

OFFICIAL GAZETTE

EXTRAORDINARY
OF SOUTH WEST AFRICA

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA



PUBLISHED BY AUTHORITY

UITGAWE OP GESAG

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Government Notice

Goewermentskennisgewing

The following Government Notice is published for general information.

H. S. P. W. VAN NIEUWENHUIZEN,
Secretary for South West Africa.

Administrator's Office,
Windhoek.

No. 151]. [21 August 1973.

ORDINANCE, 1973: PROMULGATION OF

The Administrator has been pleased to assent, in terms of section 27 of the South West Africa Constitution Act, 1968 (Act 39 of 1968) to the following Ordinance which is hereby published for general information in terms of sections 29 of the said Act.

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Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

H. S. P. W. VAN NIEUWENHUIZEN,
Sekretaris van Suidwes-Afrika.

Kantoor van die Administrateur,
Windhoek.

No. 151]. [21 Augustus 1973.

ORDONNANSIE, 1973: UITVAARDIGING VAN

Dit behaag die Administrateur om sy goedkeuring te heg, ooreenkomstig artikel 27 van die Wet op die Konstitusie van Suidwes-Afrika 1968 (Wet 39 van 1968) van die volgende Ordonnansie wat hierby vir algemene inligting gepubliseer word ooreenkomstig artikel 29 van die gemelde Wet.

No.	Titel	Bladsy
20	Ordonnansie op Huisvestigingsinrigtings en Toerisme, 1973	863

No. 20 of 1973.]

**ACCOMMODATION ESTABLISHMENTS AND
TOURISM ORDINANCE, 1973.***(Assented to 16 August 1973.)**(English text signed by the Administrator.)**(Date of commencement 1 January 1974.)***ORDINANCE**

To consolidate and amend the laws relating to accommodation establishments and tourism and to provide for the establishment of tourist recreation areas and incidental matters.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the State President previously obtained and communicated to the Assembly by message from the Administrator, as follows:—

Definitions.

1. In this Ordinance, unless the context otherwise indicates —

“accommodation” means facilities for passing the night and the services commonly associated therewith and includes a piece of land used for the accommodation of caravans of tourists;

“accommodation establishment” means any premises in or on which the business of providing accommodation with or without meals for reward to tourists is or is intended to be conducted and includes a rest camp, guest farm, holiday farm, pension, caravan park and a safari undertaking; and “establishment” has a corresponding meaning;

“Administration” means the Administration of the Territory;

“Board” means the Accommodation Establishments and Tourism Advisory Board instituted under section 2;

“Director” means the Director of Nature Conservation and Tourism of the Administration;

“guest” means any person who *bona fide* and against payment stays and sleeps in an accommodation establishment;

“inspector” means any person appointed as an inspector under section 13;

“manager” with regard to an establishment, means the person registered or deemed to be registered as the manager of such establishment under section 29: Provided that if at any time no person has been or is deemed to be so registered it shall mean the person who, at that time, actually manages or controls the establishment concerned;

“officer” means a person who has been appointed to a post in

Made applicable in
the Eastern Caprivi
Zitfel with effect
from 1 Feb. 2000
See Gov. N. 4/2000

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the Nature Conservation and Tourism Branch of the Administration under the Public Service Act, 1957 (Act 54 of 1957) or the Administration Employees Ordinance, 1957 (Ordinance 17 of 1957);

"prescribed" means prescribed by regulation;

"regulation" means a regulation made and in force under this Ordinance;

"service charge" means any fee calculated as a percentage of a guest's account or otherwise, levied in addition to the account for accommodation provided and services rendered with the intention of remunerating the establishments' employees;

"Territory" means the Territory of South West Africa;

"this Ordinance" includes the regulations;

"Tourist Officer"

"tourist" means a person, including a child, who stays at an establishment against payment and whose normal place of residence is elsewhere;

"tourist recreation area" means the National West Coast Tourist Recreation Area and any other area declared a tourist recreation area under section 48.

Inserted by
O. 5/77/1

Subst. by
O. 25/73/1

Institution of Accommodation Establishments and Tourism Advisory Board.

Constitution of Board.

Sections 2 to 47 A
Repealed by
Act 21/2000

2. A body known as the Accommodation Establishments and Tourism Advisory Board is hereby instituted.

3. (1) The Board shall consist of at least five members to be appointed by the Executive Committee, of whom two shall be persons actively engaged in the tourist industry or possessing special knowledge of or experience in the tourist industry generally or any branch thereof.

(2) One of the members of the Board shall be designated by the Executive Committee as chairman and one as vice-chairman of the Board.

(3) Subject to the provisions of the Public Service Act, 1957 (Act 54 of 1957) and the Administration Employees Ordinance, 1957 (Ordinance 17 of 1957) the Secretary may instruct an officer in the Administration to act as secretary of the Board.

Qualifications and dis-
qualifications of members.

4. No person shall be appointed or hold office as a member of the Board, if he —

(a) has at any time been convicted of any offence for which he has been sentenced to imprisonment without the option of a fine, unless he has received a free pardon, or unless the term of imprisonment expired at least three years before the date of his appointment; or

(b) is of unsound mind and has been so declared by a competent court; or

(c) is an unrehabilitated insolvent; or

(d) is under the age of 21 years.

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Term of office.

5. (1) A member of the Board shall be appointed for a period of three years.

(2) Any person whose term of office as a member of the Board has expired, shall be eligible for reappointment.

Vacation of office.

6. A member of the Board shall vacate his office —

(a) if he ceases to possess the qualifications mentioned in section 4 or becomes subject to the disqualifications mentioned therein;

(b) if his appointment is withdrawn in terms of section 7;

(c) if he is convicted of a contravention of section 15;

(d) if he resigns as member.

Withdrawal of appointment.

7. The Executive Committee may at any time withdraw the appointment of a member of the Board if such member of the Board —

(a) has, in the opinion of the Executive Committee —

(i) been guilty of improper conduct; or

(ii) regularly neglected his duties as member of the Board;

(b) has, without the permission of the chairman of the Board, been absent from three consecutive meetings of the Board.

Filling of vacancies.

8. When any member of the Board for any reason ceases to hold office before the term for which he has been appointed has expired, the Executive Committee may, subject to the provisions of section 3(1) and 4, appoint a person to fill the vacancy for the unexpired period of the term for which the said member was appointed.

Meetings of Board.

9. (1) All ordinary meetings of the Board shall be held at the times and places determined by the Board: Provided that, if the Board has not determined the time and place for its next ordinary meeting at the end of a meeting, the chairman of the Board shall determine such time and place.

(2) The chairman of the Board shall, when directed by the Executive Committee to do so, and may, when he deems it necessary or expedient, call a special meeting of the Board to be held at a time and place determined by the Executive Committee, or by the chairman, as the case may be.

(3) The majority of all the members of the Board shall form a quorum for a meeting of the Board.

(4) At all meetings of the Board the chairman, or if he is absent the vice-chairman, shall preside and if both the chairman and the vice-chairman are absent the members present shall from amongst them elect a chairman to preside at the meeting.

(5) All meetings of the Board shall be held *in camera*

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and, subject to the provisions of section 12, no person except the Director or a person designated by him and the secretary of the Board shall be allowed to be present when the Board performs its functions.

(6) The decision of a majority of the members of the Board present at a meeting of the Board shall constitute a decision of the Board, and in the event of an equality of votes in regard to any matter the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote.

(7) Minutes shall be kept of all meetings of the Board.

(8) No decision taken by the Board or act done under the authority or on the recommendation of the Board shall be invalid merely by reason of an interim vacancy on the Board or of the fact that a person who is disqualified from being a member of the Board sat or acted as a member of the Board when the decision was taken or the act was done or authorised or the recommendation was made, if the decision was taken or the act was done or authorised or the recommendation was made by the requisite majority of the members of the Board who were present at the time and were entitled to sit and to act as members.

Remuneration, allowances
and fees payable to
members.

10. To those members of the Board who are not officers in the public service or officers or employees in the service of the Administration shall be paid such remuneration, allowances and fees as may be determined by the Executive Committee from time to time.

Functions, powers and
duties of Board.

11. The Board shall —

(a) advise the Executive Committee in regard to —

(i) the creation, development and improvement of accommodation establishments in the Territory in order to attain and maintain the highest possible standards in the quality of accommodation, meals and services provided by such establishments;

(ii) the measures which may be necessary to encourage the development on a sound basis of accommodation establishments satisfying the requirements of the population of the Territory and tourists from the Republic of South Africa and abroad;

(iii) the making of regulations under this Ordinance;

(iv) any matter affecting the promotion in the Territory of tourism;

(v) any matter which the Executive Committee may refer to the Board for its advice;

(b) make recommendations in respect of —

(i) the registration, grading and grouping of any accommodation establishment;

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- (ii) the amendment or withdrawal of the registration, grading or grouping of any accommodation establishment;
- (iii) the granting of loans to any accommodation establishment and the conditions which shall or may be imposed at the granting of such loans;
- (iv) any matter referred to the Board for its recommendation by the Director;

and shall perform the functions and duties and may exercise the powers assigned or granted to it under this Ordinance.

Enquiries by Board.

12. (1) The Board may, in accordance with the provisions of this section, conduct an enquiry into any matter falling within the scope of its functions, including any matter affecting the registration, grading or grouping of any establishment, and for that purpose the Board may request any person or by registered letter, signed by its chairman or vice-chairman, as the case may be, summon any person to be present at the enquiry and to give evidence or produce any book, document or thing which may, in the opinion of the Board, be relevant to the subject matter of the enquiry.

(2) The Board may call and examine any person present at the enquiry, whether or not he has been summoned to attend under subsection (1), and may inspect and retain for a reasonable period any book, document or thing the production of which was required under subsection (1): Provided that, in connection with the examination of any such person or the production of any such book, document or thing, the law relating to privilege as applicable to a person subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply.

(3) (a) Whenever the Board deems it necessary to do so, it may direct any person to give his evidence at any such enquiry on oath or affirmation.

(b) The member of the Board presiding at such enquiry shall administer the oath to, or take an affirmation from, the person concerned.

(4) Any person who has been requested or summoned to give evidence at any such enquiry shall be entitled to receive as witness fees from funds voted for that purpose by the Legislative Assembly, an amount equal to the amount which he would have received as witness fees if he had been summoned to attend at a criminal trial in a superior court held at the place where the enquiry was held.

(5) Any person who —

- (a) having been summoned to give evidence at an enquiry under subsection (1), without sufficient cause (the onus of proof whereof shall rest upon him) fails to attend at the time and place specified in the summons, or fails to remain in attendance until the conclusion of the enquiry or until excused by the member of the

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Board presiding at the enquiry from further attendance, or fails to produce any book, document or thing in his possession or custody or under his control, which he has been summoned to produce; or

- (b) having been called under subsection (2), without sufficient cause (the onus of proof whereof shall rest upon him) refuses to be sworn or to make affirmation as a witness after he has been directed by the member presiding at the meeting of the Board to do so, or refuses to testify, or refuses or fails to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him,

shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(6) Any person who, after having been sworn or having made affirmation, gives false evidence before the Board at an enquiry on any matter, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(7) If the Board, for any reason, deems it necessary or expedient, or if requested by any witness to do so, it may hear any witness's evidence *in camera* or hold or continue its enquiry *in camera*.

Appointment of inspectors.

13. (1) The Executive Committee may, subject to the provisions of the Public Service Act, 1957 (Act 54 of 1957) and the Administration Employees Ordinance, 1957 (Ordinance 17 of 1957), appoint such persons as it may deem necessary as inspectors for the proper enforcement of the provisions of this Ordinance.

(2) Every inspector shall be furnished with a certificate signed by an officer in the Nature Conservation and Tourism Branch of the Administration of the Territory authorised thereto by the Executive Committee stating that he has been appointed as an inspector under this Ordinance.

(3) An inspector shall, on demand by any person affected by the exercise or the performance by him of any power or function under this Ordinance, exhibit the certificate referred to in subsection (2).

Powers of inspectors.

14. (1) An inspector may, for the purposes of this Ordinance —

- (a) without previous notice, at any reasonable time enter any premises of an establishment and, after having informed the person who is for the time being in charge or control of such establishment of the purpose of his visit, make such examination and enquiry as he may deem necessary;

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(b) while he is upon or in the premises or at any other reasonable time, question any person who conducts or is for the time being in charge or control of such establishment, or any employee of such person, in the presence of or apart from others, and require from any such person or employee the production there and then, or at a time and place fixed by the inspector, of any book, notice, record, list or other document which is or has been upon or in the premises or 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 any investigation which he is carrying out;

(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 such premises or to the business conducted thereon, the production there and then, or at a time and place fixed by the inspector, of that book, notice, record, list or document if in his opinion examination of that book, notice, record, list or document is necessary for the purpose of any investigation which he is carrying out;

(d) examine and make extracts from and copies of any such book, notice, record, list or document, and require an explanation of any entries in any such book, notice, record, list or document, and seize any such book, notice, record, list or document as in his opinion may afford evidence of a contravention or evasion of any provision of this Ordinance,

and shall perform the functions and duties and may exercise the powers assigned or granted to him under this Ordinance.

(2) Any person conducting an establishment entered by an inspector under subsection (1), and any employee of such person, shall at all times furnish such reasonable facilities as are required by the inspector for the purpose of exercising his powers under the said subsection.

(3) Any person who -

(a) hinders or obstructs an inspector in the exercise of his powers or the performance of his duties; or

(b) wilfully furnishes to an inspector any information which is false or misleading,

shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) For the application of this section in regard to a safari undertaking the word "premises" shall be deemed to include any place where a group of persons taken on a tour in or to any place in the Territory by such undertaking, has

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stopped for any purpose whatever and also any office where the administrative functions of such undertaking are performed.

Secrecy to be observed.

15. (1) No -

- (a) member of the Board;
- (b) person who was present at any meeting of the Board;
- (c) inspector;
- (d) person who was present at any interrogation of any other person by an inspector -

shall disclose to any person, except for the purpose of the performance of his duties or functions under this Ordinance or when required to do so by any court or under any law, any information in relation to the financial or business affairs of any person, establishment or business, acquired in the performance of his duties or functions under this Ordinance or while attending any meeting referred to in paragraph (b) or interrogation referred to in paragraph (d): Provided that the provisions of this subsection shall not apply in respect of any information acquired at any enquiry conducted in terms of section 12 and while such enquiry was conducted in public.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Establishment and keeping
of register.

16. The Director shall establish and keep in the prescribed form a register for the registration under this Ordinance of establishments and managers.

Registration of es-
tablishments.

17. (1) Any person who conducts or intends to conduct an establishment may apply for the registration of such establishment.

(2) Every application for the registration of an establishment under this Ordinance shall be submitted in duplicate to the Director on the prescribed form which will on request be obtainable from the Director.

(3) Every application for the registration of an establishment under this Ordinance shall be accompanied by the prescribed registration fee.

(4) Every application for the registration of an establishment under this Ordinance shall, together with the inspector's report, be submitted to the Board which shall make a recommendation in regard to the registration of the establishment concerned: Provided that the Board shall recommend the registration of the establishment concerned if, in the opinion of the Board, the establishment concerned complies with the requirements prescribed for the registration of such establishment.

(5) If the Board recommends the registration of an es-

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establishment, the Director shall register such establishment.

Grading of establishments.

Subst. by
D. 14/77/1

18. (1) The manager of any establishment registered under this Ordinance shall within three months after such registration apply for the grading of such establishment.

(2) Every application for the grading of an establishment under this Ordinance shall be submitted in duplicate to the Director on the prescribed form which will, on request, be obtainable from the Director.

(3) Every application for the grading of an establishment under this Ordinance shall, together with the inspector's report, be submitted to the Board, and the Board shall, taking into account the requirements prescribed, determine the grade for which the establishment concerned, in its opinion, qualifies and shall, accordingly, make a recommendation to the Director in regard to the grading of the establishment concerned.

(4) The Director shall grade the establishment concerned according to the recommendation of the Board: Provided that if the applicant has applied for a lower grade than the grade recommended by the Board, the Director may, after consultation with the said applicant, award such lower grade to the establishment concerned should the said applicant so desire.

Grouping of establishments.

19. (1) The Board shall, whenever it makes a recommendation in regard to the grading of an establishment, and taking into account the requirements prescribed, also make a recommendation in regard to the group to which the establishment concerned, in its opinion, belongs.

(2) The Director shall determine the group to which the establishment concerned belongs in accordance with the recommendation of the Board.

Inspections before registration, grading or grouping of establishments.

20. (1) Before submitting an application for the registration, grading or grouping of an establishment to the Board for a recommendation, the Director shall cause the establishment concerned to be inspected by one or more inspectors who shall fully report to him in writing on such inspection.

(2) Before making a recommendation in regard to the registration grading or grouping of an establishment the Board may conduct such enquiry as it deems fit in respect thereof.

(3) Whenever the Board deems it necessary or expedient it may delegate a committee consisting of the members of the Board designated by it and the secretary of the Board to conduct any enquiry referred to in subsection (2) and in writing to report to the Board thereon.

Conditional registration.

21. (1) Notwithstanding anything to the contrary in this Ordinance contained the Director, with the approval of the Executive Committee which approval shall be granted only if the Executive Committee is of the opinion that special circumstances making it desirable to do so, exist, may register an establishment which does not comply with the requirements prescribed for the registration of such establishment on such conditions and for such period as the Executive Committee may determine.

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(2) The approval referred to in subsection (1) shall only be granted and the period and conditions referred to in subsection (1) shall only be determined after the Board has made a recommendation in that regard to the Executive Committee. *Provided 0.12/75/16)*

(3) The provisions of this Ordinance relating to the grading of establishments and the determination of the group to which an establishment belongs shall not be applicable to an establishment registered under this section.

Subst. by 0.12/75/16)
(4) On failure to comply with any condition determined under this section the Director shall withdraw the registration of such establishment.

(5) The Executive Committee may at any time, on the recommendation of the Board, instruct the Director to withdraw any registration made under this section.

Registration certificate.

22. (1) The Director shall issue to the manager of an establishment which has been registered under this Ordinance a registration certificate in the prescribed form in respect of such establishment.

Subst. 0.4/78/1
(2) Whenever an establishment ceases to be registered under this Ordinance, and whenever the registration of an establishment is withdrawn or expires, the person who was the manager of such establishment immediately before it ceased to be so registered or immediately before the registration of the establishment was so withdrawn or terminated shall forthwith return the registration certificate which was issued in respect of such establishment to the Director.

(3) Any person who fails to comply with the provisions of subsection (2) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Withdrawal of registration.

23. The Executive Committee may at any time withdraw the registration of an establishment which was registered under section 17 -

(a) if at an inspection it is found that the establishment concerned no longer complies with the requirements prescribed for the registration of such establishment;

(b) if the establishment concerned is a safari undertaking and the manager thereof is convicted of a contravention of the laws relating to nature conservation in the Territory, any province of the Republic of South Africa or any other state and sentenced to a fine of two hundred rand or more or to imprisonment for a period of six months or more.

0.12/75/2
(c) if the owner

Regrading of establishments.

24. The Director may at any time on the recommendation of the Board change the grading of an establishment if the Board, after it has considered a report of an inspection of the establishment concerned, is of the opinion that the establishment concerned no longer complies with the requirements prescribed for the grade awarded to it, or if the manager applies for a regrading under section 25.

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Applications for regrading.

25. (1) The manager of an establishment may after expiry of a period of twelve months from any grading or regrading of such establishment, apply for the regrading of such establishment.

(2) Every application for the regrading of an establishment under this section shall be submitted in duplicate to the Director on the prescribed form which will on request, be obtainable from the Director.

(3) Every application for the regrading of an establishment under this section shall be accompanied by the prescribed fee which will be refunded to the applicant should such application result in the establishment concerned being awarded a higher grade.

(4) Every application for the regrading of an establishment under this section shall, together with the inspector's report, be submitted to the Board and the Board shall, taking into account the requirements prescribed, determine the grade for which the establishment concerned, in its opinion, qualifies at that stage and shall, accordingly, make a recommendation to the Director in regard to the regrading of the establishment concerned.

(5) The Director shall, as soon as possible after he has received the recommendation of the Board, regrade such establishment according to the recommendation of the Board and inform the manager of such establishment of such regrading: Provided that if the applicant has applied for a regrading to a lower grade than the grade recommended by the Board the Director may, after consultation with the said applicant, award such lower grade to the establishment concerned should the said applicant so desire.

Displaying of insignia.

26. (1) The Director shall furnish every establishment which has been registered and graded under this Ordinance with a plaque indicating the grade and group of such establishment.

(2) The manager of an establishment to which a plaque referred to in subsection (1) has been furnished shall forthwith display such plaque in a prominent place at the main entrance to such establishment.

(3) Any person who fails to comply with the provisions of subsection (2) or who removes a plaque displayed under subsection (2) from the place where it is so displayed shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Letterheads, advertising material and information.

27. (1) The manager of an establishment the grade of which has been determined under this Ordinance shall ensure that -

(a) the grade and group of such establishment are displayed on all letterheads and on all advertising material and information printed on paper used or distributed or issued by or on behalf of such establishment, within three months after the grade or group or both, as the case may be, of such establishment have been determined; and

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- (b) after the expiry of the period of three months referred to in paragraph (a) no letterhead or advertising material or information printed on paper shall be used, distributed or issued by or on behalf of such establishment unless the grade and group of such establishment are displayed on such letterhead, advertising material or information printed on paper.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment not exceeding six months or to both such fine and such imprisonment.

Publication of false information.

28. Any person who, in any manner whatsoever publishes or distributes or causes to be published or distributed or allows to be published or distributed, any false or misleading or incorrect information regarding the nature of an establishment, its grade, its group or its situation or the amenities offered or provided at such establishment shall, unless he proves to the satisfaction of the court that he published such information or caused or allowed it to be published in good faith and without having any reason to believe that it was false or misleading or incorrect, be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Registration of manager.

29. (1) Subject to the provisions of subsection (5) no person shall conduct the business of an establishment unless the manager of the establishment has been registered as such.

(2) Every application for the registration of a manager under this Ordinance shall be submitted in duplicate and on the prescribed form to the Director by the person managing or intending to manage the business of the establishment concerned.

(3) If the person for whose registration application is made possesses the qualifications prescribed for registration as manager and is not subject to the disqualifications prescribed, the Director shall register such person as the manager of the establishment concerned.

(4) The Director may at any time withdraw the registration of a person as manager of an establishment if he no longer possesses the qualifications prescribed or becomes subject to the disqualifications prescribed.

(5) If, for any reason, any person who has been registered as the manager of an establishment ceases to be the manager of that establishment any person who conducts the business of that establishment thereafter shall, for a period of three months, after the first-mentioned person has ceased to be the manager of that establishment, be deemed to be registered in terms of this section: Provided that the last-mentioned person shall, within thirty days after he has started to conduct the business of that establishment, apply in accordance with this section to be registered as manager of that establishment.

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(6) The Director shall issue to every person who has been registered as manager of an establishment under this section a registration certificate in the prescribed form.

(7) If any person to whom a registration certificate has been issued under subsection (6) for any reason ceases to be the manager of the establishment as the manager of which he has been registered he shall return such certificate to the Director within two weeks after he has ceased to be the manager of that establishment and the Director shall cancel it.

(8) Any person who contravenes or fails to comply with the provisions of subsection (1), (5) or (7) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Manager is responsible person.

Subst. by
O. 12/75/3

30. The manager of an establishment shall, subject to the provisions of the Liquor Ordinance, 1969 (Ordinance 2 of 1969), be responsible for compliance with all the provisions and requirements applicable, in terms of this Ordinance, to the establishment managed by him.

Replacement of registration certificate.

31. (1) If a registration certificate issued to the manager of an establishment under section 22 or 29 becomes damaged or destroyed or lost the manager of that establishment may apply to the Director in the prescribed form for the replacement of such registration certificate.

Subst. O. 4/78/2

(2) Whenever application is made under subsection (1) for the replacement of a registration certificate which has been damaged the damaged registration certificate shall be submitted to the Director with the application.

(3) On receipt of an application under this section the Director shall issue to the manager of the establishment concerned a new registration certificate in the prescribed form and he shall cancel the damaged registration certificate submitted to him under subsection (2).

(4) Should a lost registration certificate be found after a new registration certificate has been issued in replacement thereof the first-mentioned registration certificate shall forthwith be returned to the Director and he shall cancel it.

(5) Any person who fails to comply with the provisions of subsection (2) or (4) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Applications for loans.

Subst. O. 14/79/11

32. (1) Any person who intends to establish a new establishment or to improve or extend an existing establishment may apply to the Executive Committee for a loan for that purpose.

(2) Such application shall be submitted to the Director on the prescribed form and shall be accompanied by the prescribed documents and plans and any other information required by the Director.

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(3) The Director may institute any investigation or cause such investigation to be instituted and demand any information he deems necessary or expedient for the consideration of an application under this section and shall institute such investigation or cause it to be instituted or demand such information if requested by the Board or the Executive Committee to do so.

Submission of applications
to Board.

33. (1) The Director shall submit every application submitted to him under section 32 and all documents, plans and other information accompanying it together with his comments thereon and any information obtained by him in respect thereof to the Board and the Board shall, after consideration thereof and of any further information (if any) required by the Board in accordance with the provisions of this Ordinance, make a recommendation to the Executive Committee in regard to the granting or not, of the loan.

(2) If the Board recommends that the loan be granted, it shall also make recommendations in regard to the amount of the loan, the rate of interest, the period of redemption and other conditions (if any) subject to which the loan may be granted.

Decision on applications
by Executive Committee.

34. (1) After the Board has made its recommendation the application shall together with the recommendation of the Board in connection therewith, be submitted to the Executive Committee for a decision in accordance with the provisions of this Ordinance.

(2) Whenever the Executive Committee grants a loan it shall determine -

(a) the amount of such loan: Provided that the amount of such loan, or if more than one loan was or is granted in respect of the same establishment, the total amount of all such loans shall not exceed 65% of -

(i) the total cost of establishment in the case of a new establishment; or

(ii) the total valuation in the case of an existing establishment;

(b) the rate of interest at which such loan is granted: Provided that the Executive Committee may amend such rate of interest from time to time if it is deemed necessary or expedient provided it has at least thirty days previously notified the borrower in writing of its intention to do so;

(c) the annual instalments at which such loan and any interest thereon shall be repaid to the Administration;

(d) the period within which such loan and any interest thereon shall be repaid to the Administration: Provided that such period shall not exceed twenty years,

and it may impose such other conditions as it may deem necessary or expedient.

Subst. by
O. 14/77/2

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(3) For the purpose of the proviso to subsection (2)(a) "establishment" shall include the land, building, furniture and equipment used therefor and therein.

Priorities according to which loans shall be granted.

35. Any recommendation by the Board under section 33 and any decision by the Executive Committee under section 34 shall be made with due regard for -

- (a) the situation of the establishment concerned;
- (b) the need of accommodation for tourists, whether in general or at a specific place;
- (c) any establishments already existing in the vicinity;
- (d) any other factors which in the opinion of the Board or the Executive Committee, as the case may be, are relevant:

Provided that priority shall be given to establishments providing mainly for the needs of tourists.

Bonds as surety of loans.

36. (1) Loans shall only be granted against the registration of a first mortgage bond in favour of the Administration: Provided that the Executive Committee may also grant loans against the registration of a second or further bond in favour of the Administration in cases where the Administration is the holder of all existing bonds registered against the title deeds of the property concerned.

Subst. by
D. 12/75/4

(2) Whenever a bond or bonds in favour of any person other than the Administration have been registered against the title deeds of the property concerned, the Executive Committee may -

- (a) against registration of a first mortgage bond in favour of the Administration, if a bond or bonds in favour of the Administration have not already been registered against the title deeds of the property concerned;
- (b) against registration of a second or further bond in favour of the Administration if a bond or bonds in favour of the Administration have already been registered against the title deeds of the property concerned,

grant a loan to redeem the said bond or bonds registered in favour of such other person.

Loans to companies with limited liability.

37. Whenever a loan is granted to a company with limited liability the Executive Committee may in addition to any bond or bonds registered in favour of the Administration also require the directors of such company in their personal capacities jointly and severally to guarantee the proper redemption of such loan.

Payment of money borrowed.

Subst.
O. 14/79/2

38. (1) Loans shall be paid out only if and when the work for which the loan was granted has been completed to the satisfaction of the Executive Committee: Provided that the Executive Committee may at any time in its discretion in proportion to the progress that is being made with the work

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for which the loan was granted and on submission of the prescribed certificates indicating such progress, authorise the payment of any part of such loan.

(2) Interest shall be payable on all moneys paid out under subsection (1) from the date on which the money was thus paid out and shall be payable in arrear.

Powers of Executive Committee to impose additional requirements.

39. Whenever a loan has been granted under this Ordinance the Executive Committee may at any time in its discretion —

- (a) require that certified reports regarding the activities of the establishment concerned shall be submitted to the Director regularly;
- (b) stipulate that the tariffs of the establishment concerned shall not be increased without its approval;
- (c) require that a notarial bond shall be registered in favour of the Administration in respect of all movable assets of the establishment concerned.

Inserted by O. 14/77/3

Mismanagement and non-payment of instalments.

Subst. O. 11/78/1(B)

(d) require that in case of a failure to pay the annual instalments referred to in section 34(2)(c) fully and punctually or when it is found that an establishment in respect of which a loan had been granted is, in the opinion of the Executive Committee, being wrongly managed the Executive Committee may —

- (i) replace the manager of such establishment;
- (ii) take over the management of such establishment as an interim measure and if necessary, incur expenditure at the cost of the borrower, in respect of the establishment or the running of the establishment;
- (iii) call in the bond;
- (iv) sell the business as a going concern.

Ins. O. 11/78/1(B)

Guest register shall be kept.

Subst. by

O. 25/73/2

(v) + (vi)
41. (1) The manager of an establishment shall keep, or cause to be kept, a guest register in the prescribed form and shall, on the arrival of any guest, enter the prescribed particulars in respect of such guest in such register, or cause such particulars to be entered in such register.

(2) Any such manager who fails to keep such register or fails to enter such particulars or cause the same to be entered in such register and any guest who furnishes or enters in such register any information which is not correct, shall be guilty of an offence, and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Bilking.

42. Any person who leaves an establishment without paying his account for lodging and meals supplied, shall, unless he has arranged with the manager of such establishment for the later payment of such account, be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

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Limitation of liability in respect of property of guests.

43. (1) The manager of an establishment shall not be liable to compensate any person for any loss of or injury to property amounting to more than forty rand sustained while such person was a guest in such establishment, unless —

- (a) the loss or injury is proved to have been caused by the wilful act or as the result of the default or negligence of such manager or any person in his employ; or
- (b) the loss or injury was sustained while the property was in the custody of such manager; or
- (c) such manager refused, save in the circumstances set out in subsection (2), to receive the property offered for safe-keeping, or failed to make adequate provision whereby the property could be left in his safe-keeping; or
- (d) such manager failed to comply with the requirements of subsection (3).

(2) The manager of an establishment to whom any property is offered for safe-keeping by any guest in such establishment may require that the property shall be contained in a suitable receptacle, closed and sealed by the depositor, and any refusal by such manager to accept property for safe-keeping based on the failure of such guest to comply with such requirement shall not deprive such manager of the benefits of the limitation of liability in respect of loss of or injury to such property conferred by subsection (1).

(3) The manager of an establishment shall exhibit a copy of subsections (1) and (2) in at least the two official languages in such a manner and in such part of the hall or entrance of the establishment that it can be readily seen and easily read by any guest in such establishment.

No service charge to be levied.

44. Accommodation establishments shall not levy a service charge of any kind whatsoever.

No appeal against decisions in respect of registration of establishments.

45. Any decision in regard to an application for registration or the registration of any establishment given in terms of this Ordinance or in terms of any regulations made under section 56 shall be final, and there shall be no right of appeal.

Trilingualism.

46. Menus, brochures, pamphlets, letterheads, lists of tariffs and sign boards shall be affixed or available in Afrikaans, English and German and the public shall be served in these three languages as far as practically possible.

Prohibition on the conducting of accommodation establishments not registered.

47. (1) As from the date of commencement of this Ordinance no person shall conduct an establishment unless it has been registered under this Ordinance or conditionally registered under section 21.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

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(3) Any person convicted of an offence in terms of subsection (1) who, after such conviction persists in the conduct or omission constituting such offence shall be guilty of a continuous offence and liable to a fine not exceeding twenty rand in respect of every day he so persists.

O. 17/74/1

Establishment of tourist
recreation areas.

Deleted by
O. 25/73/3 (a)

47A. The Executive Committee
48. (1) The area defined in Schedule 1 shall be a national tourist recreation area and shall be known as the National West Coast Tourist Recreation Area.

Subst. by O. 25/73/3 (b)
(2) (a) The Executive Committee may declare any other area a tourist recreation area and assign a name to it.

(b) Any such declaration of an area as a tourist recreation area and the name assigned to it shall be made known by notice in the *Official Gazette*.

(3) (a) The Executive Committee may from time to time amend the boundaries of a tourist recreation area.

(b) Any such amendment of the boundaries of a tourist recreation area shall be made known by notice in the *Official Gazette*.

(4) (a) The Executive Committee may at any time withdraw the declaration of an area as a tourist recreation area.

(b) Any such withdrawal of the declaration of an area as a tourist recreation area shall be made known by notice in the *Official Gazette*.

Acquisition of property for
purposes of tourist recreation areas.

49. The Executive Committee may provide for the acquisition or lease of movable and immovable property, servitudes or other rights thereon, for the purposes of a tourist recreation area.

Objects of tourist recreation areas.

Subst. by
O. 25/73/4

50. A national tourist recreation area shall be established and any other area shall be declared a tourist recreation area for the orderly development thereof, for the preservation therein of the environment and in the interest of and for the benefit and enjoyment of the inhabitants of the Territory and other visitors to the tourist recreation area.

Control, management and
maintenance of tourist
recreation areas.

51. (1) The Executive Committee shall control, manage and maintain the tourist recreation areas for the objects referred to in section 50.

(2) The Executive Committee may in or at a tourist recreation area -

(a) lay out and erect roads, aerodromes, bridges, buildings, water installations, power-stations, fences, breakwaters, seawalls, boathouses, landing stages, mooring places, sports and recreation facilities, sleeping facilities and other facilities connected therewith and swimming pools and carry out such other works as it may consider necessary for the control, management, development or maintenance of tourist recreation areas;

(b) render any services to provide for the basic needs

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of visitors to the tourist recreation area;

- (c) establish, erect, equip, and maintain any building, structure, depot or premises required in connection with any matter referred to in paragraph (a) or (b) or let any premises required for such a purpose;
- (d) levy the fees determined by it in connection with any such matter;
- (e) authorise any person subject to such conditions and the payment of such fees as it may determine, to carry on any activities or render any services which may be carried on or rendered by the Executive Committee under paragraph (b).

Restriction of right to pass the night or reside in a tourist recreation area.

52. (1) The Executive Committee may refuse to allow any person to pass the night or reside in a tourist recreation area if —

- (a) sufficient or suitable facilities are not available in such tourist recreation area;
- (b) such person is, in his opinion, under the influence of liquor;
- (c) such person behaves himself in a boisterous or offensive manner;
- (d) does any deed or act which may give offence to other visitors to the tourist recreation area.

(2) The Executive Committee may reserve any tourist recreation area or any portion of a tourist recreation area or any facilities in such area for the exclusive use of the classes or groups of persons determined by it.

Purposes for which permission to pass the night and reside in a tourist recreation area may be granted.

53. (1) No person shall pass the night or reside in a tourist recreation area without the permission of the Executive Committee.

(2) Permission to pass the night or reside in a tourist recreation area may subject to the provisions of section 54 be granted on the conditions and against payment of the fees which the Executive Committee may, in its discretion, determine and shall be granted only for the purposes of —

- (a) health, study or recreation or matters incidental thereto;
- (b) transacting any lawful business.

(3) Any person who contravenes or fails to comply with any provision of this section or the conditions on which any permission under this section has been granted to him shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

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Gratis permission to pass
the night or reside in a
tourist recreation area.

54. The Executive Committee may in its discretion grant permission to pass the night or to reside in a tourist recreation area free of charge to -

- (a) ministers or doctors for the performance of their duties;
- (b) friends or relations of an officer residing in a tourist recreation area if they stay with the officer concerned;
- (c) private persons authorised by the Executive Committee to execute work at or in the tourist recreation area;
- (d) special visitors;
- (e) persons lawfully residing in such tourist recreation area.

Prevention of pollution.

55. (1) No person shall within a tourist recreation area -

- (a) throw away or leave behind any rubbish, refuse, fish or any portion of a fish, or fish bait except in the rubbish bins provided for that purpose;
- (b) relieve himself except in the sanitary conveniences provided for that purpose;
- (c) dirty, besmirch or disfigure any area in any manner whatsoever;
- (d) smoke or dry fish to the inconvenience of other persons.

(2) Any person who contravenes or fails to comply with any provision of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Inserted by

D. 5/7/72

Regulations.

56. (1) The Executive Committee may make regulations with regard to -

- (a) any matter which is required or permitted to be prescribed under this Ordinance;
- (b) the procedure to be followed at meetings of the Board;
- (c) the collecting of statistics and other information (including financial information) in respect of establishments in general, which the Executive Committee may deem necessary for the performance by the Board of its functions and duties;
- (d) the collecting of statistics and other information by inspectors and the manner in which and the circumstances under which such statistics and information can be obtained;
- (e) the provision of advice, guidance and assistance by

Paragraphs (b) to (e)
Repealed by Act 21/2000

Gov. N. 24/2000; Gov. N. 89/2000
31/5/73; 37/78; 11/81
25/6/76; 21/79
130/75; 248/76; 268/77;
119/74; 236/74;
73/74; 75/74;
Gov. N.

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inspectors to any person in respect of the institution, extension or management of any establishment in respect of which application for registration under this Ordinance has been made or is intended to be made;

- (f) (i) the requirements to be satisfied by an establishment for registration under this Ordinance;
- (ii) the exemption of any establishment from any or all the requirements for registration under this Ordinance;
- (iii) the fees payable in respect of the registration of an establishment;
- (g) the standard of the facilities and services to be provided and maintained by establishments and the fees which may be charged in respect of such facilities and services;
- (h) (i) the different grades which may be awarded to establishments according to any basis of differentiation the Executive Committee may deem fit;
- (ii) the requirements to be satisfied by an establishment in order to qualify for a specific grade;
- (iii) the form of, and the issue, use and display of insignia indicating the grade awarded to an establishment;
- (iv) the right of appeal against any grading or regrading of an establishment;
- (v) the fees payable in respect of the grading and regrading of an establishment;
- (i) the granting of loans in respect of establishments;
- (j) the measures necessary or desirable for the attainment and maintenance of a satisfactory standard of facilities and services to be provided by establishments;
- (k) the measures which it may deem necessary or desirable for the promotion of tourism in the Territory;
- (l) the form of the guest register to be kept under section 4I and the particulars to be entered in such register;
- (m) (i) the conditions on which permission to enter a tourist recreation area or to pass the night or reside therein, may be granted;
- (ii) the conditions on which any person entering a tourist recreation area or passing the night or residing therein,

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may obtain the services or attendance of officers and the fees to be paid for such services or attendance;

- (iii) the fees, if any, to be paid for permission to enter or pass the night or reside in a tourist recreation area, the admission of motor vehicles, aircraft, vessels or other vehicles to a tourist recreation area or for any other purpose connected with the use and enjoyment of a tourist recreation area;
- (iv) the protection and preservation of a tourist recreation area and the property therein;
- (v) the regulation of traffic in a tourist recreation area and the places where persons may enter a tourist recreation area;
- (vi) the management and control of swimming pools, sports grounds, rest camps, caravan parks, camping areas, amusement parks, marinas and any form of accommodation;
- (vii) the functions, duties and powers of officers;
- (viii) generally for the efficient control and management of a tourist recreation area;
- (n) in general any matter which it may deem necessary or expedient to prescribe in order to ensure the effective execution of the provisions of this Ordinance.

(2) The Executive Committee may make different regulations under subsection (1)(m) in regard to different tourist recreation areas.

(3) Any person who contravenes or fails to comply with the provisions of any regulation made under this section shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) Any person convicted of an offence under subsection (3), who after such conviction persists in the conduct or omission constituting such offence shall be guilty of a continuous offence and liable to a fine not exceeding twenty rand in respect of every day he so persists.

Publicity.

57. The Executive Committee may from time to time in any manner which it may deem necessary or expedient, from moneys voted for that purpose by the Legislative Assembly, both within and outside the Territory boost tourism in the Territory.

Repeal of Laws.

58. (1) Subject to the provisions of subsections (2), (3) and

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(4) the Laws mentioned in Schedule 2 are repealed hereby to the extent set out in the third column thereof.

(2) Any establishment which has been registered and graded under a law repealed by subsection (1) and which complies with the requirements, prescribed under this Ordinance, for such registration and the award of such grade shall be deemed to have been thus registered and to have been awarded that grade under this Ordinance.

(3) Any loan granted under a law repealed by subsection (1) shall be deemed to have been granted under this Ordinance.

(4) Any mortgage bond registered in respect of any loan under a law repealed by subsection (1) shall be deemed to have been registered under this Ordinance.

Short title.

59. This Ordinance shall be called the Accommodation Establishments and Tourism Ordinance, 1973, and shall come into operation on the first day of January, 1974.

SCHEDULE I

NATIONAL TOURIST RECREATION AREA

*Repealed by
O. 25/13/5*

From the point where the southern bank of the Ugab River intersects the low-water mark of the Atlantic Ocean; thence north-eastwards along the bank of the Ugab River to a point where it intersects the magisterial district of Swakopmund; thence south-eastwards along the said boundary to a point where longitude 14°51'33" intersects east latitude 22° 29'08"; thence south-eastwards in a straight line with the extension of last-mentioned boundary to a point where it intersects the northern boundary of the Namib Desert Park; thence generally southwards along last-mentioned boundary to a point where the low-water mark intersects the Atlantic Ocean; thence generally northwards along the said low-water mark to a point being the point of beginning but excluding the following properties: Cape Cross Seal Reserve, the Omaruru River Game Park, the Henties Bay Peri-Urban Development Area and Wlodzka's Baken, the Swakopmund and Walvis Bay Municipal areas, Dolfynstrand and the following farms: Palmenhorst 38, Goanikontes Ost 59, Goanikontes 28, Farm 139, Weitzenberg 26, Krautsand 39, Birkenfels 33, Tannenhof 74, Richthofen 47, Richthofen 32, Blakeway 104, Douglas 79, Santa Suid 98, Santa 46, Uitkomst 78, Pump Station 43, Griesserau 8, Swakopaue Ost 83, Nonidas 149, Swakopaue 50, Nonidas II 35, Nonidas Siding 42, Nonidas I 34, Farm 56 and Farm 134, Rooikop 19 and Rooibank 2-17.

SCHEDULE 2

LAWS REPEALED

Accommodation Establishment and Tourism Ordinance. 1967	Ordinance 29 of 1967.	The whole except for section 16.
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Accommodation
Establishments
and Tourism
Amendment
Ordinance 1969

Ordinance 11 of
1969.

The whole.

Accommodation
Establishments
and Tourism
Amendment
Ordinance, 1970.

Ordinance 16 of
1970.

The whole.

Accommodation
Establishments
and Tourism
Amendment
Ordinance, 1971.

Ordinance 3 of
1971.

The whole.
