.
- (4) The reasonable cost of providing services under subsection (3) by the assessors is to be met by the secretary of the Department.
- (5) The Director may refuse to accredit the tourism business if he or she is satisfied on reasonable grounds that the tourism business has not complied with the requirements of:
 - (a) the Business License Act [CAP 249]; or
 - (b) the Environmental Management and Conservation Act [CAP 283]; or
 - (c) any other Act that relates to the management of tourism; or
 - (d) subsection 26 (2).
- (6) Written notice of the Director's decision and the reasons for it are to be given to the tourism operator of the tourism business within 14 days after the decision is made.

28 Conditions of accreditation and certificate

- (1) In accrediting an existing tourism business, the Director may impose conditions as he or she may determine in writing.
- (2) Without limiting subsection (1), conditions may relate to the periodic review of an accreditation.
- (3) The Director is to issue a certificate of accreditation to a tourism operator if the tourism business has complied with the requirements under subsection 26(2).
- (4) A certificate of accreditation is to:
 - (a) be in a form prescribed by the Director; and
 - (b) specify the date on which the accreditation was granted; and

- (c) specify the conditions on which the accreditation has been granted.

29 Duration of accreditation

- (1) The accreditation of a tourism business remains in force unless the Director revokes the permit under section 31.
- (2) If there is a change in the ownership of a tourism business of an accredited tourism business, the change does not affect the accreditation of the tourism business.
- (3) The Director must inspect a tourism business each year to ensure that it complies with the requirements of accreditation.

30 Periodic Review of accreditation

The Director is to carry out a periodic review of the accreditation of a tourism business twice in a calendar year.

31 Revocation of permit

- (1) The Director may revoke the permit of a tourism business if he or she is satisfied that:
 - (a) there has been a significant breach of:
 - (i) any of the conditions on which the accreditation has been granted; or
 - (ii) any of the provisions of the Business License Act [CAP 249]; or
 - (iii) any other Act that relates to tourism; and
 - (b) the breach referred to under paragraph (1)(a) has not been remedied in accordance with a notice given under subsection (3).
- (2) If there has been a breach referred to in paragraph (1) (a), the Director is to issue a notice to the operator of a tourism business to remedy the breach.
- (3) A notice referred to under subsection (2) must:

- (a) specify the date and period by which the contravention is to be remedied, which is 60 days or such longer period having regard to the nature of the alleged breach and the work required to rectify it; and
 - (b) specify the measures to be taken to remedy the contravention.
- (4) The Director must give the tourism operator of the accredited tourism business written notice of the revocation.
- (5) To avoid doubt, the revocation of accreditation by the Director takes effect on the date on which he or she serves a notice of his or her decision to revoke the permit to the tourism operator.
- (6) The accreditation of a tourism business, or any part of it, may also be revoked by the Director at the request of the tourism operator.

32 Appeals on decision of Director

- (1) A tourism operator may lodge an appeal to the Minister within 60 days after notice of the decision was served on the tourism operator.
- (2) The Minister may:
 - (a) confirm the Director's decision to revoke the tourism business permit; or
 - (b) quash the Director's decision to revoke the tourism permit if the decision of the Director does not comply with section 31.

33 Register of accredited tourism businesses

- (1) The Director is to maintain a register of all accredited tourism businesses.
- (2) The register is to:
 - (a) include the details of the tourism business and its location; and
 - (b) be made available for inspection by any person without charge at the office of the Department during ordinary hours of business.

34 Classification System for Tourism Accommodation Business

- (1) The Director may by Order provide for the Classification System for accommodation business on the advice the Chairperson of the Vanuatu Hotels and Resorts Association.
- (2) A tourism operator must apply in a prescribed form to the Director for registration of his or her tourism business in compliance with the classification system.
- (3) The Director must not register a tourism accommodation business that does not meet the requirements of the Classification System for accommodation business.
- (4) A tourism operator of a tourism accommodation business that does not comply with a classification system for tourism accommodation business must not carry on or continue to carry on tourism accommodation business.
- (5) In this section **tourism accommodation business** means a tourism business established to provide accommodation for rental by tourists or any other person on a commercial basis.

35 Membership of a tourism industry association and Registration with Inbound Operator

- (1) A tourism operator must apply to the relevant tourism industry association to be a member of such tourism industry association.
- (2) A member of a tourism industry association must comply with the Constitution of the relevant tourism industry for which he or she is a member, being an association registered under the Charitable Associations (Incorporation) Act [CAP 140].
- (3) A member of a tourism industry association must register with an inbound operator.
- (4) In this section:

inbound operator means a person or a group of persons who make arrangements for transport, accommodations, sight seeing, entertainment and other tourism related services for tourists;

PART 6 MANAGEMENT AND STAFF

36 Staff of the Department to act as staff of a Local Government Tourism Council

For the purposes of this Act, the Director may designate a staff of the Department who is located at a Local Government Region to act as a staff of a Local Government Tourism Council.

PART 7 MISCELLANEOUS

37 Definition

In this Part:

Council means either the Tourism Council of Vanuatu or a Local Government Tourism Council.

38 Funds of a Council

The funds of a Council consist of monies appropriated to it by the Parliament.

39 Annual Reports

A Council must within 3 months after the end of each financial year furnish a report to the Minister relating to the operations of the Council for the preceding year.

40 Regulations

- (1) The Minister may, on the advice of the Council, make Regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) that are necessary or convenient to be prescribed for the carrying out or giving effect to the provisions of this Act.
- (2) Without limiting subsection (1), the Minister may provide for minimum requirements and standards for a tourism operator to establish and operate a tourism business.

41 Commencement

- (1) Subject to subsection 2, this Act commences on the date on which it is published in the Gazette.
- (2) The Minister may by Order declare the commencement of Part 4 and Part 5 of this Act.