

L. N. 128 of 2002

**MALTA TRAVEL AND TOURISM SERVICES ACT
(CAP 409)**

Tourism Operations (General) Regulations 2002

IN exercise of the powers conferred by Article 47 of the Malta Travel and Tourism Services Act, (Cap 409), the Minister for Tourism, on the recommendation of the Malta Tourism Authority, has made the following regulations.

Citation. 1. The title of these regulations is the Tourism Operations (General) Regulations 2002.

Interpretation. 2. (1) In these regulations, unless the context otherwise requires:-

Cap 409. “Act” means the Malta Travel and Tourism Services Act;

“distance communication” means any way which, without the simultaneous physical presence of the tourism operator and the traveller, may be used for the conclusion of a contract between these parties, and ‘distance selling’ shall be construed accordingly;

“licence” has the same meaning as given to it by the Act and “licensee” shall be construed accordingly;

“tourism accommodation establishments” means hotels, tourist villages, aparthotels, guesthouses, hostels and holiday premises;

“tourism operation” has the same meaning as given to it by the Act and “tourism operator” shall be construed accordingly, provided that in regulations 7, 9, 10, 11, 12 and 13 “tourism operation” does not include a tourist guide;

“travel operator” means an incoming tourism agent or a travel agent, or a destination management company and “travel operation” shall be construed accordingly.

(2) Words and expressions used in these regulations and which are also used in the Act, shall have, unless the context otherwise requires, the same meaning as in the Act;

3. (1) Prior to the commencement of a tourism operation, the operator shall apply to the Authority for a licence. The applicant shall file the appropriate application form supplied by the Authority and shall submit all information and documentation as requested by the Authority. Application.

(2) In the case of applications for:-

- (a) Development of new tourism accommodation, being new projects or extensions;
- (b) Re-development of tourism accommodation;
- (c) Change of designation of tourism accommodation;
- (d) Change of classification of tourism accommodation;

the applicant shall be required to be in possession of a Tourism Compliance Certificate and subsequently a Design Guidelines Certificate as issued by the Authority.

4. (1) The Authority shall grant a licence of a tourism operation if it is satisfied that the applicant, whether an individual person or a body corporate, as well as the premises to be licensed, comply with the requirements as specified in the Act and in any regulations made thereunder. Licence.

(2) a licence issued in respect of a tourism operation shall be subject to the condition that the premises to be used for the operation complies in all respects with any requirement under any other law which may be in force from time to time.

(3) a licence of a tourism operation shall not be issued or renewed if it is objected to by the Commissioner of Police or by any other authority; provided that such objection is considered to be reasonable and justified by the Authority.

(4) When a licensee wishes to engage an operator to run all or any part of the tourism operation, he shall obtain the prior approval of the Authority;

(5) The licence issued by the Authority in respect of a tourism operation shall be available at all times within the premises of

the tourism operation and shall be shown on demand to any representative of the Authority.

Other permits.

5. It shall be the responsibility of the licensee of a tourism operation to obtain any other permit, licence or authorisation required under any other law.

Suspension of tourism operations.

6. (1) A licensee shall inform the Authority of his intention to suspend his tourism operation. Should the closure be for a period of more than two months, the licensee shall require the prior approval of the Authority before the recommencement of the operation.

(2) When a tourism operation is suspended for a period of more than two years, the licence shall be withdrawn.

(3) In the event that a tourism operation ceases to operate, and the licensee intends to operate any particular facility, service or amenity forming part of the tourism operation, the licensee shall obtain the prior approval of the Authority.

Public morality.

7. Operators of tourism operations shall not allow their premises to be used, or suffer to be used, at any time for any act contrary to law or morality.

Persons under the age of sixteen years.

8. No alcoholic beverages shall be served to any person under the age of sixteen years from any premises licensed by the Authority.

Name of tourism operation.

9. Every tourism operation, in respect of which a licence has been requested from the Authority under the provisions of this Act, shall have its trading name approved by the Authority before commencement of operations.

Issue and exhibition of certificate of classification.

10. (1) The Authority shall, upon the classification or the reclassification of any tourism operation requiring such classification or reclassification, and upon payment of the relevant fee as indicated in the Fees (Tourism) Regulations, 2002, forward to the licensee thereof a certificate showing the name, category, class and locality of the tourism operation establishment as well as the name of the licensee.

(2) The said classification certificate shall be displayed in a prominent place within the premises of the tourism operation.

Exhibition of classification plaque.

11. Every licensee of a tourism accommodation establishment, holiday premises or catering establishment, and any other tourism operation if the Authority so requires, shall exhibit in a prominent place outside the premises, a plaque indicating that premises are licensed and

the classification assigned to them, according to a design, size, colour and layout as the Authority may indicate.

12. Every licensee of a tourism operation shall, when so required by the Minister or the Authority, submit such information relating to his tourism operation for statistical and planning purposes as the Minister or the Authority may from time to time require, in such form and within such time, as may be established by the Minister or the Authority.

Return of
information.

13. (1) No person, may at any time, describe or advertise any tourism operation unless:-

Description
and advertising.

(a) there is a valid licence in respect of such tourism operation;

(b) he has obtained the prior approval of the trading name from the Authority.

(2) Every tourism operation shall quote the licence number in every advertisement, publication, leaflet, brochure, broadcast or other publication of whatever kind and in any reference whatsoever.

14. (1) The licensee of a tourism operation shall ensure in a clear and comprehensible manner that a traveller, when concluding a contract for services performed through distance selling, shall be provided with the operator's business address and other relevant information for identification purposes.

Distance
selling.

(2) Any contract concluded through the use of distance selling shall include the following information:-

(a) the identity and address of the supplier and purchaser of services, as well as related information;

(b) in the case of a travel agent, full details of the package or of the services being given subject to conditions as stipulated in the Package Travel, Package Holidays and Package Tours Regulations, 2000;

L.N. 157 of 2000.

(c) full cancellation terms;

(d) full payment terms;

(e) any additional costs ancillary to the basic rate for services offered;

(f) if contracted services or any part thereof are not provided in accordance with the booking, the licensee of a tourism operation shall be bound to provide alternative services at least equivalent or superior to those contracted.

(3) A licensee of a tourism operation shall provide to the traveller in writing, or in other durable medium accessible to the traveller, the information referred to in the previous sub-regulations of this regulation.

Tables and other furniture outside tourism establishments.

15. (1) No person shall place tables or other furniture outside any tourist premises, unless he has previously been issued with a licence for such purpose by the Authority.

(2) If the outdoor place is owned by the Government, a permit by the Department of Land shall be required, and where such space is owned by a Government agency or by a person other than the applicant, the appropriate authorisation by the owner shall be required.

(3) Applications for such licences shall be made to the Authority against payment of a fee as specified in the Fees (Tourism) Regulations 2002, and shall be accompanied by such information and documentation as may be requested by the Authority.

(4) On approval of the application, the applicant shall be issued with a licence on payment of the relative licence and contribution fees to the Authority as specified in the Fees (Tourism) Regulations 2002.

(5) A licence may contain any condition that the Authority may from time to time deem necessary.

Collusion.

16. An operator or a licensee of a tourism operation, including a tourist guide, shall not act in collusion with an operator or licensee of another tourism operation or with another person, to the prejudice of a tourist.

Proper records to be kept.

17. The licensee of a tourism operation shall keep a proper record relating to the exercise of the tourism operation.

Cancellation of licence.

18. When the Authority is satisfied that the licensee of a tourism operation:-

(a) is found guilty of an offence under the provisions set out in the Act or in any of the regulations made thereunder; or,

(b) has within the preceding five years been found guilty of a criminal offence in Malta or outside Malta, which offence is punishable with a term of imprisonment for a period of not less than six months; or

(c) has been declared bankrupt or is insolvent or has dissolved his business for any reason whatsoever except for the purpose of restructuring or amalgamation; or

(d) has persistently failed to comply with any condition imposed in his licence;

the Authority may, having regard to all circumstances of the case, suspend, cancel, withdraw or not renew such licence to run a tourism operation.

19. Before refusing to grant or renew a licence under the Act, and before suspending, cancelling or withdrawing any such licence, the Authority shall inform the applicant or the licence holder in writing of its intention and shall give him an opportunity to make representations within the time stipulated by the Authority. Right of representation.

20. (1) Any notice, communication or other document, and any authorisation issued by or on behalf of the Authority shall be signed either by the Chairman or the Chief Executive of the Authority or by the Chairman or Director of the appropriate directorate of the Authority or by any other person so authorised on their behalf. Communications by and with the Authority.

(2) Any notice, communication, or other document, intended for the attention of the Authority, shall be addressed to the Chairman or to the Chief Executive of the Authority or to the Chairman or Director of the appropriate directorate.

21. (1) Any person authorised in writing by the Authority as provided for in article 40 of the Act, may:- Enforcement.

(a) enter and inspect at all reasonable times, any premises being used as a tourism operation, whether it is licensed under the Act or otherwise;

(b) board land and seaborne transport, to investigate a breach in relation to the provisions of the Act or any regulations made thereunder;

(c) require any tourism operator to produce, verbally or in writing, any operational information as may be reasonably required in relation to the inspection being carried out;

(d) examine and withdraw copies of any records found therein which he has reason to believe may contain evidence of any offence committed against the provision of the Act or any regulations made thereunder;

(e) enquire from any person who appears to him to be engaged in, or carrying on, or employed in the business of the tourism operation, on any matter relating to the application or the compliance with the provisions of the Act or any regulations made thereunder;

(f) obtain photographic and video recordings as necessary evidence.

(2) Any person authorised to carry out an inspection of a tourism operation, shall provide means of identification or written authorisation.

(3) Any person carrying out such inspection shall give a written receipt of any object or document withdrawn by him under the provisions of this regulation, to the person from whose possession such object or document has been withdrawn.

Enforcement
notice.

22. The enforcement notice, as provided for in article 41 of the Act, shall be in the form specified in the Schedule to these regulations.

Condition of
licence.

23. (1) Compliance with the provisions of these regulations shall be deemed to be a condition to which a licence to operate any tourism operation is subject, irrespective of whether reference to these regulations is made in the licence itself.

Fines and
penalties.

(2) Any person who fails to comply with any of the provisions of these regulations shall be guilty of an offence, and shall be liable to the fines and penalties as indicated in articles 43 and 45 of the Act.

Repeals L.N. 67 of
1972 and L.N. 134
of 1976.

24. (1) The Hotels and Catering Establishments Regulations 1972, only in so far as relating to hotels and the Guesthouses and Holiday Furnished Premises Regulations 1976, shall be repealed;

(2) Any licence issued under the regulations being repealed, and which is in force immediately before such repeal shall, subject to compliance with the provisions of the Act and to the regulations made thereunder, continue to be in force thereafter as if it were a licence granted under the Act and the regulations made thereunder.

SCHEDULE

MALTA TOURISM AUTHORITY

Enforcement Notice

(as per article 41 of Part VII of the Malta Travel and Tourism Services Act, 1999)

To:..... Date:

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1. Following investigation carried out by the Malta Tourism Authority it was found that a breach under the Malta Travel and Tourism Services Act, 1999 and relative regulations has been committed at.

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2. The breach consists of

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3. Without prejudice to the Authority's right to take action in accordance with the provisions of article 42 in Part VII of the Malta Tourism and Services Act 1999, you are hereby requested to stop immediately this breach of the law and to regularise your position.

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Malta Tourism Authority