

GAUTENG PROVINCIAL LEGISLATURE

GAUTENG TOURISM BILL, 2001

(As amended)

(MEMBER OF THE EXECUTIVE COUNCIL FOR FINANCE AND ECONOMIC AFFAIRS)

[G009(b)—2001]

BILL

To provide for the promotion and sustainable development of tourism in Gauteng; to establish the Gauteng Tourism Authority; to confer powers and functions and impose duties upon the Authority; to establish the Tourism Advisory Committee; to confer powers and functions and impose duties upon the Committee; to establish a tourism development fund; to provide for registration of tourist guides, tour operators, couriers, accredited training providers in the tourism industry, hotels, conference centres, restaurants, designated tourist amenities and other accommodation establishments and possible future functions relating to these categories; and to provide for matters incidental thereto.

BE IT ENACTED by the Gauteng Provincial Legislature, as follows:—

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**CHAPTER 1
DEFINITIONS AND APPLICATION OF THE ACT**

Definitions

1. In this Act, unless the context otherwise indicates—

“**accredited training provider**” means a person, organisation or institution providing training, guidance or education within the tourism industry and in compliance with the criteria and standards set out by The Authority; 5

“**Authority**” means the Gauteng Tourism Authority;

“**Chief Executive Officer**” means a person appointed in terms of section 5;

“**Committee**” means the Tourism Advisory Committee; 10

“**conference centre**” means an establishment in the business of providing facilities for the hosting of conferences, congresses, conventions, symposia, seminars and exhibitions, not forming part of a hotel or other accommodation establishment;

“**courier**” means a person or business providing carriage for tourists, including car hire; 15

“**Department**” means the department responsible for tourism in the Province

“**designated officer**” means a person appointed in terms of section 29;

“**designated tourist amenity**” means a place or thing that the MEC declared as a designated tourist amenity in terms of section 31;

“**Executive Council**” means the Executive Council of the Provincial Government of 20 Gauteng;

“**Fund**” means the Tourism Development Fund established in terms of section 14 of this Act;

“**hotel**” means premises, wherein or whereon the business of supplying lodging and meals for reward is or is intended to be conducted, and includes a motel, inn or boatel; 25

“**immediate family member**” means a spouse, parent, child, brother or sister;

“**Legislature**” means the Gauteng Provincial Legislature;

“**MEC**” means the member of the Executive Council responsible for tourism matters in the Province; 30

“**member**” means a member of the Tourism Advisory Committee;

“**other accommodation establishment**” means any premises, other than a hotel, offering sleeping accommodation to the public for a fee, whether with or without meals and includes a boat, house boat, bed and breakfast, caravan and camping park, farmhouse, guest house, hostel and lodge; 35

“**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999) as amended from time to time;

“**Province**” means the Gauteng Province;

“**prescribe**” means prescribe by regulation and ‘prescribed’ has a corresponding meaning; 40

“**Registrar**” means a person appointed in terms of section 29;

“**regulations**” means regulations made under this Act;

“**restaurant**” means premises that are structurally adapted and used for the purpose of supplying meals, for a fee, to the public for consumption on or off the premises;

“**spouse**” includes a person with whom a person lives as if they are married or with whom the person habitually cohabits;

“**Standing Committee**” means the Committee of the Provincial Legislature responsible for tourism;

“**this Act**” includes regulations made under this Act; 5

“**tourist guide**” means a person who for reward, whether monetary or otherwise, accompanies any person who travels within or visits any place within the Province and who furnishes such person with information or comment with regard to any matter;

“**tour operator**” means a person who carries on the business of providing tours of 10 any description using its own or another operator’s approved vehicle, aircraft and other facilities;

“**Treasury**” means the Provincial Treasury of Gauteng as contemplated in the Public Finance Management Act.

Application of this Act 15

2. This Act applies throughout the Province.

CHAPTER 2 GAUTENG TOURISM AUTHORITY AND FUND

Establishment of the Authority

3. There is hereby established a juristic person called the Gauteng Tourism Authority. 20

Powers and duties of the Authority

4. The Authority has the following powers and duties in addition to any power or duty provided for in this Act:

- (1) to promote, foster and develop tourism in the Province;
- (2) to encourage the sustainable development, provision and improvement of tourist 25 amenities
- (3) to establish guidelines for tourism development;
- (4) to initiate and implement activities and actions nationally and internationally intended to attract tourists to the Province;
- (5) to develop strategic and business partnerships and other co-operative activities 30 with tourist organisations in civil society and other countries;
- (6) to co-ordinate, support and interact with organisations and institutions aimed at promoting and developing tourism;
- (7) to solicit membership with and become a member of organisations for tourism development and marketing; 35
- (8) with approval of the MEC, to provide finance for any project which will develop tourism in the Province;
- (9) to receive donations;
- (10) to function properly as a juristic person within the law of the Republic of South Africa, possess all the powers necessary for the Authority to function as such; and 40
- (11) register tourist guides in accordance with the Tourism Act, 1993 (Act No. 72 of 1993).

Constitution of the Authority

5. (1) The Authority consists of one (1) member, who is also the Chief Executive Officer of the Authority. 45

(2) The MEC appoints the Chief Executive Officer in consultation with the Standing Committee.

(3) The Chief Executive Officer must be a fit and proper person, not employed by government, who possesses knowledge, qualifications and experience in the field of tourism and tourism development and promotion. 50

(4) The MEC must by notice in the *Provincial Gazette* and three (3) widely circulating newspapers in the Province, publish the name of the Chief Executive Officer, within one (1) month of appointment.

Conditions of service

6. The MEC determines the terms and conditions of service, remuneration, allowances and other employee benefits of the Chief Executive Officer.

Terms of office

7. (1) The Chief Executive Officer holds office, subject to section 8, for the period determined by the MEC at the time of appointment, but not exceeding three (3) years, and may be re-appointed on termination of this period. 5

(2) If for any reason, the position becomes vacant, the MEC may appoint a qualifying person as Chief Executive Officer.

Vacation of office 10

8. (1) The Chief Executive Officer must vacate office if he or she—

- (a) resigns;
- (b) becomes of unsound mind;
- (c) is convicted of an offence and sentenced to imprisonment without the option of a fine; 15
- (d) becomes a member of Parliament, any provincial legislature, the council of a municipality, Cabinet or any executive council;
- (e) ceases to be a resident of the Province; or
- (f) is employed by government in any capacity other than as Chief Executive Officer of the Authority. 20

(2) The MEC, in consultation with the Standing Committee may, at any time, terminate the period of office of the Chief Executive Officer if, in the opinion of the MEC, sufficient reasons exist to effect a termination. Provided that the Chief Executive Officer is given the opportunity to be heard.

Disclosure of interest and conflict of interests 25

9. (1) The Chief Executive Officer must disclose to the MEC any direct or indirect interest or potential interest which he or she or his or her immediate family member, business partner or associate or employer has in the tourism industry.

(2) In any matter where the Chief Executive Officer is required to make a decision or take action and where a conflict or potential conflict as contemplated in subsection (1) exists or possibly exists— 30

- (a) the Chief Executive Officer must refer the matter to the MEC;
- (b) the MEC must obtain the prior advice of the Committee on the conflict or potential conflict in relation to the required decision or action;
- (c) the MEC must thereafter determine what the appropriate decision or action is that the Chief Executive Officer has to take and may prescribe conditions applicable to such determination; and 35
- (d) the MEC must, in writing, inform the Chief Executive Officer of his or her determination.

(3) The Chief Executive Officer must follow the determination of the MEC as contemplated in subsection (2)(c). 40

(4) If the Chief Executive Officer fails to disclose any interest contemplated in subsection (1) or contravenes subsections (2) or (3), the MEC may, declare the relevant actions null and void.

(5) A failure as contemplated in subsection (4) constitutes a sufficient reason as contemplated in subsection 8(2). 45

Disqualification of office

10. No person must be appointed as Chief Executive Officer if that person is—

- (a) an unrehabilitated insolvent;
- (b) not a South African citizen; 50
- (c) not a resident of the Province;
- (d) a habitual criminal; and
- (e) of an unsound mind.

Staff of the Authority

- 11.** (1) The Chief Executive Officer must, with the concurrence of the MEC, appoint persons to assist the Authority in the performance of its duties and exercise of its powers;
- (2) The staff of the Authority must—
- (a) receive remuneration, allowances and other employment benefits; and 5
 - (b) be appointed on such terms and conditions of service and for such periods, as the Chief Executive Officer may, with the concurrence of the MEC, determine.

Expert and other assistance

- 12.** (1) The Authority may, with the concurrence of the MEC, appoint on an ad hoc basis, such experts or other persons as it may deem necessary, with a view to assisting it, in the performance of its duties and exercise of its powers. 10
- (2) The Chief Executive Officer must, with the concurrence of the MEC, determine the terms and conditions of service, remuneration and allowances of experts and persons contemplated in subsection (1).

Delegation of powers 15

- 13.** (1) The Chief Executive Officer may, with the concurrence of the MEC, for the effective execution of the provisions of this Act delegate a power conferred on him or her under this Act, except as accounting authority, to any member of staff.
- (2) A person to whom a power has been delegated, must exercise the power or perform the duty subject to conditions that the Chief Executive Officer considers necessary. 20
- (3) A delegation—
- (a) must be in writing;
 - (b) does not prevent the Chief Executive Officer from exercising the power; and
 - (c) may at any time be withdrawn. 25

Tourism Development Fund

- 14.** (1) There is hereby established a fund called the Tourism Development Fund.
- (2) The fund must be used for the development or empowerment of the previously disadvantaged persons or communities in the tourism industry.
- (3) Subject to this Act, no less than thirty-three percent (33%) of the funds referred to in section 15 will be allocated to the fund. 30

Funds of the Authority

- 15.** (1) The funds of the Authority consist of—
- (a) monies contained in its budget and approved by the MEC as contemplated in subsection (2); and 35
 - (b) money accruing to the Authority from any source approved by the MEC, including fees paid in terms of this Act.
- (2) The Authority must, for the purposes of approvals contemplated in subsection (1), submit to the MEC a budget of estimated revenue and expenditure for the financial year, for approval, at least six months before the start of the financial year; 40
- (3) The Authority must—
- (a) open an account with a bank registered in the Republic of South Africa and approved in writing by the Treasury after compliance with prescribed tender procedures, and must deposit in that account all money referred to in subsection (1); and 45
 - (b) may invest money deposited in terms of paragraph (a) which is not required for immediate use.
- (4) The Authority shall not budget for a deficit and may not accumulate surpluses unless prior approval of the Treasury has been obtained.

Accounting responsibility of the Authority 50

- 16.** (1) The Chief Executive Officer is the accounting authority of the Authority subject to the provisions of the Public Finance Management Act.

- (2) Treasury may, in exceptional circumstances, approve or instruct that another functionary of the Authority be the accounting authority and may withdraw the approval or instruction at any time.
- (3) The Authority must inform the Auditor-General promptly and in writing of any approval or instruction and any withdrawal thereof in terms of subsection (2). 5
- (4) The accounting authority must—
- (a) exercise the duty of utmost care to ensure reasonable protection of the assets and records of the Authority;
 - (b) act with fidelity, honesty, integrity and in the best interest of the Authority in managing the financial affairs of the Authority; 10
 - (c) on request, disclose to the MEC or the Legislature, all material facts, including those reasonably discoverable, which in any way may influence the decisions or actions of the MEC or the Legislature; and
 - (d) seek, within the sphere of influence of the Authority, to prevent any prejudice to the financial interests of the state. 15
- (5) The accounting authority may not—
- (a) act in a way that is inconsistent with the responsibilities assigned to an accounting authority in terms of the Public Finance Management Act; or
 - (b) use the position or privileges of, or confidential information obtained as, accounting authority of the Authority, for personal gain or to improperly benefit another person. 20
- (6) The accounting authority—
- (a) must ensure that the Authority has and maintains—
 - (i) effective, efficient and transparent systems of financial and risk management and internal control; 25
 - (ii) a system of internal audit under control and direction of an audit committee complying with and operating in accordance with regulations and instructions prescribed in terms of sections 76 and 77 of the Public Finance Management Act;
 - (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective; and 30
 - (iv) a system of properly evaluating all major capital projects to a final decision on the project;
 - (b) must take effective and appropriate steps to—
 - (i) collect all revenue due to Authority; 35
 - (ii) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the Authority; and
 - (iii) manage available working capital efficiently and economically;
 - (c) is responsible for the management, including the safeguarding, of assets and for the management of the revenue, expenditure and liabilities of the Authority; 40
 - (d) must comply with any tax, levy, duty, pension and audit commitments as required by law;
 - (e) must take effective and appropriate disciplinary steps against any employee of the Authority who— 45
 - (i) contravenes or fails to comply with any provision of the Public Finance Management Act;
 - (ii) commits an act which undermines the financial management and internal control system of the Authority; or 50
 - (iii) makes or permits an irregular expenditure or a fruitless and wasteful expenditure;
 - (f) is responsible for the submission by the Authority of all reports, returns, notices and other information to the Legislature and to Treasury or the MEC, as may be required by the Public Finance Management Act; 55
 - (g) must comply, and ensure compliance by the Authority, with the provisions of the Public Finance Management Act and any other applicable legislation.
- (7) If the accounting authority is unable to comply with any of the responsibilities determined for the Authority or accounting authority in terms of the provisions of the Public Finance Management Act, he or she must promptly report the inability, together with reasons, to the MEC and Treasury. 60

Information to be submitted by accounting authority

17. (1) The accounting authority must submit to Treasury or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as Treasury or the Auditor-General may require.
- (2) Before the Authority concludes any of the following transactions, the accounting authority must in writing inform the Treasury of the transaction and submit particulars of the transaction to the MEC for approval of the transaction: 5
- (a) establishment or participation in the establishment of a company;
 - (b) participation in partnership, trust, unincorporated joint venture or similar arrangement; 10
 - (c) acquisition or disposal of shareholding in a company;
 - (d) acquisition or disposal of asset;
 - (e) commencement or cessation of business activity; and
 - (f) change in the nature or extent of its interest in partnership, trust, unincorporated joint venture or similar arrangement. 15
- (3) The Authority may assume that approval has been given if it receives no response from the MEC on a submission in terms of subsection (2) within 30 days.

Annual reports and financial statements

18. (1) The Authority must—
- (a) keep full and proper records of all its financial affairs; 20
 - (b) prepare financial statements for each financial year in accordance with generally accepted practice, unless the Accounting Standards Authority approves the application of generally recognised accounting practice for the Authority;
 - (c) submit those financial statements within two months after the end of the financial year to the Auditor-General for auditing and to Treasury, subject to the provisions of the Public Finance Management Act; 25
 - (d) submit within five months of the end of the financial year to the Treasury and the MEC—
 - (i) an annual report on the activities of the Authority during that financial year; and 30
 - (ii) the audited financial statements for that financial year.
- (2) The annual report and financial statements referred to in subsection (1)(d) must—
- (a) fairly present the state of affairs of the Authority, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned; 35
 - (b) include particulars of—
 - (i) any material losses through criminal conduct and any irregular and fruitless and wasteful expenditure that occurred during the financial year 40
 - (ii) any criminal or disciplinary steps taken as a consequence of such losses or irregular expenditure or fruitless and wasteful expenditure;
 - (iii) any losses recovered or written off;
 - (iv) any financial assistance received from the state and commitments made by the state on its behalf; and 45
 - (v) any other matter that may be prescribed.
- (3) The MEC must table the report and statements referred to in subsection (1)(d) in the Legislature as soon as possible.
- (4) Treasury may direct that, instead of a separate report, the audited financial statements of the Authority must be incorporated in those of the Department. 50
- (5) The financial year of the Authority ends on 31 March each year.

CHAPTER 3 TOURISM ADVISORY COMMITTEE

Establishment of the Tourism Advisory Committee

19. There is hereby established a committee called the Tourism Advisory Committee. 55

Functions and duties of the Committee

20. The Committee has the following functions and duties in addition to functions or duties provided for in this Act:

- (a) to research or investigate and make recommendations to the MEC on any matter relating to promotion, development or marketing of tourism in the Province; and 5
- (b) to advise the MEC on any matter that he or she has referred to the Committee for research, investigation or advice.

Constitution of the Committee

21. (1) The Committee must consist of no less than nine (9) and no more than (12) 10 members, who must be fit and proper persons, appointed by the MEC.

- (2) The Committee must be constituted so as to include:
 - (a) two (2) senior representatives of the Department;
 - (b) a senior representative of the provincial Department of Agriculture, Conservation, Environment and Land Affairs, particularly experienced in conservation matters; 15
 - (c) a senior representative of the provincial Department of Sport, Recreation, Arts and Culture;
 - (d) a senior representative of the provincial Department of Safety and Liaison; and 20
 - (e) four (4) senior representatives, being officials, of the Local Government Municipalities or Councils in the Province, each representing a Local Government Municipality or Council.

(3) The Committee may, with the approval of the MEC, co-opt any persons with knowledge of tourism to assist the Committee with any matter the Committee deems 25 necessary.

(4) The MEC must appoint one (1) member as Chairperson and another as Deputy-Chairperson.

(5) Whenever the Chairperson is absent or unable to fulfil any of the functions of the Chairperson, the Deputy-Chairperson of the Committee must act as Chairperson. 30

(6) Whenever both the Chairperson and the Deputy-Chairperson of the Committee are absent or unable to fulfil any of the functions of the Chairperson, the members present must elect a person amongst themselves to act as Chairperson.

(7) A quorum of the meetings of the Committee is five (5) members.

(8) The MEC must provide administrative support to the Committee. 35

Conditions of Service

22. (1) A member, other than a person who is in the employ of the Government, must be appointed or co-opted on such conditions of service as the MEC may determine.

(2) Such member may be paid remuneration and allowances as the MEC may determine. 40

Terms of office

23. (1) A member must, subject to the provisions of sections 24, 26 and 27, hold office for a period determined by the MEC at the time of appointment or co-option, but not exceeding four (4) years, and may be re-appointed on the termination of this period.

(2) If for any reason the office of a member becomes vacant, the MEC may appoint 45 another person as member of the Committee for the unexpired portion of the period of office concerned.

Vacation of office

24. (1) A member must vacate his or her office if he or she—

- (a) resigns; 50
- (b) becomes of unsound mind;
- (c) is convicted of an offence and sentenced to imprisonment without the option of a fine;
- (d) ceases to be a resident of the Province; and

(e) absents himself or herself for more than three (3) consecutive meetings without valid reason.

(2) The MEC may, at any time, terminate the period of office of a member, if in the opinion of the MEC, sufficient reason exists to effect such termination: Provided that the member concerned is given an opportunity to be heard. 5

Disclosure of interest

25. A member must disclose any direct or indirect financial interest that the member concerned, his or her, immediate family member, business partner or associate or employer has in the tourism industry.

Effect of conflict of interest

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26. (1) A member must not vote, attend or in any other manner participate in the proceedings at any meeting or hearing of the Committee if, in relation to any matter before the Committee—

- (a) he or she or his or her immediate family member, business partner or associate or employer is a director, member or partner of, or has a controlling interest or any financial or other interest in, the business of an applicant for any privilege to be granted by the Authority; 15
- (b) he or she has any interest which precludes him or her from performing his or her functions as a member in a fair, unbiased and proper manner; or
- (c) if at any stage during the course of the proceedings before the Committee, it appears that a member has or may have any interest contemplated in this subsection. 20

(2) Where there is doubt as to whether a member is or is not restricted by the provisions of subsection (1), that member must leave the meeting or hearing to enable the remaining members to discuss the matter and determine whether that member is precluded from participating in the proceedings at such meeting or hearings by reason of a conflict interest. 25

(3) The decision taken by the remaining members regarding such determination of conflict of interest, must be recorded in the minutes of the proceedings.

(4) If any member fails to disclose any interest contemplated in subsection (1) or if, having such interest, he or she attends or in any manner participates in the proceedings at the meeting or hearing concerned, the relevant proceedings may be declared null and void. 30

Disqualification of members

27. No person must be appointed as a member if that person is— 35
- (a) an unrehabilitated insolvent;
 - (b) not a South African citizen;
 - (c) not a resident of the Province;
 - (d) a criminal convicted without an option of a fine; and
 - (e) of unsound mind. 40

Meetings of the Committee

28.(1) The first meeting of the Committee must be held at a time and place determined by the Chairperson, and thereafter the Committee must meet at such times and places as it determines for carrying out its duties.

(2) The Chairperson may at any time, on notice, convene an extraordinary meeting of the Committee to be held at a time and place determined by him or her. 45

(3) Each member of the Committee has one vote on any matter before the committee and, in the event of equality of votes, the Chairperson has, in addition to a deliberative vote, a casting vote.

- (4) The Chief Executive Officer must not vote at the meeting of the Committee. 50
- (5) The Committee must keep minutes of its meetings.

CHAPTER 4 REGISTRATION AND POSSIBLE FUTURE FUNCTIONS

Appointment of Registrar and designated officer

- 29.** (1) The Authority—
- (a) must appoint a person to be the Registrar of tourist guides, tour operators, couriers, accredited training providers, hotels, conference centres, restaurants, designated tourist amenities and other accommodation establishments; and
 - (b) may appoint such other persons as designated officers as it may deem necessary.
- (2) The Registrar and designated officers must be issued with a certificate signed by the Chief Executive Officer on behalf of the Authority, stating that the holder has been appointed in terms of this Act.

Powers and duties of Registrar

- 30.** The Registrar has the following powers and duties:
- (a) establish and maintain a data base at least containing a register of registrations;
 - (b) periodically publish updated lists of entities registered in terms of section 32;
 - (c) other powers and duties provided for in this Act; and
 - (d) any future powers and duties as may be agreed to between the Department and the Authority and the responsible entity for tourism within the National Government.

Designation of tourist amenities

- 31.** (1) The MEC may by notice in the *Provincial Gazette*, on the advice of the Committee or on the recommendation of the Authority and after consultation with persons who are active in the tourist industry, designate tourist amenities.
- (2) Any person who desires a tourist amenity to be designated as contemplated in subsection (1), may apply in the prescribed form to the MEC for designation.
- (3) The MEC must refer applications received under subsection (2) to the Committee and the Authority for purposes of advice and recommendation as contemplated in subsection (1).

Registration

- 32.** For purposes of establishing a comprehensive database of the tourism industry, the Registrar must keep a register for the registration of—
- (a) tourist guides;
 - (b) tour operators;
 - (c) couriers;
 - (d) accredited training providers;
 - (e) hotels;
 - (f) conference and exhibition centres;
 - (g) restaurants;
 - (h) designated tourist amenities; and
 - (i) other accommodation establishments

Notice for registration

- 33.** (1) The MEC must, on the advice of the Committee, by notice in the *Provincial Gazette* and in no less than three (3) newspapers widely circulating in the Province, declare that as from a date specified in the notice, being not less than six (6) months from date of publication of the notice, tourist guides, tour operators, couriers, accredited training providers, hotels, conference centres, restaurants, designated tourist amenities and other accommodation establishments, of such class as are specified in the notice, must be registered.
- (2) No person may conduct a business of tourist guide, tour operator, courier, accredited training provider, hotel, conference centre, restaurant, designated tourist

amenity and other accommodation establishment of a class specified in the notice referred to in subsection (1), after the date fixed for registration in the notice has expired, unless it is registered in terms of the Tourism Act, 1993 and this Act.

Application for registration

34. (1) Any person who is conducting or operating or intends to operate the business of a tourist guide, tour operator, courier, accredited training provider, hotel, conference centre, restaurant, designated tourist amenity and other accommodation establishment must apply to the Registrar for registration once such person has complied with the Tourism Act, 1993. 5

- (2) An application referred to in subsection (1) must be— 10
- (a) made in the prescribed manner; and
 - (b) accompanied by the prescribed fee.

Issuing of certificates

35. The Registrar must, upon registration, issue to the tourist guide, tour operator, courier, accredited training provider, hotel, conference centre, restaurant, designated tourist amenity, and other accommodation establishment a certificate of registration on the prescribed form. 15

Periodical publication of list of registrations

36. The Authority must publish periodically, in such a manner as may be determined, a list of registered tourist guides, tour operators, couriers, accredited training providers, hotels, conference centres, restaurants, designated tourist amenities and other accommodation establishments, together with such particulars as it may determine. 20

Period of validity of registration

37. Registration is valid for twenty-four (24) months from date of issuance and is renewable in accordance with the procedure contemplated in sections 34 and 35. 25

CHAPTER 5 APPEAL AND INSPECTION

Appeal against the decision of the Registrar

38. (1) Any person who is aggrieved by the decision of the Registrar with regard to an application for registration may, within twenty-eight (28) days after being notified of the decision, appeal in writing to the MEC. 30

(2) The appellant must, if a fee is prescribed for such appeal, submit the prescribed fee with his or her appeal.

(3) The MEC must require the Registrar to furnish him or her with written reasons for his or her decision. 35

(4) When an appeal is noted, the decision of the Registrar must be suspended, until the appeal is finalised.

(5) The MEC must make an appropriate order.

Inspection of premises

39. (1) The Registrar or designated officer may, for purposes of this Act— 40

(a) and at any reasonable time, enter any premises of—

- (i) a tour operator, courier, accredited training provider, hotel, conference centre, restaurant, designated tourist amenity and other accommodation establishment in respect of which an application for registration has been made; or 45

- (ii) a registered tour operator, courier, accredited training provider, hotel, conference centre, restaurant, designated tourist amenity and other accommodation establishment, as the case may be, after having informed the person who is in charge of such premises at the time of his or her visit, make such inspection and enquiry as he or she may 50

- deem necessary: Provided that he or she may not enter any room occupied by any person without the permission of such person;
- (b) question any person upon such premises, or at any reasonable time require any such person to produce any books, notices, records, or other documents which are or have been on the premises or in possession or custody of such person if, in his or her opinion the examination of such books, notices, records, or other documents is necessary for purposes of his or her investigation; 5
- (c) examine and make extracts from, and copies of any such books, notices, records, or other documents referred to in paragraph (b).
- (2) The Registrar or designated officer must, on demand by any person affected by the examination referred to in subsection (1), exhibit the certificate issued to him or her under section 35. 10

CHAPTER 6 GENERAL PROVISIONS

Transitional arrangements 15

40. Any person who, at the commencement of section 33 has been registered as a tour operator, tourist guide or courier in terms of the Tourism Act, 1993 (Act No 72 of 1993) or any applicable law, may continue to operate within the Province until registered in terms of this Act or expiry of the period contemplated in section 33(1) which ever is the earlier. 20

Offences and penalties

41. Any person who—
- (a) wilfully publishes or causes or allows to be published in any manner false or misleading information relating to any tourist guide, tour operator, courier, accredited training provider, hotel, conference centre, restaurant, designated tourist amenity; or 25
- (b) hinders or obstructs the Registrar or designated officer in the exercise of his or her powers or performance of his or her duties; or
- (c) wilfully furnishes to the Registrar or designated officer false or misleading information; or 30
- (d) contravenes any provision of this Act, which is not elsewhere specifically declared to be an offence,
- shall be guilty of an offence and liable to a fine or imprisonment for a period not exceeding 2 (*two*) years or to both such fine and imprisonment.

Regulations 35

42. (1) The MEC must make regulations regarding the following matters:
- (a) fees payable in respect of registration, renewal of registration, and appeal;
- (b) other matters regarding fees, which the MEC deems necessary to prescribe;
- (c) the form and contents thereof of application for registration, certificates and appeals 40
- (d) the requirements by persons employed or engaged within the tourism industry to undertake certain courses of instruction or training, or possess certain qualifications as may be approved by the Authority;
- (e) any matter relating to possible future function of the Authority or the Committee; and 45
- (f) any other matter the MEC deems necessary to prescribe for achieving the objects of this Act.
- (2) Regulations made in terms of subsection (1) may provide for penalties for the contravention thereof.
- (3) The MEC must consult the Committee in making the regulations. 50

Repeal of laws and succession

43. (1) The Gauteng Tourism Act, No 18 of 1998 is hereby repealed.
- (2) On the date of commencement of section 3 and subsection, all assets, liabilities, rights and obligations of the Gauteng Tourism Authority, established in terms of the Act

repealed by subsection (1), as they existed prior to the commencement of this Act, must be transferred to the Authority established by this Act.

(3) The newly constituted Authority is the successor in title to the disestablished Gauteng Tourism Authority.

Short title and commencement

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44. (1) This Act is called the Gauteng Tourism Act, 2001, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

(2) Different dates may be determined for the commencement of different sections of this Act.

EXPLANATORY MEMORANDUM ON TOURISM BILL, 2001

1. PURPOSE OF THE BILL

The purpose is to provide for the promotion and sustainable development of tourism in Gauteng; the establishment of the Gauteng Tourism Authority; the establishment of the Tourism Advisory Committee; to provide for registration of tourist guides, tour operators, couriers, accredited training providers in the tourism industry, hotels, conference centres, restaurants, designated tourist amenities and other accommodation establishments; and to provide for matters incidental thereto. 5

2. ENVIRONMENTAL IMPLICATIONS

None. 10

3. FINANCIAL IMPLICATIONS

No implications other than those contained in the Bill relating to remuneration of office bearers and staff and functioning of the Authority and the Committee.

4. ACCOUNTS OF COMMENTS SOLICITED AND RECEIVED

The Provincial Treasury was consulted on the impact of the provisions and implications of the Public Finance Management Act, 1999 on the provisions of the Bill. 15

5. CLAUSE-BY-CLAUSE DESCRIPTION

Section 1

Definitions of terms used in the Act

Section 2

Sets out the application of the Act

20

Section 3

Establishes the Gauteng Tourism Authority as a statutory institution.

Section 4

Provides for powers and duties of the Authority

25

Section 5

Provides for the constitution of the Authority

Section 6

Prescribes the conditions of service of the CEO

Section 7

Provides for the term of office of the CEO

30

Section 8

Deals with vacation of office

Section 9

Provides for disclosure of interest and the consequences of a conflict of interest 35

Section 10

Provides for circumstances when a person is disqualified for office

Section 11

Provides for appointment of staff of the Authority

Section 12

Empowers the Authority to procure expert and other assistance in the execution of its powers and functions 40

Section 13	
Provides for the delegation of powers by the CEO	
Section 14	
Establishes a Tourism Development Fund	
Section 15	5
Provides for the funding of the Authority	
Section 16	
Assigns accounting responsibility in terms of the Public Finance Management Act, No 1 of 1999 to the CEO	
Section 17	10
Provides for information to be submitted by the Authority	
Section 18	
Provides for reporting, including financial reporting by the Authority	
Section 19	15
Establishes the Tourism Advisory Committee	
Section 20	
Provides for functions and duties of the Committee	
Section 21	
Constitutes the Committee	
Section 22	20
Prescribes conditions of service for the Committee	
Section 23	
Prescribes term of office of members of the Committee	
Section 24	25
Provides for vacation of office	
Section 25	
Provides for disclosure of interest by members of the Committee	
Section 26	
Sets out the effect of conflict of interest	
Section 27	30
Provides for the disqualification of members on the Committee	
Section 28	
Provides for meetings of the Committee	
Section 29	35
Provides for appointment of Registrar and designated officer	
Section 30	
Provides for the powers and duties of the Registrar	
Section 31	
Vests the MEC with the power to designate tourist amenities	
Section 32	
Provides for the registration of different categories of tourism operators	
Section 33	40
Provides for a notice calling for registration of these operators	

Section 34	
Provides for application for registration	
Section 35	
Provides for the issue of certificates	
Section 36	5
Provides for periodic publication of a list of registered operators	
Section 37	
Prescribes the period of validity of registration and renewal	
Section 38	10
Provides for appeal against decision of the Registrar	
Section 39	
Provides for inspection of premises	
Section 40	
Prescribes transitional arrangements	
Section 41	15
Provides for offences and penalties	
Section 42	
Provides for the making of Regulations by the MEC	
Section 43	20
Repeals the Gauteng Tourism Act, 1998 and vests all legal titles on the new Authority	
Section 44	
Contains the short title and commencement of the Act. Different sections may come into operation at different times.	

