

BOTSWANA TOURISM BOARD ACT, 2003

No. 14



of 2004

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An act to provide for the establishment of the Botswana Tourism Board, to provide for the powers, duties and functions of the Board and to provide for matters connected or incidental thereto.

Date of Assent: 6th April, 2004.

Date of Commencement: On Notice.

ENACTED by the Parliament of Botswana.

PART I — *Preliminary*

Short title

1. This Act may be cited as the Botswana Tourism Board Act, 2003 and shall come into operation on such date as the Minister may by order published in the gazette, appoint.

Interpretation

2. In this Act, unless the context otherwise requires —
“Board” means the Botswana Tourism Board established under section 3;
“Chairman” means the chairman of the Board appointed as such in section 4;
“Chief executive” means the chief executive officer of the Tourism Board appointed as such under section 15;

“market intelligence” means, in the context of the tourism industry, the continuous surveillance and evaluation of both the existing and the potential business trends; and

“member” means a member of the Board appointed under section 4.

PART II — Establishment, Constitution and Membership of the Tourism Board

3. There is hereby established a board to be known as the Botswana Tourism Board (hereinafter referred to as “the Board”) which shall be a body corporate with a common seal, capable of suing and being sued and, subject to the provisions of this Act, of performing all such acts as bodies corporate may by law, perform.

Establishment
of the
Tourism
Board

4. The Board shall consist of the following 15 members appointed by the Minister —

Membership
of the Board

- (a) a Chairman;
- (b) a Vice-Chairman;
- (c) a representative of the Ministry responsible for tourism;
- (d) 12 members from the public and private sector, including representatives from —
 - (i) organisations with expertise in the following industries —
 - (aa) tourism and hospitality,
 - (bb) conservation,
 - (cc) professional hunting,
 - (dd) travel, and
 - (ii) community based organisations.

5. (1) The Board shall do all such things as are necessary to market and promote Botswana’s tourist attractions, and to encourage and facilitate travel, by local and foreign tourists, to the said attractions.

Powers and
functions
of the Board

(2) Without derogating from the generality of the provisions of subsection (1), the Board shall—

- (a) plan, develop and implement tourism marketing and promotion strategies aimed at creating and sustaining a positive image of Botswana as a tourist and investor destination;
- (b) plan, formulate and implement strategies for promoting sustainable tourism development in collaboration with the private sector in the tourism industry, local authorities, local communities and non-governmental organisations;
- (c) determine policies for giving effect to the objects and purposes of the Act;
- (d) advise Government to change, review or formulate policy and strategies where necessary;

- (e) implement Government policies and programmes aimed at facilitating the continued growth and development of the tourism sector;
- (f) set performance targets and design programmes aimed at facilitating the continued growth and development of tourism;
- (g) develop and implement appropriate strategies for achieving annual work plan objectives and set performance targets aimed at the promotion of the tourism business in Botswana;
- (h) investigate any matter that has a negative effect on the tourism industry, and make recommendations thereon to the Government;
- (i) establish and expand local as well as international travel trade networks to promote and sell Botswana;
- (j) manage and coordinate Botswana's tourism promotional and publicity programmes;
- (k) provide market research information and market intelligence on tourism;
- (l) promote the expansion of existing and new investments in Botswana's tourism sector;
- (m) market and promote the establishment of joint tourism business ventures between citizen and foreign investors;
- (n) grade and classify accommodation facilities in the tourism industry;
- (o) promote the improvement of tourism industry standards, in the following areas —
 - (i) service standards and
 - (ii) code of ethics;
- (p) conduct tourism awareness campaigns within and outside Botswana; and
- (q) develop and improve the existing tourism opportunities and diversify the sector to include other forms of tourism, such as cultural and heritage tourism, eco-tourism, entertainment, recreational and leisure tourism and bring them to the required marketable standard.

(3) The Minister may give the Board written directions, of a general or specific nature, regarding the exercise of its powers and the performance of its functions, which directions shall not be inconsistent with this Act or with the contractual or other legal obligations of the Board.

(4) The Board shall give effect to the Minister's directions given in accordance with subsection (3).

Seal of the
Board

6. (1) The seal of the Board shall be such device as may be determined by the Board and shall be kept by the Chief Executive.

(2) The affixing of the seal shall be authenticated by the Chairman and Vice Chairman or any other person authorised in that behalf by a resolution of the Board.

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Chairman or any other person generally or specifically authorised by the Board to do so.

7. (1) A member other than the Chairman shall hold office for a period not exceeding three years, and shall be eligible for reappointment for a further term of three years.

Tenure of office

(2) The Chairman shall hold office for a period not exceeding five years, and at the end thereof the Chairman shall be eligible for reappointment.

8. (1) No person shall be appointed as a member or be qualified to continue to hold office who —

Disqualification, removal, suspension and resignation of members

(a) has in terms of a law in force in any country —

- (i) been adjudged or otherwise declared bankrupt and has not been discharged; or
- (ii) made an assignment to, arrangement or composition with his creditors, which has not been rescinded or set aside;

(b) has within the period of ten years immediately preceding the date of his appointment, been convicted —

- (i) of a criminal offence within Botswana; or
- (ii) outside Botswana, of an offence which if committed in Botswana, would have been a criminal offence, and sentenced by a court of competent jurisdiction to imprisonment for six months or more without the option of a fine, whether that sentence has been suspended or not, and for which he has not received a free pardon.

(2) The Minister shall, in writing, suspend from office a member against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment may be imposed, and whilst that member is so suspended, he shall not carry out any duties or be entitled to any remuneration or allowances as a member of the Board.

(3) The Minister shall remove a member if the member —

- (a) is absent without reasonable cause from three consecutive meetings of the Board of which he has had notice;
- (b) has been found to be physically or mentally incapable of performing his duties efficiently, and a medical doctor has issued a certificate to that effect;
- (c) contravenes the provisions of this Act or otherwise misconducts himself to the detriment of the objectives of the Board;
- (d) has failed to comply with the provisions of section 14; or
- (e) has been convicted of an offence under this Act, or under any other Act for which he is sentenced to imprisonment for a term of six months or more without an option of a fine.

(4) A member may resign from office by giving 30 days notice in writing to the Minister.

(5) For the purposes of sub-section (3) (c) "misconduct" includes any act done without reasonable excuse by a member which —

- (a) amounts to a failure to perform in a proper manner, any duty imposed on him as such;
- (b) is prejudicial to the efficient carrying out of the functions of the Board; or
- (c) tends to bring the Board into disrepute.

Vacation of office of the Members of the Board

9. A member shall vacate his office and his office shall become vacant —

- (a) if he becomes disqualified, in terms of section 8, to hold office as a member;
- (b) if he is adjudged bankrupt or insolvent;
- (c) if he is absent from three consecutive meetings of the Board without reasonable excuse;
- (d) upon his death;
- (e) if he becomes mentally or physically incapable of performing his duties as a member of the Board;
- (f) upon the expiry of one month's notice in writing to the Minister of his intention to resign from office;
- (g) if he is summarily dismissed by the Minister on the grounds of contravening the provisions of this Act or for misconduct in accordance with section 8 (3) (c);
- (h) after a period of 30 days from the date that a ruling against the member is made on all appeals made in respect of a conviction of an offence under this Act, or under any other Act for which he is sentenced to imprisonment for a term of six months or more without an option of a fine.

Filling of vacancies

10. Where the office of a member becomes vacant before the expiry of the member's term of office, the Minister shall appoint another person to be a member in place of the member who vacates office, until the expiry of a period during which such member would have otherwise continued in office.

Payment of members

11. A member shall be paid such remuneration, and such travelling expenses, incurred in connection with his service on the Board, if any, as Government may from time to time determine.

PART III — *Meetings and Proceedings of the Board*

Proceedings of the Board

12. (1) Subject to the provisions of this Act, the Board shall regulate its own proceedings.

(2) The Board shall meet for the transaction of business at least four times in a year.

(3) Upon giving notice in writing of not less than 14 days, a meeting of the Board may be called by the Chairman and shall be called if not less than one half of the members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving of a shorter notice.

(4) The quorum at any meeting of the Board shall be a simple majority of the Members of the Board.

(5) There shall preside at any meeting of the Board —

(a) the Chairman;

(b) in the absence of the Chairman, the Vice Chairman;

(c) in the absence of the Chairman and Vice Chairman, such member as the members present may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Board on any question shall be by the majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding shall have a casting vote in addition to that person's deliberative vote.

(7) The Board may invite any person whose presence it deems necessary, to attend and participate in the deliberations of a meeting of the Board, but such person shall have no vote.

13. (1) The Board may, for the purpose of performing its functions, establish such committees as it considers appropriate, and may delegate, to any such committee, such of its functions as it considers necessary.

Committees
of the
Board

(2) The Board may appoint, to such committees, such number of members of the Board and such number of persons with specialised skills, not being members of the Board, as it considers appropriate, and the members of such committee shall hold office for such period as the Board may determine.

(3) The members of the committee who are not members of the Board may take part in the proceedings of the committee, but shall not have the right to vote.

(4) Subject to the specific or general directions of the Board, a committee established under this section may regulate its own procedure.

(5) Unless in appointing any such committee the Board has appointed a Chairman thereof, the committee shall elect one of the members as Chairman thereof.

(6) The Board may revoke or amend any delegation made under the provisions of subsection (1) and may attach conditions to such delegation, including general or particular directions, as to the manner in which any delegated power is to be exercised.

(7) Meetings of a committee shall be held at such times and places as the committee may determine, or as the Board may direct.

14. (1) If a member is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration and in which matter the member is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.

Disclosure of
interest by
members

(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 fails to disclose his interest in accordance with subsection (1), and a decision by the Board is made benefitting such member, such decision shall be null and void to the extent that it benefits such member.

(4) Any Board member who fails to comply with the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding P2 000 or to imprisonment for a term not exceeding six months.

PART IV — Officers, Employees and Agents of the Tourism Board

Chief
Executive

15. (1) The Minister shall appoint a Chief Executive of the Board on the recommendation of the Board for such fixed contract period, not exceeding five years, as the Minister may determine.

(2) No person shall be appointed as Chief Executive unless he possesses such experience and training as the Minister may determine, and he has demonstrated that he is competent to carry out the functions of the Board.

(3) The Chief Executive shall, subject to such directions on matters of policy as may be given by the Board, be responsible for the day to day management of the affairs of the Board.

(4) The Chief Executive may delegate, to any senior officer of the Board, the exercise of any powers which he is authorised to exercise under this Act.

Appointment
of secretary to
the Board

16. (1) The Board shall with the concurrence of the Minister, appoint a Secretary of the Board, who shall be suitably qualified and experienced.

(2) The Secretary of the Board shall attend meetings of the Board but shall have no right to vote, and shall be responsible for the accurate and complete recording of the Board's proceedings and decisions.

(3) The Secretary of the Board shall be accountable to Chief Executive and to the Board for his functions and responsibilities.

(4) The conditions of service, including the remuneration package of the Secretary, shall be set by the Board with the concurrence of the Minister.

Appointment
of staff of the
Board

17. (1) The Board shall appoint the senior staff of the Board and the Chief Executive shall appoint such other staff as may be necessary for the proper discharge of the functions of the Board.

(2) The terms and conditions of employment of staff of the Board shall be as may be determined by the Board in consultation with the Minister.

PART V — Financial Provisions

18. (1) The Board's revenues shall consist of —

Revenues of
the Board

- (a) such monies as may be appropriated by the National Assembly for the purposes of the Board;
- (b) such grants and donations as the Board may receive;
- (c) such fees as may be charged for services rendered by the Board; and
- (d) income that the Board may receive from investments.

(2) The Board shall use the funds acquired under subsection (1) to meet the costs incurred for its operations and shall use any surplus accrued for such purposes as are consistent with the provisions of this Act.

19. The financial year of the Board shall be a period of twelve months, beginning on the 1st April of each year and ending on the 31st March of the subsequent year.

Financial year

20. (1) The Board shall keep and maintain proper accounts and records of accounts in respect of every financial year relating to the assets, liabilities, income and expenditure of the Board, and shall prepare, in each financial year, a statement of such accounts.

Accounts and
audit

(2) The accounts of the Board in respect of each financial year shall, within three months of the end thereof, be audited by an auditor appointed by the Board.

(3) The auditor shall report in respect of the accounts for each financial year, in addition to any other matter on which the auditor deems it pertinent to comment on, whether or not—

- (a) the auditor has received all the information and explanation which, to the best of the auditors knowledge and belief, were necessary for the performance of the auditors duties;
- (b) the accounts and related records of the Board have been properly kept;
- (c) the Board has complied with all the financial provisions of this Act with which it is the duty of the Board to comply; and
- (d) the statement of accounts prepared by the Board was prepared on a basis consistent with that of the preceding year and represents a true and fair view of the transactions and financial affairs of the Board.

(4) The report of the auditors and a copy of the audited accounts shall, within fourteen days of the completion thereof, be forwarded to the Board by the auditor.

21. (1) The Board may, out of its revenues, establish and maintain such pension, superannuation, provident or other funds as it may consider desirable or necessary for the payment of benefits or other allowances on the death, sickness, injury, superannuation, resignation, retirement or discharge of its staff and may, make rules providing for the payment of money out of its revenues to such funds and providing for contributions to such funds by its staff.

Pension and
other
funds

(2) The Board may contract with insurance companies or such other bodies as may be appropriate for the maintenance and administration of the funds authorised under subsection (1).

Annual Report

22. (1) The Board shall, within a period of six months after the financial year or within such longer period as the Minister may approve, submit, to the Minister, a comprehensive report on the operations of the Board during that year, together with the auditor's report and the audited accounts as provided for in section 20 and the Board shall cause such report to be published in such manner as the Minister may require.

(2) A report compiled in accordance with subsection (1) shall be laid in Parliament by the Minister within three months of the receipt thereof.

PART VII — *General Provisions*

Indemnity

23. No matter or thing done or omitted to be done by a member of the Board or a member of staff of the Board shall, if the matter or thing is done bona fide in the course of the operations of the Board, render a member of the Board or staff of the Board personally liable to an action, claim or demand.

Offences and penalties

24. A person who contravenes a provision of this Act, for which no penalty is provided, commits an offence and shall be liable on conviction to a fine not exceeding P5000 or to imprisonment for a term not exceeding five years or both such fine or imprisonment.

Regulations

25. (1) The Minister, in consultation with the Board, may make regulations prescribing anything which under this Act is to be prescribed or which, in the opinion of the Minister, is necessary or convenient to be prescribed for the better carrying out of the objects and purposes of this Act, or to give force and effect to its provisions.

(2) Without prejudice to the generality of subsection (1), regulations may provide for —

- (a) minimum customer service requirements;
- (b) minimum requirements for ensuring the safety and security of tourists;
- (c) maintenance of quality and standards;
- (d) tourism marketing and promotion;
- (e) the procedure for the assessment of the environmental, cultural and social impact on tourism;
- (f) the tourism industry operational code of ethics; and
- (g) tourism data collection.

PASSED by the National Assembly this 10th day of December, 2003.

A. MATLHAKU,
Clerk of the National Assembly.