

TURKS AND CAICOS ISLANDS

**TOURISM REGULATION AND LICENSING
ORDINANCE 2023**

(Ordinance 13 of 2023)

ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title and commencement
2. Interpretation

PART II

ADMINISTRATION

3. Director of Tourism Regulation Department
4. Functions of the Director
5. Powers of the Director
6. Power of entry and inspection
7. Power to obtain information
8. Delegation by the Director

PART III

LICENSING OF PREMISES PROVIDING ACCOMMODATION

9. Premises to which this Ordinance applies
10. Requirement for premises to be licensed
11. Application for licence
12. Grant or denial of licence
13. Form of licences
14. Duration of licences
15. Temporary licences
16. Transfer of licences
17. Variation of licences
18. Transfer or variation to be endorsed on licences
19. Director may revoke licence
20. Renewal of licences

21. Notification of change of control of company operating premises

PART IV

LICENSING TO PROVIDE TOURISM SERVICES

22. Interpretation Part IV
23. Requirement for licence to offer tourism services
24. Application for licence to offer tourism services
25. Grant or denial of licence
26. Form of licences
27. Duration of licences
28. Revocation of licence
29. Suspension, etc. of licence
30. Register of tourism services

PART V

CLASSIFICATION AND RATINGS OF PREMISES AND TOURISM SERVICES

31. Purpose of classification
32. Power to classify premises
33. Classification requirement
34. Classification of premises
35. Rating of premises and tourism services
36. Publication of ratings
37. Removal of classification or rating
38. Proof of grant of development permission
39. Review of classification
40. Reinstatement of classification and rating
41. Complaints re classification and rating
42. Classification and Ratings Complaints Board
43. Register of premises

PART VI

QUALITY ASSURANCE, TRAINING AND COMPLIANCE FOR STANDARDS

44. Duty to develop standards and classification system
45. Failure to comply with standards
46. Compliance with standards and conditions
47. Inspection for determining whether standards are implemented
48. Notice for non-compliance with standards or conditions
49. Failure to rectify

50. Staff training

PART VII

QUALITY ASSURANCE CONSULTATIVE COMMITTEE

51. Establishment of Quality Assurance Consultative Committee
52. Constitution of Committee
53. Functions of the Committee
54. Meetings of the Committee
55. Special meeting of the Committee
56. Chairperson to preside at meetings
57. Quorum
58. Voting
59. Minutes
60. Experts to assist the Committee
61. Disclosure of interest
62. Pecuniary interest
63. Confidentiality
64. Validity of decisions
65. Remuneration, allowances etc.
66. Immunity from liability for Committee members
67. Secretary to the Committee

PART VIII

MISCELLANEOUS

68. Notice to comply with conditions etc.
 69. Appeals
 70. Time when decisions take effect
 71. Offences and penalties
 72. Regulations
 73. Amendment of Schedules
 74. Savings
 75. Transitional
 76. Repeal
- SCHEDULE 1: Licence Fees for Accommodation
SCHEDULE 2: Licensing Fees for Tourism Services
SCHEDULE 3: Training Fees for Tourism Services
SCHEDULE 4: Tourism Services to be Licensed
SCHEDULE 5: Classification of Premises

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(Ordinance 13 of 2023)

Assent.....29th June 2023

Publication in Gazette.....30th June 2023

Commencement..... in accordance with section 1

AN ORDINANCE TO REGULATE TOURISM, TO MAKE PROVISION FOR THE LICENSING OF PREMISES PROVIDING ACCOMMODATION FOR GUESTS FOR REWARD OR NOT, FOR THE LICENSING AND TRAINING FOR PROVIDING TOURISM SERVICES, FOR THE REGULATION AND IMPROVEMENT OF THE STANDARD OF FACILITIES PROVIDED BY SUCH PREMISES, FOR THE CLASSIFICATION AND RATING OF PREMISES AND TOURISM SERVICES AND FOR CONNECTED MATTERS.

ENACTED by the Legislature of the Turks and Caicos Islands.

PART I

PRELIMINARY

Short title and commencement

1. (1) This Ordinance may be cited as the Tourism Regulation and Licensing Ordinance 2023 and shall come into operation on on such day as the Governor may appoint by Notice published in the *Gazette*.

(2) Different dates may be appointed for different provisions and different purposes.

Interpretation

2. In this Ordinance—
“board” means meals only;

- “Chairperson” means the chairperson of the Committee appointed under section 52;
- “Committee” means the Quality Assurance Consultative Committee established under section 51;
- “guest” means any person over the age of ten years who is accommodated for reward or not in premises to which this Ordinance applies;
- “lodging” means accommodation only;
- “Minister” means the minister responsible for tourism;
- “operator” means the person, whether or not he is the proprietor of the premises concerned, who carries on, or intends to carry on, at those premises any business of providing for reward or not, board and lodging or lodging only, whether on his own behalf or on behalf of another as manager, agent or otherwise;
- “premises” means any hotel, boutique hotel, resort, villa, condominium hotel, condominium guest house, bed and breakfast, self-catering rental apartment and vessels;
- “tourism services” means the services specified in Schedule 4.

PART II

ADMINISTRATION

Director of Tourism Regulation Department

3. (1) There shall be a Director of the Department, who shall be responsible subject to the general control of the Minister, for the management and administration of the Department.

(2) There shall be other officers of the Department, to be called Deputy Director and Tourism Regulatory Officers, who shall perform the duties as may be assigned from time to time to them by the Director.

Functions of the Director

4. The Director shall be responsible for the following—
- (a) the day to day administration of the Department;
 - (b) to register, license and classify premises that provide accommodation according to prescribed standards;
 - (c) to register and classify restaurants catering primarily for tourists, according to the prescribed standards of cuisine and amenities to be provided;

- (d) to register and regulate tourism services as may be prescribed;
- (e) to develop policy, standards and procedures related to the regulation of tourism and tourism services in the Islands;
- (f) to implement the policies and to enforce this Ordinance and any regulations made under this Ordinance;
- (g) to collect and process statistics in accordance with the Statistics Ordinance on the tourism sector in the Islands;
- (h) to develop strategies for the implementation of Government's policies and objectives on tourism in the Islands;
- (i) to advise the Minister on any matter the Minister may refer to the Director or any matter the Director considers necessary or expedient;
- (j) to propose to the Minister appropriate amendments to be made to the Ordinance or regulations;
- (k) to provide training prior to the licensing for tourism services;
- (l) to consult with relevant stakeholders on the standards to be prescribed for the classification and mandatory standardisation of premises that provide accommodation in the Islands;
- (m) to monitor tourism activities and services in the Islands;
- (n) to submit annual and other reports to the Minister;
- (o) to represent the Department at regional and international conferences, meetings, seminars and any dealings with regional and international organisations or agencies; and
- (p) to perform other functions as are conferred on him by virtue of this or any other Ordinance or any regulations made under this Ordinance.

Powers of the Director

5. The Director in carrying out the functions under section 4 may—

- (a) issue licences and compliance certificates;

- (b) request information from operators of premises for the purposes of licensing;
- (c) request information from persons providing tourism services for the purpose of licensing; and
- (d) carry out inspections of premises and documents for the purpose of determining whether the prescribed standards are met for the licensing of the premises.

In this section—

“documents” includes any data, correspondence, memorandum, book, machine-readable record or other documentary material, in hard or soft copy.

Power of entry and inspection

6. (1) Subject to subsection (2), the Director or an officer authorised by the Director may with the consent of the operator, enter any premises between the hours of 7:00 a.m. and 10 p.m. on any day to—

- (a) carry out surveys and investigations;
- (b) conduct inspections of any rooms and other areas of any premises to be licensed or which are licensed under this Ordinance.

(2) In exercise of his powers under subsection(1)(b), the Director shall give reasonable notice to the person operating the premises.

(3) If an operator of premises refuses to permit entry to an authorised person, a Magistrate may issue a warrant authorising the authorised person to enter premises for the purposes of collecting data or information or for inspection of the premises upon—

- (a) the application of that authorised person; and
- (b) being satisfied that there are reasonable grounds for believing that the refusal of the owner or operator of the premises to permit entry to the authorised person is unreasonable.

(4) The application for a warrant pursuant to sub-section (3) shall be served on the operator of the premises at least seven days before the hearing of the application and the Magistrate shall enable the operator of the premises to be heard on the application.

(5) A warrant issued under subsection (3) does not authorise entry before 7:00a.m. or after 10:00 p.m unless it is expressly stated in the warrant.

(6) An authorised person may, upon exercising his power of entry under this section, make enquiries as he considers necessary for the performance of his duties under this Ordinance.

(7) This section shall also apply to persons licensed under Part IV.

Power to obtain information

7. (1) The Director may, for the purpose of ascertaining whether or not this Ordinance or Regulations made under this Ordinance is being complied, may by notice in writing require the owner or operator or any person—

- (a) to furnish such information concerning the premises as specified in the notice;
- (b) to attend at such time and place as specified in the notice for the purpose of being examined on oath before the Director for the purpose concerning the affairs of the owner or operator of the premises or any other person;
- (c) for the purpose of paragraph (b) to produce any record or computer in the control of that person that the Director may require him to produce;
- (d) to provide access to where records or books of account are kept in respect of that premises in order to examine the records or books of account and any other documents that relate to the activities of the premises.

(2) Where the notice requires the provision of access to a premises to which subsection (1)(d) refers, the Director may request the operator of the premises to give him such reasonable assistance in connection with the examination or inspection as may be necessary and to answer orally or in writing any questions relating to the examination or inspection.

(3) Where the notice requires the production of a record or computer, it is sufficient if such record or computer is described in the notice with reasonable certainty.

(4) This section shall have effect despite any rule of law relating to privilege or the public interest in respect of the furnishing of information or the production of records or documents.

(5) The information furnished or the records or documents produced under this section shall be used only for the purposes for which they are furnished or produced.

(6) Any power conferred by subsection (1) to require the production of any register, copies of statements, accounts, books or other documents shall, if they are not produced, include the power to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(7) This section shall also apply to persons licensed under Part IV.

Delegation by the Director

8. (1) The Director may delegate in writing to the Deputy Director and any Tourism Regulatory Officer any of the functions conferred or imposed on him under section 4 or any other section of this Ordinance, than the power of delegation under this section.

(2) The Director may at any time revoke a delegation made under subsection (1).

(3) A delegation under subsection (1) does not prevent the exercise by the Director himself of a power so delegated.

PART III

LICENSING OF PREMISES PROVIDING ACCOMMODATION

Premises to which this Ordinance applies

9. (1) Subject to subsections (2) and (3), this Ordinance shall apply to any premises used, or intended to be used, for the purpose of providing for reward or not board and lodging or lodging only, including vacation rental unit by owners.

(2) This Ordinance shall not apply to premises referred to in subsection (1) or to any part of those premises, as long as those premises or that part of those premises, as the case may be, are being wholly used for the accommodation of a person of any of the following descriptions, either alone or together with his family—

- (a) a person who is an Islander within the meaning of the Turks and Caicos Islander Status Ordinance;
- (b) a person who is the holder of a permanent residence certificate under the Immigration Ordinance;
- (c) a person who is lawfully engaged in any gainful occupation in the Islands.

(3) This Ordinance shall not apply to any premises referred to in subsection(1) or any of those premises for so long as those premises or that part of those premises, as the case may be, are let unfurnished to any person for his own accommodation, either alone or together with his family.

(4) In this section—

“vacation rental unit by owners” means—

- (a) premises that are available for letting on Airbnb, VRBO and any similar online rental services;
- (b) any residential home or part of a residential home that is rented during a prescribed period in any year;
- (c) premises that meet the criteria for a self-catering apartment rental in section 34 and Schedule 5.

Requirement for premises to be licensed

10. A person shall not operate any premises for the purpose of providing accommodation for guests except under and in accordance with the terms of a licence issued under this Ordinance.

Application for licence

11. (1) A person intending to operate premises providing accommodation shall, before commencing operation apply for a licence.

(2) An application for a licence shall be made to the Director in the prescribed form and shall be accompanied by a non-refundable application fee as specified in Schedule 1 and the prescribed requirements.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$50,000.

Grant or denial of licence

12. (1) In considering an application for a licence the Director shall conduct any investigation he may consider necessary to ascertain that the criteria for approval of a licence are met.

(2) A licence shall not be granted by the Director unless he is satisfied—

- (a) as to the validity of the information submitted in the prescribed form;
- (b) as to the classification of the premises;

(c) that the premises meet the prescribed standards.

(3) Within one month of the receipt of a completed application for a licence, the Director shall either—

- (a) grant the licence and may place any restrictions as the Director considers to be prudent in respect of the licence;
- (b) refuse to grant the licence, if the Director is of the opinion that it would be undesirable in the public interest to grant the licence or the criteria for approving a licence are not met; or
- (c) refuse to grant the licence, if the Director is of the opinion that the operator of the premises have failed to comply with recommendations contained in the last inspection report.

(4) Upon payment of the licence fee specified in Schedule 1, a licence granted by the Director under subsection (3) is valid up to the time of the annual renewal or if revoked earlier.

Form of licences

13. Every licence shall specify—

- (a) the name of the operator;
- (b) the name of the proprietor, if he is not the operator;
- (c) the description and address of the premises in respect of which the licence is granted;
- (d) the date upon which the licence is to take effect;
- (e) any terms and conditions to which the licence is subject,

and such other particulars (if any) as may be prescribed.

Duration of licences

14. Every licence shall take effect on the date of issue or upon such later date as may be specified and shall expire on the thirty-first day of December next ensuing; but, upon application made in the prescribed manner not less than twenty-eight days before the date of expiry and upon payment of the licence fee specified in Schedule 1 therefor, any licence may be renewed by the Director for a further period of one year, and in like manner may be renewed from year to year, if the Director so approves.

Temporary licences

15. (1) Notwithstanding any other provisions of this Ordinance, the Director upon application made in the prescribed manner and upon payment of the fee set out in Schedule 1, may grant to any person a temporary licence to operate any premises for a period not exceeding forty-five days:

(2) Where a temporary licence is issued it may not be granted to any person in respect of the same premises or any part the premises for any number of days exceeding in the aggregate ninety days in any one year.

(3) A temporary licence shall be in such form, and shall contain such terms and conditions, as may be determined by the Director, and any such terms and conditions of a temporary licence may modify, in relation to the operation of the premises to which the licence relates, any of the requirements of any regulations made under this Ordinance.

Transfer of licences

16. (1) Where a licensee has died or proposes to divest himself, or has divested himself, of his interests in the business of the premises in respect of which his licence was granted, upon application in that behalf made by any person claiming the right to succeed such licensee as the operator of the premises concerned, and upon payment of the fee specified in Schedule 1, the Director may transfer the licence to that person subject to such terms and conditions as the Director may think fit to impose:

(2) Where a licence is to be transferred under this section the Director shall, where practicable, give to the licensee or, as the case may be, to his legal personal representative a reasonable opportunity to make any representations that he may wish to make in relation to any such application, and shall take into account any representations so made by him or on his behalf.

Variation of licences

17. (1) The Director may at any time, upon application in that behalf made by a licensee, or of its own motion, vary any of the terms or conditions of a licence.

(2) Where the Director determines to vary any terms or conditions of a licence the Director shall take into account any representations made to him by the licensee or on his behalf, and shall not vary such terms or conditions of his own motion without first giving to the licensee a reasonable opportunity to make such representations.

Transfer or variation to be endorsed on licences

18. Any transfer of a licence or the variation of any term or condition of a licence, made by the Director under section 16 or 17 as the case may be, shall be endorsed on the licence together with the date when it was authorised by the Director and the date upon which it is to take effect.

Director may revoke licence

19. (1) The Director may revoke a licence if the Director is satisfied that the holder of a licence—

- (a) has made any false or misleading statement or has furnished any false or misleading information in connection with his application for a licence;
- (b) has been convicted of an offence against this Ordinance;
- (c) has failed to maintain or apply the standards set out in the Regulations and has not remedied the same within three months after being requested to do so;
- (d) being the sole holder of the licence has been, under the Immigration Ordinance, recommended for deportation, or declared a prohibited immigrant, or placed on the Stop List;
- (e) has falsely advertised a standard, classification or rating which does not comply to the type of premises for which the licence was issued.

(2) A person whose licence is to be revoked shall be given a hearing by the Director prior to such revocation.

Renewal of licences

20. (1) A person shall apply for a renewal of a licence within the prescribed time and the application shall be accompanied by the licence fee set out in the Schedule 1 and in keeping with the prescribed requirements.

(2) The provisions of sections 11, 12, 13 shall apply to the renewal of a licence as they apply to the issuing of a licence.

Notification of change of control of company operating premises

21. (1) Where any alteration is proposed in the control of a company which is the operator of any premises licensed under this Ordinance, the secretary of that company, or any other

officer duly authorised in that behalf, shall notify the Director in writing of the particulars of such alteration, and if the company fails to comply with the provisions of this subsection, the Director may by instrument in writing cancel the licence issued to the company in respect of the premises concerned.

(2) For the purposes of this section, a company shall be deemed to be controlled by a person or persons if that person or those persons, by the exercise of some power exercisable by him or by them acting together, can, without the consent of any other person, appoint or remove all or a majority of the directors of the company; and for the purposes of this provision the expression “director” means any person who occupies the position of a director, by whatever name called.

PART IV

LICENSING TO PROVIDE TOURISM SERVICES

Interpretation Part IV

22. For the purposes of this Part—

“licence” means tourism business services licence;

“tourism service provider” means a person licensed under this Part to provide tourism services.

Requirement for licence to offer tourism services

23. (1) A person shall not offer tourism services for reward or otherwise except under and in accordance with the terms of a licence issued under this Part.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of \$2,500.

(3) The Director shall not issue a licence under this section, unless he is satisfied that the provider of the tourism services meet the prescribed pre-requisites for a licence.

Application for licence to offer tourism services

24. An application for a licence shall be made to the Director in the prescribed form and shall be accompanied by the fee specified in Schedule 2 and the prescribed requirements.

Grant or denial of licence

25. (1) In considering an application for a licence the Director shall conduct any investigation he may consider necessary to ascertain that the criteria for approval of a licence are met.

(2) A licence shall not be granted by the Director unless he is satisfied—

- (a) as to the validity of the information submitted in the prescribed form;
- (b) as to the training that the staff or employees have received to provide the tourism services;
- (c) as to the rating of the premises of the operation of the tourism service provider;
- (d) that the tourism service provider meets the prescribes standards for providing that particular tourism services;
- (e) that the premises and equipment used to provide the tourism service meet the prescribed standards.

(3) Within one month of the receipt of a completed application for a licence, the Director shall either—

- (a) grant the licence and may place any restrictions as the Director considers to be prudent in respect of the licence;
- (b) refuse to grant the licence, if the Director is of the opinion that it would be undesirable in the public interest to grant the licence or the criteria for approving a licence are not met; or
- (c) refuse to grant the licence, if the Director is of the opinion that the tourism service provider have failed to comply with recommendations contained in the last inspection report.

(4) Upon payment of the fee, specified in Schedule 2 a licence granted by the Director under subsection (3) is valid up to the time of annual renewal or if revoked earlier.

Form of licences

26. Every licence shall specify—

- (a) the name of the tourism service provider;
- (b) the name of the proprietor, if he is not the tourism service provider;
- (c) the description and address of the premises from which the tourism services is to be provided and for which the licence is granted;
- (d) the date upon which the licence is to take effect;

(e) any terms and conditions to which the licence is subject,
and such other particulars (if any) as may be prescribed.

Duration of licences

27. A licence issued under this Part—

- (a) shall be issued for such period, not to exceed three years, as the Director may determine;
- (b) shall not be transferred or assigned; and
- (c) is renewable.

Revocation of licence

28. (1) The Director may revoke a licence if the Director is satisfied that the tourism service provider—

- (a) has violated any conditions of the licence;
- (b) has not maintained or applied the relevant standard and has not remedied the same within six months after being requested so to do;
- (c) has falsely advertised a standard, classification or rating which does not comply to the tourism service for which the licence was issued.

(2) A person whose licence is to be revoked shall be given a hearing by the Director prior to such revocation.

Suspension, etc of licence

29. The Director may suspend, or reinstate a licence, in accordance with the prescribed requirements and procedures.

Register of tourism services

30. For the purposes of this Ordinance, the Director shall establish and maintain registers of tourism services.

PART V

CLASSIFICATION AND RATINGS OF PREMISES AND TOURISM SERVICES

Purpose of classification

31. The purpose of the classification are—

- (a) to ensure that all premises providing accommodation maintains the prescribed standards;
- (b) to apply established regional and international standards to premises providing accommodations;
- (c) to ensure that there is a recognised price differential among the different types of premises providing accommodation.

Power to classify premises

32. The Director may classify premises that provide accommodation to guests as specified in section 34 and Schedule 5.

Classification requirement

33.(1) The Director shall not license a premises unless the Director is satisfied that the premises meet the requirements set out in section 34 and Schedule 5.

(2) The Director shall upon the issuance of a licence enter the classification of the premises in the appropriate register in accordance with section 34.

Classification of premises

34. Any premises which meets the requirements specified in Schedule 5 shall be classified appropriately as one of the following—

- (a) hotel;
- (b) boutique hotel;
- (c) resort;
- (d) villa;
- (e) condominium hotel;
- (f) condominium;
- (g) guest house;
- (h) bed and breakfast;
- (i) self-catering apartment rental.

Rating of premises and tourism services

35. The Director shall with the Committee develop a system for the rating of premises that provide accommodation and for the rating of tourism services and the rating system shall be prescribed.

Publication of ratings

36. The Director shall publish the ratings assigned under section 35 in one or more daily newspapers in national circulation, in the *Gazette* and on the official website of the Department.

Removal of classification or rating

37. (1) The Director may remove the classification or rating assigned under sections 34 and 35 if he is satisfied that a false or misleading classification was used in advertising or otherwise in relation to premises which provide accommodation or tourism services.

(2) Where the Director makes a decision to remove a classification or rating, the Director shall publish the same in one or more daily newspapers in national circulation, in the *Gazette* and on the official website of the Department.

Proof of grant of development permission

38. At the time of licensing an operator shall submit proof that the premises was developed under a grant of development permission issued under the Physical Planning Ordinance.

Review of classification

39. The Director may from time to time conduct a review of the system of classification and rating to ensure that all premises and tourism services are properly classified or rated.

Reinstatement of classification and rating

40. (1) The Director may reinstate a classification or rating if the Director is satisfied that the basis for the removal has been removed or remedied.

(2) Where the Director makes a decision to remove a classification or rating, the Director shall publish the same in one or more daily newspapers in national circulation, in the *Gazette* and on the official website of the Department.

Complaints re classification and rating

41. (1) A person who is aggrieved by or dissatisfied with a decision of the Director—

- (a) removing a classification or rating; or
- (b) refusing to reinstate a classification or rating

shall submit his complaint in writing to the Director within fifteen days of the receipt of the decision of the Director.

(2) Any dispute arising from a complaint between the Director and a person shall be submitted to a prescribed complaints resolution process and if the complaint is not resolved under the complaints resolution process, the complaint shall be submitted to the Committee.

Meeting to hear a classification and ratings complaints

42. (1) The Committee shall seek to resolve any matter referred to it under section 41.

(2) The chairperson of the Committee may summon a meeting whenever a matter is referred to the Committee pursuant to section 41 and the Committee shall meet at least quarterly throughout the year to hear matters.

Register of premises

43. For the purposes of this Ordinance, the Director shall establish and maintain registers of premises classified as follows—

- (a) a register relating to premises classified as a hotel;
- (b) a register relating to premises classified as a boutique hotel;
- (c) a register relating to premises classified as a resort;
- (d) a register relating to premises classified as a villa;
- (e) a register relating to premises classified as a condominium hotel;
- (f) a register relating to premises classified as a condominium;
- (g) a register relating to premises classified as a guest house;
- (h) a register relating to premises classified as a bed and breakfast;
- (i) a register relating to premises classified as a self-catering apartment rental.

PART VI
QUALITY ASSURANCE , TRAINING AND COMPLIANCE FOR
STANDARDS

Duty to develop standards and classification system

44. The Director shall, in the development of standards, and in the review of the classification of premises, consult with the Committee, which shall provide advice and guidance, for the development of the standards and classification of premises.

Failure to comply with standards

45. (1) An operator shall ensure that his premises complies with the standards to be prescribed.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of \$5,000.

Compliance with standards and conditions

46. (1)An operator of premises shall comply—

(a) with the conditions of his licence; and

(b) with the rating requirements.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of \$5,000.

Inspection for determining whether standards are implemented

47. The Director shall carry out an inspection of premises to ascertain that the prescribed standards have been implemented—

(a) at the time of the issue of a first licence;

(b) at the time for the renewal of a licence;

(c) at any other time the Director considers necessary, in accordance with section 6.

Notice for non-compliance with standards or conditions

48.(1)Where the Director determines that an operator of premises—

(a) has violated any conditions of a licence;

(b) is not complying with any of the prescribed standards;

(c) is in breach of the provisions made under this Ordinance or Regulations,

the Director shall issue a notice in writing to the operator identifying the violation, breach or non-compliance.

(2) The notice shall state clearly—

- (a) the violation, breach or non-compliance to which it relates;
- (b) the person or persons to whom it is addressed;
- (c) the time at which it comes into effect;
- (d) the steps which shall be taken to rectify the violation, breach or non-compliance and the time, being not less than three months within which they shall be taken.

Failure to rectify

49. Where an operator fails to remedy a violation, breach or non-compliance, the Director may—

- (a) suspend the licence for a period that he shall determine or until the violation, breach or non-compliance is remedied to the satisfaction of the Director;
- (b) revoke the licence;
- (c) take some other appropriate measures to deal with the matter.

Staff training

50.(1)The following persons are required to have their staff trained under the Together Individuals Delivering Excellent Service (TIDES) program—

- (a) operators of premises licensed under this Ordinance;
- (b) operators of restaurants providing service to tourists;
- (c) operators of tourism services.

(2) The Director shall provide the staff training upon payment of the fee set out in Schedule 3.

PART VII

QUALITY ASSURANCE CONSULTATIVE COMMITTEE

Establishment of Quality Assurance Consultative Committee

51. The Quality Assurance Consultative Committee is established.

Constitution of Committee

52. (1) The Quality Assurance Consultative Committee shall comprise of the following persons appointed by the Minister—

- (a) Permanent Secretary, Tourism as the chair person;
- (b) Director of Planning;
- (c) Director of Environmental Health;
- (d) Director of the Department of Environment and Coastal Resources;
- (e) Chief Quality Assurance Officer of the Tourism Destination Marketing and Management Organisation;
- (f) two representatives from the private tourism industry.

(2) A person appointed under subsection (1) may be appointed for a period of up to two years, and may be reappointed.

(3) The chairperson of the Committee may summon a meeting whenever a matter is referred to the Committee by the Minister or whenever matters arise in regard to the functions of the Committee under section 53.

(4) The Committee may regulate its own procedure as it thinks fit.

(5) Members of the Committee shall be paid a travelling and subsistence allowance associated with attending meetings as may be appropriated by the House of Assembly for the purpose.

Functions of the Committee

53. The Committee shall—

- (a) receive and review applications for licences for premises;

- (b) make recommendations on the issuance or non-issuance of licences base on the report to be made by the Director;
- (c) make recommendations in respect of the suspension, revocation or reinstatement of licences;
- (d) review and make recommendations on the classification system for premises providing accommodation;
- (e) review and make recommendations on the rating system for premises and tourism services;
- (f) make recommendations for the making of regulations under this Ordinance;
- (g) review and make recommendations on the standards set out in the Regulations;
- (h) advise on the policy and procedures related to the regulation of tourism in the Islands;
- (i) advise on strategies to be developed for the implementation of Government's policies and objectives on tourism in the Islands; and
- (j) perform other functions to be conferred on the Committee by virtue of this or any other Ordinance or any regulations made under this Ordinance.

Meetings of Committee

54. (1) The Committee shall meet as often as is necessary or expedient for the discharge of its functions, but in any case, shall meet at least quarterly throughout the year.

(2) A meeting shall be held at such place, day and time, or in such manner as the Chairperson may determine.

(3) A meeting shall be called by the Chairperson upon giving written notice of not less than seven days.

Special meeting of the Committee

55. A special meeting of the Committee may be called by the Chairperson by giving a shorter notice where the urgency of any matter does not require the giving of notice in terms of section 54.

Chairperson to preside at meetings

56. (1) The Chairperson shall preside at a meeting of the Committee.

(2) In the absence of the chairperson a member elected by the members present at the meeting shall be the chairperson for that meeting.

Quorum

57. A quorum at any meeting of the Committee shall be five members, inclusive of the Chairperson.

Voting

58. A decision of the Committee shall be passed by a simple majority of the members present and voting, and in the case of an equality of votes, the Chairperson shall cast a vote in addition to his deliberative vote.

Minutes

59. The Committee shall cause minutes to be kept of every meeting and the minutes shall be confirmed by the Committee and signed by the chairperson.

Experts to assist the Committee

60. The Committee may co-opt any person whose presence it considers necessary to assist or advise at any deliberation of the Committee, but the person shall not form part of the quorum or have any right to vote.

Disclosure of interest

61. (1) Where a member of the Committee is present at a meeting of the Committee at which meeting a matter which is the subject of consideration is one in which the member has any pecuniary interest, directly or indirectly, in an application, licence, permit or other matter, the member shall as soon as practicable after the commencement of the meeting and before the matter is discussed, disclose his interest and shall leave the meeting for the duration of and not take part in any consideration or discussion of any question touching upon that matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a member of the Committee fails to disclose his interest in terms of subsection (1) and a decision by the

Committee is made benefiting the member, the decision shall be null and void to the extent to which it benefits that member.

(4) A member of the Committee who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine of \$10,000 or to imprisonment for a term of two years, or to both.

Pecuniary interest

62. (1) For the purposes of section 61, a member of the Committee shall be treated as having an indirect pecuniary interest in an application, licence, or other matter if—

- (a) the member, is a member of a company or other body which has a direct or indirect pecuniary interest in the application, licence, permit or other matter under consideration;
- (b) the member is a partner, or in the employment of a person who has a direct or indirect pecuniary interest in the application, licence, permit or other matter under consideration;
- (c) the member or any partner of his is a professional advisor to a person who has a direct or indirect pecuniary interest in the application, licence, permit or other matter under consideration; or
- (d) the member's spouse or child has a direct or indirect pecuniary interest in the application, licence, permit or other matter under consideration.

(2) Subsection (1) does not apply to membership of, or employment by, any public body.

Confidentiality

63. (1) A member of the Committee or any person assisting the Committee shall observe and preserve the confidentiality of all matters coming before the Committee, and such confidentiality shall subsist even after the termination of the term of office or the mandate.

(2) A member of the Committee or any person to whom confidential information is revealed through working with the Committee shall not disclose that information to any person, unless he is required to do so in terms of any law or for purposes of any judicial proceedings.

(3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of \$10,000 or to imprisonment for a term of two years, or to both.

Validity of decisions

64. The validity of any decision, act or proceedings of the Committee shall not be affected by any vacancy among its members, or by any defect in the appointment of a member.

Remuneration, allowances etc...

65. A member of the Committee or a person invited to attend a meeting under section 60, who is not a public officer shall be paid such remuneration, allowances and travelling expenses incurred in connection with service to the Committee as the Director may determine.

Immunity from liability for Committee members

66. No member of the Committee is personally liable in any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith in the exercise or the discharge or purported discharge of any duty or function under this Ordinance.

Secretary to the Committee

67. (1) The Minister shall appoint a public officer to be a Secretary of the Committee for such term as may be specified in the instrument of appointment.

(2) The Secretary shall—

- (a) attend all meetings of the Committee but shall not be a part of the quorum or vote on a matter or question before the Committee;
- (b) prepare minutes of meetings of the Committee;
- (c) keep a record of the proceedings and decisions of the Committee; and
- (d) carry out such other duties as the Committee may require.

PART VIII
MISCELLANEOUS

Notice to comply with conditions etc.

68. (1) Where the Director determines that a person granted a licence under Part IV has violated any of the conditions of the licence or is in breach of or is not complying with any of the standards developed under this Ordinance or any Regulations, the Director shall—

- (a) issue a notice in writing to the person identifying the violation, breach or non-compliance stipulating a time within which the violation, breach or non-compliance shall be remedied;
- (b) carry out a further inspection of the premises, or location where a tourism service is offered, after the expiration of the time set out in the notice;

(2) A person who receives a notice under subsection (1) shall cease to offer the service for which he was licensed to provide and shall surrender his licence to the Director within forty-eight hours of receiving the notice.

(3) Where a person remedies the violation, breach or non-compliance within the time stipulated in the notice to the satisfaction of the Director, the Director shall reinstate the licence and return the surrendered licence to the person.

Appeals

69. (1) Any person aggrieved by a decision of the Director —

- (a) to refuse to grant, renew, reinstate or transfer a licence, or to impose or vary any terms or conditions of a licence;
- (b) to suspend a licence; or
- (c) to revoke; or
- (d) made in the exercise of any other powers conferred by this Ordinance,

may appeal to the Magistrate Court against the decision of the Director within fifteen days of the notification to him thereof, or within such longer period as the court may allow in any particular case.

(2) Upon the hearing of any such appeal the Magistrate Court may make such order, including an order for costs, as it thinks just.

(3) Subject to the provisions of this section, the Magistrate may make rules of procedure governing appeals under this section.

Time when decisions take effect

70. (1) Any decision made by the Director under this Ordinance to cancel any licence or to impose or vary any terms or conditions of a licence shall take effect upon the expiration of fifteen days, or such longer period as the Director may specify in writing in any particular case, from the date of notification of the decision of the Director to the person concerned:

(2) If within such period of fifteen days, notice of appeal against the decision of the Director is given under the provisions of section 69, the decision of the Director shall not take effect until the final determination of the proceedings on the appeal.

Offences and penalties

71. (1) Any person who, without lawful excuse having been granted such a licence operates the premises in contravention of the terms and conditions commits an offence and is liable on summary conviction to a fine of \$500 and to a penalty of \$500 for each day during which he so operates the premises.

(2) A person who, offers a tourism service without a licence commits an offence and is liable on summary conviction to a fine of \$500 and to a penalty of \$500 for each day during which he so offers the tourism service.

(3) Any operator who fails to comply, within the time specified for so doing, with the requirements of a notice issued under section 48 or 68, and who continues to operate the premises concerned, commits an offence and is liable on summary conviction to a fine of \$500 and to a penalty of \$100 for each day during which he continues to operate the premises while in default in complying with such notice.

(4) Where an offence under this section is committed by a company with the consent or connivance of, or is attributable to any wilful default on the part of, any director, manager, secretary or other similar officer of the company, or any person purporting to act in any such capacity, he, as well as the company commits an offence and is liable to be proceeded against and punished accordingly.

Regulations

72. (1) The Minister may make regulations for giving effect to the provisions of this Ordinance, and for ensuring satisfactory

standards in the operation of any premises to which this Ordinance applies.

(2) Without prejudice to the generality of the power conferred by subsection (1), such regulations may make provisions for—

- (a) regulating the numbers of guests who may be accommodated on any particular premises or class of premises or in any room thereof;
- (b) prescribing standards for the maintenance of the exteriors and interiors of the buildings comprising any premises and the grounds thereof;
- (c) prescribing the precautions to be taken against the outbreak or spread of fire and for the protection of persons therefrom;
- (d) requiring that the licence issued in respect of any premises or copies of any regulations made under this section (or any extract therefrom) shall be displayed in any prescribed place on any premises;
- (e) prescribing standards for the licensing and classification of premises providing accommodation;
- (f) prescribing standards for the rating of premises and tourism services;
- (g) prescribing standards for the certification of restaurants catering primarily for tourists;
- (h) requiring persons who operate premises to keep records of the number of guests capable of being accommodated;
- (i) providing the form and manner in which an application for a licence and certificate shall be made;
- (j) prescribing the time or any thing required for regulating vacation rental units by owners; and
- (k) prescribing any matter or thing required to be prescribed for the purposes of this Ordinance.

Amendment of Schedules

73. The Minister may by Order amend the Schedules.

Savings

74. A licence granted under the Tourist Accommodation (Licensing) Ordinance which is in force immediately before the coming into force of this Ordinance—

- (a) continues in force after this Ordinance comes into force on the same conditions and with the same effect as if this Ordinance had not come into force; and
- (b) shall remain in force for so much of the period as falls after the commencement of this Ordinance.

Transitional

75. (1) A person who immediately before the date of the commencement of this Ordinance was operating a premises or providing a tourism service may continue to operate the premises or provide the tourism service without a licence under this Ordinance during the period of six months beginning with that date.

(2) For the avoidance of doubt, a person to whom subsection (1) applies, shall at the conclusion of six months apply for a licence under this Ordinance.

Repeal

76. The Tourist Accommodation (Licensing) Ordinance 1978 is repealed

SCHEDULE 1

(Sections 11(2), 12(4), 14, 15(1), 16(1), 20(1))

LICENCE FEES FOR ACCOMMODATION

	TYPE	AMOUNT
	Initial Application fee	\$100
	Renewal application fee	NIL
	Grant of first licence	\$20 PER ROOM
	Renewal of licence	\$20 PER ROOM
	Transfer of licence	\$20 PER ROOM

	Self-Catering Apartment Rental	\$50 PER UNIT
	VRBO and Airbnb	\$50 PER UNIT

SCHEDULE 2

(Section 24,25)

LICENSING FEES FOR TOURISM SERVICES

	TYPE	PREREQUISITES FOR LICENCE	AMOUNT
	Restaurants and Bars	Government Inspection	\$100
	Golf	Government Inspection	\$500
	Spa	Government Inspection	\$100
	Casino	Government Inspection	\$500
	Marina	Government Inspection	\$1,000
	Caterers and Private Chefs	Government Inspection	\$50
	Tour Boat Operators less than 30 feet	Government Inspection	\$50
	Tour Boat Operators over 30 feet	Government Inspection	\$50
	Tour Operators Land Base	Government Inspection	\$50
	Travel Agencies	Government Inspection	\$50
	Taxi	Government	\$50

		Inspection	
	Car Rental	Government Inspection	\$50
	Helicopter Tour	Government Inspection	\$50
	Horse Back Riding	Government Inspection	\$50
	Bicycle and Bicycle Rental	Government Inspection	\$50
	Water Sport	Government Inspection	\$50
	Water Sport Equipment Sale and Rental	Government Inspection	\$50
	Concierge Services	Government Inspection	\$50

SCHEDULE 3

(Section 50)

TRAINING FEES FOR TOURISM SERVICES

	TYPE	PREREQUISITES FOR LICENCE	AMOUNT
	Restaurants and Bars	Training	\$50 per person
	Caterers and Private Chefs	Training	\$50 per person
	Tour Boat Operators less than 30 feet	Training	\$50 per person
	Tour Boat Operators over 30 feet	Training	\$50 per person
	Tour Operators Land Base	Training	\$50 per person
	Travel Agencies	Training	\$50 per person

	Taxi	Training	\$50 per person
	Car Rental	Training	\$50 per person
	Helicopter Tour	Training	\$50 per person
	Horse Back Riding	Training	\$50 per person
	Bicycle and Bicycle Rental	Training	\$50 per person
	Water Sport	Training	\$50 per person
	Water Sport Equipment Sale and Rental	Training	\$50 per person
	Concierge Services	Training	\$50 per person

SCHEDULE 4

(Section 22)

TOURISM SERVICES TO BE LICENSED

Tourism businesses to be licensed—

- (a) Bicycle service;
- (b) Car rentals;
- (c) Catering services;
- (d) Private chef services;
- (e) Restaurant and bars;
- (f) Concierge services;
- (g) Helicopter tour services;
- (h) Horseback riding services;
- (i) Taxi services;
- (j) Travel agencies;
- (k) Tour operators land base;
- (l) Tour Boat operators less than 30 feet;
- (m) Tour Boat operators over 30 feet;
- (n) Water sport equipment sales and rental;

- (o) Water sport;
- (p) Golf;
- (q) Spa;
- (r) Casino;
- (s) Marina.

SCHEDULE 5

(Section 34)

CLASSIFICATION OF PREMISES

Hotel

1. Any premises which meet the following requirements shall be classified as a hotel—

- (a) it is part of a single building or a series of buildings;
- (b) the premises are suitably constructed or adapted for the lodging of persons in private rooms or apartments and for the provision and service of—
 - (i) meals,
 - (ii) refreshments,

at times when such meals and refreshments are customarily available in a hotel;

- (c) the lodging accommodation, excluding any rooms or apartments offered for occupation exclusively on a self-catering basis, is provided by 15 to over 500 bedrooms;
- (d) the lodging accommodation is provided by separate bedrooms which can be individually locked, are numbered or named as to make them readily identifiable and is equipped with a private bathroom or shower room, with water closet, serviced with a constant and controllable supply of hot and cold running water.

Boutique hotel

2. Any premises which meet the following requirements shall be classified as a boutique hotel—

- (a) it is part of a single building or a series of buildings;

- (b) the premises are suitably constructed or adapted for the lodging of persons in private rooms or apartments and for the provision and service of—
 - (i) meals,
 - (ii) refreshments,at times when such meals and refreshments are customarily available in a boutique hotel;
- (c) the lodging accommodation, excluding any rooms or apartments offered for occupation exclusively on a self-catering basis, is provided by 15 to 20 bedrooms;
- (d) the lodging accommodation is provided by separate bedrooms which can be individually locked, are numbered or named as to make them readily identifiable and is equipped with a private bathroom or shower room, with water closet, serviced with a constant and controllable supply of hot and cold running water.

Resort

3. Any premises which meet the following requirements shall be classified as a resort—

- (a) it is part of a single building or a series of buildings;
- (b) the premises are suitably constructed or adapted for the lodging of persons in private rooms or apartments and for the provision and service of—
 - (i) meals,
 - (ii) refreshments,at times when such meals and refreshments are customarily available in a resort;
- (c) the lodging accommodation, excluding any rooms or apartments offered for occupation exclusively on a self-catering basis, is provided by 50 to over 500 bedrooms;
- (d) the lodging accommodation is provided by separate bedrooms which can be individually locked, are numbered or named as to make them readily identifiable and is equipped with a private bathroom or shower room, with water closet, serviced with a constant and controllable supply of hot and cold running water;

- (e) the lodging and boarding is provided as an all-inclusive package at a package price;
- (f) the premises provides entertainment, recreation and relaxation services;
- (g) the premises provides one or more of the following special facilities—
 - (i) golf course;
 - (ii) tennis courts;
 - (iii) pro shop;
 - (iv) casino and gaming;
 - (v) spa;
 - (vi) restaurants;
 - (vii) gift shop;
 - (viii) bars;
 - (ix) gym; or
 - (x) other similar amenities.

Villa

4. Any premises which meet the following requirements shall be classified as a villa—

- (a) it is a single family unit with one or more of any of the following luxurious features—
 - (i) garden;
 - (ii) private garage;
 - (iii) court yard;
 - (iv) water fountains;
 - (v) swimming pool;
 - (vi) tennis court;
 - (viii) gym;
 - (ix) spa;
 - (x) private road with surveillance;
 - (xi) outdoor living areas;
 - (xii) cleaning and maintenance services;
 - (xiii) other similar amenities; and
- (b) the structure is completely independent.

Condominium hotel

5. Any premises which meet the following requirements shall be classified as a condominium hotel—

- (a) it is part of a single building or a series of buildings;
- (b) the lodging accommodation, or apartments offered for occupation is exclusively on a self-catering basis,
- (c) the majority of the lodging accommodation or apartments are a private residences owned by an individual in a single building or community pursuant to the Strata Titles Ordinance;
- (d) it is managed by a property management company; and
- (e) it is usually rented out to visitors by the owner.

Condominium

6. Any premises which meet the following requirements shall be classified as a condominium—

- (a) it is a private residence owned by an individual in a single building or community pursuant to the Strata Titles Ordinance;
- (b) it is managed by a property management company; and
- (c) it is usually rented out to visitors by the owner.

Guest house

7. Any premises which meet the following requirements shall be classified as a guest house—

- (a) it is part of a single building or a series of buildings;
- (b) the premises are suitably constructed or adapted for the lodging of persons in private rooms or apartments and for the provision and service of—
 - (i) meals,
 - (ii) refreshments,at times when such meals and refreshments are customarily available in a guest house;
- (c) the lodging accommodation, excluding any rooms or apartments offered for occupation exclusively

on a self-catering basis, is provided by a maximum of 14 bedrooms;

- (d) the lodging accommodation is provided by separate bedrooms which can be individually locked, are numbered or named as to make them readily identifiable and is equipped with a private bathroom or shower room, with water closet, serviced with a constant and controllable supply of hot and cold running water.

Bed and breakfast

8. Any premises which meet the following requirements shall be classified as a bed and breakfast—

- (a) the premises is family owned and run;
- (b) the premises are suitably constructed or adapted for the lodging of persons in private rooms and for the provision and service of—
 - (i) meals,
 - (ii) refreshments,

at times when such meals and refreshments are customarily available in a bed and breakfast;

- (c) the lodging accommodation, is provided by a maximum of 10 bedrooms;
- (d) the lodging accommodation is provided by separate bedrooms which can be individually locked, are numbered or named as to make them readily identifiable and is equipped with a private bathroom or shower room, with water closet, serviced with a constant and controllable supply of hot and cold running water.

Self-catering apartment rental

9. Any premises which meet the following requirements shall be classified as a self-catering apartment rental—

- (a) the premises in which the accommodation is provided are—
 - (i) of solid and substantial construction and in good repair;
 - (ii) adequately sound proofed; and
 - (iii) suitably designed or properly adapted for the lodging of persons in self-contained

accommodation which is so numbered as to make it readily identifiable;

(b) the accommodation is provided with—

(i) facilities for the storage of dry and refrigerated food;

(ii) facilities for the preparation and cooking of meals;

(iii) household utensils, cutlery, crockery, glassware, linen and other relevant equipment, sufficient to meet the needs of the maximum number of resident guests for which the accommodation is to be registered; and

(iv) the configuration, design and general standard of the accommodation is satisfactory having regard to the maximum number of resident guests for which the accommodation is to be registered.
