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# TOURISM DEVELOPMENT CORPORATION OF THE BAHAMAS ACT, 2023

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No. 29 of 2023

## **TOURISM DEVELOPMENT CORPORATION OF THE BAHAMAS ACT, 2023**

### **AN ACT TO ESTABLISH THE TOURISM DEVELOPMENT CORPORATION OF THE BAHAMAS; TO ESTABLISH A TOURISM DEVELOPMENT FUND; TO ENCOURAGE THE RESILIENT AND SUSTAINABLE DEVELOPMENT OF THE TOURISM INDUSTRY AND FOR MATTERS CONNECTED THEREWITH**

[Date of Assent - 30<sup>th</sup> June, 2023]

**Enacted by the Parliament of The Bahamas**

#### **PART I – PRELIMINARY**

**1. Short title and commencement.**

- (1) This Act may be cited as the Tourism Development Corporation of The Bahamas Act, 2023.
- (2) This Act shall come into operation on such date as the Minister may appoint by notice published in the Gazette.

**2. Interpretation.**

In this Act —

**“apartment”** means a furnished vacation rental accommodation in which sleeping self-catering facilities are provided in one or more self-contained unit;

**“approved authority”** has the meaning assigned to it by section 2 of the Pensions Act (*Ch. 43*);

- “approved tourism-related enterprise”** means a tourism-related enterprise that is registered with the Corporation and has received approval pursuant to sections 11 and 12 respectively;
- “board”** means the Board of Directors of the Corporation;
- “bed and breakfast”** means a vacation rental accommodation usually in a private home with breakfast included in the rate and may or may not have private bath facilities;
- “campground or campsite”** means an area that provides for outdoor stay and may include covered space for shared sleeping;
- “chairman”** means any person, duly appointed to chair the work of the Board under paragraph 1(1)(a) of the *First Schedule*;
- “chief executive officer”** means the Chief Executive Officer to the Corporation appointed under paragraph 1(1) of the *Second Schedule* to manage the daily operations of the Corporation;
- “corporate social responsibility policy statement”** means an actual statement of intent or mission statement which defines areas of concern and initiatives to improve relations with the people and environments affected by the business operations beyond mere compliance with legislation and this may include the diligence, care and welfare of its employees or workers and the community;
- “corporation”** means the Tourism Development Corporation of The Bahamas established under section 4 (1);
- “deputy chairman”** means any person, designated as the Deputy Chairman of the Corporation under 1(1)(b) of the *First Schedule*;
- “destination management company”** means a Bahamian owned tourism-related enterprise that:
- (a) is registered or incorporated under the Companies Act (*Ch. 308*), and
  - (b) provides tourism, representative and agency services on behalf of —
    - (i) a tour operator;
    - (ii) a travel agency;
    - (iii) a cruise company;
    - (iv) an organization; or
    - (v) an individual.
- “entrepreneurship”** means the process and activities involved in a tourism venture or business investment, development and operations;

**“Financial Secretary”** means the Financial Secretary as defined within section 2 of the Public Finance Management Act;

**“financial year”** means the twelve months beginning the 1st July in any year;

**“Fund”** means the Tourism Development Fund established under section 9;

**“home stay”** means a vacation rental accommodation in a fully-furnished private home with or in the absence of the owner and it may be designed as family dwelling and may be a second home;

**“live aboard”** means birthed yachts and other water crafts with sleeping cabins or rooms that are available for guest stays;

**“medium enterprise”** means a tourism-related enterprise with 50 to 249 employees, but in the case of a tourism-related enterprise that provides accommodations, one that has 26 to 75 rooms, or as the Minister determines from time to time by notice in the Gazette;

**“micro enterprise”** means a tourism-related enterprise with 1 to 9 employees, but in the case of a tourism-related enterprise that provides accommodations, one that has 1 to 6 rooms, or as the Minister determines from time to time by notice in the Gazette;

**“Minister”** means the Minister responsible for Tourism;

**“personal property”** means all privately owned items other than real property;

**“Public Debt Management Act”** means the Public Debt Management Act, 2021 (*No. 6 of 2021*);

**“Public Finance Management Act”** means the Public Finance Management Act, 2021 (*No. 8 of 2021*);

**“public-private partnership”** means—

- (a) a public investment project that is implemented through a contract between a private party and a public entity, for providing or managing a public asset and associated services, in which the private party bears significant risk and management responsibility; or
- (b) a collaboration or arrangement entered into by the Corporation and a private sector stakeholder to accomplish or implement any provision within this Act;

**“resilience”** means the ability of the tourism industry—

- (a) to resist, absorb, accommodate, recover and bounce back from the effects of a hazard, disaster, shock, or crisis in a timely and efficient manner and to carry out regular business as done prior to the disruption caused; and

- (b) to adapt and mitigate climate change impacts;
- “resilient”** means being of resilience;
- “sharing economy”** means the economic system in which the services of tourism-related enterprises used by visitors to The Bahamas are shared between private individuals either for free or for a fee using online platforms such as Airbnb;
- “small enterprise”** means a tourism-related enterprise with 4 to 49 employees, but in the case of a tourism-related enterprise that provides accommodations, one that has 7 to 25 rooms, or as the Minister determines from time to time by notice in the Gazette;
- “stakeholder”** means a person, group, organization, government entity, or other institution who has a direct or indirect interest in the Corporation’s operations, activities, or consequences;
- “sustainable tourism”** means tourism that takes full account of its current and future economic, social and environmental impacts, addressing the needs of visitors, the industry, the environment and host communities and specifically—
- (a) makes optimal use of environmental resources that constitute a key element in tourism development, maintaining essential ecological processes and helping to conserve natural heritage and biodiversity;
  - (b) respects the socio-cultural authenticity of host communities, conserve their built and living cultural heritage and traditional values, and contribute to inter-cultural understanding and tolerance;
  - (c) ensures viable, long-term economic operations, providing socio-economic benefits to all stakeholders that are fairly distributed, including stable employment and income-earning opportunities and social services to host communities, and contributing to poverty alleviation;
  - (d) provides for an improved quality of life through advancing tourism entrepreneurship and partnership among government, the private sector and communities;
- “tourism accommodation”** means any tourism facility that provides sleeping accommodation on a temporary basis for reward for tourists, and visitors and the general public engaging in tourism activities and includes campgrounds and live aboard;
- “tourism industry”** means the people, activities and organizations that provide a tourism product or service to a visitor;
- “tourism development”** means the process of establishing and maintaining a tourism industry in a particular location;

**“tourism experience”** means the intangible benefit or value received by visitors from the tourism products and services they utilize while in The Bahamas;

**“tourism facility”** means an establishment, place, amenity, equipment, or vehicle utilized by tourism-related enterprises for the particular purpose of providing tourism products and services primarily for tourist;

**“tourism product”** means an offering made available by tourism-related enterprises, entrepreneurs, craftsmen and artisans for the purchase and or use of visitors while in The Bahamas and this may include tangible and intangible elements of the destination offering, such as natural, cultural and man-made resources, attractions, facilities, services, tours and activities that form part of the overall visitor experience;

**“tourism sector”** means the tourism-related enterprises and individual activity groupings that directly and collectively cater to a visitor and or promote and facilitate the development of tourism;

**“tourism service”** means an experience or intangible product for use to clients and visitors offered by the tourism sector or tourism industry;

**“vacation rental accommodation”** means tourism accommodation that are booked as an alternate to a hotel and may include apartments, villas, home stays, campground or campsite, live aboard, and glamping facilities that may be promoted and booked as part of the sharing economy; and

**“villa”** means a home made available for the accommodation of guest for reward at least nine months in every year managed by the owner, a company or a real estate agent.

### 3. Objectives of Act.

The objectives of this Act are —

- (a) to develop, enhance, expand, diversify, and revitalize tourism products and experiences;
- (b) to support the ease of doing business in the tourism industry;
- (c) to facilitate opportunities for tourism entrepreneurial growth, employment and income generation and spreading of the benefits of tourism across the economy;
- (d) to promote domestic entrepreneurship, investment in tourism and thereto facilitate tourism investment incentives and concessions and technical assistance;



- (e) to provide for the registration of tourism-related enterprises;
- (f) to support tourism related micro, small and medium enterprises;
- (g) to provide for standards and certification of tourism products to encourage tourism product quality;
- (h) to cultivate collaboration, networking, partnerships and linkages for resilient and sustainable tourism development;
- (i) to secure corporate social responsibility funding to advance conservation and environment protection as part of the operations of tourism enterprises and to support the resilient and sustainable tourism development of the industry; and
- (j) to facilitate any other matters connected therewith.

## **PART II - TOURISM DEVELOPMENT CORPORATION**

### **4. Establishment of Corporation.**

- (1) There is hereby established a corporation to be known as the Tourism Development Corporation of The Bahamas for the primary purpose of serving as the entity concerned with resilient and sustainable tourism development and to carry out all other functions and powers as contemplated by this Act.
- (2) The Corporation shall be a body corporate having perpetual succession and a common seal capable of suing and being sued in its corporate name and with power subject to this Act to do all such acts and thing that a body corporate may, by law, do or perform.
- (3) The Corporation shall be governed and managed by a Board.
- (4) The *First Schedule* shall have effect with respect to the constitution and proceedings of the Board.
- (5) The Corporation shall appoint employees as may be necessary to carry out the functions of the Corporation.
- (6) The *Second Schedule* shall have effect with respect to matters governing employees of the Corporation.

## FUNCTIONS AND POWERS OF THE CORPORATION

### 5. Functions of Corporation.

- (1) The functions of the Corporation are to promote, facilitate and advocate for resilient and sustainable development and growth of the tourism industry.
- (2) Without limiting the generality of subsection (1), the functions of the Corporation shall include —
  - (a) identifying, creating and promoting investment opportunities for Bahamians in the tourism industry;
  - (b) improving the ease of doing business in the tourism industry;
  - (c) allowing a platform for aspiring Bahamian tourism entrepreneurs and craftsmen whose businesses can add value to the tourism experience in The Bahamas;
  - (d) promoting and facilitating tourism investment incentives, concessions and related support for Bahamian investors and entrepreneurs in tourism-related enterprises;
  - (e) facilitating the development and expansion of domestic investment in the vacation rental accommodation sector and in any other tourism accommodation included under paragraph 2(a) of the *Third Schedule*;
  - (f) building the domestic capacity for tourism entrepreneurship in business and service excellence;
  - (g) rendering technical support or advice to persons in the tourism industry;
  - (h) promoting, and undertaking research in tourism development in the Bahamian economy to advance policy and decision-making;
  - (i) monitoring and addressing, in collaboration with community, Family Island and other stakeholders, tourism development activities across The Bahamas that impact upon the participation of nationals in tourism;
  - (j) providing for the registration of all micro, small and medium size tourism-related enterprises;
  - (k) identifying and encouraging adherence to tourism product standards for resilience and sustainable tourism;
  - (l) identifying, developing and facilitating resilient, sustainable tourism and business performance certification for tourism-related enterprises operating in the tourism industry;

- (m) recognizing registered and qualifying tourism-related enterprises as Corporation approved.
- (n) encouraging the revitalization of tourism supply chain industries in The Bahamas;
- (o) cultivating partnerships and improving linkages with other economic sectors;
- (p) supporting networking and facilitation of business association among tourism-related enterprises;
- (q) facilitating partnerships between locally and foreign owned tourism-related enterprises and businesses;
- (r) encouraging and promoting stakeholder collaboration and public private partnerships for sustainable tourism development;
- (s) raising funds for and funding the advancement of tourism entrepreneurship, and resilient and sustainable tourism development;
- (t) receiving donations from investors for charitable purposes as a form of corporate social responsibility to further the objectives of the Act; and
- (u) performing such other functions as are necessary for carrying out the objectives of this Act.

## **6. Powers of Corporation.**

- (1) Subject to the provisions of this Act, the Corporation shall have power —
  - (a) to carry on in The Bahamas any business which appears to the Corporation to be needed for the performance of its functions;
  - (b) to carry on any activities incidental to any undertaking which appear to the Corporation to be necessary to the performance of its functions;
  - (c) to exercise such other powers as are necessary for carrying out the objectives of this Act.
- (2) In exercising its powers under subsection (1) of this section, the Corporation may act —
  - (a) alone or in association with another entity or person;
  - (b) as a holding company of one or more subsidiary companies; or
  - (c) as a managing agent on behalf of another entity or person.

## **7. Power to delegate.**

- (1) Subject to the provisions of this Act, the Corporation may, either generally or otherwise, by instrument, delegate in writing under its common seal to

a person or a committee established under this Act any of the powers of the Corporation under this Act, except this power of delegation.

- (2) A power delegated and exercised in accordance with the instrument of delegation, shall, for the purposes of this Act be deemed to have been exercised by the Corporation.
- (3) A delegation made under this section is revocable at will and does not prevent the exercise of the delegated power by the Corporation.

#### **8. Minister may give directions.**

The Minister may, in writing, give to the Corporation directions of a general or of a specific nature as to the policy to be followed by the Corporation in the carrying out of its functions as appear to the Minister to be requisite in the public interest, and the Corporation shall give effect to any such directions.

### **TOURISM DEVELOPMENT FUND**

#### **9. Establishment of Tourism Development Fund.**

- (1) For the purposes of this Act, there shall be established, under the control and management of the Board, a fund called “the Tourism Development Fund”.
- (2) There shall be paid into the Fund —
  - (a) monies allocated by Parliament;
  - (b) any fees charged under this Act;
  - (c) monies charged on tourism activities and services in respect of this Act;
  - (d) income from investments of the Corporation;
  - (e) grants, donations, bequests or other gifts made to the Corporation;
  - (f) any tourism-related enterprise contribution as prescribed by the Minister under section 29;
  - (g) monies from any other source approved by the Minister responsible for Finance; and
  - (h) all other sums that may become payable to or vested in the Corporation in respect of matters incidental to its functions and powers.
- (3) There shall be paid or met out of the Fund all expenses properly incurred in the administration of this Act.

## **PART III - TOURISM-RELATED ENTERPRISES**

### **REGISTRATION OF TOURISM RELATED ENTERPRISES**

#### **10. Tourism-related enterprises.**

- (1) The businesses as described and categorized in the *Third Schedule*, shall for the purposes of this Act be deemed a tourism-related enterprise.
- (2) The Minister may from time to time, by order, on the recommendation of the Board, amend the *Third Schedule*.

#### **11. Registration of tourism-related enterprises.**

- (1) The Corporation shall develop and maintain a register of tourism-related enterprises in The Bahamas.
- (2) Every owner of a tourism-related enterprise may register with the Corporation within six months from the date of the coming into force of this Act by providing to the Corporation, electronically or otherwise —
  - (a) the name of the enterprise;
  - (b) the location of the enterprise;
  - (c) the names of the owners of the enterprise;
  - (d) the nature of the enterprise; and
  - (e) the description of services and products offered by that enterprise.
- (3) Where any changes occur in the details provided under subsection (2), the enterprise may, within five business days, notify the Corporation of such and the Corporation shall record the change in the register.

### **SEAL OF APPROVAL FOR TOURISM RELATED ENTERPRISES**

#### **12. Recognition as an approved tourism related-enterprise.**

- (1) The Corporation may recognize any person who is registered with the Corporation in accordance with section 11 as an approved tourism-related enterprise.
- (2) Any person under subsection (1) who is desirous of being recognized by the Corporation as an approved tourism-related enterprise, may make application to the Corporation in writing supported by evidence of the following —
  - (a) the names of the owners of the enterprise;
  - (b) the location of the enterprise;
  - (c) the number of persons employed by that enterprise;

- (d) where applicable, any specialized qualification or years of experience of persons employed by that enterprise;
- (e) the nature of the business;
- (f) the description of services and products offered by that enterprise;
- (g) adequate insurance that is appropriate for the nature of the enterprise;
- (h) adherence to any existing laws regulating that enterprise;
- (i) a corporate social responsibility policy statement;
- (j) where applicable, the enterprise is in compliance with any protocols established due to the occurrence of a natural disaster or public health crisis;
- (k) compliance with guidelines issued under this Act which are relevant to that enterprise; and
- (l) any other document or information requested by the Corporation.

**13. Corporation's seal of approval.**

- (1) The Corporation may, on satisfaction that —
  - (a) the applicant is a fit and proper person;
  - (b) the applicant meets the guidelines imposed by the Corporation in relation to that category of enterprise; and
  - (c) the enterprise contributes to the resilient and sustainable development of the tourism sector,grant its Seal of Approval to the enterprise in the form approved by the Board.
- (2) A Seal of Approval issued pursuant to subsection (1) shall be valid for a period of one year from the date thereon and shall indicate that the enterprise has been assessed by the Corporation and —
  - (a) satisfactorily meets the requirements for recognition by the Corporation as an approved tourism-related enterprises; and
  - (b) has a commitment to resilience and sustainability by incorporating operating principles and practices recognized by the Corporation.

**14. Display of seal of approval.**

Every person issued a Seal of Approval under section 13 shall display the seal of approval conspicuously for public view, subject to such restrictions and on such conditions as the Corporation may impose.

## **15. Withdrawal of seal of approval.**

- (1) Where it comes to the attention of the Corporation that an enterprise which has been granted a Seal of Approval by the Corporation, is offering a service or a product that the Corporation has reason to believe could —
  - (a) pose a threat to public safety or health; or
  - (b) have a damaging effect on the welfare of the tourist industry; and
  - (c) have a negative effect on the quality of a tourist's experience,the Corporation may —
  - (i) impose certain obligations as the Corporation deems necessary;
  - (ii) require the renovation or repair of any premises, equipment, vehicle or otherwise of that enterprise as the Corporation thinks fit;
  - (iii) require the removal or relocation of any personal property on the premises or otherwise of the enterprise;
  - (iv) require the clean-up of the premises, equipment, or vehicle of the enterprise;
  - (v) ensure that persons employed by the enterprise possess the relevant certifications to be able to offer the service or product.
- (2) Where a person fails to comply with an order or requirement of the Corporation under subsection (1), the Corporation may rescind the Seal of Approval.

## **16. Right of appeal.**

- (1) Any person aggrieved by any decision of the Corporation with respect to section 15 may, within fifteen days from the date on which such decision is communicated to him, appeal in respect thereof in writing to the Board.
- (2) Any person aggrieved by any decision of the Board under subsection (1) may within fifteen days from the date on which such decision is communicated to him, appeal in respect thereof in writing to the Minister.

## **STANDARDS AND CERTIFICATION FOR TOURISM-RELATED ENTERPRISES**

### **17. Guidelines for standards of operations, services and products.**

- (1) The Corporation may, in consultation with The Bahamas Association of Tourism-Related Enterprises and relevant stakeholders, issue guidelines

for standards and best practices with respect to the tourism-related enterprises and categories of tourism-related enterprises listed in the *Third Schedule* to —

- (a) ensure the safety of consumers of the services or product;
  - (b) ensure and monitor the proper maintenance of vehicles and equipment used by operators in the tourism-related enterprise;
  - (c) implement a code of conduct of operators in the tourism industry;
  - (d) ensure authenticity and quality of goods and services;
  - (e) encourage services and business excellence in the operations of tourism-related enterprises;
  - (f) allow for resilience and sustainability of tourism-related enterprises and products; and
  - (g) protect the integrity of The Bahamas as a tourism destination.
- (2) The Corporation may carry out an inspection of a tourism-related enterprise to support and ensure adherence to standards and best practices as issued pursuant to subsection (1).

**18. Provision of various sustainable tourism certification.**

- (1) The Corporation may provide for and issue certification as it deems applicable for registered and approved tourism-related enterprises to encourage business and service excellence and for the resilient and sustainable development of the industry.
- (2) The Corporation may carry on inspection of a tourism-related enterprise to support and ensure adherence to the requirement of any certification issued pursuant to subsection (1) that is undertaken by tourism-related enterprises.

**PART IV - SPECIAL SUPPORT FOR APPROVED  
TOURISM-RELATED ENTERPRISES AND TOURISM  
DEVELOPMENT MATTERS**

**19. Supporting growth of approved tourism-related enterprises.**

- (1) The Corporation shall support the growth and success of tourism-related entrepreneurs and products approved by the Corporation.
- (2) In carrying out its function under subsection (1), the Corporation, *inter alia*, may—



- (a) enter the enterprise in the Customer Relationship Management software system of the Corporation, with a view to aiding in building that enterprise;
- (b) encourage the enterprise to avail itself of the benefits of membership in The Bahamas Association of Tourism-related Enterprises;
- (c) provide business support resources and services to start-ups and early-stage tourism-related businesses, which may include physical space, coaching, and networking connections;
- (d) identify and support access of tourism-related enterprises and potential local investors to investment incentives and concessions for business upgrade, enhancement, expansion and growth.

**20. Tourism development contribution.**

- (1) The Minister may prescribe a rate of contribution to be paid by owners or operators of all tourism-related enterprises operating in The Bahamas in any categories within the *Third Schedule*.
- (2) Regulations made pursuant to subsection (1) may contain provisions regarding —
  - (a) an owner or operator’s liability to the tourism development contribution or his discharge there from may be established;
  - (b) the time at which any amount payable by an owner or operator service shall become due; and
  - (c) the rate of contribution which shall not exceed the amount of one hundred dollars for micro businesses, two hundred and fifty hundred dollars for a small business and five hundred dollars for medium size enterprises.
- (3) All monies received in respect of the tourism development contribution shall be paid into the Fund established under section 9.

**21. Collaboration and partnership**

- (1) The Corporation shall collaborate, partner and liaise with any person, entity or group, public, private, non-government organization, community, Family Island or otherwise on matters that it deems will support private sector business development in tourism.
- (2) The Corporation shall encourage networking among stakeholders and tourism supply chain entities to support linkages and advance tourism resilience, development and growth.

**22. Tourism development support groups.**

- (1) The Corporation will support and advise local tourism destination management and development advisory groups in the Family Islands to advance tourism destination products development, enhancement and preservation in their area of jurisdiction.
- (2) Notwithstanding subsection (1), the Corporation shall establish any group comprising persons from the public, non-government organization, civil society, community and private sectors with relevant experience or knowledge to collaboratively advance any areas of need in tourism development that the Corporation deems necessary.

**PART V – MISCELLANEOUS**

**23. Application of Public Finance Management Act and Public Debt Management Act.**

- (1) The provisions of Part VI of the Public Finance Management Act shall apply to the Corporation with respect to the operation of the Corporation including —
  - (a) public investment projects;
  - (b) accounting standards and practices;
  - (c) preparation of financial statements; and
  - (d) reporting on public finances for the accountability of Agencies.
- (2) The Minister shall be responsible to the House of Assembly for the performance of the functions of the responsible Minister specified in the Public Finance Management Act including the requirement to oversee and direct the Corporation in accordance with the provisions of the Public Finance Management Act to achieve the performance specified in the annual budget and the annual plan of the Corporation.
- (3) The provisions of the Public Debt Management Act with respect to borrowing and reporting liabilities and debt obligations by Agencies and to giving of guarantees by Government shall apply to the Corporation.

**24. Holdings in Corporation.**

- (1) Where the Corporation acquires any interest in land the Corporation's title thereto shall be specified by notice published in the Gazette by the Minister.

- (2) Where the Corporation divests itself of any interest in land referred to in subsections (1), the Minister shall publish a notice in the Gazette accordingly.

**25. Protection from liability.**

- (1) An action or other proceedings shall not lie against a director, or an employee of the Authority in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of his or her functions under this Act except in cases of personal injury.
- (2) The Authority shall indemnify a director or an employee of the Authority for the legal cost of defending an action in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of his or her functions under this Act.

**26. Offences.**

- (1) A person commits an offence if that person —
  - (a) displays an emblem of the Corporation without the permission of the Corporation;
  - (b) in displaying or keeping in his possession any emblem of the Corporation, fails to comply with any restriction subject to which, or to satisfy any condition on which, he was supplied with or permitted to display such emblem; or
  - (c) fails to comply with any restriction subject to which, or to satisfy any term or condition on which, any approval was granted to him under this Act.

**27. General penalty.**

Save for section 26, a person who contravenes any of the provisions of this Act or any regulations made thereunder commits an offence and where there is no specific penalty provided, is liable on summary conviction to a fine not exceeding one thousand dollars.

**28. Amendment of Schedule.**

The Minister may, on the advice of the Board, by order, vary or amend any Schedule to this Act.

**29. Regulations.**

The Minister may, after consultation with the Board, make regulations generally for —

- (a) the payment of any contribution payable under this Act;
- (b) prescribing any matter for the better carrying out of the provisions of the Act; and
- (c) giving effect to the objectives of this Act.

**30. Transition.**

On the day of commencement of this Act –

- (a) the existing Board constituted to manage the Corporation prior to the commencement of this Act shall continue to exist, until a new Board is appointed in accordance with the *First Schedule*;
- (b) the Chief Executive Officer appointed to manage the daily operation of the Corporation prior to the commencement of this Act shall continue to serve until the position is formalized in accordance with the *First Schedule*;
- (c) an application made by any tourism-related enterprise for registration with the Corporation prior to the coming into force of this Act that has not been finally determined before the commencement of this Act is deemed to have been made under this Act; and
- (d) anything done or document executed or issued by the Corporation prior to the commencement of the Act, shall be valid as though that thing or document had been done, executed or issued by the Corporation on the commencement of the Act.

**31. Savings.**

On the day of the commencement of this Act a tourism-related enterprise registered with the Corporation prior to the commencement of this Act will continue to be recognized as being registered.

**FIRST SCHEDULE**

(section 4 (4))

**PROVISIONS RELATING TO THE CONSTITUTION AND PROCEEDINGS  
OF THE BOARD**

- 1. The Board of the Corporation.
  - (1) The Corporation shall be governed by a Board of Directors consisting of —
    - (a) a Chairman appointed by the Governor-General in writing and who shall hold office for such period as may be specified

in the instrument of appointment unless the appointment is sooner revoked by the Governor-General;

- (b) a deputy Chairman; and
  - (c) such number of other directors of the Board, not being less than five or more than seven.
- (2) The Deputy Chairman and the other directors of the Board shall be appointed by the Minister (referred to as “the appointed member”) in writing from amongst persons appearing to him to be qualified as having had experience of, or having shown capacity in, matters relating to tourism, business, finance, accounting, law, administration or human resources.
- (3) Where the Chairman is absent, the Deputy Chairman shall have all the powers of the Chairman.
- (4) The Minister shall by notice published in the Gazette provide the names of the appointed members as is first constituted and every change in the constitution of the Board.
- (5) The Board shall select a Secretary and any other positions it deems necessary from among its appointed members.
- (6) Only the Chairman and the appointed members of the Board as indicated within this section are allowed to vote on decisions of the Board.

2. Disqualification.

A person is disqualified from being an appointed a member on the Board and is not eligible to be appointed as a director, or having been appointed, is not eligible to continue as a director if that person –

- (a) is an employee of the Corporation;
- (b) has filed for bankruptcy in a court or is declared by a court to be a bankrupt;
- (c) is declared by a court to be mentally incapacitated by reason of unsoundness of mind;
- (d) has been convicted of a criminal offence except if the offence –
  - (i) is a minor traffic offense, or
  - (ii) is spent in accordance with the Rehabilitation of Offenders Act (*Ch. 100*).
- (e) is a member of Parliament or a Senator.

3. Removal.

Notwithstanding paragraph 2, the Minister, by instrument in writing, may at any time revoke the appointment of any member of the Board if he thinks it expedient so to do.

4. Functions of the Board.

(1) The Board shall exercise and perform, in the name of the Corporation, the functions conferred on the Corporation under this Act.

(2) Without prejudice to subparagraph (1), the Board shall –

- (a) set the mission, vision, values, strategic priorities, objectives, performance targets. organizational policies of the Corporation;
- (b) appoint the Chief Executive Officer with the approval of the Minister;
- (c) review the performance of the Chief Executive Officer;
- (d) govern and manage the Fund and all finances of the Corporation pursuant to sections 83 to 87 of the Public Finance Management Act;
- (e) ensure that proper financial records are kept and that a corporate plan and budget estimates are prepared;
- (f) prepare and submit to the Minister the Strategic Plan for the conduct of tourism development and ensure adherence to the reporting requirements pursuant to the Public Finance Management Act;
- (g) regularly monitor the Corporation's performance against strategies and plans;
- (h) ensure there are adequate processes in place to comply with statutory obligations, legal and accounting requirements and government policy and practices as directed by the Minister;
- (i) ensure good corporate governance;
- (j) ensure that the risks to which the Corporation is exposed are clearly identified and that suitable processes are in place to manage or mitigate the risks; and
- (k) act ethically, upholding and modelling the internationally accepted values and best practices.

5. Tenure.

Subject to the provisions of this Schedule, the Chairman and appointed members of the Board, shall be for a period not exceeding three years and such member may be eligible for re-appointment.

6. Resignation.

- (1) A member of the Board, other than the Chairman may at any time resign his or her office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of the receipt by the Minister of such instrument, such Director shall cease to be a Director of the Corporation.
- (2) The Chairman may resign his office by instrument in writing addressed to the Minister and such resignation shall take effect on the date of the receipt of such instrument by the Minister.

7. Filling of vacancies.

If any vacancy occurs in the membership of the Board, such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed.

8. Temporary Members.

The Minister may by instrument in writing, appoint some suitable person as a Director to act temporarily in the place of any Director in the case of the absence of or inability of such member to act.

9. Delegation.

The Board may, by resolution of a majority of directors, for the purpose of carrying out its functions under this Act, delegate, in writing to one or more of its directors or to an employee of the Authority, the power to carry out on behalf of the Authority, such functions as the Board determines.

10. Remuneration of the Members of the Board.

- (1) The Corporation shall pay to each member of the Board, in respect of his office, such remuneration and allowances from the revenue of the Corporation as may be determined by the Minister, and to the Chairman and to the Deputy Chairman, in respect of his or her office, such remuneration and allowances (in addition to any remuneration or allowances to which he may be entitled in respect of his office as a member) as may be so determined.
- (2) If any member of the Board, provides products or services to the Corporation in addition to the duties undertaken as a member of the Board, the Corporation shall pay to that member such remuneration and allowances (in addition to any remuneration or allowances to which he or she may be entitled in respect of his or her office as a member) as the Corporation may determine.
- (3) A member of the Board referred to in subparagraph (2) shall not be deemed an employee of the Corporation.

11. Committees.

- (1) The Board may, for the purpose of carrying out the functions of the Corporation under this Act, establish committees to give advice to the Board on matters as the Board determines.
- (2) The Board may appoint persons who are not directors or who are not employees of the Corporation to a committee established under subparagraph (1).
- (3) If a person other than a director is appointed to a committee under subparagraph (2), the Board may determine the remuneration and allowances to be paid to that person.
- (4) The Chairman of a committee must be a person other than the Chairman of the Board or Chief Executive Officer.
- (5) The Chairman and Chief Executive Officer shall be ex-officio members of each committee established.
- (6) The recommendations made by a committee established under subparagraph (1) are not binding on the Board but may be considered by the Board in making decisions
- (7) Without limiting the generality of this paragraph, the Board shall appoint an Audit Committee.

12. Meetings.

- (1) The Board shall meet at such times as may be necessary or expedient for the due performance of its functions and the functions of the Corporation but not less frequently than six times in each year, and such meetings shall be held at such places, times and means and on such days as the Chairman may determine.
- (2) The Chairman, or in his absence or inability to act, the Deputy Chairman, or if they are both absent, a Director elected by the Directors present to act in that behalf, shall preside at a meeting of the Board.
- (3) The Chairman, or in his absence, the presiding director and—
  - (a) two other members of the Board shall form a quorum if the membership of the Board comprises five directors; or
  - (b) three other members of the Board shall form a quorum if the membership of the Board comprises six to seven directors.
- (4) The decisions of the Board are by a majority of votes, and in addition to an original vote, in any case in which the voting is equal, and the Chairman or Director so presiding shall, where the voting is equal, have a casting vote.
- (5) Minutes in proper form of each meeting are to be kept by the Secretary or any other officer the Board may appoint for the purpose, and confirmed by the Board at the next meeting and



- signed by the Chairman or any other Director authorised to act in that behalf as the case may be.
- (6) The Corporation may co-opt any one or more persons to attend any particular meeting of the Board for the purpose of assisting or advising the Board in any matter with which the Board is dealing, but no co-opted person has the right to vote.
  - (7) The validity of any proceeding of the Board shall not be affected by any vacancy amongst the Directors, or by any defect in the appointment of a Director.
13. Minutes receivable in evidence.
- (1) Minutes of each meeting of the Board shall be recorded by the Corporation
  - (2) The minutes of the meetings of the Board shall, if duly signed by the Chairman or any of the directors presiding at the meeting, be receivable in evidence in all legal proceedings without further proof.
  - (3) Every meeting of the Board in respect of which minutes have been so signed shall be deemed to have been duly convened and held and all the directors present thereat to have been duly qualified to act.
14. Disclosure of interest and abstention from voting.
- (1) A director who is directly or indirectly interested in any matter which is being dealt with by the Board shall as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.
  - (2) If a director discloses an interest under subparagraph (1), the director shall leave the meeting on the matter coming up for discussion and shall not be present during the deliberations of the Board on the matter or take part in the decision of the Board with respect thereto.
  - (3) A disclosure under subparagraph (1) and the departure of a director from the meeting under subparagraph (2) shall be noted in the minutes of the meeting.
15. Chief Executive Officer to attend meetings.
- The Chief Executive Officer shall be entitled to attend any meeting of the Board to take part in discussion of any matter other than such as may concern him or her personally, but shall not be entitled to vote.
16. Common seal.
- (1) The common seal of the Corporation shall be authenticated by the signature of the Chairman or Deputy Chairman and one other member, and such seal shall be officially and judicially noticed.

- (2) A document, other than a document required by law to be under seal, which is executed by, and a decision of the Corporation shall be signed by –
  - (a) the Chairperson or a Director authorized in writing by the Chairman to act on behalf of the Chairman; and
  - (b) the Chief Executive Officer.

## **SECOND SCHEDULE**

(section 4 (5))

### PROVISIONS RELATING TO THE EMPLOYEES OF THE CORPORATION

1. Chief Executive Officer.
    - (1) Subject to section 80 of the Public Finance Management Act, the Board shall appoint a person as the Chief Executive Officer on such terms and conditions as the Board determines.
    - (2) The Chief Executive Officer shall be responsible to the Board for managing the Corporation.
    - (3) The Chief Executive Officer may, in writing, delegate any of his or her functions to an employee of the Corporation.
  2. Appointment of employees.
    - (1) The Corporation shall appoint and employ such number of persons at such remuneration and on such terms and conditions as it thinks necessary for the proper performance of its functions under the Act.
    - (2) An employee appointed under subparagraph (1) shall perform the duties assigned to him under this Act and by the Chief Executive Officer.
  3. Pensions, etc.
    - (1) Except as provided in any contract of employment with the Corporation, the Minister may grant to any employee of the Corporation, in respect of his service with the Corporation, pensions, gratuities or other like allowances.
    - (2) Provision for pensions, gratuities or other like benefits under this Schedule may be made either by the Corporation or by contributory arrangements shared between the Corporation and the employee as agreed to by the Board.
    - (3) For the purposes of subparagraph (1) reference to the service of an employee of the Corporation includes any continuous period of service of that employee with the public service or an approved authority immediately prior to his service with the Corporation.
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4. Secondment from the Ministry of Tourism or the public service to the Corporation.
  - (1) An employee from the Ministry of Tourism or the public service may be seconded to the Corporation to assist in carrying out the functions of the Corporation but shall remain an employee of the Ministry of Tourism or the public service.
  - (2) An employee referred to in subparagraph (1) shall be entitled to all remuneration and benefits from the Ministry of Tourism or the public service as if he were the holder of an office in the Ministry of Tourism or the public service which he was holding immediately before the date of his secondment and the employee shall not be entitled to any salary or allowances from the Corporation under this Act during the period of secondment.
  - (3) A secondment under subparagraph (1) shall not exceed a period of two years.
  - (4) Notwithstanding subparagraph (3), the Board may agree to extend the secondment of an employee beyond two years for a period not exceeding two years if it is in the interest of the Corporation to do so.
5. Transfer from the Ministry of Tourism or the public service to the Corporation.
  - (1) The Board shall determine in respect of each employee seconded to the Corporation under that paragraph 4, whether or not the Board will offer permanent employment with the Corporation to such employee, and shall forthwith give notice of its determination to such officer.
  - (2) Every officer who accepts permanent employment with the Corporation offered to him under subparagraph (1) shall be transferred to the Corporation.
  - (3) Every officer who —
    - (a) refuses permanent employment offered under subparagraph (1); or
    - (b) has not been offered permanent employment under subparagraph (1),shall at the expiration of the period referred to in paragraph 4 be returned from the service of the Corporation to the Ministry of Tourism or the public service.
  - (4) Where a employee is transferred under subparagraph (1), he shall be remunerated and serve on conditions which are not less

favourable than those which are attached to the appointment held by such employee before the transfer.

7. Pension of persons transferred from the Ministry of Tourism or public service to the Corporation.
  - (1) Where any employee holding a pensionable office under the Government ceases to be the holder of such office by reason of his transfer, with his consent, to the service of the Corporation and such employee subsequently retires from the service of the Corporation in such circumstances that, had he remained an employee of the Ministry of Tourism or the public service, he would have been eligible for pension under the provisions of section 9 of the Pensions Act (*Ch.43*), then in any such case the following provisions of this paragraph shall have effect.
  - (2) Any pension payable to any such person as is mentioned in subparagraph (1) by the Corporation to whose service he has been transferred shall be calculated and granted to him in respect of his total service under the Government and with the Corporation taken together and such service shall be reckoned as continuous for pension purposes.
  - (3) There shall be payable out of the Consolidated Fund upon the warrant of the Minister of Finance to the Corporation as contribution to every person paid in accordance with subparagraph (2), such amounts as would have been payable to the person concerned by way of pension under the applicable provisions of the Pensions Act (*Ch. 43*), if such person had retired from the public service and if he had been granted a pension under the Pensions Act (*Ch. 43*) upon the date of his ceasing to be employed by the Ministry of Tourism or the Public Service.

### **THIRD SCHEDULE**

(Sections 10 & 20)

#### **TOURISM-RELATED ENTERPRISES**

- (1) A tourism-related enterprise is any business of any kind or nature that may enhance the development or delivery of The Bahamas tourism product and promote the advancement of The Bahamas tourism sector by providing, without limitation —
  - (a) opportunities to experience Bahamian arts and culture, including, inter alia, galleries, exhibitions, music, shows, sports and other events;

- (b) access to or support of unique, locally-based artisans or craftsmen;
  - (c) unique restaurants serving local cuisine;
  - (d) local, interactive travel tours, excursions and attractions;
  - (e) transport, marinas and other support services and amenities; or
  - (f) other unique tourism products.
- (2) Tourism-related enterprises may be categorised for the objectives of this Act as —
- (a) Tourism Accommodation  
this may include vacation rental accommodation in the sharing economy and any other tourism accommodation as the Minister determines from time to time by notice in the Gazette;
  - (b) Food and Beverage  
this may independent food and beverage facilities that cater to tourists and visitors to The Bahamas;
  - (c) Transportation  
this may include transport services used for sightseeing tours and tourism purposes —
    - (i) air transport inclusive of helicopter and aerial tours.
    - (ii) ground transport inclusive of taxis, car rental, moped, scooter, bicycle, four-wheeler, segway, horse and carriage, rickshaw, coach, bus and car tours.
    - (iii) water transport, motorized and non-motorized water sport services inclusive of water taxis, aqua biking, wet biking, jet skiing, board sailing, banana boat, tubing, kayaking, laser sail boats; para sailing, kite surfing; jet propulsion systems, underwater sea scooters and other underwater activities, snorkeling, scuba diving, sea cruises, pleasure crafts, leisure sport fishing charters.
  - (d) Adventure Tours and Services  
this may include adventure services such as of zip line, horseback riding, safaris, historical walking tours, birding watching adventures, lagoon tours, hiking tour, eco-tourism tours.
  - (e) Sites and Attractions

this may include services involving sites, attractions, and exhibitions and related tours to these areas including —

- (i) those that are nature and eco related such as blue holes, lagoon and lakes; and
  - (ii) those that are cultural heritage and man-made including amusement, theme and national parks, historical sites, great houses, museums, caves, bird sanctuaries.
- (f) Meetings, Incentive Travel, Conferences and Events  
this may include tourism and facilities and services related to special events such as weddings, honeymoon and romance related services; sports; marine related events, special shows and exhibitions.
- (g) Tourism Facilitation and Related Services  
this may include tourism facilitators, travel organizers and other tourism services such as —
- (i) tour operators and guides;
  - (ii) destination management company and travel agent;
  - (iii) beach operators;
  - (iv) marinas;
  - (v) spas services;
  - (vi) hair braiders; and
  - (vii) craft artisans.