

**EASTERN CAPE TOURISM ACT
NO. 8 OF 2003**

[DATE OF COMMENCEMENT: 31 DECEMBER, 2003]

ACT

To provide for the Eastern Cape Tourism Board; to provide for development and management of tourism industry in the Province; to promote participation of SMME's in the tourism industry in the Province; to provide for sustainable tourism revenue; to provide for the registration of hotels, restaurants, other accommodation establishments, conference centres and tourist amenities; to provide for the licensing of tour operators, tour guides and couriers; to provide for the imposition and collection of levies in respect of hotels and other accommodation establishments, restaurants and designated tourist amenities; and to provide for matters incidental thereto.

BE IT ENACTED by the Legislature of the Province of the Eastern Cape, as follows:—

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CHAPTER 1
DEFINITIONS AND APPLICATION OF ACT

1. Definitions.—In this Act, unless the context otherwise indicates—

“**Accreditation**” means compliance with criteria and standards set out by the board;

“**board**” means the Eastern Cape Tourism Board referred to in section 3;

“**chairperson**” means the chairperson of the board;

“**Chief Executive Officer**” means a person appointed in terms of section 13 (1);

“**conference centres**” means establishments in the business of providing facilities for the hosting of conferences, congresses, conventions, symposia, seminars and exhibitions, not forming part of a hotel or other accommodation establishment;

“**controlling interest**” means any interest of whatever nature whether direct or indirect in any business or other interests in the business of the applicant for a licence, registration, certification, grading or any other right or privilege to be granted by the board and “**control**” has a corresponding meaning;

“**courier**” means a person or business providing carriage for passengers;

“**Department**” means the Department responsible for tourism in the Province;

“**designated tourist amenity**” means a place or thing which has been classified as a designated tourist amenity as contemplated in section 24;

“**Executive Council**” means the Executive Council of the Province;

“**Fund**” means the Eastern Cape Tourism Development Fund established by section 14;

“**hotel**” means premises, wherein or whereon the business of supplying lodging and meals for a reward is or is intended to be conducted, and includes a motel, inn or boatel;

“**immediate family member**” means a spouse, parent, child, brother or sister;

“**judicial officer**” means a judge or a magistrate;

“**levy**” means a levy prescribed in terms of section 27;

“**Legislature**” means the Legislature of the Province;

"member" means a member of the board appointed in terms of section 5 (1);

"MEC" means the member of the Executive Council responsible for tourism in the Province;

"Minister" means the Minister as defined in section 1 of the Tourism Act, 1993 (Act No. 72 of 1996);

"other accommodation establishment" means any premises offering sleeping accommodation to the public for a fee, whether with or without meals and includes a boat or house boat, bed and breakfast, caravan, camping park, farmhouse, guest house, hostel and lodge;

"Province" means the Province of the Eastern Cape established by section 103 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

"prescribed" means prescribed by regulation and **"prescribe"** has a corresponding meaning;

"regulations" means regulations made under this Act;

"restaurant" means premises which are structurally adapted and used for the purpose of supplying meals as prescribed, for a fee, to the public for consumption on the premises;

"spouse" includes a person with whom the member lives as if they are married or with whom the member habitually cohabits;

"Standing Committee" means the Standing Committee of the Legislature responsible for tourism;

"this Act" includes regulations;

"tour guide" means any person who for a reward, whether monetary or otherwise accompanies any person who travels within or visits any place within the Province and who furnishes such person with information or comment with regard to any matter relating to tourism;

"tour operator" means any person who carries on the business of providing tours of any description with their own or other operators' approved vehicles, aircrafts and other facilities; and

"training provider" means any person, organisation or institution providing training, guidance or education within the tourism industry in the Province.

2. Application of Act.—This Act applies throughout the Province.

CHAPTER 2 EASTERN CAPE TOURISM BOARD

3. The board.—There is a juristic person called the Eastern Cape Tourism Board.

4. Powers and duties of board.—The board—

(a) must—

- (i) in furtherance of tourism in the Province, promote or undertake publicity of tourism in any form;
- (ii) promote the development and management of the tourism industry in the Province;
- (iii) promote the participation of SMME's in the tourism industry in the Province;
- (iv) provide advisory and information services;
- (v) promote and undertake research related to tourism;
- (vi) take such steps as the board considers desirable for the encouragement of the development, achievement and maintenance of satisfactory standards in hotels, restaurants, or other places and of things affording or proposed to afford amenities or facilities to tourists within the Province;
- (vii) obtain and provide advice and guidance in connection with the establishment, expansion or conduct of hotels, restaurants, or other places and of things affording or proposed to afford amenities to tourists or tourism; and
- (viii) encourage the adoption of measures for providing training and instruction for persons employed or intending to take up employment in the hotel or catering industry; and

(b) may, within and outside the Province—

- (i) establish, equip and operate, or assist in the establishment, equipment and operation of tourist information bureaux or similar forms of agencies in connection with the promotion of tourism;

- (ii) with the approval of the MEC, contribute or reimburse expenditure incurred by any other person or organisation in doing anything which the board has power to do;
- (iii) purchase, take in exchange, hire or otherwise acquire movable property necessary for exercise of the functions or the performance of duties thereof;
- (iv) establish such branches or offices as the board deems fit; or
- (v) do all such things generally as are incidental to or necessary for the exercise of the powers specified in paragraph (a) and subparagraphs (i) to (iv).

5. Composition of board.—(1) The board must consist of not fewer than five and not more than seven members appointed by the MEC of whom—

- (a) one member must be an officer employed by the Department;
- (b) at least four members must be persons who are actively engaged, or who possess special knowledge or experience in the tourism industry;
- (c) not more than two members may be appointed with the view to making the board representative of the people of the Province.

(2) (a) Members of the board must only be appointed by the MEC after he or she has invited interested parties or individuals to apply or nominate candidates for consideration by him or her, as the case may be.

(b) The invitation contemplated in paragraph (a) must be published in at least two newspapers having a wide circulation or listenership in the Province.

(3) The MEC must appoint a member of the board as chairperson and another member as deputy chairperson.

6. Qualifications.—(1) A member of the board must—

- (a) be a fit and proper person to hold office as a member; and
- (b) have appropriate qualifications or experience.

(2) The following persons are disqualified from becoming or remaining a member of the board:

- (a) a person holding office as a member of Parliament, a Provincial Legislature or a municipal council;
- (b) a person who has been removed from office in terms of section 8;
- (c) a public servant other than a person contemplated by section 5 (1) (a); and
- (d) a person convicted of a criminal offence of which dishonesty is an element.

7. Fees and allowances of members of board.—A member of the board other than a member contemplated in section 5 (1) (a) must be paid such fees and allowances out of the funds of the board as may be determined by the MEC with the concurrence of the MEC responsible for finance in the Province.

8. Term of office of members of board.—(1) A member of the board must hold office for such period, not exceeding three years, as the MEC may determine at the time of his or her appointment, but shall be eligible for re-appointment for not more than one additional term.

(2) A member must vacate his or her office if—

- (a) he or she becomes insolvent or assigns his or her estate for the benefit of creditors;
- (b) he or she becomes of unsound mind;
- (c) he or she is convicted of an offence and sentenced to imprisonment without the option of a fine; or
- (d) without the leave of the chairperson of board, he or she has been absent from 2 consecutive meetings of the board;
- (e) he or she resigns by written notice to the MEC; or
- (f) he or she is removed from office by the MEC, if he or she is of the opinion that it is in the public interest to remove such a member.

(3) The Executive Council may, if it considers it in the public interest, terminate the term of office of all members of the board.

(4) Without prejudice to the generality of subsection (2) (f), the MEC may at any time remove from office any member of the board for reasons of—

- (a) incompetence;
- (b) nepotism;
- (c) dishonesty;
- (d) conflict of interest;
- (e) failure to act in the interests of the board;
- (f) failure to attend to the matters of the board; and
- (g) the member bringing the board into disrepute.

9. Disclosure of interest.—A member must, within seven days of appointment and at any time during his or her term of office, disclose any direct or indirect financial interest which the member concerned or his or her spouse, immediate family member, business partner or associate or employer has in the tourism industry.

10. Effect of conflict of interest.—(1) A member must not vote, attend or in any manner participate in the proceedings at any meeting or hearing of the board if, in relation to any matter before the board—

- (a) he or she or his or her immediate family member, partner or business associate is a director, member or partner of or has a controlling interest or any financial or other interests in the business of the applicant for a licence, registration, certification, grading or any other right or privilege to be granted by the board;
- (b) he or she has any interest which precludes him or her from performing his or her functions as a member in a fair, unbiased and proper manner; and
- (c) if at any stage during the course of any proceedings before the board, it appears that he or she has or may have any interest contemplated in this subsection.

(2) Where there is doubt as to whether a member is or is not restricted by the provisions of subsection (1) that member must leave the meeting or hearing to enable the remaining members to discuss the matter and determine whether that member is precluded from participating in the proceedings at such meeting or hearing by reason of a conflict of interest.

(3) The decision taken by the remaining members regarding such determination of conflict of interest must be recorded in the minutes of the proceedings.

(4) If any member fails to disclose any interest contemplated in subsection (1) or if, having such an interest, he or she attends or in any manner participates in the proceedings at the meeting or hearing concerned, the relevant proceedings at the meeting or hearing may be declared null and void: Provided that no decision in terms of this Act, relating to the granting, amendment, renewal, transfer, revocation or withdrawal of a licence, registration, certification or grading must thereby be invalidated.

11. Meetings of board.—(1) Meetings of the board must be held at a time and place determined by the chairperson of the board: Provided that the chairperson may convene a special meeting at any time and must convene such a meeting if four members of the board have requested him or her in writing to do so and have indicated to him or her the purpose for which they desire such meeting: Provided further that the board must meet at least once every two months.

(2) Whenever the chairperson convenes a special meeting of the board he or she must do so in writing and must state the purpose for which the meeting is being convened.

(3) At any meeting of the board a majority of the total number of members constitutes a quorum.

(4) The decision of a majority of the members present at any meeting of the board must be the decision of the board and, in the event of an equality of votes, the chairperson must have a casting vote over and above his or her deliberative vote.

(5) The order of business at any meeting of the board must be determined by the chairperson.

(6) If at any time the chairperson cannot attend a meeting, the deputy chairperson must chair that meeting.

(7) In the absence of the chairperson and deputy chairperson the members present in a meeting must elect one of their number to preside.

12. Committees of board.—(1) For the better exercise of its functions and powers the board may establish one or more advisory committees.

(2) The chairperson of the board or of a committee may, at any time, and at any place, convene a meeting of that committee.

(3) The procedure at meetings of a committee must be determined by the board.

(4) On the establishment of a committee in terms of subsection (1) the board—

(a) must appoint to that committee at least 1 member of the board who shall be the chairperson of the committee; and

(b) may co-opt to that committee persons who are not members of the board.

(5) The board may at any time disestablish a committee.

13. Officers of board.—(1) The board must, with the approval of the MEC, appoint a Chief Executive Officer who must be an *ex officio* member of the board but must not be entitled to a vote.

(2) The board must, from time to time, appoint as officers, such persons as may be required for the carrying out of the objects of this Act and may, in its discretion, dismiss any officer or employee from its service subject to any procedure or disciplinary code it may prescribe.

(3) The board must pay to officers in its service such remuneration, allowances, bonuses, subsidies and pension or other benefits as may be determined by the board, with the approval of the MEC, granted with the concurrence of the MEC responsible for finance in the Province.

(4) A person appointed as an officer under subsection (2) may not be appointed as a member of the board.

14. Eastern Cape Tourism Development Fund.—(1) There is hereby established a fund called Eastern Cape Tourism Development Fund.

(2) The Fund must be used for the development or empowerment of the previously disadvantaged persons or communities in the tourism industry with moneys appropriated by the Legislature for this purpose or from any other source.

(3) The board must, in consultation with the MEC, develop an implementation plan for subsection (2).

(4) The management and control of the Fund must, subject to the provisions of this Act, be vested in the board.

15. Funds of board.—Funds of the board must consist of—

(a) money appropriated by the Legislature;

(b) levies and fees charged by the board in terms of this Act; and

(c) money accrued by the board from any other source.

16. Delegation of powers and assignment of duties.—(1) The board may—

(a) delegate powers and duties conferred upon it under this Act to any member of the board, Chief Executive Officer or committee; or

(b) assign any of its duties in terms of this Act to the Chief Executive Officer.

(2) The Chief Executive Officer may, for the effective execution of the provisions of this Act—

(a) delegate a power conferred on him or her by this Act; or

(b) assign a duty imposed upon him or her by this Act, to any member of staff.

(3) A person to whom a power has been delegated or duty has been assigned, must exercise the power or perform the duty subject to conditions the board considers necessary.

(4) A delegation or assignment—

(a) must be in writing;

(b) does not prevent the board or Chief Executive Officer from exercising that power or performing that duty; and

- (c) may at any time be withdrawn in writing by the person who granted it.

17. Accountability.—The board must be the accounting authority and must be charged with accounting in respect of all monies received by, or accruing to, and all payments made by it.

18. Annual report and financial statements.—(1) The board must—

- (a) keep full and proper records of its financial affairs;
- (b) prepare financial statements for each financial year in accordance with generally accepted accounting practices;
- (c) submit those financial statements within two months after the end of the financial year to the Auditor-General; and
- (d) submit within five months of the end of a financial year to the Provincial Treasury, MEC and to the Auditor-General if he or she did not perform the audit of the financial statements—
 - (i) an annual report on the activities of the board during that financial year;
 - (ii) the financial statements for that financial year after the statements have been audited; and
 - (iii) the report of the auditors on those statements.

(2) The annual report and financial statements referred to in subsection (1) (d) must—

- (a) fairly present the state of affairs of the board, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned; and
- (b) include particulars of—
 - (i) any material losses through criminal conduct and any irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year;
 - (ii) any criminal or disciplinary steps taken as a consequence of such losses or irregular expenditure or fruitless and wasteful expenditure;
 - (iii) any losses recovered or written off;
 - (iv) any financial assistance received from the state and commitments made by the state on its behalf; and
 - (v) any other matters that may be prescribed.

(3) The board must submit the report and statements referred to in subsection (1) (d) to the MEC for tabling in the Legislature.

CHAPTER 3 REGISTRATION

19. Registration of tour guides, tour operators, couriers, training providers, hotels, other accommodation establishments, conference centres, restaurants and designated tourist amenities.—For the purposes of establishing a comprehensive database of the tourism industry, the board must keep a register of—

- (a) tour guides;
- (b) tour operators;
- (c) couriers;
- (d) training providers;
- (e) hotels;
- (f) other accommodation establishments;
- (g) conference centres;
- (h) restaurants; and
- (i) designated tourist amenities.

20. Notice for registration of tour guides, tour operators, couriers, training providers, hotels, other accommodation establishments, conference centres, restaurants and designated tourist amenities.—(1) The MEC must on the advice of the board, by notice in the *Provincial Gazette*, and in two newspapers widely circulating in the Province, declare that, as from the date specified in the notice, being not less than twelve months from the date of publication of the notice, hotels, other accommodation establishments, conference centres, restaurants, designated tourist amenities, tour guides, tour operators, couriers and training providers of such class as are specified in the notice, must be registered in accordance with the procedure and criteria as prescribed.

(2) If in the opinion of the board, the registration process cannot be completed within the year prescribed, the MEC may, by notice in the *Provincial Gazette*, extend the period.

(3) No person may conduct the business of a hotel, other accommodation establishment, conference centre, restaurant, designated tourist amenity, tour guide, tour operator, courier or training provider of a class specified in the notice referred to in subsection (1), after the date fixed for registration in the notice has expired, unless it is registered.

21. Certificate of registration.—The board must, on payment of a prescribed fee, issue to the person who is conducting or operating hotels, other accommodation establishments, conference centres, tour guides, tour operators, couriers, restaurants, designated tourist amenities or training providers, a certificate of registration in the prescribed form.

22. Refusal, withdrawal and cancellation of registration.—The board may—

- (a) refuse an application for registration; or
- (b) withdraw a registration; or
- (c) cancel a registration.

23. Appeal against a decision of board.—(1) Any person who is aggrieved by any decision of the board with regard to—

- (a) refusal of an application for registration; or
- (b) withdrawal of any registration; or
- (c) cancellation of any registration,

may, in the prescribed manner, appeal to the MEC.

(2) The MEC may require the board to furnish him or her with the written reasons for its decision, and a record of the proceedings.

(3) When an appeal is noted—

- (a) the decision of the board must be suspended, until the appeal is finalised; or
- (a) against the refusal to renew any registration, the MEC may extend the validity of such registration, until the appeal is finalised.

(4) The MEC must, after considering the representation and reasons furnished by the board for its decision—

- (a) uphold the decision of the board; or
- (b) set aside such decision,

and if he or she decides to set the decision aside, substitute it with a proper decision.

(5) The decision of the MEC is final.

24. Accreditation, classification and grading requirements.—Accreditation, classification and grading of hotels, other accommodation establishments, conference centres, restaurants, designated tourist amenities, tour guides, tour operators, couriers and training providers, must be done by the Minister or a body, structure or institution established or appointed by him or her in terms of the national legislation governing tourism.

25. Publication of a list of hotels, other accommodation establishments, conference centres, restaurants, tour guides, tour operators, couriers, designated tourist amenities or training providers.—The board must publish at least once a year, in such a manner as it may determine, a list of registered hotels, other accommodation establishments, conference centres, restaurants, tour guides, tour operators, couriers, designated tourist amenities and training providers together with such particulars as it may determine.

26. Period of validity of registration.—A registration made in terms of this Act, is renewable on an annual basis, subject to the payment of prescribed fees.

CHAPTER 4 PAYMENT OF LEVY

27. Payment of levy.—(1) The MEC may prescribe a levy payable in terms of this Act in respect of registered hotels, other accommodation establishments, conference centres restaurants, tour operators, tour guides, couriers, and designated tourist amenities.

(2) The board may, by civil action in a competent court, recover the amount of levy which is due in terms of this Act, from a person liable for payment.

CHAPTER 5 INSPECTION OF PREMISES

28. Designation of inspectors.—(1) The board may appoint or designate any officer of the board as an inspector.

(2) An inspector must, in the exercise of his or her powers in terms of this Act, be deemed to a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(3) Certificate of appointment or designation in the prescribed form issued by the board certifying that a person has been appointed or designated as an inspector must be *prima facie* proof of the appointment or designation.

29. Powers and duties of inspectors.—(1) An inspector may conduct an inspection and monitor and enforce compliance with this Act and any other law which authorises him or her to conduct an inspection or monitor or enforce compliance of any tourism related matter.

(2) Subject to any other law, an inspector who conducts an inspection may—

- (a) question any person present on any land or premises in respect of any matter which may be relevant to the inspection;
- (b) question any person whom the inspector believes may have information relevant to the inspection;
- (c) inspect any document that a person is required to maintain in terms of this Act or any other law or that may be relevant to any tourism related inspection;
- (d) copy any document referred to in paragraph (c), or if necessary, remove the document in order to copy it;
- (e) take photographs or make audio-visual recordings of anything or any person, process, action or condition on or regarding any land or premises; and
- (f) issue compliance notices in terms of section 36 or close down premises in terms of section 37;
- (g) do all things necessary for conducting the inspection.

(3) An inspector who removes anything from land or premises being inspected, must—

- (a) issue a receipt for it to the owner of or person in control of the land or premises; and
- (b) return it as soon as practicable after achieving the purpose for which it was removed.

30. Entry with warrant.—(1) An inspector may enter any land or premises if a judicial officer has issued a warrant in accordance with subsection (2) to enter or inspect the land or premises, and the warrant is still valid.

(2) A judicial officer may issue a warrant to enter and inspect any land or premises, if, from information in writing on oath, the judicial officer has reason to believe that—

- (a) it is necessary to obtain information, in the interest of the public, that cannot be obtained without entering the land or those premises; or
- (b) there is non-compliance with this Act.

- (3) A warrant in terms of subsection (2) may be issued at any time and must specifically—
- (a) identify the land or premises that may be entered and inspected; and
 - (b) authorise the inspector to enter and inspect the land or premises and to do anything contemplated in section 29.
- (4) A warrant in terms of subsection (2) is valid until—
- (a) it is executed;
 - (b) it is cancelled by the judicial officer who issued it or, in his or her absence, by another judicial officer;
 - (c) the purpose for which it was issued has lapsed; or
 - (d) 90 days have passed since the date it was issued.
- (5) Before commencing any inspection, an inspector who carries out a warrant must—
- (a) if the owner of or a person apparently in control of the land or premises is present—
 - (i) identify himself or herself and explain his or her authority to that person or furnish proof of his or her appointment or designation; and
 - (ii) hand copy of the warrant to that person or a person named in it; or
 - (b) if the owner or person apparently in control of the land or premises is absent or refuses to accept a copy, attach a copy of the warrant to the land or premises in a prominent and visible place.

31. Entry without warrant.—(1) An inspector who does not have a warrant in his or her possession may enter and inspect any land or premises with the consent of the owner or person apparently in control of the land or those premises: Provided such person is apparently above the age of 18 years.

(2) In addition to the entry permitted in terms of subsection (1), an inspector may enter any land or premises without a warrant—

- (a) if authorised to do so by any other law; or
- (b) in respect of which there is an outstanding compliance notice issued in terms of section 36, for purposes of determining whether that notice has been complied with.

(3) Before commencing an inspection on any land or premises in terms of this section, an inspector must identify himself or herself and explain his or her authority or furnish proof of his or her appointment or designation to the person apparently in control of the land or premises or the person who gave permission to enter.

(4) An entry and inspection without a warrant must be carried out between sunrise and sunset.

32. Use of force.—(1) An inspector carrying out a warrant in terms of section 30 may overcome any resistance to entry or inspection by using force that is reasonably required, including breaking a lock, door or window of the land or premises to be entered.

(2) Before using force, the person carrying out the warrant must audibly demand admission and must announce his or her purpose, unless he or she reasonably believes that doing so may induce someone to destroy, dispose of, or tamper with, any object or document that is the object of the inspection.

(3) Subject to any other law, or in the case of an emergency, force may not be used to effect an entry or to conduct an inspection in terms of section 31.

33. Inspectors may be accompanied.—An inspector may be accompanied during an inspection by a member of the South African Police Services, or any other person reasonably required to assist in conducting the inspection.

34. Duty to produce documents.—Any person who is in possession of any document relevant to an inspection, must produce it at the request of the inspector.

35. Duty to answer questions and assist inspectors.—(1) Any person who is questioned by an inspector in terms of this Chapter must first be informed of his or her constitutional rights before any questioning commences and any voluntary answer thereafter by that person must be truthful and to the best of his or her ability.

(2) An answer or explanation given to an inspector may not be used or admitted in criminal proceedings against the person who provides it, except in proceedings against that person on a charge relating to—

- (a) the administration or taking of an oath;
- (b) the making of false statements; or
- (c) the failure to answer a lawful question fully and satisfactorily.

(3) An owner or occupier of any land or premises must provide any facility and assistance that is reasonably required by an inspector to perform his or her functions effectively.

36. Compliance notices.—(1) An inspector who is of the opinion that any provision of this Act has not been complied with, may, subject to subsection (2), issue a compliance notice in the prescribed form to the owner or person apparently in control of the relevant land or premises.

(2) A compliance notice contemplated in subsection (1) must set out—

- (a) the provision that has allegedly not been complied with;
- (b) details of the nature and extent of the alleged non-compliance;
- (c) any steps that are required to be taken and the period within which those steps must be taken; and
- (d) any penalty that may be imposed in terms of section 40 in the event of non-compliance with those steps.

(3) A compliance notice must remain in force until an inspector issues a prescribed compliance certificate in respect of that notice.

(4) An inspector who is satisfied that the owner or person apparently in control of any land or premises has satisfied the terms of a compliance notice may issue a prescribed compliance certificate to indicate that compliance.

37. Closing of registered and other premises.—An inspector may close down any registered or other premises where—

- (a) the registered owner or person concerned, or his or her manager or agent fails to comply with a compliance notice issued in respect of such premises in terms of section 36; and
- (b) the owner of unregistered premises fails to register such premises in terms of section 19.

38. Offences regarding inspections.—No person shall—

- (a) refuse to grant an inspector access to premises to which the inspector is duly authorised to have accessed;
- (b) obstruct, interfere, or hinder an inspector who is exercising a power or performing a duty in terms of this Act;
- (c) refuse to provide an inspector with a document or information that the person is lawfully required to provide in terms of this Act;
- (d) furnish false or misleading information to an inspector;
- (e) unlawfully prevent the owner of any land or premises, or a person working for that owner, from entering the land or premises in order to comply with a requirement of this Act;
- (f) pretend to be an inspector;
- (g) falsify an authorisation or a warrant, compliance notice or compliance certificate contemplated in this Chapter;
- (h) fail to comply with a compliance notice issued in terms of this Chapter;
- (i) enter any land or premises without a warrant in circumstances requiring a warrant;
- (j) act contrary to a warrant issued in terms of this Chapter;
- (k) without authority enter or inspect land or premises;
- (l) disclose any information relating to the financial or business affairs of any person which was acquired in the exercise of any power or performance of any duty in terms of this Act except—
 - (i) to a person who requires that information in order to exercise a power or perform a duty in terms of this Act;
 - (ii) where the disclosure is ordered by a competent court; or
 - (iii) where the disclosure is in compliance with the provisions of any law.

CHAPTER 6
GENERAL PROVISIONS

39. Repeal of laws and savings.—(1) The Eastern Cape Tourism Board Act, 1995 (Act No. 9 of 1995), is hereby repealed.

40. Offences and penalties.—(1) Any person who—

- (a) contravenes the provisions of section 38 of this Act; or
- (b) in the opinion of the board wilfully publishes or causes or allows to be published in any manner false or misleading information relating to any hotel, restaurant, tour operator, tour guide, courier, other accommodation establishment, or tourist amenity; or
- (c) being the person responsible therefore fails or refuses to pay any levy or to collect and or remit any such levy in terms of this Act; or
- (d) hinders or obstructs the board, an officer of the board or a designated officer in the exercise of his or her powers or performance of his or her duties; or
- (e) wilfully furnishes to the board, officer of the board or designated officer, false or misleading information; or
- (f) carries on a business referred to in section 19 without registration;
- (g) contravenes any provision of this Act, which is not elsewhere specifically declared to be an offence,

must be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding 2 years or to both such fine and imprisonment.

(2) Judgment given by a court in terms of subsection (1), must have the same force and effect of a civil judgment.

41. Regulations.—(1) The MEC may by notice in the *Provincial Gazette*, make regulations regarding the following matters:

- (a) payment of levy by the person liable, collection of levy by the person responsible, the manner of payment, collection and remittal;
- (b) fees payable in respect of registration for tour operators, tour guides and couriers, on a cost recovery basis;
- (c) procedure and criteria for registration;
- (d) the records and accounts to be kept by any registered hotel, conference centre, restaurant, tour operator, tour guide, courier, other accommodation establishment and tourist amenity.

(2) Subject to subsection (1), the MEC may make other regulations he or she deems necessary to prescribe for achieving the objects of this Act.

(3) Provided that before making such regulations the MEC must cause the publication of draft regulations in the *Gazette* inviting comments.

42. Short title.—This Act is called the Eastern Cape Tourism Act, 2003.
