

ANTIGUA AND BARBUDA



TOURISM LICENSING AND CLASSIFICATION ACT, 2019

No. 4 of 2019

*[Published in the Official Gazette Vol. XXXIX No. 24
dated 12th April, 2019.]*

Printed at the Government Printing Office, Antigua and Barbuda,
By Noel F. Abraham, Acting Government Printer
— By Authority, 2019.

ANTIGUA AND BARBUDA
TOURISM LICENSING AND CLASSIFICATION ACT 2019
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[L.S.]



I Assent,

Rodney Williams,
Governor-General.

8th April, 2019.

ANTIGUA AND BARBUDA

TOURISM LICENSING AND CLASSIFICATION ACT 2019

NO. 4 OF 2019

AN ACT to provide for the creation of standards, licenses and scheduling for the tourism industry, and matters connected therewith.

ENACTED by the Parliament of Antigua and Barbuda as follows –

PART I

PRELIMINARY

1. Short Title

This Act may be cited as the **TOURISM LICENSING AND CLASSIFICATION ACT, 2019.**

2. Definitions

(1) In this Act, unless the context otherwise requires—

“apartment “ means any furnished premises in which

- (a) sleeping accommodation and self-catering facilities are provided in 3 or more self-contained units; and
- (b) a charge is made for the accommodation provided;

“Committee” means the Tourism Industry Licensing Committee which is a committee to be appointed by the Minister under section 13 for advising on the issuance of licences to conduct the business of tourism enterprises;

“Director” means the Director of Policy and Planning who is the officer with responsibility for directing, controlling, coordinating, planning and policy within the Ministry of Tourism.”

“guest house” means a premises which—

- (a) provides sleeping accommodation for 3 to 10 bedrooms;
- (b) imposes charges for the provision of accommodation and service; and
- (c) serve meals to residents;

“home accommodation” means a registered dwelling house or residence where temporary lodging or sleeping accommodation is provided to guests at a charge;

“hotel” means any building or group of buildings, whether contiguous with each other or not, and the grounds appurtenant thereto that operates as one business venture in which—

- (a) sleeping accommodation is provided in 10 or more bedrooms;
- (b) a charge is made for the accommodation provided; and
- (c) meals are served to residents and non-residents;

“Minister” means the Minister responsible for Tourism.

“Quality Assurance Manager” is the officer responsible for the operations of the Quality Assurance Unit;

“Quality Assurance Officer” is the officer assigned to the Quality Assurance Unit to carry out the duties and responsibilities of the Unit;

“Quality Assurance Unit” is the unit established to maintain and enforce the standards established by the Ministry of Tourism;

“standard” means a measure or level, established by the Minister under this Act and which must be attained and maintained by any provider of a tourism service to which the standard relates;

“Subject-Matter Expert” means a person who is an authority by virtue of training and experience in a particular area or topic;

“tourist accommodation” includes apartments, hotels, resorts, motels, inns, boarding houses and guesthouses, villas or other premises or place where accommodation is provided to tourist for reward;

“Tourism” means the movement of people to destinations outside the places where they ordinarily reside and work and involves the activities, facilities and services that they engage in during their visit in Antigua and Barbuda for a period extending past 24 hours;

“Tourism Development Plan” means the tourism industry plan prepared by the Director;

“tourism services” include all services listed in the First Schedule and services connected with all types of tourist accommodation, travel service, ground transportation of all types, tour guiding, vending, water sports and food and beverage;

“tourist accommodation” includes apartments, hotels, resorts, motels, inns, boarding houses and guesthouses, villas or other premises or place where accommodation is provided to tourist for reward;

“villas” means a house that—

- (a) has at least 3 bedrooms which are available for the accommodation of guest for reward at least 9 months in every year;
- (b) is managed by the owner, company or real estate agent; and
- (c) is duly licensed under this Act.

(2) This Act shall be given such large and liberal construction in order that its purposes may be attained.

PART II DEVELOPMENT AND ENFORCEMENT OF STANDARDS

3. Power to develop standards

(1) Notwithstanding anything to the contrary contained in any enactment, for the purpose of enhancing and developing the tourism industry in Antigua and Barbuda, there shall be a

programme of standards as contemplated by the tourism development plan which will be prepared by the Director and published by Notice in the Official Gazette.

(2) The Minister may cause the Director to develop and implement the programme of standards in such manner and within such time as the Minister determines.

4. Objectives of standards

The objectives of the programme of standards developed under section 3 are to—

- (a) serve as criteria by which any tourism service may be classified and rated;
- (b) provide a development mechanism for the tourism industry;
- (c) serve as a basis for the acquisition and application of accepted international tourism service and facility standards; and
- (d) strengthen the economic and human resource competitiveness of the tourism industry within the regional and international context.

5. Consultation

(1) The Director shall, in the development of the programme of standards, consult the Bureau of Standards.

(2) Where the Bureau of Standards is consulted under subsection (1), it shall give such advice as is appropriate in the circumstances.

(3) For the purposes of this section, the Bureau of Standards means the Antigua and Barbuda Bureau of Standards established by section 3 of The Standards Act, 2019.

6. Relevant considerations

The Director shall, in the development of standards, have regard to the objectives of such standards as are set out in section 4.

7. Publication of standards

The Director shall cause all standards developed under section 3 to be published in the Official *Gazette* and in such manner that is likely to result in the widest dissemination locally, regionally and internationally.

8. Status and enforcement of standards

All standards developed under this Act shall, upon publication, in the Official Gazette be applied in relation to the tourism services in accordance with this Act.

9. Quality Assurance Unit

(1) The Minister may, for the purpose of maintenance and enforcement of standards, establish a unit within the Ministry of Tourism, to be known as the Quality Assurance Unit, hereinafter referred to as “the Unit”.

(2) The Unit shall consist of not less than seven persons, all of who shall work under the directions of the Quality Assurance Manager; and

(3) The Unit shall be responsible for carrying out the functions required for the effective monitoring of the tourism services and tourist accommodation and to ensure compliance with the standards, classifications and ratings established under this Act and Regulations made thereunder.

(4) Without prejudice to the generality of the foregoing, the Unit shall—

- (a) carry out periodic inspections of tourist accommodation, vehicles and locations where tourism services are offered;
- (b) investigate complaints concerning standards within the tourism industry;
- (c) issue non-compliance notices to service providers within the tourism industry;
- (d) require remedial or corrective measures to be taken where non-compliance has been identified;
- (e) recommend, implement and administer approved programs and measures to ensure compliance with this Act and Regulations;
- (f) undertake and carry out surveys, execute and monitor investigations and collate data on compliance within the tourism industry;
- (g) prepare and submit compliance reports on licensees;
- (h) submit periodic written reports to the Minister and the Director; and
- (i) publish in the Official *Gazette* and disseminate updated information relating to standards classification and ratings.

10. Power of Entry

(1) Subject to subsection (2), every quality assurance officer shall, before entering any tourist facility, produce to the person in charge of the tourist facility, a photo identification card issued by the Quality Assurance Unit, authorizing that person to enter the facility on the Quality Assurance Unit's behalf.

(2) A Quality Assurance Officer may at any reasonable time enter any tourist accommodation, facility, vehicle or other location where a tourism service is being offered, for the purpose of inspecting and ensuring that the facility is utilized in such a manner as to promote the public benefit and by ascertaining whether or not the standards established under this Act or any Regulations made thereunder are being complied with by a licensee.

11. Non-compliance procedures

(1) Where the Unit has determined that a person is offering a tourism service without a license, the Unit shall serve that person with a notice in writing specifying the breach and requiring that corrective action be taken within a time stipulated in the notice.

(2) Upon receipt of a report under section 9, the Head of the Unit shall refer the report to the Director who shall consider the report and make recommendations to the Minister.

PART III

LICENSING OF PROVIDERS OF TOURISM SERVICES

12. Application for licence

- (1)
 - (a) Any person who desires to provide a tourism service specified in the First Schedule shall make an application to the Committee in such a manner and accompanied with such particulars and with such fee as may be prescribed by regulations; and
 - (b) shall furnish such additional particulars as the Tourism Licensing Committee may request in any particular case.
- (2)
 - (a) Any person who desires to provide a tourism service specified in the Second Schedule shall make an application to the Committee;
 - (b) the Minister, upon the advice of the Committee may issue the licence to such a person; and
 - (c) the Committee shall, before submitting the application of the licence to the Minister, shall—

- (i) conduct inquiries and carry out such investigations as it considers proper; and
- (ii) take into consideration the reports made by the persons specified in subsection

(2) of section 17 for tourism services specified in the Second Schedule.

13. Establishment of a Tourism Industry Licensing Committee

There is hereby established a licensing committee to be known as the Tourism Industry Licensing Committee, consisting of—

- (a) the Director of Policy and Planning, *ex officio*, who shall be the Chairman of the Tourism Industry Advisory Licensing Committee;
- (b) the Commissioner of Police of the Royal Antigua and Barbuda Police Force or his nominated representative;
- (c) the Director of the Bureau of Standards or his nominated representative;
- (d) one person with a legal background nominated by the Attorney General; and
- (e) three persons nominated by the Minister of Tourism with qualification or considerable knowledge in the field of tourism

who shall hold office for a term not exceeding two years which may be renewed as the Minister determines.

(2) The Quality Assurance Manager shall provide staff and other support as may be necessary for the Licensing Committee to effectively exercise its functions.

(3) The Committee shall be responsible for advising the Minister in respect of applications for licences assigned under this Act.

14. Payment of allowances of the Committee

The Minister may determine the allowances to be paid to the members of the Committee.

15. Necessity for licence to offer tourism service

(1) No person shall offer any tourism service specified in the First Schedule and Second Schedule for reward or otherwise unless a license has been issued to him under section 12.

(2) Where a breach continues after the time stipulated in the Notice given under subsection (1) of section 11 expires, the person in breach commits an offence, under this section and is liable—

- (i) where the breach occurs in respect of a service listed under the First Schedule on summary conviction to a fine not exceeding five thousand dollars and may have his licence revoked; or
- (ii) where the breach occurs in respect of a service listed under the Second Schedule on summary conviction to a fine not exceeding fifty thousand dollars and may have his licence revoked.

16. Terms of licence

Subject to the provisions this Act, a license shall be valid from the date of issue for a period not exceeding 12 months, and shall be renewed before or at the end of every issued period.

17. Report

(1) The Committee shall, before advising the Minister for granting or renewing a license under this Act, make inquiry, conduct such investigations and have regard to the reports made by any person specified in subsection (2), about the person applying to operate the tourism business and the premises which the business proposes to operate.

(2) The Committee may request any applicant for a licence or renewal of a licence for a tourism service listed in the First Schedule, or the Minister shall request any applicant for a licence or renewal of a licence for a tourism service listed in the Second Schedule, to obtain a report from—

- (a) the Chief Environmental Officer;
- (b) the Commissioner of Police;
- (c) the Director of the Tourism Committee;
- (d) the Chief Public Health Officer; or
- (e) any such other Subject-Matter Expert as the Committee or Minister considers desirable.

(3) A person referred to in paragraphs (a) to (d) of subsection (2) shall inspect—

- (a) the premises in respect of which an application for a licence or renewal of a licence is made; and

- (b) any plant or equipment proposed to be used for the purpose of a tourism service.

18. Display of licence

Every licensee shall exhibit the license or a certified copy thereof in a conspicuous place at his principal place of business and every place where he carries on his tourism business.

19. Variation of terms and conditions of licence

(1) The Committee may, upon application made by the licensee for the renewal of a license specified in the First Schedule, or the Minister, may, upon application made by the licensee for the renewal of a license specified in the Second Schedule, vary any term or condition of the license, taking into consideration any changes in circumstance since the licence was issued as well as any representation made to it by the licensee and shall not vary such term or condition of its own motion without first giving to the licensee a reasonable opportunity to make representation.

(2) Any variation of a term or condition of a license made by the Committee or the Minister under subsection (1), shall be endorsed on the license together with the date when it was made and the date which it is to take effect.

20. Failure to comply with conditions of licence

Where it appears to the Committee or the Minister, after such enquiry as it may consider fit to make, that a licensee has—

- (a) failed to comply with any term or condition of the license;
- (b) operated the tourism service in contravention of this Act or any other law; or
- (c) failed to pay any fee payable in respect of the licence,

the Committee or the Minister may, by notice in writing require the licensee to remedy the default within such period, not being less than forty days after the service of the notice.

(2) If the licensee is in default, and fails within the time specified in the notice to remedy the default complained of by the Committee or the Minister, the Committee or the Minister may, by notice in writing, cancel the licence.

(3) A licensee who fails to comply within the time specified in the notice to discontinue the operation of the tourism business under subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term not exceeding twelve months.

21. Cancellation of licence

The Minister may, on the recommendation of the Committee, cancel a licence specified in the First or Second Schedule, if—

- (a) the licensee has ceased to provide a tourism service; or
- (b) the licensee continues to be in contravention of terms of the licence.

22. Register of tourism businesses

The Committee shall keep a register of all tourism businesses in respect of which licences have been granted under this Act.

PART IV CLASSIFICATION AND RATING OF TOURISM SERVICES

23. Power to classify tourist accommodation

The Minister may direct the Director to develop a system of classification with respect to tourist accommodation specified in the Second Schedule.

24. Objectives of classification

The objectives of the system of classification are—

- (a) to ensure that certain types of tourist accommodation maintain particular standards; and
- (b) to ensure that there is a price differential among different types of tourist accommodation.

25. Publication of classification

The Director shall cause the results of the classification to be published in the Official Gazette and in such other manner as will result in the widest dissemination, locally, regionally and internationally.

26. Rating of Tourism services

The Minister shall cause the Director to develop a system for the rating of the tourism services specified in the First Schedule and may cause the Director to develop a system for the rating of the tourism services specified in the Second Schedule

27. Publication of ratings

The Committee shall cause the rating of the tourism services to be published in the *Official Gazette* and in such other manner as is likely to result in the widest dissemination, locally, regionally and internationally.

28. Removal and review of classification or rating

(1) The classification or rating assigned or given to a tourist accommodation or tourism services, as the case may be, may be removed by the Minister if he is satisfied that a false or misleading classification was used in advertising or otherwise in relation to a tourist accommodation or tourist service.

(2) Any removal of classification or rating by the Minister under subsection (1) shall be published by the Director in the *Official Gazette* and in such other manner as will ensure the widest dissemination, locally, regionally and internationally.

(3) The Director may, from time to time, cause the systems of classification and rating to be reviewed so as to ensure that all tourist accommodation and tourist services are properly classified or rated.

29. Reinstatement of classification or rating

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

(2) The Minister shall cause any reinstatement under subsection (1) to be published in the *Official Gazette* or in such other manner as will ensure the widest dissemination, locally, regionally and internationally.

30. Status of Corporation Re-classification, rating etc.

The publication of any classification, rating and related matters under this Part must be done under the aegis of the Director which fact must be so indicated.

PART V
MISCELLANEOUS

31. Offences

(1) A person who offers a tourism service without a licence commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding 12 months, and to a further fine of one thousand dollars for each day on which the offence continues after a first conviction.

(2) A person who advertises or causes to be advertised any tourism accommodation which indicates a classification or rating not issued under this Act commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding 12 months, and a further fine of five hundred dollars for each day on which the offence continues after a first or subsequent conviction.

(3) Any person who fails to comply with any provision under this Act to which no express penalty is provided commits an offence and shall be liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for three months.

(4) Any person, who willfully obstructs an officer of the Quality Assurance Unit in the performance of his duties under this Act commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term not exceeding 12 months.

(5) A person who operates a tourism business without a license commits an offence and is liable on conviction to a fine of five thousand dollars or to a term of imprisonment not exceeding twelve months.

32. Rules and Regulations

(1) The Minister may make rules and regulations generally in order to give effect to the provisions of this Act.

(2) A fine of five thousand dollars or a term of imprisonment, not exceeding 12 months, or both may be imposed for contravention of the rules and regulations made pursuant to subsection (1).

33. Delegation by the Director

(1) Where any duty is conferred on the Director under this Act, the Director may delegate such duty to his deputy or, in the absence of his deputy, to an Officer, not below the mark of Assistant Director.

(2) Nothing contained in subsection (1), absolves the Director from his duty to ensure that any duty so delegated is properly and efficiently carried out.

34. Commencement

This Act shall come into force on such date as the Minister may by Notice published in the Official Gazette.

FIRST SCHEDULE

(Section 13)

TOURISM SERVICES

1. All types of accommodation offered wholly or mainly to tourists
2. Bus tour services
3. Taxi services including land and water associated with hotels
4. Bus tour guide
5. Tour guide or Walking Tours
6. Watersports
7. Food and beverage services associated with hotels
8. Vehicle rental services associated with hotels
9. Travel services associated with hotels
10. Horseback riding
11. Home accommodations
12. Any other tourism service that the Minister may consider necessary

SECOND SCHEDULE

(Section 20)

1. Hotels, including all-inclusive hotels
2. Apartments
3. Apartment hotels
4. Motels
5. Resorts
6. Inns
7. Guesthouses
8. Boarding houses
9. Bed and breakfast
10. Villas
11. Time-Shares

12. Eco-lodges

13. Any other tourism-related service that the Minister may consider necessary.

Passed the House of Representatives
on this the day of 2019.

Passed the Senate on the
day of 2019

Speaker

President

Clerk to the House of Representatives

Clerk to the Senate