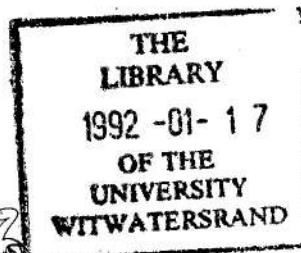


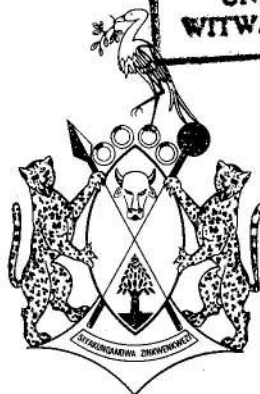
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DEPARTMENT OF THE COUNCIL OF STATE

GOVERNMENT NOTICE No. 87

It is hereby notified that the Chairman of the Council of State has assented to the following decree which is hereby published for general information: -

DEVELOPMENT OF TOURISM DECREE, 1991
DECREE No. 32 OF 1991

COUNCIL OF STATE — REPUBLIC OF CISKEI

DEVELOPMENT OF TOURISM DECREE, 1991

DECREE

To establish a Tourism Board and to define its powers, functions and duties, to provide for the promotion, development and improvement of tourism in Ciskei and to that end to provide for the registration, grading and grouping of tourist amenities, the licensing of tour operators and couriers, and the collection of levies in respect of registered tourist amenities and to provide for incidental matters.

[English text signed by the Chairman of the Council of State. Assented to on 29 November 1991]

BE IT DECREED by the Council of State of the Republic of Ciskei, as follows:-

1. **Definitions.** - (1) In this decree, unless the context otherwise indicates —
- "certificate of registration" means a certificate of registration issued in terms of this decree;
 - "Ciskei" means the Republic of Ciskei;
 - "designated amenity" means any public amenity which the Minister has declared to be a designated amenity in terms of section 16, including any game or safari lodge, house-boat, camping or caravan park, hotel, or other accommodation establishment, restaurant and any national or other nature reserve;
 - "hotel" means any premises, wherein or whereon the business of supplying lodging and meals for reward is or is intended to be conducted, and includes a motel;
 - "levy" means a levy prescribed by regulation and includes any surcharge likewise prescribed;
 - "licensed hotel" means a hotel in respect of which an hotel licence has been granted in terms of the Liquor Act, 1983, (Act 13 of 1983) and is in force;
 - "licensed restaurant" means a restaurant in respect of which a restaurant liquor licence has been granted in terms of the liquor Act, 1983, and is in force;
 - "Minister" means the Minister to whom the administration of this decree has been assigned;
 - "prescribed" means prescribed by regulation under Section 22;
 - "registered" means registered in terms of this decree;
 - "registrar" means the person appointed to be the registrar of tourist amenities in terms of section 15;
 - "regulation" means a regulation made under Section 22;
 - "restaurant" means any premises wherein or whereon the business of supplying meals for reward is or is intended to be conducted;
 - "the board" means the Tourism Board established by Section 22;
 - "the fund" means the Tourism Development Fund established by Section 10;
 - "the Treasury" means the Minister of Finance and Economic Development or any officer of his department acting under his authority;
 - "this decree" includes the regulations;
 - "tour operator" means any person who carries on the business of providing tours of any description in, to or through Ciskei; and
 - "wildlife resources board" means the Ciskeian National Parks Board established by Government Notice No. 75 of 1989.

2. **Establishment of Tourism Board.** - There is hereby established a Tourism Board, to be known as CONTOUR, which shall be a body corporate, capable of suing or being sued in its corporate name and of performing all such acts as are necessary for or incidental to the performance of its functions and exercise of its powers under this decree.

3. **Constitution of the Board.** - (1) (a) The Board shall consist of not less than six and not more than ten members appointed by the Minister, of whom —

- (i) one member shall be an officer of the department of the Minister;
- (ii) two members shall be officers of such other departments of State as, in the opinion of the Minister, have a substantial interest in the attainment of the aims and objects of this decree; and
- (iii) the remaining members shall be persons who are actively engaged in, or who possess special knowledge or experience of the tourist industry, or any related activity.

DEVELOPMENT OF TOURISM DECREE, 1991

(b) No employee of the Board shall be appointed as a member of the Board.

(2) The Minister shall appoint a chairman and a vice chairman of the Board from amongst its members.

(3) The Board may, with the approval of the Minister and on such conditions as he may approve, coopt as a member of the Board any person in the opinion of the Board has special knowledge or experience in respect of any matter which is being considered by the board.

(4) A member coopted in terms of subsection (3) shall be competent to sit and vote as a member of the Board only in relation to the matter in respect of which he was coopted.

(5) If at any time the chairman is unable to attend a meeting of the Board the vice chairman shall preside, or if he is also absent the members present at the meeting shall elect one of their members to preside at that meeting.

(6) A member of the Board shall hold office for not longer than three years at any one time.

4. Meetings of the Board. - (1) The first meeting of the Board shall be held at a time and place to be determined by the Minister and every subsequent meeting shall be held at a time and place to be determined by the Board: Provided that the chairman may convene a special meeting at any time and shall convene a special meeting if four members of the Board have requested him in writing to do so and have indicated to him the purpose for which they desire such meeting: Provided further that the Board shall meet at least once every three months.

(2) Whenever the chairman convenes a special meeting of the Board he shall do so in writing and shall state the purpose for which the meeting is being convened.

(3) At any meeting of the Board two thirds of the total number of members shall constitute a quorum.

(4) The decision of a majority of the members present at any meeting of the Board shall be the decision of the Board and, in the event of an equality of votes, the chairman or other member presiding at the meeting shall have a casting vote.

5. Vacation of office by members of the Board. - A member of the Board shall vacate his office —

(a) if he becomes insolvent;

(b) if he becomes mentally ill;

(c) if he is convicted of an offence and sentenced to imprisonment without the option of a fine;

(d) if he resigns;

(e) if he has, without the leave of the Board, absented himself from three consecutive meetings of the Board; or

(f) if his membership of the Board is terminated in terms of subsection (2).

(2) The Minister may at any time, without assignment of reason, terminate the membership of any member of the Board.

(3) A member of the Board whose period of office has expired, shall be eligible for reappointment.

6. Committees of the Board. - (1) (a) The Board may establish one or more committees to which there may be assigned such functions of the Board as the Board may decide: Provided that such assignment shall not divest the Board of any power or function.

(b) The Board may amend or rescind any decision of any such committee.

(2) Meetings of a committee of the Board may be convened at any time and place appointed by the chairman of the Board or by the chairman of such committee.

(3) A committee of the Board may determine its own procedure.

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- (4) On the establishment of a committee in terms of subsection (1), the Board —
- (a) shall appoint a member of the Board to be chairman of that committee; and
 - (b) may, with the approval of the Minister and subject to the availability of funds, appoint as members of that committee persons who are not members of the Board.

7. Remuneration and allowances of members of the Board and of committees. - A member of the Board or of any committee shall be paid from the funds of the Board, such remuneration and allowances, (if any) as the Minister may determine with the concurrence of the Treasury in any particular case or generally.

8. Objects of the Board. - Subject to the provisions of this decree, the objects of the Board shall be:

- (a) to promote, foster and develop tourism in Ciskei;
- (b) to encourage the provision and improvement of tourist facilities in Ciskei within the ecological, physical and financial capacity of that country;
- (c) to publicise the tourist attractions of Ciskei within and outside that territory;
- (d) if so requested by any competent authority, to assist that authority as its agent in any matter relating to nature or other conservation;
- (e) to advise the Minister in all matters connected with the tourist industry; and
- (f) to carry out such other functions as may be conferred or imposed on the Board by or under this decree or under any other law.

9. Powers and functions of the Board. - (1) For the attainment of its objects the Board may —

- (a) undertake and provide publicity;
- (b) render consultancy, advisory and information services;
- (c) establish, equip and operate or assist in the establishment, equipment and operation of tourist information bureaux or other like agencies providing for the encouragement and promotion of tourism;
- (d) assist in or undertake research relating to tourism;
- (e) take such steps as it may deem necessary or desirable for the provision, development, achievement and maintenance of satisfactory standards in hotels, restaurants and other places affording amenities or facilities to tourists;
- (f) hire or acquire movable property, and with the approval of the Minister acting with the concurrence of the Treasury immovable property, which it requires for the proper discharge of its functions;
- (g) with the approval of the Minister, acting with the concurrence of the Treasury mortgage or pledge any assets or part of any asset and sell, exchange, let, dispose of, turn to account or otherwise deal with any assets or part of any asset which is no longer necessary for the attainment of its objects;
- (h) where necessary insure against any risk or liability;
- (i) with the approval of the Minister acting with the concurrence of the Treasury enter into any agreements or undertake obligations in connection with the discharge of its functions;
- (j) with prior approval of the Minister acting with the concurrence of the Treasury borrow money for such purposes necessary for the attainment of its objects;
- (k) subject to the provisions of subsections (2) and (3), engage such employees as it may require and, when necessary, enter into contracts for the rendering of services by persons who are not employees of the Board;
- (l) with the approval of the Minister acting with the concurrence of the Treasury provide such services as are deemed to be appropriate and to levy charges for such services;

DEVELOPMENT OF TOURISM DECREE, 1991

(m) if the Minister so authorizes with the concurrence of the Treasury, engage in, establish, operate or manage any transport service or tour operations which are necessary for or conducive to the development of the tourist industry in Ciskei;

(n) give advice and guidance in connection with the training of residents of Ciskei employed or intending to take up employment in any part of the tourist industry or any related occupation; and

(o) generally do all such things as are incidental to the exercise or performance by the Board of its powers, duties or functions.

(2) The number and grading, and the conditions of service, of the employees necessary for the performance by the Board of its functions and duties shall be determined by the Minister with the concurrence of the Treasury and after consideration of a recommendation of the Board.

(3) Any person holding a pensionable appointment in terms of the Public Service Act, 1981 (Act 2 of 1981) or in the service of any board, institution or body established by or under any law and which obtains its funds in whole or in part from the Ciskeian Revenue Fund may be transferred to and appointed in a post contemplated in subsection (2).

10. Establishment of Tourism Development Fund. - There is hereby established a fund to be called the Tourism Development Fund which, subject to the provisions of this decree, shall be under the control of the Board.

11. Composition of the Fund. - Subject to the provisions of Section 12 the Fund shall consist of —

- (a) the moneys appropriated for the purposes of the Fund in accordance with law;
- (b) any income derived from the investments of the Fund;
- (c) the receipts, earnings and accruals of the Fund, including any receipts from the sale of publications and other publicity materials;
- (d) any moneys borrowed by the Board in terms of section 9 (i)(j);
- (e) the proceeds of any levies or fees paid in terms of this decree;
- (f) any moneys vesting in the Fund in terms of Section 26;
- (g) any unconditional donation to the Fund or donation to the Board which has been accepted by the Board with the approval of the Minister; and
- (h) any other moneys whatsoever which may vest in or accrue to the Fund or to the Board.

12. Application of Fund. - The Fund shall, subject to the provisions of this decree, be used for the attainment of the aims and objects of the Board as prescribed in this decree.

13. Financial year, accounts and audit. - The financial year of the Board shall be from the first day of April to the thirty-first day of March next ensuing, both dates inclusive.

(2) Notwithstanding anything to the contrary in any law contained, any unexpended balance in the Fund at the close of a financial year (including accrued interest on investments and other receipts) shall be carried forward as a credit in the Fund to the next succeeding financial year.

(3) The Board shall keep a proper record of its property and shall cause proper books of account and other records relating thereto to be kept in respect of the Fund.

(4) The books and accounts of the Board shall be audited by the Auditor-General.

(5) Once during every financial year, at such time as the Minister may direct, the Board shall submit to the Minister for his approval (to be given with the concurrence of the Treasury) a statement of the estimated income and expenditure of the Board during the following financial year and the Board may also, during the course of a financial year, submit to the Minister for such approval supplementary estimates of expenditure for the financial year.

(6) The Board shall not incur expenditure exceeding the total expenditure so approved by the Minister.

(7) The Chief Executive Officer of the Board shall be the accounting officer for the purposes of financial control and shall be obliged to account for all moneys received, and for all payments made by the Board.

14. Investment of moneys. - The Board may in the manner and with a financial institution approved by the Treasury invest any moneys in the Fund which are not required for immediate use or as a reasonable working balance.

DEVELOPMENT OF TOURISM DECREE, 1991

15. Appointment of officers. - (1) The Board shall appoint as its chief executive officer a person approved by the Minister.

(2) The Board may appoint a registrar of tourism amenities and may also appoint such other persons, to be known as designated officers, as it may deem necessary for the purposes of this decree.

(3) The chief executive officer shall cause to be issued to the aforesaid registrar and to every other designated officer a certificate signed by him on behalf of the Board wherein there is stated that the holder has been appointed in terms of this decree and, if necessary mentioning his designation.

(4) The registrar (if any) shall exercise such powers and functions as may be conferred on him by this decree.

16. Declaration of designated amenities. - (1) The Minister may, by notice in the *Gazette* and with the concurrence of any other affected Minister -

(a) declare that with effect from a date fixed in the notice, being not sooner than six months from the date of publication of the notice, any particular place or thing or any class of place or thing which, in his opinion, affords an amenity to tourists, shall be a designated amenity;

(b) determine the requirements which are to be complied with before any designated amenity may be registered as such; and

(c) determine the various types, groups and grades of designated amenities and the requirements which are to be complied with before any designated amenity can qualify for registration as any particular type, group or grade of amenity.

(2) The Minister may, by like notice -

(a) revoke any notice published under subsection (1); or

(b) cancel, alter or add to any requirements determined in terms of paragraph (b) or (c) of subsection (1).

(3) No person shall provide, conduct or operate a designated amenity unless it is registered as prescribed.

17. Control of tour operators and couriers. - (1) The Minister may declare, by notice in the *Gazette* that, with effect from a date fixed in the notice, (being not earlier than three months from the date of publication thereof) such class or classes of tour operators or couriers as may be specified in the notice shall be required to be licensed in accordance with the regulations.

(2) On and after the date fixed in a notice published in terms of subsection (1), no person shall -

(a) carry on the business of any class of tour operator specified in that notice except under the authority of a tour operator's licence issued in respect of that business in terms of the regulations; or

(b) operate as a courier of a class specified in that notice except in terms of a courier's licence issued to him under this decree; or

(c) employ any person to operate as a courier of a class specified in that notice otherwise than in accordance with a courier's licence issued to that person.

18. Appeal from decision of registrar. - (1) Any person who is aggrieved by an decision of the registrar with regard to -

(a) an application for registration or the issue or renewal of a licence in terms of this decree, or

(b) the cancellation of any registration or licence or the grading of any place or thing in terms of this decree.

may, within twenty-eight days after being notified of the decision, appeal in writing to the Minister against such decision.

(2) An appellant shall, if a fee is prescribed for his appeal, pay the fee when making such appeal.

DEVELOPMENT OF TOURISM DECREE, 1991

(3) On receipt of any appeal the Minister shall require the registrar to furnish the reasons for his decision and at the same time forward a copy of the evidence, if any, on which such reasons are based.

(4) When in terms of this section -

(a) an appeal is noted against the cancellation of any registration, the decision of the registrar shall be suspended until the appeal has been determined; or

(b) the appeal is against the refusal to renew any licence, the Minister may extend the validity of the licence until the appeal has been determined.

(5) The Minister, may after due consideration of the appeal, make such order as he may deem fit and his decision shall be final.

19. Powers of registrar and designated officers. - (1) The Registrar or a designated officer may, for the purposes of this decree -

(a) without prior notice and at any reasonable time enter any premises of -

(i) a tour operator or a courier or any amenity in respect of which an application for a licence or for registration has been made; or

(ii) a licensed tour operator or a courier or a registered designated amenity;

and, after having informed the person who is for the time being in charge or control of such premises of the purpose of his visit, make such examination and inquiry as he may deem necessary: Provided that he shall not enter any room occupied by any person without the permission of such person;

(b) while he is on or in the premises or at any other reasonable time, question any person who conducts or operates or intends to conduct or operate a designated amenity or the business of a tour operator or any employee of such person and require from any such person the production of any book, notice, record, list or other document which is or has been on or in the premises or is in the possession or custody or under the control of such person or employee if, in his opinion, examination of that book, notice, record, list or document is necessary for the purpose of his investigation;

(c) at any reasonable time, require from any person who has the possession or custody or control of any book, notice, record, list or other document relating to a courier, tour operator or designated amenity or to the business conducted therein, the production of that book, notice, record, list or document if, in his opinion, examination thereof is necessary for the purposes of his investigation; and

(d) examine and make extracts from and copies of any such book, notice, record, list or document referred to in paragraphs (b) and (c) and require any explanation of any entry therein and seize any book, notice, record, list or document which, in his opinion, may afford evidence of an offence in terms of this decree.

(2) Any person conducting or operating or intending to conduct or operate a designated amenity or the business of a tour operator, the premises of which have been entered by the registrar or a designated officer, and any employee of such person, shall at all times furnish such reasonable facilities as are required by the registrar or the designated officer, as the case may be, for the purpose of exercising his powers in terms of this section.

(3) The registrar or a designated officer shall, on demand by any person, produce the certificate issued to him in terms of subsection (3) of section 15.

20. Secrecy to be observed. - The registrar and a designated officer shall not disclose to any person, except for the performance of his duties or functions in terms of this decree or when required to do so by any court or, in terms of any law, any information in relation to the finances or the business affairs of any person, establishment or business acquired by him in the performance of his duties or functions in terms of this decree.

21. Board may call for information. - The Board may call for such information in regard to any hotel, restaurant, designated amenity, establishment providing accommodation, caravan park, camping ground, tour operator or courier, (whether registered or licensed in terms of this decree or not) as may be deemed necessary by the Board.

DEVELOPMENT OF TOURISM DECREE, 1991

22. Regulations. - (1) The Minister may, on the recommendation of or after consultation with the Board, make regulations with regard to -

- (a) the procedure to be followed at meetings of the Board;
- (b) the manner of application for and registration of designated amenities;
- (c) the requirements which are to be complied with before any designated amenity may be registered;
- (d) the determination of types, groups and grades of designated amenities and the requirements which are to be complied with before a designated amenity can qualify for designation as any particular type, group or grade of amenity;
- (e) the publication of lists of registered designated amenities;
- (f) the circumstances under which the registration of a designated amenity may be cancelled;
- (g) the regrading of registered designated amenities;
- (h) the manner of application for and the requirements for the issuing or cancellation of a tour operator's licence or a courier's licence;
- (i) prescribing fees for the registration or grading of designated amenities and the licensing of tour operators and couriers;
- (j) the insignia for registered licensed hotels and the circumstances under which and the manner in which they shall be used or displayed;
- (k) the insignia for the various groups and grades of registered designated amenities, licensed tour operators and couriers and the circumstances under which and the manner in which they shall be used or displayed and the prohibition of the use or display thereof otherwise than in accordance with the regulations;
- (l) the manner in which particulars relating to the nature, grade, name or style of a registered designated amenity, licensed tour operator and courier shall be published or displayed; and
- (m) generally, any other matter whatsoever which it may be necessary or expedient to prescribe in order to attain the aims and objects of this decree, the generality of this paragraph not being limited by the provisions of the preceding paragraphs.

(2) For the purposes of this decree the Minister may by regulation require the owner, operator or licence holder of any designated amenity -

- (a) to add to the price of any such services rendered at his establishment as may be prescribed by such regulations, for the benefit of the Fund, a surcharge at such rate as may be similarly prescribed; or
- (b) to pay to the Fund, from time to time, amounts by way of levies calculated on such basis and at such a rate as may be prescribed in such regulation.

(3) Any regulation under subsection (2) -

- (a) may prescribe different surcharges or different rates in respect of different designated amenities; and
- (b) shall state the time at which, the manner in which, and the office at which the relative surcharge or rate shall be paid.

(4) Any surcharge raised or rate levied under section (2) shall be a debt due to the Board and may be recovered by due process of law.

(5) The Minister shall not make any regulation under paragraph (i) of subsection (1) or under subsection (2) or (3) except with the concurrence of the Treasury.

23. Offence and Penalties. - (1) Any person who contravenes or fails to comply with any provision of section 16(3) or 17(2) or of any regulation shall be guilty of an offence and liable on conviction to fine not exceeding two thousand rand and or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) Notwithstanding the provisions of subsection (1) the Minister may in any regulation made in terms of section 22 prescribe a lesser penalty than that stated in subsection (1).

DEVELOPMENT OF TOURISM DECREE, 1991

24. Annual report by the Board. - (1) The Board shall, as soon as practicable after the end of every financial year, submit to the Minister a report containing -

(a) the balance sheet and a complete statement of revenue and expenditure for that year; and

(b) A report signed by the Auditor-General stating that, on the information supplied to him and to the best of his knowledge and belief, such balance sheet and statement of revenue and expenditure are true and correct: Provided that if the Auditor-General is unable to make such report or to make it without qualification he shall set out in such report either the circumstances which prevent him from making such a report or the qualification itself; and

(c) a report of the board on its operations during the financial year in question.

(2) The Minister shall lay a copy of the documents submitted to him in terms of subsection (1) on the table of the Council of State within 30 days after receipt of thereof.

25. Delegations of powers. - (1) The Board may with the approval of the Minister -

(a) delegate to the Chief Executive Officer or any other employee of the Board any power conferred upon the Board by or under this decree, on such conditions as the Board may determine with the consent of the Minister; and

(b) authorize the Chief Executive Officer or any other such employee to perform any duty assigned to the Board by or under this decree.

(2) Any delegation under subsection (1) shall not prohibit the exercise of the power in question by the Board itself.

26. Vesting of certain assets and liabilities in the Board. - As from the commencement of this decree -

(a) all existing assets and liabilities which immediately prior to such commencement, were assets and liabilities of the Tourism Branch of the erstwhile Department of Tourism and Aviation, as well as all the assets and liabilities of the Wildlife Resources Board and any existing assets of the former Ciskeian Tourist Board established in terms of the Promotion and Tourism Act, 1983 (Act 20 of 1983) shall become the assets and liabilities of the Board subject to the provisions of this decree and to any obligations lawfully affecting the same;

(b) all agreements, contracts, instruments and working arrangements which subsisted immediately before the commencement of this decree and in which the Department of Tourism and Aviation, the Wildlife Resources Board or the Ciskeian Tourist Board was named or to which the Department of Tourism and Aviation, the Wildlife Resources Board or the Ciskeian Tourist Board was a party shall be of full force and effect against or in favour of the Board and shall be enforceable against the Board as lawful successor in all respects to the aforesaid department and boards;

(c) it shall not be necessary for the Registrar of Deeds to make any endorsement on the title deeds or in his registers in respect of any immovable property or any right or obligation under a mortgage, hypothecation, pledge, bond or charge vested in or imposed upon the Board by or under this section, and the Registrar of Deeds shall, when so requested in writing by the Board in relation to any particular immovable property, mortgage hypothecation, pledge, bond or charge cause the name of the Board to be substituted free of charge for that of the Department of Tourism and Aviation, as the case may be, on the appropriate title deed or other document or in the appropriate register;

(d) any proceedings or cause of action pending or existing immediately before the commencement of this decree by or against the Department of Tourism and Aviation, the Wildlife Resources Board or the Ciskeian Tourist Board may be continued or enforced by or against the Board as lawful successor in all respects to such department and boards.

27. Disestablishment of Ciskeian National Parks Board. - Subject to the provisions of Section 26, the corporation known as the Ciskei National Parks Board is hereby disestablished.

28. Repeal of laws. - The laws mentioned in the schedule are hereby repealed.

29. Short title. - This decree shall be called the Development of Tourism Decree, 1991.

DEVELOPMENT OF TOURISM DECREE, 1991

SCHEDULE

LAWS REPEALED (SECTION 28)

| No. and Year of Law | Short title |
|---|-----------------------|
| Act 29 of 1978 | Tour Guides Act, 1978 |
| Government Notice 75 of September 1989 | — |
| Government Notice 76 of 29 September 1989 | — |

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