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CHAPTER 24

(Bill No. 18)

An Act to Amend the Tourism Industry Act

Honourable Philip W. Brown
Minister of Tourism

GOVERNMENT BILL

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An Act to Amend the Tourism Industry Act

(Assented to December 15, 2006)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. Section 1 of the *Tourism Industry Act* R.S.P.E.I. 1988, Cap. T-3.3 is amended

(a) by the addition of the following after clause (h):

(h.1) “tourism compliance officer” means a tourism compliance officer appointed under subsection 1.5(1);

tourism compliance officer

(b) in clause (i), by the addition of the word “hostel,” after the words “motel, inn,”; and

(c) in clause (j), by the deletion of the words “means the operator” and the substitution of the words “means the registered owner”.

2. Clause 1.1(b) of the Act is amended by the deletion of the words “in marketing Prince Edward Island tourism products” and the substitution of the words “in Prince Edward Island”.

3. Section 1.4 of the Act is amended

(a) in subsection (5), by the addition of the following words “and without a warrant,” after the words “at any reasonable time,”; and

(b) by the addition of the following after subsection (5):

(6) A tourism standards officer shall not enter any part of a tourism establishment that is

Entry

(a) a dwelling unit that is rented and actually occupied by a tourist or member of the public; or

(b) a private dwelling-place of the owner or staff member of the tourism establishment

without the consent of the occupier or without a warrant.

4. The Act is amended by the addition of the following after section 1.4:

Tourism compliance officer Function	<p>1.5 (1) The Minister may appoint employees of the Department as tourism compliance officers.</p> <p>(2) The function of a tourism compliance officer is to enforce such requirements of this Act and the regulations as the Minister may authorize.</p>
Identification	<p>(3) An identification card purporting to be signed by the Minister is proof that the individual named therein is a tourism compliance officer.</p>
Tickets	<p>(4) A tourism compliance officer may issue tickets under the <i>Summary Proceedings Act</i> R.S.P.E.I. 1988, Cap. S-9 in respect of a contravention of this Act or the regulations.</p>
Inspection, investigation	<p>(5) For the purposes of enforcing this Act and the regulations, a tourism compliance officer may, at any reasonable time, and without a warrant,</p> <ul style="list-style-type: none"> (a) enter the premises of any tourism establishment; (b) inspect the premises, license and register of any tourism establishment; (c) monitor compliance with license requirements, signage and occupancy requirements imposed under this Act and the regulations in respect of a tourism establishment; and (d) conduct an investigation of a tourism establishment in respect of alleged violations of this Act and the regulations.
Tourism compliance report	<p>(6) After completing an investigation of a tourism establishment pursuant to clause (5)(d), a tourism compliance officer shall</p> <ul style="list-style-type: none"> (a) prepare a tourism compliance report in accordance with the regulations; and (b) provide, within such time as the Minister may direct, a copy of the tourism compliance report to the Minister and to the tourism operator of the tourism establishment.
Entry	<p>(7) A tourism compliance officer shall not enter any part of a tourism establishment that is</p> <ul style="list-style-type: none"> (a) a dwelling unit that is rented and actually occupied by a tourist or member of the public; or (b) a private dwelling-place of the owner or staff member of the tourism establishment <p>without the consent of the occupier or without a warrant.</p>
Obstruction	<p>(8) No person shall obstruct, impede or assault a tourism compliance officer, or any person assisting a tourism compliance officer, while the tourism compliance officer is exercising his or her authority or performing a duty under this Act or the regulations, and no person shall aid or assist any person in obstructing, impeding or assaulting a tourism compliance officer.</p>

(9) A tourism compliance officer or other person employed or engaged in the administration or enforcement of this Act and the regulations, is not liable for any loss or damage suffered by any person as a result of any act done in good faith or omitted to be done in the course of the administration or enforcement of this Act and the regulations. Liability

5. Section 2 of the Act is amended

(a) by the repeal of subsection (4) and the substitution of the following:

(4) A license issued by the Minister pursuant to this Act in respect of a tourism establishment shall be in full force and effect from March 31 of one year to March 30 of the next year ensuing, or, in the event an application is made to the Minister for a license to commence on a date on or after April 1, the license shall have full force and effect from the date of issuance to March 31 of the next year ensuing, unless the license is otherwise sooner terminated or suspended under this Act or the regulations. Effective dates of license

(b) in subsection (5),

(i) by the deletion of the word “In” and the substitution of the words “Notwithstanding subsection (4), in”, and

(ii) by the deletion of the words “tourist establishment” and the substitution of the words “tourism establishment” wherever they occur.

6. Section 2.1 of the Act is amended

(a) by the repeal of subsection (2) and the substitution of the following:

(2) The charge imposed under subsection (1) shall be used for the purposes of tourism research, development and marketing. *Idem*

(b) by the repeal of subsection (3).

7. Section 3 of the Act is amended

(a) in subsection (1),

(i) by the addition of the words “or the Minister’s designate” after the words “The Minister” wherever they occur,

(ii) by the addition of the words “or she” after the word “he”, and

(iii) by the deletion of the words “tourist establishment” and the substitution of the words “tourism establishment” wherever they occur;

(b) by the repeal of subsection (3) and the substitution of the following:

Termination or suspension of a license

(3) In the event a tourism standards report or tourism compliance report recommends the termination or suspension of a license issued by the Minister pursuant to this Act in respect of a tourism establishment, the Minister may,

- (a) terminate or suspend the license; or
- (b) if, in the opinion of the Minister, based on the findings of a tourism standards report or tourism compliance report, the failure of the tourism operator to comply with this Act, the regulations or the laws of the province can be remedied within either 24 hours, 7 days or 15 days, request a tourism standards officer or tourism compliance officer to order the tourism operator to remedy the non-compliance with this Act, the regulations or the laws of the province within either 24 hours, 7 days or 15 days, as the case may be, from the date the order is made.

Order to be in writing and served

(3.1) An order made by a tourism standards officer or tourism compliance officer under subsection (3) shall be in writing and served on the tourism operator either by personal service or registered mail using a delivery or mail service that provides the tourism standards officer or tourism compliance officer with an acknowledgment of receipt.

Evidence of receipt of order

(3.2) Evidence that an order was delivered or mailed in accordance with subsection (3.1) and that the tourism standards officer or tourism compliance officer received an acknowledgement of its receipt is proof, in the absence of evidence to the contrary, that the order was received by the tourism operator to whom it was addressed.

Termination or suspension of a license

(3.3) In the event the tourism operator fails to comply with an order made by a tourism standards officer or tourism compliance officer under subsection (3), the Minister may terminate or suspend the license of the tourism operator in respect of the tourism establishment.

(c) by renumbering subsections (4), (5) and (6) as subsections (5), (6) and (7);

(d) by the addition of the following after subsection (3.3):

Revocation of license, health or safety of public at risk

(4) The Minister may, at any time, and without providing prior notice to a tourism operator, revoke the license of a tourism operator in respect of the tourism establishment where the health or safety of the public is deemed at risk by the Minister.

(e) in subsection (6),

(i) by the deletion of the words “subsection (4)” and the substitution of the words “subsection (5)”, and
(ii) by the deletion of the word “ordered” and the substitution of the words “of a license”; and

(f) in subsection (7),

(i) by the deletion of the words “subsection (4), shall hear the tourism operator and the tourism standards officer” and the substitution of the words “subsection (5) shall hear the tourism operator and the tourism standards officer or tourism compliance officer, as the case may be,”; and

(ii) by the addition of the words “or tourism compliance report” after the words “tourism standards report”.

8. Subsection 4(1) of the Act is amended

(a) by the deletion of the words “Where a tourism standards report recommends that a failure to comply with the Act, the regulations or the laws of the province by an tourism operator” and the substitution of the words “Where a tourism standards report or tourism compliance report recommends that a failure to comply with this Act, the regulations or the laws of the province by a tourism operator”; and

(b) by the deletion of the words “tourist establishment” and the substitution of the words “tourism establishment” wherever they occur.

9. Section 5 of the Act is amended

(a) by the deletion of the words “tourist establishment” and the substitution of the words “tourism establishment” wherever they occur; and

(b) by the addition of the words “and publish notice of the establishment’s closure in print and electronic media,” after the words “business therein,”.

10. Section 6 of the Act is amended

(a) by the addition of the following after subsection (2):

(2.1) The tourism operator of a tourism establishment shall ensure that the license in respect of the tourism establishment is paid in full and in advance of the upcoming tourism operating season by September 1 of the year previous to the upcoming operating season.

License to be paid
in full in advance

(b) in clause (5)(a), by the addition of the words “, (2.1)” after the words “(2)”; and

(c) by the repeal of clause (5)(b) and the substitution of the following:

(b) the health or safety of the public is at risk.

11. Section 8 of the Act is amended

(a) by the repeal of subsections (1.1), (2), (3) and (4);

(b) by renumbering subsection (1) as section 8; and

(c) in section 8,

(i) by the deletion of the words “his tourist establishment” and the substitution of the words “the operator’s tourism establishment”, and

(ii) by the deletion of the words “his account” and the substitution of the words “the person’s account”.

12. Section 11 of the Act is amended

(a) in clause (b.1), by the deletion of the words “or standards for the classification of tourist establishments” and the substitution of the words “or standards for the classification and rating of tourism establishments, including the Canada Select Accommodation Rating Program”;

(b) by the repeal of clause (c) and the substitution of the following:

(c) prescribing the functions and powers of tourism standards officers and tourism compliance officers who are appointed under this Act;

(c) by the repeal of clauses (i) and (j) and the substitution of the following:

(i) prescribing the standards and requirements in respect of accessibility for any type of tourism establishment;

(j) prescribing the standards and requirements for special event camping permits;

13. Section 13 of the Act is amended by the addition of the words “or tourism compliance officer” after the words “tourism standards officer”.

14. Subsection 14(1) of the Act is amended

(a) in clause (a), by the deletion of the words “\$500” and the substitution of the words “\$1,000”; and

(b) in clause (b), by the deletion of the words “\$1,000” and the substitution of the words “\$2,000”.

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