

Chapter 12

AN ACT TO AMEND THE TRAVEL AND TOURISM ACT

(Assented to November 8, 2016)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

- 1. This Act amends the *Travel and Tourism Act*.**
- 2. The Act is renamed in the English version as the *Tourism Act*.**
- 3. Section 1 is repealed and the following substituted:**

Definitions

- 1. In this Act,**

"Chief Tourism Officer" means the Chief Tourism Officer appointed under subsection 7.2(1); (*agent de tourisme en chef*)

"commercial passenger vessel" means any vessel that provides transportation for passengers for material or financial benefit; (*bateau commercial de passagers*)

"guide" means any person that, for material or financial benefit, accompanies and is responsible for another person in any wilderness tourism activity; (*guide*)

"licence" means a licence issued under the regulations; (*licence*)

"operator" means an outfitter or any person, partnership or society who either directly or by an agent operates a tourist accommodation or commercial passenger vessel; (*exploitant*)

"outfitter" means any person, partnership or society that, for material or financial benefit, makes wilderness tourism activities available to the public; (*pourvoyeur*)

"pleasure craft" means a vessel used for recreation that does not transport any passengers for material or financial benefit; (*embarcation de plaisance*)

"tourism officer" means a tourism officer appointed under section 6; (*agent de tourisme*)

"tourist accommodation" means any place that provides shelter to guests for material or financial benefit; (*lieu d'hébergement touristique*)

"Restricted Tourism Area" means an area designated as such under section 4; (*zone touristique réglementée*)

"wilderness" means any area in Nunavut in a largely natural condition in which ecosystem processes are generally unaltered by human activity, and may include areas of visible human activity that does not substantially detract from tourism; (*milieu sauvage*)

"wilderness tourism" means a sector of the tourism industry where wilderness tourism activities are provided for material or financial benefit. (*tourisme en milieu sauvage*)

"wilderness tourist accommodation" means a tourist accommodation located in the wilderness; (*lieu d'hébergement touristique en milieu sauvage*)

"wilderness tourism activity" means any type of commercially guided tourism activity occurring or partially occurring in the wilderness including,

- (a) polar training,
- (b) camping on the floe edge,
- (c) ice camping,
- (d) diving,
- (e) wildlife observation,
- (f) bird watching,
- (g) eco-tourism,
- (h) expeditions,
- (i) expedition training,
- (j) canoeing,
- (k) cross country skiing,
- (l) dog sledding,
- (m) heli-hiking,
- (n) heli-skiing,
- (o) hiking and backpacking,
- (p) kayaking,
- (q) motorized boat tours,
- (r) mountain biking,
- (s) mountaineering,
- (t) photographic safaris,
- (u) river rafting,
- (v) rock climbing,
- (w) snowmobiling,
- (x) ice climbing,
- (y) bouldering,
- (z) kite-skiing,
- (aa) ski-jorring,
- (ab) sport fishing, or
- (ac) cultural interpretative tours; (*activité touristique en milieu sauvage*)

4. Subsection 2(1) is amended by striking out “tourist establishment” and substituting “wilderness tourist accommodation, wilderness tourism activity or other prescribed accommodation or activity”.

5. **(1) Subsection 2(1) is renumbered as section 2.**
- (2) Subsection 2(2) is repealed.**
6. **Section 3 is repealed.**
7. **Sections 3.1 and 3.2 are repealed.**
8. **Section 4 is repealed and the following substituted:**

Restricted Tourism Area

4. (1) The Commissioner, on the recommendation of the Minister, may, by regulation, designate an area as a Restricted Tourism Area if, in the opinion of the Minister, it is necessary to limit, restrict or prohibit activities in the area because the Minister considers the area to be
 - (a) paleontologically, archaeologically or historically significant;
 - (b) culturally or spiritually significant;
 - (c) ecologically sensitive; or
 - (d) unsafe.

Consideration of views presented in consultation

(2) Before recommending the making, amending or repealing of a regulation under subsection (1), the Minister shall consider the views presented through any consultation process conducted in respect of making, amending or repealing the regulation.

Emergency designation

- (3) Despite subsection (2), the Commissioner, on the recommendation of the Minister, may, by regulation, designate an area as a Restricted Tourism Area for a period not exceeding 30 days if, in the opinion of the Minister, urgent circumstances exist and it is necessary to limit, restrict or prohibit activities in the area because the Minister considers the area to be
 - (a) paleontologically, archaeologically or historically significant;
 - (b) culturally or spiritually significant;
 - (c) ecologically sensitive; or
 - (d) unsafe.

Limitations, restrictions and prohibitions

- (4) A regulation made under subsection (1) or (3) may
 - (a) limit the number of operators that may conduct wilderness tourism activities in the Restricted Tourism Area;
 - (b) establish criteria for granting access to the Restricted Tourism Area by operators conducting wilderness tourism activities;

- (c) require persons to obtain specific training before conducting or participating in wilderness tourism activities in the Restricted Tourism Area;
- (d) require the use of special equipment, practices or techniques when conducting wilderness tourism activities in the Restricted Tourism Area;
- (e) limit, restrict or prohibit wilderness tourism activities or classes of wilderness tourism activities in the Restricted Tourism Area;
- (f) limit, restrict or prohibit unguided activities or classes of unguided activities that would be wilderness tourism activities if they were guided;
- (g) regulate any activities prescribed under section 2 in the Restricted Tourism Area;
- (h) limit, restrict or prohibit the operation of tourist accommodations in the Restricted Tourism Area; and
- (i) provide that the designation applies for a specified period of time or during a specified time of the year.

Nunavut Land Claims Agreement

(5) The designation of a Restricted Tourism Area does not affect any rights recognized under the *Nunavut Land Claims Agreement*.

9. Section 5 is repealed.

10. Section 6 is amended by striking out “The Minister” and substituting “The Chief Tourism Officer”.

11. The following is added after section 7:

Certificate of identification

7.1. (1) Every tourism officer shall be provided with a certificate of identification in a form approved by the Chief Tourism Officer and, on entering any place or vehicle under this Act, shall produce the certificate, if requested to do so by the owner or person in charge.

Statutory Instruments Act not applicable

(2) The *Statutory Instruments Act* does not apply to a certificate of identification provided under this section.

Chief Tourism Officer

7.2. (1) The Minister shall appoint a Chief Tourism Officer to supervise the administration of this Act and the regulations.

Powers of Chief Tourism Officer

(2) The Chief Tourism Officer has all the powers of a tourism officer under this Act and the regulations.

12. (1) Subsection 8(1) is repealed and the following substituted:

Appeal

8. (1) A person aggrieved by a decision or order of a tourism officer may appeal to the Minister within 30 days of receiving the decision or the order.

Response to appeal

(1.1) The Minister shall prepare a written decision and serve a copy of that decision on the person within 60 days of receiving the appeal.

Extension

(1.2) Where, in the opinion of the Minister, additional time is required to prepare a decision under subsection (1.1), the Minister shall

- (a) serve a notice to that effect on the person within 60 days of receiving the appeal; and
- (b) shall prepare a written decision and serve a copy of that decision on the person within 90 days of receiving the appeal.

Exceptional circumstances

(1.3) Where the Minister is unable to prepare and serve a written decision within the time period specified in subsection (1.2) due to exceptional circumstances, the Minister shall prepare a written decision and serve a copy of the decision on the person as soon as practicable in the circumstances.

(2) The following is added after subsection 8(2):

Written appeal

(3) The hearing of an appeal under this section may be conducted in writing.

Decision final

(4) Except as provided in section 8.1, a decision of the Minister under this section is final.

13. Subsection 8.1(1) is amended by striking out “section 8.” and substituting “section 8 only where there has been a denial of natural justice or an excess of jurisdiction.”

14. Sections 9, 10 and 11 are repealed.

15. Section 12 is repealed and the following substituted:

Offence and punishment

- 12.** (1) Every person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction,
- (a) for a first offence,
 - (i) in the case of an individual to a fine of not more than \$500,000 or to imprisonment for a term not exceeding six months or to both, and
 - (ii) in the case of a corporation or other body, to a fine of not more than \$1,000,000; and
 - (b) for a subsequent offence,
 - (i) in the case of an individual to a fine of not more than \$1,000,000 or to imprisonment for a term not exceeding six months or to both, and
 - (ii) in the case of a corporation or other body, to a fine of not more than \$2,000,000.

Continuing offence

(2) A person who commits or continues an offence on more than one day is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

16. Section 13 amended by striking out “after the time when the offence was committed, except with the consent of the Minister.” and substituting “after the time when the offence first came to the attention of a tourism officer.”.

17. The following is added after section 13:

Agreements

13.1. The Minister may make agreements on any matter respecting the administration of this Act or the promotion of tourism activities.

Reports

13.2. (1) The Minister shall table a report in the Legislative Assembly every year commencing two years after the coming into force of this section.

Contents of report

- (2) A report tabled under subsection (1) shall contain
- (a) a review of tourism development initiatives and programs, including an assessment of their effectiveness;
 - (b) an analysis of trends in, and a forecast of demand for, tourism products and services in Nunavut;
 - (c) a review of the compliance and enforcement activities under the Act; and
 - (d) any other matter the Minister considers important.

18. Section 14 is repealed and the following substituted:

Regulations

14. (1) The Commissioner, on the recommendation of the Minister, may make regulations

- (a) exempting any person, operator, pleasure craft, or tourist accommodation or class of person, operator, pleasure craft, or tourist accommodation from the operation of any provision of this Act or the regulations;
- (b) further defining or limiting the definitions of "tourist accommodation", "wilderness tourism activity" and "wilderness tourist accommodation" for the purposes of this Act;
- (c) prescribing the powers and duties of persons appointed under this Act;
- (d) respecting the procedure for appeals under section 8;
- (e) requiring reports or itineraries to be filed by operators of pleasure craft, operators and persons providing services to tourists;
- (f) respecting the content of reports and itineraries;
- (g) respecting the bonds, guarantees and insurance that must be provided by operators;
- (h) establishing requirements for waste disposal by operators;
- (i) respecting the appointment of an auditor to review and report on the financial status of an operator;
- (j) prescribing accommodations and activities requiring a licence for the purposes of section 2;
- (k) providing for the issuing of licences;
- (l) prescribing fees for licences;
- (m) respecting the renewal, transfer, suspension and cancellation of licences;
- (n) respecting the circumstances in which consultation is required before a regulation designating a Restricted Tourism Area may be made, amended or repealed, the persons or groups that must be consulted and the process for conducting the consultation;
- (o) providing for the content of forms that are necessary to carry out this Act; and
- (p) for carrying out the purposes and provisions of this Act.

Regulations respecting tourist accommodations

(2) The Commissioner, on the recommendation of the Minister, may make regulations

- (a) classifying tourist accommodations and establishing standards for tourist accommodations;
- (b) establishing a rating system for the classes of tourist accommodations;

- (c) respecting the issuing of rating signs or badges to the owners of tourist accommodations indicating the ratings assigned to the tourist accommodations and requiring the rating sign or badge to be displayed;
- (d) providing for the inspection of tourist accommodations;
- (e) prescribing the minimum amount of furniture, fixtures, appliances, safety equipment and other equipment that must be provided in tourist accommodations;
- (f) prescribing the fire prevention and fire safety measures that must be taken and the fire-fighting equipment that must be maintained in tourist accommodations; and
- (g) governing the operation of tourist accommodations and the rules to be observed by operators and persons accommodated in tourist accommodations.

Regulations respecting outfitters

(3) The Commissioner, on the recommendation of the Minister, may make regulations

- (a) providing for the inspection of outfitters, including any equipment or vehicle used in tourism activities;
- (b) prescribing the fire prevention and fire safety measures that must be taken and the fire-fighting equipment that must be maintained by outfitters;
- (c) prescribing equipment and supplies that must be provided by outfitters, either generally or in relation to specific wilderness tourism activities; and
- (d) governing the behavior to be observed by outfitters and persons participating in wilderness tourism activities.

Regulations respecting tourism occupations

(4) The Commissioner, on the recommendation of the Minister, may make regulations

- (a) designating tourism occupations;
- (b) respecting the issuing of certificates of competence for designated tourism occupations;
- (c) designating the procedures for the registration of designated tourism occupations;
- (d) respecting the training of persons in designated tourism occupations; and
- (e) respecting the acceptance of equivalencies for training.

Regulations respecting commercial passenger vessels and pleasure craft

(5) The Commissioner, on the recommendation of the Minister, may make regulations

- (a) limiting the number of passengers that may disembark in a particular community from a commercial passenger vessel; and

- (b) providing for codes of conduct to be followed by operators and passengers of commercial passenger vessels and pleasure craft while participating in tourism activities.

Application of regulations

- (6) The regulations may
 - (a) include different provisions for different areas;
 - (b) establish classes of persons, activities, accommodations, and locations for the purposes of the regulations;
 - (c) apply to persons, activities, accommodations, and locations specifically or by class; and
 - (d) include different provisions for different persons, activities, accommodations, and locations, or for different classes of persons, activities, accommodations and locations.

CONSEQUENTIAL AMENDMENTS

19. (1) This section amends the *Wildlife Act*.

(2) The English version of subsection 111.1(3) is amended by striking out “*Travel and Tourism Act*” and substituting “*Tourism Act*”.

(3) The English version of subsection 112(4) is amended by striking out “*Travel and Tourism Act*” and substituting “*Tourism Act*”.

INITIAL REGULATIONS

19.1. Initial regulations must be made under subsection 14(5) of the Act within one year of the coming into force of section 18 of this Act.

COMMENCEMENT

20. (1) This Act, other than section 5, comes into force on a day to be fixed by order of the Commissioner.

(2) Section 5 comes into force on the latter of the date that section 6 of the *Building Code Act* comes into force or the date that the rest of this Act comes into force.