



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 67

(2015, chapter 31)

An Act mainly to improve the regulation of tourist accommodation and to define a new system of governance as regards international promotion

Introduced 22 October 2015

Passed in principle 18 November 2015

Passed 1 December 2015

Assented to 2 December 2015

EXPLANATORY NOTES

This Act amends the Act respecting tourist accommodation establishments to define the notion of “tourist”, to specify the cases in which the Minister of Tourism may or must refuse to issue a classification certificate or suspend or cancel a certificate, and to allow the Minister to delegate the Minister’s responsibilities as regards the suspension and cancellation of such certificates.

The Act also amends that Act to include provisions relating to investigations and to revise its penal provisions.

In addition, the Act amends the Act respecting the Ministère du Tourisme to allow the Minister to entrust certain ministerial functions to a recognized body or group of recognized bodies and to allow the Minister to determine the purposes for which certain sums paid out to regional tourism associations must be used.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting tourist accommodation establishments (chapter E-14.2);
- Act respecting the Ministère du Tourisme (chapter M-31.2).

Bill 67

AN ACT MAINLY TO IMPROVE THE REGULATION OF TOURIST ACCOMMODATION AND TO DEFINE A NEW SYSTEM OF GOVERNANCE AS REGARDS INTERNATIONAL PROMOTION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING TOURIST ACCOMMODATION ESTABLISHMENTS

1. Section 1 of the Act respecting tourist accommodation establishments (chapter E-14.2) is amended by adding the following paragraph at the end:

“In this Act, unless the context indicates otherwise, “tourist” means a person who takes a leisure or business trip, or a trip to carry out remunerated work, of not less than one night nor more than one year outside the municipality where the person’s place of residence is located and who uses private or commercial accommodation services.”

2. Section 6 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“**6.** The operation of a tourist accommodation establishment is subject to the issue of a classification certificate.”;

(2) by adding the following paragraph at the end:

“The person applying for the classification certificate is required to inform the Minister of any offence referred to in section 11.0.1 of which the person has been found guilty or for which the person has been the subject of a non-compliance order.”

3. The Act is amended by inserting the following section after section 6:

“**6.1.** On receiving an application for a classification certificate for a tourist accommodation establishment for which no certificate has been issued or an application to change the class of tourist accommodation establishment or the type or number of accommodation units offered, the Minister shall send a notice to the municipality, borough or regional county municipality in whose territory the establishment is situated informing it of the application and the intended use.

If the intended use is not in conformity with the municipal planning by-laws relating to uses passed under the Act respecting land use planning and development (chapter A-19.1), the municipality, borough or regional county municipality must inform the Minister within 45 days of the notice.

This section does not apply to an establishment situated on an Indian reserve.”

4. Section 8 of the Act is amended by replacing “a person to operate” in the second paragraph by “the operation of”.

5. Section 11 of the Act is replaced by the following section:

“**11.** The Minister shall refuse to issue a classification certificate if the person applying for it does not meet the conditions prescribed by this Act and the regulations.

The Minister shall also refuse to issue a classification certificate if the municipality, borough or regional county municipality informs the Minister, in accordance with section 6.1, that the intended use of the tourist accommodation establishment is not in conformity with the municipal planning by-laws relating to uses passed under the Act respecting land use planning and development (chapter A-19.1).”

6. The Act is amended by inserting the following section after section 11:

“**11.0.1.** The Minister may refuse to issue a classification certificate if the person applying for it has, in the last three years, been found guilty of an offence under this Act or the regulations, the Building Act (chapter B-1.1) as regards barrier-free design, the Environment Quality Act (chapter Q-2), the Consumer Protection Act (chapter P-40.1) or the Act respecting the conservation and development of wildlife (chapter C-61.1), unless the person has been pardoned or has, in the last three years, been the subject of a non-compliance order made under any of those Acts.”

7. Section 11.1 of the Act is replaced by the following sections:

“**11.1.** The Minister shall suspend or cancel a classification certificate if its holder no longer meets the conditions prescribed by this Act and the regulations.

“**11.2.** The Minister may suspend or cancel a classification certificate if its holder has, during the term of the classification certificate, been found guilty of an offence under this Act or the regulations, the Building Act (chapter B-1.1) as regards barrier-free design, a municipal planning by-law relating to uses passed under the Act respecting land use planning and development (chapter A-19.1), the Environment Quality Act (chapter Q-2), the Consumer Protection Act (chapter P-40.1) or the Act respecting the conservation and development of wildlife (chapter C-61.1), unless the holder has been pardoned

or has, during the term of the classification certificate, been the subject of a non-compliance order made under any of those Acts.

The classification certificate holder is required to inform the Minister without delay of any offence referred to in the first paragraph of which the holder has been found guilty or for which the holder has been the subject of a non-compliance order.”

8. Section 14.1 of the Act is amended by inserting “, suspension or cancellation” after “the issue”.

9. Section 15 of the Act is replaced by the following section:

“**15.** A decision refusing to issue, suspending or cancelling a classification certificate may, within 30 days of its notification, be contested before the Administrative Tribunal of Québec.”

10. Section 30 of the Act is amended by replacing “, other than a provisional classification certificate” by “or the provisional classification certificate, as applicable”.

11. The Act is amended by inserting the following section after the heading of Division IV:

“**32.2.** The inspectors responsible for the enforcement of this Act and the regulations are designated by the Minister.

The Minister may also enter into a written agreement with a person regarding the carrying out of an inspection program for the enforcement of this Act and the regulations. Such an agreement must provide for the method of implementing the program.”

12. Section 33 of the Act is amended

(1) by replacing the introductory clause of paragraph 1 by the following clause:

“**33.** An inspector may, in performing the inspector’s duties,”;

(2) by replacing paragraph 3 by the following paragraph:

“(3) require any document or information relating to the enforcement of this Act and the regulations.”

13. Section 35 of the Act is repealed.

14. The Act is amended by inserting the following after section 35:

“35.1. An inspector may not be prosecuted for an act done in good faith in the performance of the inspector’s duties.

“DIVISION IV.1

“INVESTIGATION

“35.2. The Minister may investigate or direct a person the Minister designates to investigate any matter relating to the enforcement of this Act or the regulations.

“35.3. An investigator may not be prosecuted for an act done in good faith in the performance of the investigator’s duties.”

15. The Act is amended by inserting the following sections after the heading of Division VI:

“36.1. Anyone who fails to provide information or a document required by this Act or the regulations is guilty of an offence and is liable to a fine of \$500 to \$5,000 in the case of a natural person and \$1,000 to \$10,000 in other cases.

“36.2. Anyone who contravenes section 30 or a regulatory provision determined by the Government is guilty of an offence and is liable to a fine of \$1,000 to \$10,000 in the case of a natural person and \$2,000 to \$20,000 in other cases.”

16. Section 37 of the Act is amended

(1) by replacing “Every person who” in the introductory clause by “Anyone who” and by adding “and is liable to a fine of \$2,500 to \$25,000 in the case of a natural person and \$5,000 to \$50,000 in other cases” after “offence” in the portion after paragraph 6;

(2) by replacing “or 30, of the first paragraph of section 34, of section 35 or of any regulation prescribed by the Government,” in paragraph 5 by “or 32 or of the first paragraph of section 34,”;

(3) by adding the following paragraphs after paragraph 6:

“(7) in any way hinders an inspector or investigator in the performance of their duties, misleads the inspector or investigator by concealment or misrepresentation, or refuses to provide information or a document the inspector or investigator is entitled to obtain under this Act or the regulations, or

“(8) operates or purports to operate a tourist accommodation establishment without a classification certificate having been issued in accordance with this Act.”.

17. Sections 38 to 41 of the Act are replaced by the following sections:

“38. Anyone who operates or purports to operate a tourist accommodation establishment for which the issue of a classification certificate has been refused or whose classification certificate has been suspended or cancelled is guilty of an offence and is liable to a fine of \$5,000 to \$50,000 in the case of a natural person and \$10,000 to \$100,000 in other cases.

“39. The minimum and maximum fines prescribed by this Act are doubled for a second offence and tripled for a subsequent offence.

“40. If an offence under this Act or the regulations is committed by a director or officer of a legal person, partnership or association without legal personality, the minimum and maximum fines are those prescribed for a legal person for that offence.

“41. Anyone who, by an act or omission, helps or, by encouragement, advice, consent, authorization or order, induces a person to commit an offence under this Act or the regulations is guilty of an offence and is liable to the same penalty as that prescribed for the offence they helped or induced the person to commit.

“41.1. In any penal proceedings relating to an offence under this Act or the regulations, proof that the offence was committed in an immovable owned by the defendant is sufficient to establish that it was committed by the defendant, unless the defendant establishes that they exercised due diligence, taking all necessary precautions to prevent the offence.

“41.2. In any penal proceedings relating to an offence under this Act or the regulations, proof that the offence was committed by a mandatary or employee of any party that is subject to this Act is sufficient to establish that it was committed by that party, unless the party establishes that it exercised due diligence, taking all necessary precautions to prevent the offence.

“41.3. If a legal person or an agent, mandatary or employee of a legal person, partnership or association without legal personality commits an offence under this Act or the regulations, the directors or officers of the legal person, partnership or association are presumed to have committed the offence unless it is established that they exercised due diligence, taking all necessary precautions to prevent the offence.

For the purposes of this section, in the case of a partnership, all partners, except special partners, are deemed to be directors of the partnership unless there is evidence to the contrary appointing one or more of them, or a third person, to manage the affairs of the partnership.”

ACT RESPECTING THE MINISTÈRE DU TOURISME

18. Section 3 of the Act respecting the Ministère du Tourisme (chapter M-31.2) is amended

(1) by replacing “and policies” in the first paragraph by “, policies and strategies”;

(2) by replacing “and policies” in the second paragraph by “, policies and strategies”.

19. Section 4 of the Act is amended

(1) by striking out “and the development of new tourism experiences” in paragraph 3;

(2) by replacing “offer and provide a framework for” in paragraph 5 by “ensure and oversee the provision of”;

(3) by adding the following paragraph at the end:

“(10) to guide, plan and coordinate strategic knowledge development with respect to tourism.”

20. Section 5 of the Act is amended

(1) by replacing “and policies” in paragraph 1 by “, policies and strategies”;

(2) by replacing “tourism services, facilities or territories” in paragraph 5 by “tourism services”.

21. Section 6 of the Act is amended

(1) by replacing “and policies” in the first paragraph by “, policies and strategies”;

(2) by replacing “community bodies, in particular regional tourism associations, for the purpose of carrying out the ministerial” in the second paragraph by “such community bodies as are necessary for the pursuit of the Minister’s”.

22. The Act is amended by inserting the following section after section 6:

“6.1. The Minister may entrust the functions described in section 4 to a recognized body. The Minister may also entrust the functions described in paragraph 1 of section 4 to a group of recognized bodies.

The group must be constituted as a non-profit legal person whose members are the bodies recognized under the second paragraph of section 6.”

23. Section 25 of the Act is amended by replacing the second paragraph by the following paragraph:

“The Minister shall determine the terms of payment and the purposes for which such sums must be used.”

TRANSITIONAL AND FINAL PROVISIONS

24. The competent committee of the National Assembly is to hear the body referred to in section 6.1 of the Act respecting the Ministère du Tourisme (chapter M-31.2) within two years after the coming into force of this Act.

25. This Act comes into force on the date to be set by the Government.