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DETAILED CONCEPT ON THE LAW OF TOURISM

USAID GOVERNING FOR GROWTH (G4G) IN GEORGIA

May 20, 2019

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USAID CONTRACTING OFFICER'S REPRESENTATIVE:

PHILLIP GREENE

AUTHOR(S): JOHN J. DOWNES

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Reviewed By: Irakli Gelovani, Tamar Buadze, Nino Chokheli

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ACRONYMS

ABTA	Association of British Travel Agents
APE	Accreditation for prior experience
APL	Accreditation for prior learning
ART	Applicable risk turnover
ASEAN	Association of South East Asian Nations
BTA	British Tourist Authority
CERT	Council of Education, Recruitment and Training (Ireland)
CSIA	Canadian Ski Instructors Alliance
DA	Driver's Authorization (Australia)
DEFRA	Department for Environment, Food and Rural Affairs
DMO	Destination management organization
EG	Enterprise Georgia
EIA	Environmental impact assessment
ENIT	Ente Nazionale Italiano Turismo (Italy)
EPA	Economic Partnership Agreement
EU	European Union
EZ	Enterprise zone (England)
FEZ	Food enterprise zone (England)
G4G	Governing for Growth in Georgia
GAG	Georgian Association of Guides
GATS	General Agreement on Trade in Services
GMGA	Georgian Mountain Guides' Association
GNTA	Georgian National Tourism Administration
GNTO	Greek National Tourism Organization
HRD	Human resources development
IATA	International Air Transport Association
IHF	Irish Hotels Federation
IMS	Information management system
ISIA	International Ski Instructors Association
MICE	Meetings, incentives, conferences, and exhibitions
MTA	Malta Tourism Authority
NGO	Nongovernmental organization
NTA	National Tourism Administration
NTO	National Tourism Organization
OTA	Online travel agent
PPP	Public-private partnership
PPV	Public passenger vehicle
PTD	Package Travel Directive
RSA	Regional Selective Assistance (Scotland)
SADC	Southern African Development Community
SCBT	Sustainable Community-Based Tourism
SDI	Scottish Development International
SME	Small and medium enterprises
SMS	Safety management system

STGA	Scottish Tourist Guides' Association
TDFP	Tourism Development Financing Program (Virginia)
TDZ	Tourism development zone
TIC	Tourism Industry Council (England)
TPSAC	Tourism Private Sector Advisory Committee
UNWTO	World Tourism Organization
USAID	United States Agency for International Development
VAT	Value-added tax
WFTGA	World Federation of Tourist Guides' Associations

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1. EXECUTIVE SUMMARY

The goal of this proposed new regulatory framework is to facilitate the realization of Georgia's Tourism Strategy 2025. This was reviewed in the inception report and the implications are set out in Section 2 of this report.

Section 3 of the report provides a conceptual framework. The importance of law in facilitating tourism development is discussed, and the harmonization of tourism law is considered. Tourism is an export, and involves transactions across national boundaries and could possibly involve conflicts of laws and jurisdictional issues. To address that, regional economic entities, such as the EU, have harmonized many aspects of travel and tourism law, and Georgia is committed to aligning with the EU in this sphere. Section 5 looks at how much alignment has already taken place and what needs to change as a result of recent EU legal developments.

Harmonization is taking place not just regionally but also internationally, and Section 4 looks at how 17 countries worldwide regulate the tourism sector, as well as what does or does not work. The lessons for Georgia are identified—and have influenced—the recommendations in this report.

Section 6 sets out areas to address in building a comprehensive framework. The importance of using accurate, consistent, and clear definitions of tourism entities, activities, and transactions based on international best practice, as well as the definitions' importance for statistics, research, and tourism satellite accounting, is considered. The importance of a strong institutional framework is addressed, as is the relationship with the private sector. The report also addresses the need for positive compliance mechanisms, insurance, tax, and incentives.

Section 7 looks at the various legal mechanisms that can be used to regulate business and their practical application to the tourism sector. A coherent approach to regulations is posited together with the justification for regulating in the sector.

Section 8 considers the regulatory framework for the different parts of the sector based on best practice from elsewhere adapted to Georgian needs.

Section 9 sets out detailed recommendations for new tourism law and regulations.

2. FACILITATING GEORGIA'S TOURISM STRATEGY 2025

SUMMARY OF THE STRATEGY

- This section sets out a 10-year vision and strategic plan for “growing the value and importance of tourism to the country’s national economy and its people.”
- The Strategy emphasizes the importance of partnership between the public, private, and nongovernmental organization (NGO) sectors.
- Goals of the strategy include the following:
 - Maximize tourist satisfaction.
 - Diversify markets and products.
 - Sustainably increase the size and profitability of the industry.
 - Maximize opportunities for job creation.
- The Government of Georgia will place a higher emphasis on increasing the contribution of tourism to the country’s economy.
- The quality of service needs improvement.
- One of the goals of the strategy is to plan for transforming the country’s unique mix of natural and cultural assets into world-class tourism destinations.
- Developing a diversified and high-quality tourism product will create an opportunity to increase visitor spending.
- The vision: By 2025, Georgia will be well known as a premier, year-round, high-quality tourism destination, centered on its unique cultural and natural heritage, world-class customer service, and timeless tradition of hospitality.
- Guiding principles:
 - Be private sector-driven: Tourism development should be market-driven and industry-led, in partnership with government and civil society.
 - Prioritize markets.
 - Maintain a whole-government approach: Involve all parts of government, at the local and national levels.
 - Focus on sustainability.
 - Extend Georgia’s culture of hospitality.
- Among the strategic objectives are to:
 - Enhance competitiveness, through the delivery of world-class visitor services.
 - Expand and enhance Georgia’s ability to collect and analyze tourism data, and measure industry performance.
 - Enhance the business environment, to facilitate.
 - Increased foreign and domestic investment.
- Priority actions:
 - Develop a quality, safety, and sustainability standards/certification program for the tourism sector and cultural assets.

- Support the industry's transition to digital reservations and payment systems.
- Facilitate the introduction of legal provisions to promote concessions and other forms of economic cooperation between public entities and private businesses at natural and cultural heritage sites and on publicly owned land.
- Update the tourism legislative package.
- Establish a Ministry-level Tourism Strategy Implementation Working Group to ensure effective planning, policies, and investment in strategic priorities.
- Strengthen private sector tourism associations.

Implications for the legal framework for tourism in Georgia and its implementation:

- Facilitate partnerships between the public, private, and NGO sectors.
- Support quality control and quality assurance systems.
- Provide government mechanisms to support tourism development.
- Classify tourism resources.
- Establish mechanisms for ensuring cross-government cooperation and coordination on tourism development.
- Coordinate with national and local government on tourism-development matters.
- Set out legal principles and a framework for sustainable community-based tourism (SCBT).
- Ensure compliance with legal provisions.
- Develop consistent and comprehensive legal definitions for the sector that will support Georgia's ability to collect and analyze tourism data and measure industry performance; ensure equitable treatment for tourism businesses in the tax and incentives system, and facilitate the development of tourism satellite accounting.
- Provide a supportive business-enabling environment to facilitate increased foreign and domestic investment.
- Provide mechanisms to ensure quality, safety, and sustainability standards for the tourism sector.
- Ensure that e-commerce transacting systems are considered in the legal framework.
- Strengthen private sector tourism associations.
- Coordinate with the Georgian National Tourism Administration (GNTA) and Enterprise Georgia (EG) regarding the following:
 - Attracting investment not only in hospitality (hotels) but also in the tourism sector in general (e.g., tourist sites, tourism circuits, tourist attractions, and concessions at the heritage and natural sites).
 - Ensuring that investors are aware of the construction and health and safety requirements.
 - Provisioning a business-friendly regulatory framework for the hospitality and tourism sectors.
 - Properly defining what constitutes a "hotel," so it is consistently used in investment, tax, investment, and tourism legislation.
- Address the issue of Airbnb regulation.
- Review the conditions for the construction and renovation of tourist accommodations.
- Ensure that regulatory recommendations do not pose a barrier to innovation in the sector.
- Consider that legislation must address new technology regarding applications and online booking systems that enable consumers to contract their own tourism packages, as well as new ways of providing tourist accommodations (e.g., boutique hotels, Airbnb, "glamping" (luxurious

camping); new holiday experiences (e.g., extreme sports, farm holidays, working holidays, trekking holidays, special interest groups, etc.); and themed tours, such as jazz tours, dark tourism, etc.

- Address the issue of “stealing copy” (i.e., copying another tour operator’s descriptions and photographs from brochures, online descriptions, or other promotional material).
- Consider the need to harmonize quality, safety, health, and environmental standards for the tourism sector with the EU.
- Brainstorm broadening the range of tourism enterprises that might benefit from EG’s incentive schemes.
- Establish clear guidelines, enhance enforcement capabilities, and create resources to support businesses in compliance.
- Provide consideration to inserting “twilight clauses” in regulations, so that they automatically expire by a certain period unless renewed or amended.

3. CONCEPTUAL FRAMEWORK

A. INTERNATIONAL BEST PRACTICE AND HARMONIZATION OF TOURISM LAW

Although Georgia already has a Law on Tourism and a few other regulatory measures dealing with resorts, spas, free zones, etc., some of them are rather vague—and most of it is out of date. The government wants to place greater emphasis on the role of the private sector in investment, direct production, and employment creation. Georgia has an opportunity to produce a modern institutional and regulatory framework in which the private tourism sector and SCBT can thrive, by ensuring high professional standards and developing quality tourism products. In doing so, Georgia can draw best practices from relevant experience elsewhere and—given its membership to the World Trade Organization and through the implementation of the General Agreement on Trade in Services (GATS)—reflect them upon the international harmonization of its travel and tourism law.

Worldwide, there is a process of converging travel and tourism laws. The development of international laws themselves reflects convergence. Convergence has taken place internationally (World Tourism Organization (UNWTO) Convention on Tourism Ethics 2017, Montreal Convention 1999) and regionally (the EU Package Travel Directive 2015), as well as in coordination with the Southern African Development Community (SADC) countries, Mercosur, and ASEAN. Many non-EU countries are adopting or adapting the EU legislative measures on tourism. This latter is the intention of the Georgian government under the Economic Partnership Agreement (EPA) agreement.

B. THE ROLE OF GOVERNMENT IN TOURISM DEVELOPMENT

The role of the government should be to support the private sector. It also should promote social equity, sustainable community tourism development, the value chain approach, and the need to remove barriers to investment. The role of the Ministry of Economy and Sustainable Development (MoESD) should be to provide leadership, policy development, and political mediation. It should focus on strategic and policy issues and be responsible for the regulatory framework. The GNTA should be responsible for promoting product development, entrepreneurship in the sector, and marketing and promotion. The government has also emphasized the importance of community-based tourism development.

C. PROTECTING THE CONSUMER

Providing protection for the foreign tourist consumer is an essential element of any tourism law. Georgia should, of course, provide protection for all consumers, domestic or foreign; however, there exists some domestic consumer protection of which the foreign tourist will be unaware and have little practical redress, because of their short stay in the country.

The recommendations provide consumer protection measures for hotel guests, customers of travel agents and tour operators, clients of tourist guides, and tourist transportation passengers that are virtually universal and which are based on international conventions to which Georgia is a party.

D. NATIONAL AND LOCAL COORDINATION

The principles of sustainable development of tourism should be enshrined in the Law on Tourism. A core element is to ensure that local communities benefit from, and participate in, tourism development. Nonetheless, Georgia is marketed as a whole, and there is a legitimate national interest to ensure that local activities fit in with the national tourism strategy and the tourism master plan.

Implications for the legal framework for tourism in Georgia and its implementation:

- Regional authorities should provide input for the master plan and relevant regulations should provide mechanisms for this.
- Consider the appointment of regional tourism officers and a tourism council for cooperation between national and local government.

4. REGULATION OF TOURISM IN OTHER COUNTRIES

A. ARGENTINA

The National Tourism Administration (NTA) is the Secretariat of Tourism (Secretaría de Gobierno de Turismo de la Presidencia de la Nación). In effect, it is a hybrid of the NTA and the National Tourism Organization (NTO) as—in addition to the usual functions of strategy, planning, and regulation—it also has competences for promoting inbound international tourism through its National Tourism Promotion Institute (Instituto Nacional de Promoción Turística), which is not an independent NTO but comes under the auspices of the Secretariat of Tourism. There are private sector representatives on the board of the institute, but it is a state body.

The national law governing hotels only applies to territories under federal jurisdiction. Hotels must, in addition to being registered as a business entity, also have a license. It includes a requirement to have a stated minimum number of rooms. For most of the country, the regulation of hotels is a matter for the provincial government. All specify a minimum number of rooms to be designated a hotel, but the number varies from province to province. The liability of hotelkeepers is regulated by the National Civil and Commercial Code

Other tourist accommodations: Guesthouses, bed and breakfast establishments, boarding houses, Airbnbs, and campsites are all subject to provincial law. Some are regulated, and some are not. Timeshares are governed by national law, however, provides powers to the provinces.

Licensing and certification: Tour operators, travel agents, ground-handling agents, and tourist guides are all required to have a license. Ski and sports instructors are not licensed but are required to have certification from private national or international bodies.

Implications for the legal framework for tourism in Georgia and its implementation:

- If the GNTA is to be the NTO or hybrid NTA/NTO, it should have representatives of the private sector on the board.
- Georgia will be marketed as a national destination and, therefore, it is preferable to set national standards for tourism enterprises, but these can be enforced at a provincial/local level.
- It is preferable in Georgia not to license ski and sports instructors but to require them to have certification from private national or international bodies.

B. ARMENIA

Tour operators, travel agencies, and ground-handling agencies are not regulated as entities, but the transactions they conduct are regulated. Their premises are also regulated. This is unnecessary, as modern-day tour operators do not need an office space and regulations relating to these agencies are irrelevant as a form of consumer protection. There are other more important legal requirements that are omitted in the law.

There are business disclosure obligations and a standard model contract for these transactions.

There are some useful provisions on the provision of information to tourists. These are based upon but do not fully comply with, the EU Package Travel Directive.

The Tourist Guides and Tour Managers Licensing Decree 2004 set out some general provisions that do not apply to tourist guides and tour managers that are employed by tour operators. It would be preferable that all tourist guides are independent professionals and are licensed as such. Tour managers are different and do not have the heritage, cultural, environmental, sociopolitical, etc., knowledge that professional tour guides should have.

C. AUSTRALIA

The NTA is the Ministry for Trade, Tourism & Investment. The NTO is Tourism Australia. It is wholly state-owned.

There is no minimum number of rooms specified for an enterprise to be classified as a hotel under the law. Hotels are required by law to be registered as a hotel, not just as a business, and to be licensed. There is a state system of classification and grading. These rules apply to hotels that sell liquor and/or food. There are different requirements for licenses that vary from state to state and territory to territory. There are also separate requirements for an accommodation permit. These requirements are not regulated on a national level.

Health and safety issues, planning permission, building permits, etc., are governed by respective laws in these matters—not specifically for hotels. There are no specifications on amenities (bars, restaurants, lounge area, reception, etc.) and no minimum-rooms requirements.

Most states have an innkeepers act, which specifies the obligations of the hotelkeeper and liabilities.

Guesthouses, bed and breakfast establishments, lodging houses, and campsites need lodging permits. Timeshares are regulated under the general law relating to managed investment schemes.

No licenses are required to be held by tour operators' travel agents, ground-handling agents, or incoming tour operators. Tourist guides and sports instructors are not licensed.

Implications for the legal framework for tourism in Georgia and its implementation:

- Unlike many other countries, Australia has a system for registering and licensing hotels.
- Other tourist accommodations require permits.
- The liability of hotelkeepers is set out in an innkeepers act and is similar to that provided in the civil or commercial codes of civil law countries, such as Georgia, but with additional provisions.

D. AUSTRIA

The Federal Ministry of Sustainability and Tourism (Bundesministerium für Nachhaltigkeit und Tourismus (BMNT)) is the NTA and is responsible for, among other things, policy on forestry, hunting, fishing, viticulture, and the tourism industry. Though established in 2000, it gained responsibility for tourism in 2018. Austria Tourism Promotion (Osterreich Werbung) is the NTO. This is an association sponsored by the ministry and the chamber of commerce.

There is no special law governing hotels, but there are liability provisions in the civil and commercial codes. The hotel operator needs a license according to the commercial code. This license applies to all businesses in the hospitality industry. To obtain the license, the operator has to prove his or her professional qualifications (Befähigungsnachweis). For the hotel itself, official approval of the operating facilities (Betriebsanlagengenehmigung) is required. There is no mandatory classification system run by the state, but there is a voluntary classification carried out by the chamber of commerce.

Guesthouses, bed and breakfast establishments, and boarding houses are all governed by the commercial code section on the hospitality industry. There is no regulation of Airbnb. There are regulations governing campsites in the federal provinces. Timeshares are regulated by the Timeshare Law 2011.

Tour operators, travel agents, ground-handling agents, and tourist guides all require a license. The ski instructor business is governed by related regulations of the federal provinces. Licenses are required for ski and other sports instructors.

Implications for the legal framework for tourism in Georgia and its implementation:

- Consideration should be given to including a policy on forestry, hunting, fishing, viticulture, and the tourism industry in the GNTA's remit.
- Consideration might also be given to establishing Georgia tourism promotion as a private association sponsored by the GNTA and the Chamber of Commerce and Industry.

- Hospitality industry licenses should not be required at the outset, or at all, but standards would initially be promoted by a voluntary certification system backed up by special provisions in the law and regulations, with the latter being compulsory.

E. CANADA

The Ministry of Innovation, Science and Economic Development is the federal government department that acts as Canada's NTA. The NTO is called Destination Canada, formerly the Canadian Tourism Commission. It is a Crown corporation that is wholly owned by the government of Canada.

Hotels: No minimum number of rooms is required federally. Hotels fall under provincial jurisdiction. In Ontario, the definition of "hotel" is as follows:

"hotel" means a separate building or two or more connected buildings used mainly for the purpose of catering to the needs of the travelling public by the supply of food and also by the furnishing of sleeping accommodation of not fewer than six bedrooms [DC: emphasis added] as distinguished from any other building or connected buildings used mainly for the purpose of supplying food and lodging by the week or otherwise commonly known as "boarding houses" or of furnishing living quarters for families and having a dining room or restaurant commonly known as "apartment houses" or "private hotels."

The similar statute in British Columbia has no numerical threshold.

There are no hotel-specific licenses as such, but, depending on how they operate, hotels may/will need to have a license or to have an authorization for other purposes, such as accessibility, employment standards, environmental protection, building and zoning compliance, fire safety, food safety, etc. There is no state classification system

Guesthouses: In Ontario, there are no specific rules for this type of accommodation, but rather those of general application. Neither are there specific rules governing bed and breakfast establishments or lodging houses. However, in Newfoundland, Nova Scotia, Prince Edward Island, and Quebec, bed and breakfast establishments must have a license.

Airbnb: Some cities have regulations that regulate this type of accommodation, but not all do. Only Quebec and British Columbia have provincial regulations.

Ontario regulates timeshares under its Consumer Protection Act; it provides that every timeshare agreement must be in writing, shall be delivered to the consumer, and shall be made in accordance with the prescribed requirements. A consumer may, without any reason, cancel a timeshare agreement at any time from the date of entering into the agreement until 10 days after receiving the written copy of the agreement. In addition, a consumer may cancel a timeshare agreement within one year after the date of entering into the agreement if the consumer does not receive a copy of the agreement that meets the requirements under the act.

Tour operators and travel agents are licensed in British Columbia, Ontario, and Quebec, but not elsewhere. Incoming tour operators are not required to have a license in those three provinces unless they also sell to Canadians. Tourist guides do not require a license except in Montreal and Quebec City.

There is no state regulation of ski instructors. Certification is handled by <https://www.snowpro.com/en>, a nongovernmental not-for-profit.

Implications for the legal framework for tourism in Georgia and its implementation:

- The Ontario definition is useful and might be adapted to Georgian law.
- The decision on whether to have a specified minimum number of rooms to constitute a hotel in Georgia is a policy matter but should be consistent in the tourism, tax, tourism zones, and planning laws.
- Whether to have a state Classification system for hotels and other tourist accommodation is a policy matter.

F. FRANCE

The Secretariat of State for Tourism is the NTA. The minister responsible is the Minister of State for Foreign Trade, the Promotion of Tourism and French Nationals Abroad. Atout France, the French tourism development agency, is responsible for promoting the development of the tourism industry and is the NTO. It is a state organization formed as an “economic interest group” and comprises one-third of government officials and two-thirds of tourism professionals.

Atout France has three main objectives: promote tourism in France; carry out tourism infrastructure projects; and implement a policy to boost the competitiveness and quality of businesses in the industry. It sets the national strategy for promoting France as a tourist destination, based on guidelines set by the state.

Hotels: France does not require a minimum number of rooms specified for an enterprise to be classified as a hotel under the law. Hotels only need to be registered as a business at the register of commerce and companies. However, the hotel must be declared before its opening to the prefecture of the department where the building is located. There is no specifically required hotel license, but licenses are required to sell alcoholic beverages within a hotel establishment or to open a hotel restaurant. There is a state system of classification. The hotel must comply with the health regulations of its department (the local authority). The law specifies provisions on amenities (bars, restaurants, lounge area, reception, etc.), room facilities, and liability issues.

Tour operators, travel agents, and ground-handling agents are required to be registered in a public register maintained by Atout France. Tourist guides are not required to be licensed except that they need permits for visits to historical monuments and national museums. Ski Instructors are regulated by the code of tourism.

Implications for the legal framework for tourism in Georgia and its implementation:

- Atout France, the French tourism development agency, is a state organization formed as an economic interest group and comprises one-third of government officials and two-thirds of tourism professionals. This model might be used for a Georgia Tourism Promotion entity as a private association sponsored by the GNTA and the Chamber of Commerce and Industry.
- Atout France has, in its remit, “to carry out tourism infrastructure projects.” In Georgia, this would be better left to the EG in cooperation with the GNTA.
- Hotels should require planning permission from the local planning authority.

G. GREECE

The Ministry of Economy, Development, and Tourism is the NTA. The Greek NTO is called the Greek National Tourism Organization (GNTO), which is a state-owned organization under the supervision of the Ministry of Tourism. The ministry is the main administrative body that is competent to develop activities in the field of tourism. According to the Organization Statute of the Ministry of Tourism (Presidential Decree 112/2014), its main purpose is to work with other ministries for the harmonization of policies affecting tourism development. The specific objective is to support the development of tourism, create a favorable environment for undertaking investment initiatives in the sector, and improve the quality and competitiveness of the country’s tourism.

The legal framework is set out in two basic laws, namely the Law 2160/1993 (Government Gazette 118/A) and the Law 4276/2014 (Government Gazette 155/A). The 1993 law systematized the operating procedures for tourism enterprises and tourism infrastructure, while the 2014 law promoted the simplification of the relevant procedures and clarified the distinctive types of tourism.

The Special Operating Label was retained as an operating license for tourist accommodation; the procedure for granting it to hotels and organized camping sites, as well as furnished rooms and apartments for rent is simplified. The classification of tourist accommodation is now entrusted to the Chamber of Hotels of Greece. Additionally, in this body, the General Commercial Registry service was established, as well as a one-stop shop service, to simplify the procedures and faster processing of applications. In addition, the Citizens’ Service Centres (KEP), operating as a single-contact service point for citizens, can accept applications for the licensing of tourism enterprises.

The law governs the following types of tourism enterprise: tourist accommodation, special tourism infrastructure facilities, tour operators, travel agencies, car rental agencies, agencies renting motorcycles, tourism transport, and yacht-brokering companies.

The tourist accommodation category is divided into main hotel accommodations (principal accommodation) and main non-hotel accommodations (secondary accommodation). The principal accommodation is divided into hotels, organized campsites, youth hostels, tourist accommodation complexes, condo-hotels, and hotel accommodations within traditional buildings.

The secondary accommodation category is divided into self-catering tourist accommodations—furnished mansions (villas); self-catering tourist accommodations—furnished residences; and furnished rooms—apartments for rent. According to the 2014 law, special tourism infrastructure facilities are incorporated into the definition of tourism enterprises. The law does not specify what constitutes “special tourism infrastructure facilities,” but it refers to the following special tourism infrastructure facilities:

- Conference/convention centers.
- Golf courses.
- Tourist ports/marinas.
- Ski centers.
- Amusement/theme parks.
- Therapeutic treatment infrastructures (therapeutic treatment facilities, therapeutic/thermal tourism centers, thalassothérapie centers, health spas).
- Coaching and sports tourism centers.
- Mountain refuges.
- Annular speed-test tracks.

The Ministry of Maritime Affairs and Island Policy is responsible for maritime tourism. One of its functions is to plan and implement an integrated island policy and a policy of maritime tourism and maritime transport. It regulates bathing facilities, lifeguards, recreational diving, swimmers, recreational vessels, sailing races, and tourism in the areas of responsibility of the Hellenic Coast Guard. The General Secretariat of Ports, Port Policy and Maritime Investments is responsible for the formulation and implementation of integrated policy and strategy for the organization, operation, development, and valorization of the country’s ports. The Directorate of Maritime Investments and Maritime Tourism lays great emphasis on the development of maritime and coastal tourism.

The Ministry of Rural Development and Food encourages the economic diversification and development of rural tourism and agro-tourism. It is the competent authority for policy development and evaluation of the proposed measures to develop alternative forms of tourism in rural areas. It deals with environmental impact assessments; the determination of terms, conditions, and procedures related to fishing tourism; and setting the terms, conditions, and procedures for fishing tourism in pisciculture and aquaculture farms.

The Ministry of Health has the main competences in the field of medical and therapeutic tourism. By a presidential decree of 2014, an administrative Unit for the Formulation of Health Policies and Policy of Health Tourism was established. It operates as an independent department, and its purpose is to take measures and decisions on the development and promotion of the health sector, as well as the country’s health tourism.

Greece does not require a minimum number of rooms specified for an enterprise to be classified as a hotel under the law. As stated above, hotels are required by law to be registered (as a hotel, not just as a business) and licensed. The classification of hotels is compulsory under a state system of classification. The Hellenic Chamber of Hotels (web page: <https://cert.grhotels.gr/Account/Login?ReturnUrl=%2f>) is the competent body for the classification.

The 2014 decree provides articles on health and safety issues in hotels, amenities (bars, restaurants, lounge area, reception, etc.), room facilities, and hotel liability. There are special regulations governing guesthouses, bed and breakfast establishments, lodging houses, Airbnb, campsites, lodges, and timeshares.

Tour operators and travel agents are required to hold a license but ground-handling agents who act on behalf of a foreign tour operator do not. Incoming tour operators (sells tours/packages to foreign tourists) are licensed. Tourist guides are also licensed.

Implications for the legal framework for tourism in Georgia and its implementation:

- According to the Organization Statute of the Ministry of Tourism, its main purpose is to work with other ministries for the harmonization of policies affecting tourism development. Georgia might consider establishing an inter-ministerial committee on tourism, with a legal mandate.
- Consideration might be given to the establishment of a chamber of tourism in Georgia or of a tourism chapter of the Chamber of Commerce and Industry.
- Hotel and tourist classifications might be the responsibility of a classification committee, on which the GNTA and chamber is represented.
- Possible adoption of the distinction between main hotel accommodation (principal accommodation) and main non-hotel accommodation (secondary accommodation).
- The GNTA should cooperate and coordinate with the Ministry of Environment Protection and Agriculture and the Ministry for Regional Development and Infrastructure to encourage economic diversification and development of rural tourism and agro-tourism.
- The GNTA should cooperate and coordinate with the minister responsible for health in the field of medical and therapeutic tourism.

H. HUNGARY

The Cabinet Office of the Prime Minister is the NTA, indicating the importance of tourism to the Hungarian economy. The Hungarian Tourism Agency is the NTO. This is a wholly-owned state organization.

There is a government decree on the registration and operation of tourist accommodations. To constitute a hotel, the business has to have a minimum of 11 guest bedrooms. In addition to registering as a business, it also must be specifically registered as a hotel and licensed as such. There is no state system of classification. The liability of hotels is under Act CLXIV of 2005 of the commercial code, the civil code, and Government Decree 239/2009 (X. 20.). This has the common provisions related to the liability of hotelkeepers for death and personal injury of guests and loss or damage to their luggage.

Issues pertaining to planning permissions, building permits, and health and safety are dealt with under their respective laws, as are issues regarding liquor licensing.

Bed and breakfast establishments, lodges, lodging houses, and campsites are all regulated by the Decree on Tourist Accommodation. Airbnb is not regulated. The EU Timeshare Directive was implemented by 141/2011 (VII. 21.) of the Government Decree on Timeshare Accommodation and Long-term Holiday Contracts.

Tour operators and travel agents are regulated by Act CLXIV of 2005 of the Commercial Code and 213/1996 (XII. 23.) of the Government Decree on Tour Operator and Travel Agent Activities. Incoming tour operators are not regulated.

Tourist guides are regulated by CLXIV of 2005 of the Commercial Code and 33/2009 (XII. 18.) of the Government Decree on Tourist Guides. They are required to hold a license. Likewise, ski instructors must comply with the Act 157/2004 (V. 18.) of the Government Decree on Qualification in the Field of Sport. Other sports instructors are governed by the same decree, and there are special provisions about horseback-riding services.

Implications for the legal framework for tourism in Georgia and its implementation:

- Hotels have to be registered and licensed as such. This may be the ultimate plan for Georgia, starting with registration and then introducing a licensing system.
- There is a decree regulating other forms of tourist accommodations, and this is recommended for Georgia.
- Tour operators, travel agents, and tourist guides are registered and licensed.

I. IRELAND

The Ministry of Transport, Tourism, and Sport is the NTA. The Ministry's Department's Tourism Division sets the national tourism policy, provides strategic direction to "support the growth of a competitive and sustainable tourism industry, through the development, implementation and influencing of a range of policy actions and programs by the Department, its Agencies and other Government Departments, in consultation with industry partners."

Fáilte Ireland was established as the National Tourism Development Authority under an act of that name in 2003, following the amalgamation of Bord Fáilte Éireann and the Council of Education, Recruitment, and Training (CERT). The latter had been established in 1963 to take over the training of workers in the hospitality industry. The mandate of Fáilte Ireland is "to encourage, promote and support tourism as a leading indigenous component of the Irish economy." It is the NTO. It engages in tourism marketing, training, product development, research and statistics, tourism standards, enterprise support, and capability-building.

Fáilte Ireland sets the requirements for the various categories of accommodations and regularly monitors the standards in all forms of approved accommodations. It has specific powers and functions relating to the registration and grading of tourist accommodations. It manages appointed subcontractors for the inspection and registration assessments of various accommodation categories.

All hotels must be classified using the Fáilte Ireland Hotel Classification Scheme. Hotels must attain the approval minimum entry-level requirements to comply with the Registration and Renewal of Registration Regulations for Hotels 2016. The scheme was developed in close consultation with the Irish Hotels Federation (IHF).

In order to comply with the registration and renewal of registration regulations, any business using the prescribed term "hotel" must meet the regulations and register with Fáilte Ireland. If a hotel wishes to be classified from 2 stars to 5 stars, then it must meet each of the criteria relevant to that classification.

Any tourism business calling themselves a guesthouse must be registered with Fáilte Ireland. In order to become registered, the business must have a minimum of seven guest bedrooms with private en suite bathrooms, and no more than 30 guest bedrooms also with private bathrooms. Breakfast should be provided.

A bed and breakfast establishment is defined as an Irish-home bed and breakfast that includes a townhouse, farmhouse, or country house. It must have at least two, and no more than six, guest bedrooms. The maximum number of bedrooms in the house cannot be more than nine, including the family bedrooms. In the case of houses with guest bedrooms without private bathrooms attached, there should be one bath and one shower provided for the first six persons accommodated, including the owner's family. If more than four guest bedrooms are provided, planning permission for bed and breakfast use is necessary.

Any tourism business calling themselves a holiday apartment or holiday cottage must be registered with Fáilte Ireland. In order to become registered as a holiday hostel, the business must be under the direct management of the owner or allocated manager of the hostel. There should be space for a minimum of 20 guests on the premises, and facilities should include sleeping, dining, and lounge accommodation, as well as toilets, bathing facilities, and either a serviced or a self-catering kitchen.

In order to become registered as a youth hostel, the business must be under the direct management and control of a nonprofit organization or association whose primary object is the provision and management of youth hostels. There should be space for a minimum of 20 guests, and the premises must contain sleeping, dining, and lounge accommodation, as well a toilet, bathing facilities, and either a serviced or self-catering kitchen.

Caravan and camping parks must also be registered with Fáilte Ireland. They must consist of a site comprising 20 or more touring pitches and not more than 50 touring pitches per hectare. There should be toilets and a washing-up facility provided within a permanent structure, and the site should be constructed, laid out, or adapted and properly equipped for use as a caravan or camping park.

Registered holiday camps must provide sporting and recreational facilities, and the accommodation must consist of either a block of separate serviced bedrooms, self-catering houses, or self-catering apartments.

All tour operators and travel agents are required by law to be licensed and bonded to buy or sell overseas travel unless they are a retailer or organizer established in another member state and have provided the commission with sufficient evidence of security for the protection of consumers.

The Commission for Aviation Regulation has four main roles under the broad heading of travel trade licensing: licensing travel agents and tour operators buying and selling overseas travel; administering a bonding scheme for travel agents and tour operators; processing claims for refunds and repatriation in the event of a licensed travel agent or tour operator going out of business; and investigating instances of alleged illegal trading, and, when necessary, prosecuting illegal traders. Ground-handling agents who act on behalf of a foreign tour operator are not required to be licensed.

Tourist guides are not licensed.

Implications for the legal framework for tourism in Georgia and its implementation:

- The mandate of the MoESD should include providing strategic direction to “support the growth of competitive and sustainable tourism industry, through the development, implementation, and influencing of a range of policy actions and programs by the GNTA in consultation with industry partners.”
- Rather than carry out inspections itself, the GNTA should manage appointed subcontractors for the inspection and registration assessment of various accommodation categories.
- Gradually, Georgia could introduce a mandatory registration system for tourist accommodations based on the Irish model.
- All tour operators and travel agents should be required by law to be licensed and bonded to buy or sell overseas travel and provide the GNTA with sufficient evidence of security for the protection of consumers.

J. ISRAEL

The Ministry of Tourism is the NTA and its powers are set out in the Tourism Services Law of 1976, as amended since its legislation (hereinafter, the “Tourism Law”). However, other legislation that pertains to various aspects of tourism and travel also exist, such as the law governing investment in hotels and other tourism facilities, as well as the Consumer’s Protection Law. The minister is authorized to regulate “tourism services,” a term that includes hotels, tourist guides, providers of services of travel agencies, and organizers of conferences that are mainly intended for foreign tourists and parks where accommodations are provided.

The definition of “hotel” includes pensions and any similar place where accommodation services are provided for nine persons or more simultaneously, for remuneration. The definition of “travel agents’ services” includes the organizing or selling of a journey to Israel or to foreign countries or ordering any services for such journeys; ordering or selling flight tickets to other countries (airlines are exempted), booking accommodation in Israel or in other countries, handling visa requirements, or providing professional advice for any of the above services.

Tourist guide services are those that are provided for remuneration, or otherwise by a provider of tourist transportation, or by anyone accompanying foreign tourists or is one of them, when the services are provided during a trip or a visit to a site of interest for tourists (except guiding tours within an institution that provides its own tours). The minister is also authorized to prescribe the minimum payment to be paid to tourist guides (a power never actually implemented) and a previous provision of the Tourism Law (later abolished) prohibited commissions paid by businesses to tourist guides.

The minister can prescribe how a tourist service should operate and may require it to obtain a license. There are exceptions for hotels and other tourist accommodations, which need a license under the law governing the licensing of businesses. The minister may regulate how tourism services providers must provide adequate facilities for their customers; impose a requirement to provide insurance for their customers and their property; and how they advertise their services. The minister may also classify tourist services, and has lately applied it to the grading of hotels. Also, he or she can prescribe which professionals are allowed to provide tourism services, and—for tourist guides—to prescribe their professional requirements and their training, but he or she must consult with the Minister of Labour for

this last-mentioned purpose. He or she can prescribe that a tourist service should display its prices. Finally, he or she may prescribe fees to be paid by tourism services.

A separate clause of the law empowers the Minister of Tourism to grant to tourism services an “emblem” (a quality mark) indicating that they are approved to cater to foreign tourist, and he or she can decide what other kinds of businesses may apply to receive such an emblem.

The Tourism Law also says that where the Minister of Labour is empowered to prescribe the professional requirements for tourism professions and for their training or supervision, he or she must consult with the Minister of Tourism.

Various obligations of providers of tourism services are detailed in the regulations enacted by the Minister. The Tourism Law itself mentions one basic obligation: the provider of a tourist service is prohibited to unreasonably refuse to provide its services to anyone, and is prohibited to limit it by any condition not prescribed in the regulations.

In 2002, travel agents and tour operators were excluded from the definition of “tourism services” but are still regulated under the law with regard to guarantees and the duty of due disclosure.

In 2018, the Ministry of Tourism prepared a bill for a new tourism services law to deal with changes in the industry. It argued that some tourism services that were regulated in the past no longer needed to be regulated due to changes in the economy and in consumer behavior. Since the Tourism Services Law 1976 was enacted, most of the regulation was done by means of secondary legislation (regulations) and directives issued by the Ministry of Tourism’s director-general.

The changes sought by the ministry are to integrate director-general directives; modify existing regulations of tourism services; introduce new measures for administrative and criminal enforcement; and cancel existing provisions.

Existing directives provide physical standards for planning and classifying tourism accommodation that are mandatory for building permits and government grants. There is also a provision on special hotel accommodations (with limitations on the use of “apartment hotels” or “holiday apartments”). These would be integrated into the new law. The existing regulations would be modified under the new law in order to regularize the star rating for hotels and rural tourist accommodations.

A new legal framework for tourist guides is proposed. Under the current tourism services law, if tour guide services are offered against payment, they are considered “tourism services.” The law does not differentiate between locals and foreigners. Tourist guides must have a license. Under the new proposals, only tourist guides providing services to foreign tourists will be required to hold a license. For services to locals, a license will only be required for an organized tour in a vehicle with more than 25 people. Priests and pastors will be allowed to act as tourist guides for their congregation at Christian holy sites without a license. Tourists from countries with a “unique language” may bring their own tourist guide to Israel, and such tour guides are not required to have an Israeli tour guide license.

Implications for the legal framework for tourism in Georgia and its implementation:

- The definition of “tourist guide” might be adapted to Georgian practice.
- The prohibition on commission (e.g., from gift shops) should be adopted.
- The ministry may prescribe the professional requirements and training for those working in the tourism sector in consultation with the Minister of Labour.
- Georgia should not copy the Israeli minister’s powers to prescribe fees to be paid for tourism services.
- Georgia should empower the GNTA to grant to tourism services an “emblem” (a quality mark) indicating that they are approved to cater to foreign tourists, on a voluntary system, initially.

K. ITALY

In Italy, tourism is the competence of the various regions and therefore there is no NTA. However, since January 2019, within the Ministry of Agriculture, there is a Department of Tourism the role of which is to coordinate regional tourism policies for the external market.

The NTO is Ente Nazionale Italiano Turismo (ENIT), which has a marginal role limited to external market only, with scarce human and financial resources. It does not have a strong liaison with the tourism industry. It is a wholly state-owned organization under the control of Ministry of Agriculture.

Hotels: The minimum number of rooms specified by the regions for an enterprise to be classified as a hotel in law is, on average, 7, but this number can vary according to regional legislation. Hotels required by law to be registered (as a hotel, not just as a business) but not licensed. The classification system is run by regional government. Though hotels are governed by regional laws, some regions have recently harmonized the legislation through arrangements between them and under agreement with the state.

All forms of tourist accommodation are regulated at the regional level.

Implications for the legal framework for tourism in Georgia and its implementation:

- Georgia needs to decide what tourism competencies should be devolved to regional/municipal or local authorities, if any, or whether all is regulated nationally but implemented locally.
- Initially, Georgia could follow Italy's example, where hotels are required by law to be registered (as a hotel, not just as a business) but not licensed.

L. LITHUANIA

The Ministry of Economy is the NTA. The State Department of Tourism acted as the NTO. The Ministry is responsible for tourism policy. Within the ministry, there is a Tourism Policy Division responsible for tourism policymaking, tourism planning, international cooperation, and planning EU support. The State Department of Tourism is/was responsible for the implementation of the tourism policy, tourism marketing, tourism market supervision, and the implementation of EU projects.

From January 2019, the public enterprise "Lithuania Travel" was made responsible for tourism marketing. The State Consumer Rights Protection Authority is responsible for surveillance/inspection of providers of tourism services. Though Lithuania Travel was established by the state, in effect it is a hybrid state/private entity. It is defined as a public enterprise and a nonprofit public legal entity of limited civil liability owned by the state, where the rights and obligations of the owner are implemented by the Ministry of Economy. The funds consist of state budget allocations, income from services rendered, funds received as support, and other legally received funds.

The Tourism Council, an advisory body of the Ministry of Economy has been established. The members of the Council chaired by the Minister of Economy are tourism-related ministries and tourism business associations.

At the local level, tourism is covered by municipalities and Local Tourism Information Centers. There are three main tourism business organizations in Lithuania. The Chamber for Tourism represents nine main tourism business associations:

- The Lithuanian Hotel and Restaurant Association represents the hospitality sector and comprises more than 300 members. The association protects the rights and interests of members in discussions with government and management institutions.
- The Lithuanian Countryside Tourism Association comprises 390 members and coordinates the activities of members in developing rural tourism.
- The Lithuanian Health Resorts Association, comprising eight members, promotes health tourism in the country.
- The National Tourism Business Association comprises six members and promotes inbound tourism.
- The Lithuanian Camps Association comprises 23 members and promotes camping tourism.
- The Lithuanian Castles and Manors Association comprises 32 members and promotes responsible tourism and national heritage.
- The Lithuanian Private Healthcare Establishment Association comprises 100 members and promotes the services of private health care establishments.

- The National SPA Association has 15 members and promotes SPA treatments.
- The Lithuanian Golf Federation, established in 2000, has nine members and promotes golf tourism.
- The Lithuanian Tourism Association (LTA), which was established in 1991 and has 53 members, represents Lithuanian tour operators and agencies.
- The Lithuanian Medical Tourism Association (Medical Lithuania), which was established in 2012 and has 13 members, represents Lithuanian medical establishments.

The Law on Tourism was adopted in 1998; since then, several amendments have been made to the law. It establishes the principles and priorities for the tourism industry, requirements for the provision of tourist services, the competence of state or municipal institutions supervising tourism services providers, and the conditions of utilizing tourism resources.

The ministry plans to identify and designate tourism development areas and circuits. It also plans to “stimulate” the certification and the accreditation of tourism services providers.

Implications for the legal framework for tourism in Georgia and its implementation:

- The GNTA should be responsible for the implementation of the tourism policy, tourism marketing, tourism market supervision, and the implementation of EU projects.
- As suggested above, Georgia might adopt the model of establishing a joint public-private entity for tourism marketing.
- The system of inspection of tourism entities should be done in coordination with other inspection bodies.
- A Tourism Council, as an alternative to an inter-ministerial committee, suggested above, might be established as an advisory body of the ministry. The members of the council, chaired by the minister, should be tourism-related ministries and tourism business associations.
- Georgia could adopt Lithuania’s Chamber for Tourism model.
- The ministry might emulate Lithuania’s plans to identify and designate tourism development areas and circuits and to “stimulate” the certification and the accreditation of tourism services providers.

M. MALTA

The Ministry of Tourism is the NTA. The Malta Tourism Authority (MTA) is the NTO. It is a state organization, but on the board, there are directors who hail from nongovernmental areas, such as the Federation of Tourism Agents, the hotel sector, and one from Gozo. However, they are all appointed by the government based on recommendations from the (related) association.

Hotels: There is no minimum number of rooms specified for an enterprise to be classified as a hotel under the law. Hotels are required by law to be registered (as a hotel, not just as a business) and licensed. There is a state classification system. The ministry does not regulate the design of hotels, as this falls within the powers of the Malta Planning Authority and Malta Environment and Resources Authority. Occupational health and safety issues are governed by the Occupational Health and Safety Authority but are more related to employer-employee relationships than the protection of the public.

Hotel liability is a civil law matter. The rule of “prudence, diligence and buon paterfamilias” versus negligence and recklessness. It is also a criminal law matter, should a person suffer an injury or death in a hotel.

Guesthouses are governed by holiday premises regulations, as are bed and breakfast establishments. Airbnb is not specifically regulated as such, except that the law requires that whosoever provides accommodation to tourists must have a license. Campsites must obtain a police license. Timeshares are regulated by Malta’s implementation of the EU Timeshare Directive.

Tour operators, travel agents, ground-handling agents, incoming tour operators, and tourist guides all require licenses. There is no specific regulation of sports instructors, but Article 3 of the Malta Travel and Tourism Services Act provides that:

“No person shall offer, promote, organize or provide any recreational diving service unless such person holds a valid license for the purpose issued by the Authority in terms of these regulations. Any promotional material shall clearly state the name of the dive center and the license number issued by the Authority.” (The authority is the MTA.)

Implications for the legal framework for tourism in Georgia and its implementation:

- If the GNTA is converted into a hybrid NTA/NTO, it should include directors who hail from nongovernmental areas, such as the chamber of commerce and industry/chamber of tourism and those from the tourism sector.
- Hotel liability should be a civil law matter. The rule of “prudence, diligence and buon paterfamilias” versus negligence and recklessness should be applied.
- It should be a criminal law matter should a person suffer an injury or death in a hotel.

N. NETHERLANDS

The Ministry of Economic Affairs and Climate Policy is the NTA. NBTC Holland Marketing is the NTO and is an independent (private) foundation. It is responsible for branding and marketing the Netherlands as a tourist destination.

Hotels: There are general requirements in the Dutch Building Decree referring to buildings with an accommodation function. Hotels are required by law to be registered (as a hotel, not just as a business) based on local (city) regulations. There is no state classification system. There is no special law governing hotels, but there are some statutory rules such as the Licensing and Catering Law, which applies to all places where alcoholic beverages are served, not just hotels. Furthermore, hotels are required to keep records in a “night register” as stipulated in criminal law and municipal regulations. Health and safety issues and hotel amenities (bars, restaurants, lounge area, reception, etc.) are regulated, but room facilities are not. Hotel liability is governed by the civil code.

There are no state regulations governing other forms of tourist accommodation, but some are regulated by municipal bylaws. Timeshares are regulated based on Directive EU 2008/122/EG.

Tour operators, travel agents, ground-handling agents, and tourist guides are not required to hold a license, though the latter do require to obtain a permit in some municipalities.

Implications for the legal framework for tourism in Georgia and its implementation:

- As an alternative to a public-private entity marketing Georgia as a tourist destination, Georgia could adopt the Dutch model, NBTC Holland Marketing.
- There should be special building regulations for hotels.
- Consideration should be given to whether regulation of other tourist accommodation should be left to municipal bylaws.
- Timeshare in Georgia should be regulated based on Directive EU 2008/122/EG.

O. SERBIA

The Ministry of Trade, Tourism, and Telecommunications is the NTA. In the area of tourism, the ministry’s responsibilities are:

- Strategy and policy for tourism development.
- Integrated planning and development of tourism and related activities.
- Development, proclamation, and sustainable use of tourist destinations.
- Categorization of tourist sites.

- Implementation of incentives and the provision of material and other conditions for the promotion of tourism development.
- Promotion of tourism in the country and abroad.
- Taxes, fees, and penalties in tourism.
- Improvement of the value and competitiveness of tourism products.
- Tourism market research and the development of the tourist information system.
- The conditions and manner of performing activities of travel agencies, catering activities, nautical activities, and hunting activities.
- The provision of services in tourism.
- Planning, maintenance, and equipment of public ski areas and the provision of services at ski resorts.
- Planning, maintenance, equipment and services in spas, theme parks, and public beaches.
- Inspection in the field of tourism.

The National Tourism Organization of Serbia is the NTO. It was founded in 1994 as a government organization to promote and improve tourism in the Republic of Serbia in both the domestic and foreign tourism markets. It works with the town, municipal, and other tourism organizations on improving Serbia's range of tourism programming and product development.

Hotels: The minimum number of rooms required to constitute a hotel was previously set at 10, but the latest ordinance on the standard for categorization of accommodation facilities does not impose that condition. Hotels are required by law to be registered as hotels, not just as a business, and are classified under the state system. Hotel services are currently regulated under the Law on Tourism, but, in the future, they will be regulated by the Law on Catering Businesses.

There is an ordinance on the standard for categorization of tourist accommodation facilities covering hotels, apart-hotels, motels, tourist resorts, campsites, guesthouses, lodging houses, etc.

There is a Law on Obligations and Business Ethics in Tourism.

Timeshares are regulated by the Consumer Protection Act. Other tourist accommodations (except Airbnb, which is currently unregulated) will be regulated by the new Law on Catering Business. Currently, they are regulated by bylaws.

Tour operators, travel agents, and tourist guides are all required to be licensed.

Implications for the legal framework for tourism in Georgia and its implementation:

- The mandate of the MoESD and/or GNTA might include those items granted by the Ministry of Trade, Tourism, and Telecommunications in Serbia.
- Consideration might be given to adopting the principles of the Global Convention on Ethics in Tourism.
- There is a Law on Obligations and Business Ethics in Tourism.

P. SPAIN

Tourism is a decentralized area of politics in Spain. That means every autonomous community (that is not a federal state or a region, but a "tertium genus," having full and exclusive legislative powers on certain areas of politics, in particular, tourism) has its own tourism administration. It may also be pointed out that the central government has a secretariat of state for tourism with administrative responsibility for tourism at a state (federal) level.

The federal NTO is Turespaña (Tourism Spain). It is a state organization.

Hotels: Each autonomous community regulates hotels. All have registration systems as hotels, not just as a business. All also require hotels to be licensed. There is also an official classification system. Hotel liability is governed by the civil code.

All kinds of tourist accommodations are regulated (each category its subject to specific norms), bearing in mind that every Comunidad Autónoma has its own legislation governing those matters. Airbnb is not regulated.

Tour operators, travel agents, and tourist guides are all required to hold a license.

Implications for the legal framework for tourism in Georgia and its implementation:

- Tour operators, travel agents, and tourist guides are all required to hold a license. This should be the ultimate goal in Georgia—but is subject to transitional arrangements.

Q. TURKEY

The Law for the Encouragement of Tourism 2003 is the main legal framework for tourism in Turkey. Article 5 provides that it is mandatory to hold either a tourism investment certificate or a tourism establishment certificate in order to benefit from the incentives, exceptions, exemptions, and rights prescribed in this law and other enactments. There are rules governing the construction of tourism establishments at state-owned and controlled sites in cultural and tourism preservation and development regions and tourism centers in accordance with the land use plans. Such structures, buildings, and facilities must not disrupt the natural and cultural features of the region.

Seas, lakes, and streams, and their shores and banks may not be exploited in such a way that may spoil or destroy their characteristics. The exploitation of such resources (e.g., through extraction of sand, gravel, and rocks) is conditional upon obtaining the permission from the ministry.

Explicit design standards and rules on structures, etc., may be necessary to preserve the traditional appearance of the village.

The law provides that “*Infrastructural requirements of tourism areas and tourism centers, such as roads, water supply, sewage, electricity and telecommunication facilities, shall be completed by the public organizations concerned on a priority basis. Allowances allocated by the Ministry or organization concerned to this end may not be utilized for other purposes without the prior consent of the Ministry.*”

The ministry sets out general principles concerning the preparation and approval price lists to be charged by certified establishments. Such establishments must submit to the ministry, no later than the end of July each year, the price lists they plan to implement during the following calendar year. Certified establishments may not charge prices other than those given in the lists preapproved by the ministry. Such establishments shall post the approved lists in easily visible places in accordance with the principles set out by the ministry and shall present them upon request. This is the most outdated provision. Governments should not interfere in the market to fix or approve prices. The government should facilitate the operation of the market by requiring published price lists and prohibiting false or misleading price indications.

Investors holding tourism certificates must, during the investment period, notify the ministry twice a year of the progress of their investment.

Certified tourism establishments may employ qualified foreign personnel and experts with the approval of the ministry and the Ministry of Interior. However, the total number of foreign personnel employed may not be higher than 10 percent of the total number of employees. This ratio may be increased to up to 20 percent by the ministry. The personnel in question may start working at the establishment three months prior to the date when it commences commercial operations.

The Law on National Parks 1983 governs national parks, nature parks, natural monuments, and nature conservation areas of national and international value. Tourism development in those areas is proposed by the Ministry of Forestry and Water Affairs with the affirmative opinion of the Ministry of Culture and Tourism. The planning decisions for tourism investments in tourism regions, tourism areas, and tourism centers located in these areas are subject to the approval of the Ministry of Environment and Urbanization and Ministry of Forestry and Water Affairs.

Permits may be issued by the Ministry of Forestry and Water Affairs, after consulting the Ministry of Finance, to natural persons and private law legal persons to construct buildings and facilities for tourism purposes in national parks and nature parks outside tourism regions, tourism areas, and tourism centers, provided that it is in the public interest and the work is within the framework of a plan. The term of the

lease must not exceed 49 years. At the expiry of such term, all facilities must be completely turned over to the treasury. However, the easement for holders who have been certified as a successful business by the Ministry of Culture and Tourism may be extended up to 99 years at a price to be set at the market-going rate for the facility.

There is a communiqué on granting the Certificate of Environmentally Conscious Accommodation Facilities, to facilities with a Tourism Establishment Certificate 2008. The purpose of this communiqué is to regulate the principles and procedures regarding the classification and certification of “environmentally conscious accommodation facilities” with the goal of protecting the environment, developing awareness about the environment, and encouraging and motivating touristic establishments for positive contributions to the environment within the scope of sustainable tourism.

This communiqué covers principles and procedures regarding the applications of facilities for the Certificate of Environmentally Conscious Accommodation Facilities. It sets out the documents required for the application, the evaluation of applications, as well as standards and classification.

The Regulation on Certification and Qualification of Tourism Facilities 2005 aims to foster the development of new types of tourism facility, to improve the facilities belonging to existing tourism investments and enterprises, to set minimum requirements for tourism facilities, and to ensure uniform standards for these facilities and to increase the quality. The regulation includes the principles concerning the certification of tourism facilities, their management, qualifications of the facilities, and the minimum conditions for their staff.

Implications for the legal framework for tourism in Georgia and its implementation:

- The system of tourism investment certificates or tourism establishment certificates in order to benefit from the incentives, exceptions, exemptions, and rights prescribed under tax and incentives laws and schemes might be adopted in Georgia.
- The rules governing the construction of tourism establishments at state-owned and -controlled sites in cultural and tourism preservation and development regions and tourism centers in accordance with the land use plans should be considered in Georgia.
- Georgia should adopt/adapt the requirement that seas, lakes and streams and their shores and banks, may not be exploited in such a way as may spoil or destroy their characteristics. The exploitation of such resources (e.g., through the extraction of sand, gravel, and rocks) should be conditional upon obtaining the permission from the ministry or ministries.
- Explicit design standards and rules on structures, etc., may be necessary to preserve the traditional appearance of the village.
- Investors holding tourism certificates should, during the investment period, notify the EG/GNTA twice a year of the progress of their investment.
- Certified tourism establishments should be permitted to employ qualified foreign personnel and experts with the approval of the ministry and the ministry responsible for labor. However, the total number of foreign personnel employed should not be higher than 10 percent of the total number of employees. This ratio might be increased to up to 20 percent by the ministry.
- Georgia might adopt the approach taken in the communiqué on Granting a Certificate of Environmentally Conscious Accommodation Facility to Facilities with a Tourism Establishment Certificate 2008. The purpose would be to regulate the principles and procedures regarding the classification and certification of “environmentally conscious accommodation facilities” with a goal of protecting the environment, developing awareness about the environment, and encouraging and motivating touristic establishments for positive contributions to the environment within the scope of sustainable tourism.

5. HARMONIZATION WITH EU LAW ON TOURISM-RELATED MATTERS

A. EU PACKAGE TRAVEL DIRECTIVE

1. BACKGROUND

Chapter Eleven of the civil code contains provisions on tourist services, and these must be kept in mind when proposing recommendations for a new Tourism Law and implementing regulations. These provisions were intended to implement the EU Package Travel Directive 1990 into Georgian law. The method of including the provisions in the civil code is the approach taken by most civil law countries.

However, the Package Travel Directive (PTD) has been superseded by a new PTD, which reflects the new ways in which consumers enter into tourism transactions. At the time of the PTD 1990, the vast majority of EU travelers went into a travel agency, looked at tour operators' brochures, and selected a holiday package, sometimes with the advice of the travel agent. The brochure may have had false or misleading statements; the information it contained may have been out of date (as they were often published at least a year before the holiday would take place); the information may have been insufficient or too generalized; the consumer was not always given a written copy of the contract; the contract contained unfair or unreasonable contract terms; the tour operator reserved the right to make price increases or may not have disclosed the total cost at the outset; the right of the customer to cancel was accompanied by punitive terms; and/or the tour operator claimed it was not liable for loss or injury that the consumer could have sustained during the trip.

2. GEORGIA'S ADOPTION OF THE PTD 1990

The EC Directive on Package Travel, Package Holidays and Package Tours was adopted on June 13, 1990. The goal of this directive was to harmonize the rules governing packages throughout the European Community (now the European Union ([EU])). Member states were required to introduce measures to implement the directive, and these measures were to be enforced before December 31, 1992. In fact, some member states were considerably late in complying (1996), and others had to amend their implementation as a result of cases brought against them in the European Court of Justice.

Chapter Eleven of the civil code contains provisions on tourist services and these must be kept in mind when proposing recommendations for a new Tourism Law and implementing regulations. These provisions were intended to implement the EU Package Travel Directive into Georgian law. The method of including the provisions in the civil code is the approach taken by most civil law countries.

The directive set out minimum requirements, but states were free to adopt stricter rules. The provisions of the directive do not replace national laws, except where those laws conflict with its provisions.

B. THE NEW PTD 2015

This was adopted in 2015 and was enforced in all member states by July 1, 2018. It followed a review of the PTD 1990 and addresses the following issues, among others:

- A wider concept of "package," so as to include customized combinations of travel arrangements.
- Clearer information for travelers on the sort of travel product they are buying and the corresponding level of protection.
- Introduction of a new concept of "linked travel arrangements" applying to looser combinations of travel services, which will ensure payments are protected in case the trader goes bankrupt.

Georgia will require to amend/replace the provisions on tourism services in the civil code in order to comply with this new directive. Given that the existing provisions in the code did not accurately adopt the

PTD 1990 provisions, it is recommended that the provisions of the PTD 2015 are fully transposed as much as possible.

The new directive provides protection for consumers who buy off-the-shelf packages, customized packages, and also provides protection where there are linked travel arrangements. Off-the-shelf packages exist before the consumer chooses to buy them. Usually, they are described in a brochure or on a website or booking tool. Customized packages are created to meet the specific needs of the consumer. A linked travel arrangement exists where, for example, on completion of and payment for a flight on an airline's website, the airline prompts the consumer to go on to book a hotel through a link to a hotel booking site. Under the new PTD, there is new protection; however, it is just for situations in which the provider of the first service goes bankrupt (i.e., providing a money-back guarantee and, where appropriate, repatriation). If the traveler's name, email address, and payment details are transmitted from the first website to the second ("click-through packages"), the full protection for packages applies.

The right to cancel a package has been widened: The consumer may cancel without providing a reason but may be responsible for paying a reasonable cancellation fee. Subsequent price increases that exceed 8 percent now give the consumer the right to cancel the package free of charge.

Business travel is no longer covered, and charities are not treated as organizers. There is a new provision about cancellation; Article 12 recognizes (for the first time) that it is reasonable for package organizers to stipulate "reasonable standardized termination fees" when a consumer cancels a booking. However, these have to be justifiable.

There is some new wording on the liability of the organizer, which will need to be considered in reframing the provisions in the civil code.

C. TIMESHARE DIRECTIVE 2008

The directive was adopted by the EU in January 2009. This replaced an earlier provision. It covers:

- Long-term holiday products, also known as "holiday clubs:" These are contracts of more than one year in duration by which a consumer acquires access to promised discounts on accommodation and other travel services.

Sellers have to provide standardized information about the product as part of the contract. The contract will then be subject to a 14-day "no-strings" cooling-off period during which no payment is permitted and the seller can only take a yearly payment throughout the contract agreement. The consumer is able to terminate the contract as each payment becomes due.

- Timeshare: Contracts of more than one year in duration by which the consumer acquires the right to use overnight accommodation for more than one period of occupation. The previous pre-contractual information provisions have been extended and substantially standardized and the cooling-off period extended from 10 days to 14 days Europe wide. The ban on upfront payments is retained.
- Timeshare resale: Contracts by which the trader assists a consumer to sell or buy a timeshare or a long-term holiday product. The directive requires the trader to provide important pre-contractual information and a 14-day cooling-off period, and disbars the trader from accepting any payment until the sale of the timeshare is complete or the contract is otherwise terminated.
- Timeshare exchange: Contracts by which, through membership of an exchange scheme, consumers acquire the right to access other overnight accommodation or other services in exchange for providing temporary access to their timeshare rights. Most memberships are sold at the same time as a timeshare purchase, and the consumer has the 14-day cooling-off period attached to the timeshare sale in which to reconsider. When exchange membership is bought separately from a timeshare purchase, the consumer has a separate 14-day cooling-off period.

It is recommended that the provisions of the directive are closely transposed into the civil code dealing with tourism services.

6. DEVELOPING A COMPREHENSIVE LEGAL FRAMEWORK FOR TOURISM DEVELOPMENT

A. DRAFTING STYLE

The new law should reflect international practice. Tourism law is substantially international in nature rather than purely domestic. Tourism is an export business. The vast majority of the purchasers of tourism services are foreign. They make most of their purchases from abroad before departing for Georgia. It is essential therefore to reassure them that Georgia matches international practice in this field: that, for example, the rules governing hotel bookings, the rights and duties of guests and hotel safety are basically the same in Georgia as they are elsewhere and that these are explicitly enshrined in the law and are lasting rather than hidden away in vague generalizations and supplemented by regulations that should only be used for technical details rather than fundamental principles.

Experience from elsewhere shows that laws drafted in broad generalizations act as a deterrent to international investment and international consumer confidence. The World Bank “Doing Business in...” reports and the World Travel and Tourism Council’s Competitive Index reports illustrate this. It is a key objective of the government to continue to raise Georgia’s ratings in both of these and the new law should assist in doing so.

B. TERMINOLOGY, INFORMATION-GATHERING, AND STATISTICS

Consistent with the objectives set out above, it is important to standardize the definitions of terms used in Tourism Legislation in Georgia. These definitions should reflect international practice but should also be adapted to match Georgian needs. The object is to ensure that the terms are consistently used in any proposed legislation or in securing amendments to existing legislation.

Finance Ministries are often cautious about the provision of fiscal incentives for the tourism industry because that industry is not clearly defined, and, therefore, incentives may be claimed by those who are only nominally engaged in the tourism business. The current contrasting definitions used in the Tourism and Resorts Law, by the GNTA, EG and the Revenue Service (RS) need to be made consistent. Issues relating to information gathering and statistical analysis, together with international reporting (e.g., to UNWTO) also make it imperative that there are clear statutory definitions of tourism enterprises such as tour operators, travel agencies, tourist guides, hotels, guesthouses, tourist transportation, etc., and that these should meet international standards.

C. BUILDING A STRONG, TRANSPARENT MANDATE AND POWERS FOR THE GNTA

The mandate provided to the MoESD and to the GNTA in the new law should reflect the best practice discerned from the UNWTO Report on NTAs referred to above. That mandate should be precise and transparent. This is particularly important as in many countries issues arise in relation to the NTA’s rights and responsibilities in relation to particular sites or with respect to some sectors where there are overlapping responsibilities (e.g., with respect to facilities at heritage sites, tourist transportation, or recreational facilities).

D. PROTECTION OF TOURISM RESOURCES

In order to protect tourism resources, they need to be clearly defined and the new law should do so. There might also be a provision for a register of tourism resources and there should be developed, under the provisions of the new law, plans for the management of tourism development areas, tourism zones, and tourist sites. The former may be the existing free tourism zones or a replacement for them.

All of this should be done in the context of the statutory provisions on the sustainable development of tourism and the principles of utilization of tourism resources set out in the new law. The rights and responsibilities of the Department of Culture (MESCS) and the environmental authorities must, of course, be respected in the new law.

E. BUILDING A LEGAL FRAMEWORK FOR TOURISM DEVELOPMENT

In meetings with stakeholders, they emphasized the issue of regulation of the industry rather than the development of tourism. Industry regulation is important but so too is a framework for the development of the country's tourism potential. Experience elsewhere shows that this will not take place or will only happen haphazardly without a sound institutional and regulatory framework. This should be built into the new law, which, in addition to the mandates described above, will provide enabling powers for the development of a robust and efficient system of tourism master-planning.

F. THE ROLE OF THE PROFESSIONAL AND TRADE ASSOCIATIONS

This has been discussed above. However, the consultant recommends that the MoESD/GNTA should develop a system of targets to be reached by these associations before they are to be recognized by the MoESD/GNTA and to acquire self-governing status (i.e., their members would be exempt from licensing requirements if certified by the association as fit and proper to hold such a license). The association, rather than the members, would receive an annual audit from the MoESD/GNTA to ensure that its systems of transparency, good governance and quality assurance of its members were sufficiently robust as to justify their continued privileged status as a self-governing entity. This would encourage the development of strong, democratic, and truly professional bodies for the sector. It would also be more effective and cheaper for the MoESD/GNTA to enforce.

G. CONSUMER PROTECTION

The new law should provide a framework for consumer protection. The tourist is in a particularly vulnerable position. He or she purchases services in advance and often from outside the country where they will be delivered. He or she relies on the descriptions given in brochures, circulars, and websites to make an informed decision on what to purchase. He or she may also seek the advice of travel agency or tour operations staff. The tourist is usually unfamiliar with the country, its laws, its safety standards, the language, the currency, the competition, and where to seek redress. It is for this reason that the vast majority of countries provide a set of consumer protection provisions that address these issues, and these have become gradually standardized throughout the world. The EU model is the most influential globally. While it may not be practical to adopt the EU provisions wholesale into the new law, it should influence those provisions.

H. WELLBEING, SAFETY, AND SECURITY OF TOURISTS

Just as a government's first duty to its citizens is to ensure their safety and security as well as to promote their well-being; governments have a similar duty to foreign citizens who guest in their country. This is primarily a duty of common humanity but is also important in protecting the reputation of the country and of its tourism industry. Thus, the new law should contain provisions with respect to this and, most importantly, provide for cooperation and coordination between the relevant public bodies responsible for public safety, the MoESD, and the tourism sector.

I. ESTABLISHING POSITIVE AND FAIR COMPLIANCE MECHANISMS

In preparation for the implementation of the new Tourism Law, the MoESD/GNTA and, in particular, the tourism inspectorate needs to undergo a training program on positive compliance mechanisms. The provisions in the new law relating to industry regulation should not be there to burden tourism businesses or to catch their owners out but to improve and maintain appropriate standards of delivery of

tourism services. They also relate to consumer protection, accountability, and public safety. The aim should be to assist the sector to comply by providing information, advice, guidelines, training, and other assistance. A system of notices should be adopted to make plain to the service provider what he or she is doing wrong, what needs to be done to correct it, where help or assistance can be obtained, and providing a reasonable period of time to comply without penalty. There will, of course, be occasions where more stringent sanctions, such as closure orders, suspension of licenses, etc., fines, or even terms of imprisonment, may be necessary in the case of safety matters, hygiene issues, or persistent noncompliance, but these measures should very much be the last—rather than first—options to be taken.

Professional and Ethical Standards

The tourism inspectorate should possess and maintain the highest standards of conduct and ethics, including unimpeachable honesty. The citizens of Georgia are entitled to have confidence in their integrity, particularly as the inspector will routinely have access to sensitive commercial and personal information. He or she may also have powers to impose sanctions. Georgia is a small country and the inspector will have an extensive network of contacts on a personal and professional basis. He or she must be able to treat information that is not in the public domain as of the utmost confidentiality.

The inspector must possess, and keep updated, the necessary knowledge, skills, and abilities to fulfill her or his responsibilities (i.e., a sound knowledge of the objectives, principles, practices, and techniques of inspection and of the applicable laws, rules, and regulations) and the terms and conditions applicable to licensed or regulated activities. He or she should have an ability to exercise tact, initiative, resourcefulness, and judgment in collecting and analyzing facts, evidence, and other pertinent data.

It is vital that the inspector acts in a fair, transparent, and impartial manner in all her or his dealings as an inspector.

The inspector should have a duty of professional care. This duty includes:

- **Thoroughness:** All inspections must be conducted in a diligent and complete manner. Reasonable steps should be taken to ensure that pertinent issues are sufficiently addressed.
- **Legal requirements:** Inspections should be initiated, conducted, and reported in accordance with the law.
- **Appropriate techniques:** Specific methods and techniques used in each inspection should be appropriate for the circumstances and objectives of the inspection.
- **Impartiality:** All inspections must be conducted in a fair and equitable manner, with the perseverance necessary to determine the facts.
- **Objectivity:** Evidence must be gathered and reported in an unbiased and independent manner.
- **Ethics:** At all times, the actions of the inspector and the inspection organization must conform to all applicable standards of ethical conduct.
- **Timeliness:** All inspections should be conducted and reported in a timely manner. This is especially critical given the impact inspections have on the lives of individuals and activities of organizations.
- **Accurate and complete documentation:** The inspection report findings must be supported by adequate documentation and maintained in the case file.

All too often in the past, the title “inspector” has been viewed in a negative manner by the person afforded the title and the persons being inspected. Viewed as a kind of law enforcement officer, he or she is regarded as a person who has come to “catch you,” rather than a person who is there to ensure compliance and who can help you to meet the standards required. The goal is compliance, not detection or punishment. Therefore, some agencies prefer the term “compliance officer.” However, though the person involved is there to be supportive and to help the business to comply, he or she is also there to protect the public interest and may need to use sanctions against the business if it continues to fail to comply and/or endangers the public.

An inspector is a person that collects information that may be used to determine whether or not a business is complying with its legal obligations. He or she acts on behalf of the relevant agency (e.g., the

GNTA). In some countries, there is a unified national inspectorate, and this might be a future approach for Georgia. However, most countries have inspectorates specifically appointed by particular ministries or agencies.

Other ministries, the municipality, and other agencies may have information and should be involved in planning an inspection. These may have overlapping or parallel responsibilities. It is important to inform them of a proposed inspection and not to be territorial about a facility. If they have already recently carried out an inspection, there is no need to duplicate it unless issues arise that have not been followed through. If the latter is the case, there should be agreement with the other agency on the next steps.

J. TOURIST TRANSPORTATION

The technical specifications for tourist transportation and inspections for road, rail, river, sea or lake-worthiness properly belong to the Ministry responsible for transportation (Ministry of Regional Development and Infrastructure). However, the quality of transportation used for tourists and the apparel, conduct, and skills of the provider of those services is a matter of appropriate concern for the MoESD/GNTA as it is for NTAs in other countries. The new law should provide a system of certification of vehicles and vessels as being appropriate for tourists and for other provisions relating to the driver, etc. This will involve close cooperation between the MoESD and the Ministry of Regional Development and Infrastructure.

K. EDUCATION, RESEARCH, AND TRAINING

These are important matters for NTAs everywhere. The GNTA needs to promote a sound and adaptable educational framework to provide professionals and other staff for the tourism sector that meet international standards. It also needs to ensure that there is appropriate research undertaken for the sector. Continuing professional development needs to be encouraged. NTAs cannot and should not do these their selves. There has to be cooperation between the public authorities responsible for education and training, the private sector and the MoESD. An education and human resources development (HRD) policy and strategy need to be developed for the sector.

L. INSURANCE

Insolvency Insurance: the PTD 2015 requires member states to ensure that organizers (usually tour operators) provide security for the refund of all payments made by or on behalf of travelers insofar as the relevant services are not performed as a consequence of the organizer's insolvency. If the carriage of passengers is included in the package travel contract, organizers must also provide security for the travelers' repatriation. Alternatively, the continuation of the package may be offered.

The security must be effective and must cover reasonably foreseeable costs. It must cover the amounts of payments made by or on behalf of travelers with respect to packages. This must consider the length of the period between down payments and final payments and the completion of the package, as well as the estimated cost for repatriations in the event of the organizer's insolvency.

In the case of travel services that have not been performed, refunds must be provided without undue delay after the traveler has requested it.

Public Liability Insurance: this may be required by law for certain categories of business in the tourism sector (e.g., for hotels and tourist transportation). Its aim is to ensure that the service provider can compensate a traveler/tourist/guest for death or personal injury caused by the insured's negligence. It might also cover contractual liabilities, damage to property, etc.

Implications for the legal framework for tourism in Georgia and its implementation:

- As Georgia is committed to adopting the PTD 2015, it must establish a scheme for liability bonding/guarantees for organizers. This might be a fund run by GNTA or trustees into which organizers provide a bond to cover their insolvency liabilities. Alternatively, it may be laid down as a legal requirement that the organizer must provide proof to the GNTA that they have sufficient cover to protect consumers in the case of insolvency. They might obtain a bond from a bank. The bond would be made in favor of an Insolvency Trust Fund administered by trustees appointed by the GNTA and used to compensate the consumers in the case of insolvency.

Alternatively, the scheme could be run by the Chamber of Tourism/Chamber of Commerce and Industry.

- The recommendations for a new law will impose burdens of liability for death and personal injury on hotels and tourist transportation and this should be accompanied by a requirement to hold public liability insurance.

M. TAXATION AND INCENTIVES

There is a lack of qualified personnel in regional hotels. This forces hotels to bring in personnel from Tbilisi, accommodate them in the hotel and pay value-added tax (VAT) and income tax for each of them per night. This issue should be raised by the GNTA with the tax authorities.

Most freelance tourist guides do not pay taxes. Those employed by tour operators have their income taxes paid for them by the tour operators. The transitional registration and certification system for guides will gradually bring more into the tax compliance and the subsequent licensing system should lead to full tax compliance.

Recommendations

- The incentives provided by EG are welcome but need to be more targeted.
- The issue of consistent use of definitions is discussed above.
- There is a need for a conference center if meetings, incentives, conferences, exhibitions (MICE) are to take off in Georgia.
- Incentives should not be confined to building hotels but also other tourism facilities and for training.
- Consideration might be given to the imposition of a training levy on tourists or hotel accommodation.
- There are weaknesses in the Tax Code methodology in its application to the sector. This should be reviewed.

N. TOURISM ZONES AND TOURISM ADMINISTRATIVE DISTRICTS

The purpose of the Law of Georgia on Supporting the Development of Free Tourism Zones is set out in Article 1 (i.e., “to develop tourism and promote entrepreneurship in Georgia”). To further this, the law determines the conditions, as well as tax and other privileges, for the construction and operation of hotels in free tourism zones. Free tourism zones can only be established in a territory that is adjacent to a territory with undeveloped tourism infrastructure, but with potential for tourism development. Article 3 sets out the relevant definitions.

Article 4 sets out the rights and obligations of the investor. The preferential treatment to be accorded the investor is contained in Article 5 and the state responsibility for providing or facilitating the provision of infrastructure in Article 6. The procedure for transferring land to investors is in Article 7, liability in Article 8 and transitional provisions in Article 9.

Comment

- *These need to be reconciled with the Tax Code and any new Tourism Law and regulations.*

The Resolution on the Granting, Functioning and Revocation of An Entity’s Tourism Enterprise Status 2015 provides the criteria for obtaining tourism enterprise status. A unified interagency register of entities having tourism enterprise status is kept by the Public Law Legal Entity—the RS under the management of the Ministry of Finance of Georgia.

Definitions are provided of:

- A hotel.
- A hotel room/apartment.
- Furnished hotel room/apartments as hotel assets.
- Hotel infrastructure.

There are provisions on letting or subletting part of the hotel for non-hotel purposes. Hotel purposes are defined.

The procedure for obtaining enterprise status is provided in Article 2. The RS, within 10 working days from the receipt of the application, is obliged to review it and make a decision on granting an entity a tourism enterprise status or deny granting it. The entity making the application must provide a:

- Bank guarantee.
- Insurance policy.
- Pledge/mortgage of a property (including the property owned by a third party).

The privileges afforded a tourism enterprise are set out in Article 2. The obligations are contained in Article 3. Revocation of enterprise status is dealt with in Article 4. Revocation is at the initiative of the RS.

Recommendations

- As stated above, the law needs updating and, perhaps, replaced with the designation of tourism development areas, tourist circuits and tourist sites.
- The system for construction and renovation permits needs more detail.
- The creation of local (destination management organizations) DMOs would be most helpful.
- There is a need for a national system of tourist destination signage.
- The resorts are not developing according to expectations.
- There is a lack of a holistic approach with too much attention solely on the building of hotels and not on tourism products.
- Consideration should be given to the use of concessions to enable the private sector to manage heritage sites and nature sites.

O. PUBLIC-PRIVATE PARTNERSHIPS

1. THE CONCEPT

Many countries are divesting themselves of state-owned and -managed tourism enterprises and facilities either through the transfer of ownership, joint enterprise, private management agreements or through concessions. A popular mechanism is the use of public-private partnership (PPP) agreements (i.e., cooperation between the public authorities and the private sector, whether or not the latter is a commercial enterprise or a not-for-profit entity).

The basic characteristics of a PPP are:

- PPP is based on a contract that provides for cooperation between public and private stakeholders. Sometimes, the local community is the third partner.
- The partners' contribution to the common goal is complementary. The goal is achieved more efficiently than could be achieved by the partners independently.
- Each partner sets out clear goals and then negotiates with the other partner within the PPP framework.
- The public partner does not finance the activities of the private partner but offers support or takes actions (e.g., on infrastructure) that facilitates the objective of the partnership.
- The PPP must not have an adverse effect on the local community or businesses.
- The obligations of the private partner exceed the duration of the project or activity that formed the basis of the partnership.
- The PPP enables the private partner to achieve its economic goal of profit.

- The PPP enables the public partner to achieve its political goals (e.g., sustainable tourism development, job creation, income from the asset).

There are risks for the public partner:

- Reconciling the interests of the private partner (profit) with sociopolitical goals of the public partner.
- The public partner runs the risk that public funds and assets will be used to subsidize private interests unless there are effective provisions to ensure transparency and control mechanisms.
- They may give a private entity preferential treatment (e.g., by prioritizing infrastructure support).
- There may be no benefit to the local community and indeed they may suffer a detriment (e.g., lack of access to the mineral waters, or loss of opportunity to provide goods and services to tourists where a facility is operated on an all-inclusive basis).

2. PPP GUIDELINES

Any prudent investor considering engaging in a PPP will require verification of the existence of an appropriate legal framework and of appropriate regulatory conditions for this partnership, including the following:

- Equal opportunity for all relevant companies in the same sector.
- Respect of competition rules in awarding the concession.
- Respect of competition rules in awarding the investment contracts.
- Absence of disproportionate remuneration on capital.
- Legal due diligence to define the constraints to PPP implementation and to define the project scope.

The effectiveness and impact of a PPP depends, to a large extent, on the regulatory mechanisms used to influence and guide the parties and in particular the private sector decision-making process. Because of these critical interactions, it is preferable to ensure the development of effective legislative and regulatory provisions before developing the PPP relationship.

The analysis of a national and sectoral regulatory framework has three main purposes:

- To identify elements that could impede private sector participation, affect viability or distort advantages to be gained. An issue that a project might need to address is the need for additional land for the resort itself and for any proposed community-based tourism initiative. There may be a wide range of landholdings in the area, public land, and disputed ownership of some land, etc.
- To identify the need for, and design sector-specific regulation, making private sector participation possible and effective including the development of institutional structures to oversee and regulate private operators.
- To identify which regulations, need to be incorporated into PPP contracts, to identify their impact, and to identify if safeguards against regulatory risk need to be included.

In particular, the following issues must be investigated:

- The legal capacity of parties.
- General legislation allowing or restricting private sector involvement particularly by foreign companies. The position of foreign investors needs to be investigated and set out in a document for the tendering process.
- The existence and legal basis of cost recovery mechanisms. This will need to be established under the tendering processes.
- The ability to provide guarantees.

- Property issues of land and infrastructure.
- Environmental impact assessment (EIA) requirements. The developments on the site(s) will be subject to EIA requirements laid down by Georgian environmental law.
- Land acquisition.
- Planning permission requirements.
- Licenses.
- The need for project-specific statutory requirements.
- Transparency of laws.
- Administrative coordination.
- Dispute settlement provisions.
- Forms of possible state financial support.
- Competition and antitrust regulations.
- Potential impact of employment and social security laws.
- Currency and profit repatriation rules.
- Public sector borrowing restrictions.
- Tax and accounting liabilities.
- Adequacy of selection and procurement procedures. The project will need to ensure that the whole legal processes for which it is responsible is transparent, efficient and compliant with relevant legislation.
- Legislation governing project agreements and operational issues. Need to ensure that the whole legal processes are compliant with relevant legislation.
- Property law.
- Intellectual property law. Need to ensure that any promotional material is original or that permission has been given by owners to reproduce it.
- Adequacy of oversight and monitoring provisions.

National legislative structures will not always be conducive to PPP arrangements, but certain methods can be adopted to facilitate their introduction, including:

- Choosing a private sector arrangement that reduces risks associated with the deficiencies of the legislative structure: the PPP framework will be designed with this in mind.
- Choosing a private partner best able to manage legislative/regulatory risk, for example in the case of adverse foreign currency or profit repatriation rules then contracting local companies may be more viable.
- Incorporate explicit safeguards in contracts. The interests of all parties should be safeguarded.
- Develop effective regulatory and watchdog mechanisms.

Experience has shown that early development of conducive and consistent national legislative and regulatory structures greatly facilitates the identification, development and implementation of PPPs. The regulatory framework is to the forefront in developing the PPP. A particular requirement is to establish the roles and responsibilities of all parties and ensure that effective systems are in place to regulate and monitor the PPP to derive the desired value for money and necessary transparency in implementation.

3. PROJECT CONTRACTUAL ISSUES

Contracts will define the parameters of the PPP relationship and limit the activities of the parties. Contracts need to provide sufficient flexibility and control to ensure the objectives of both/all parties are met and that differences can be resolved to the benefit of the project. This must be borne in mind in drafting the agreement. It is imperative to ensure maximum consultation at each step of the way and to ensure flexibility in the drafting of the legal documentation while ensuring accountability. Keeping things simple is often more effective than being over prescriptive. This, however, must be achieved while ensuring that the legal provisions are watertight.

A PPP may involve numerous parties and therefore a corresponding number of contractual arrangements. For example, any works undertaken at the site may be the responsibility of one party only, both parties or may be undertaken by one party but may require the staged approval of the other. The public partner may have agreed to undertake certain work at the site (e.g., in relation to infrastructure) before handing it over to the private partner. It may have obtained donor funding for this work. There will need to be a mechanism where any work contracted for, requires approval of completion by the other party.

7. A REGULATORY APPROACH

A. MECHANISMS FOR REGULATION

There are a variety of regulatory mechanisms that may be used to control those that engage in business activities or to control the activities themselves. There are registrations, certifications, permits, licenses, authorizations, accreditations, gradings, classifications, etc. In some countries these terms are used interchangeably and, on some occasions, in the same piece of legislation. It is useful, therefore, to consider what these mechanisms are and how they may be used in regulating the tourism sector in Georgia:

Accreditation

The formal recognition by a public authority or specialized body that a certain entity is qualified to carry out the certification of persons, places, facilities, goods, or services.

Typically, in the tourism sector, there may be accreditation schemes based on prior learning (APL) or prior experience (APE) in establishing the qualifications of applicants for a post such as travel agent, chef, tourist guide, etc. A tourist guide who needs to establish that he or she has particular language skills in order to be certified or licensed may have his or her course in a foreign university recognized if that university, or the particular course, is accredited.

Authorization

This is the giving someone permission to do something (e.g., "...a person authorized by the minister/GNTA to carry out the inspection" or "...unless authorized by the Board"). Often this is informal. There may be a verbal or electronic (by email) authorization or a written one. The authorization is personal and nontransferable. In practice, it is often confused with a permit. In effect, it is still a mechanism for controlling a person's activities. The person must comply with the instructions contained in the authorization or the law governing such authorized persons

Certification

This usually involves the issue of a written assurance by an official body that a person has met certain standards, has particular skills or has passed certain assessments (e.g., examinations). It may also be used to confirm a person's identity and qualifications. In relation to goods or services, it means that they meet certain standards usually in relation to health, hygiene, safety, ingredients, source, authenticity, etc. In most cases, certification is usually followed by registration.

GNTA may choose to establish a voluntary certification system for tourist guides, hotels, ski instructors, etc. In establishing their qualifications, a ski instructor, for example, might refer to their certification by an accredited international skiing body accredited by the GNTA.

Classification

This is the assigning of something to a particular class or category. Premises may be classified as a hotel rather than a guesthouse, for example. Certain motor vehicles may be classified as a public service vehicles (e.g., taxis). A bus, satisfying certain quality standards might be classified as a tourist bus.

Grading

A degree or rating in a scale classifying according to quality, rank, worth, etc. This may be used, for example, to say that a hotel is 4 stars, that a guesthouse is a grade B establishment, that a tourist guide is a national guide or a local guide. A grade might be awarded to a travel agency assistant as senior or junior.

Licensing

The state, or local authority, decides who can carry out a particular service or transaction. It may be a "title license" or a "transaction or practice license." The title license is given whereby the person has met certain prerequisites for being granted a title (usually educational qualifications and/or training) before

they are entitled to use a particular designation (e.g., doctor, dentist, lawyer, auctioneer, tourist guide, coach driver, etc.). There may also be continuing professional development requirements.

A “transaction or practice license” is used to permit someone to provide goods or services to the general public. They have to meet certain standards. Those standards usually relate to the goods or services rather than the person. A qualified tour operator might be licensed to sell tourism packages, international air travel, etc.

The right to give a license implies the right to refuse one. It is a privilege. However, the licensing body must not act out with the constitution and the law. There is a presumption that all activities are lawful unless declared otherwise.

The problem with licensing, apart from cost and bureaucracy is that it may be used to control market entry and can also unfairly discriminate against disadvantaged groups that might not have formal qualifications.

Licensing enables public authorities to control certain activities in a number of ways. The application procedure is used to screen applicants to ensure that they meet the qualifications required, and/or their premises, facilities, vessels, vehicles, or aircraft meet certain standards. That they have paid their taxes, fees, customs, and excise duties; they have no previous convictions; have not been adjudged bankrupt; and that they are a fit and proper person to hold such a license. They may need to prove that they are over a certain age, are citizens of Georgia or the EU (if there is an access agreement), are of sound mind, financially secure, have trained staff, etc.

It allows the government to closely control and supervise certain business activities.

Permits

This is usually a more temporary or one-off permission to do something. It is granted by a competent body to exercise a certain privilege or to do something not forbidden by law but not allowable without the permit. It is usually a temporary minor privilege (e.g., to park a car in a certain place in a car park or adjacent to a building). It usually relates to an activity rather than a person and the latter is not usually required to have qualifications, etc.; mostly, it is used to collect revenue.

A municipality might issue a permit to an event organizer, for example. A permit might be granted to supply alcohol at unlicensed premises where an event is being held. This is one-off permission.

Registration

This is usually the official act of registration of details about a person, business, a location or object such as a car. It provides information to the state/public authorities. It basically states that a person, natural or artificial (e.g., a company), a business, place or object exists. In the latter case, it may be a registration of ownership. The requirements of registration are merely to specify particular information. There are no qualifications or standards involved. There are no other eligibility criteria. Inspection, if any, is merely in order to verify the information submitted.

GNTA might establish a registration scheme (voluntary or mandatory) for guesthouses for example. The Municipality of Tbilisi has set up a registration scheme for taxis.

B. PRACTICAL APPLICATION

• Accreditation

- It is useful in authorizing professional bodies to make certifications on behalf of the state.
- It is used in accrediting educational institutions or training bodies.
- It may be used for recognizing qualifications or certifications acquired outside Georgia. In Georgia, there is recognition of ships registered in certain approved countries or vehicles imported from (and approved by, other countries).
- A person that has passed the International Air Transport Association (IATA) Level 2 can act as a travel agent as IATA is an accredited body.

- **Authorization**
 - This may be somewhat abused in certain countries. Ministers may have an extremely wide discretion to allow persons to ignore the provisions of the law or to do things not specified in the law.
 - A certain amount of ministerial discretion may be needed for truly exceptional circumstances but these should be defined and subject to transparency and legal scrutiny.
 - Some legislation or regulations may allow ministers to ignore some or all of the provisions entirely at their own discretion. This is contrary to the rule of law.
- **Certification**
 - Certification is usually issued by non-state bodies in most countries.
 - Where there is a need to protect the public, the state can either regulate the person providing the goods or services or the transactions they enter into, or both.
 - Tourist guides might be certified, for example, to ensure that they are properly qualified to provide guiding services, have had ethical training and do not exploit tourists.
 - In the case of the professions such as doctors, dentists, pharmacists, etc., it is usual to regulate the person to ensure that they are qualified rather than the service; therefore, it is the tourist guide who is regulated, not the tour itself.
 - There might be regulation/certification of the provider and the service itself. Therefore, a driver might be certified, and the tourist bus might also be certified.
- **Classification**
 - This is a useful tool to assist the public in making choices.
 - In Georgia, it might be used to classify some tourist accommodation as a hotel and others as guesthouses or lodging houses, for example.
- **Grading**
 - Is used to inform the tourist as to the quality of the hotel service and the facilities.
 - In some countries this is done by the state (e.g., France); in others by private organizations (e.g., United Kingdom); and, in others, by private organizations according to an approved state scheme (e.g., Jordan).
- **Licensing**
 - Licensing is often used by countries to regulate the tourism sector. Most EU countries license tour operators, travel agencies, and tourist guides, for example.
 - In a liberal economy, licensing needs to be justified and this is the case in Georgia, where business regulatory reforms provide a presumption against licensing.
 - Though licensing is widely used as a regulatory mechanism, in some countries the reasons for requiring a license is not always clear, other than the generic “in the public interest” and there is often little evidence of follow-up inspection to ensure that the licensee continues to meet the conditions required.
 - In some countries, the follow-up appears mainly to be for the purpose of collecting fees and is open to corruption.
- **Permits**
 - Permits tend to arise where there is no express legal basis for a particular public body issuing a license.
 - They appear attractive to regulatory bodies that consider permits to be a matter of their discretion and do not need a basis in legislation for them to issue it.

- Though in practice they are treated the same as licenses, where permits are mentioned in the legislation there is often much less detail on the qualifications or standard required, therefore leaving that to the discretion of the permit issuer.
- **Registration**
- Businesses are required to be registered as such in Georgia, but there is no requirement to register as a hotel or guesthouse, for example.
- GNTA may decide to run a voluntary registration system for tourist accommodation providers, for example.
- In some countries, voluntary schemes don't work. There have to be inducements to remedy this and an effective system of verifying the information submitted.

C. A REGULATORY POLICY

There are three approaches that may be made when regulation is necessary:

- Regulate the person.
- Regulate the business.
- Regulate the activity.

Those countries that have much higher ratings in the WB "Doing Business" tables tend towards the regulation of the activity by statutory requirements that do not involve licensing, permits, authorizations. Many encourage self-regulation by trade or professional bodies using "soft law" (i.e., codes of conduct, ethics, guidelines, quality marks, charter marks, quality assurance schemes, etc.).

There are grounds for licensing tour operators, travel agents, and tourist guides, as discussed elsewhere in this report. Likewise, for accrediting training courses, qualifications acquired elsewhere, etc. Certification, classification and grading are useful tools in ensuring the quality of services and facilities offered.

A number of questions arise in proposing reforms of the system in Georgia:

- Which body should be responsible for the regulation/licenses? The MoESD/GNTA/one-stop shop/other/state agency/regional government?
- Should there be uniform national standards administered locally or local standards?
- Should the private sector be represented on the licensing/regulatory body?
- What should be the system of appeals against license refusal?
- Should there be a system of probationary licenses?
- How to ensure that it is a positive (enabling) licensing system?
- Should there be one-off licenses or annual licenses?
- How to reduce the number of procedures?
- What information is required and why?
- How to apply ICT to the process?
- How to ensure transparency in the system?
- How to ensure compliance?
- How to incentivize compliance with registration and certification schemes?
- Which types of business/activities are currently licensed and why?
- Why might some businesses comply, and others do not?
- Should licensing and enforcement done by the same entities or separately?

D. JUSTIFICATION FOR REGULATION

The question arises as to the justification for licenses, permits, etc. The usual reasons given in most countries for the regulation of businesses or business transactions is one of the following:

- **Public interest:** the public interest is not the same as the government interest. Nonetheless, it is governments that frequently determine what that is. This may be challenged in the courts and the Georgian constitution provides for this. It may be argued that protecting foreign tourists from unscrupulous tourism service providers or from those not properly resourced or qualified to deliver such services is justified in the public interest as it affects the reputation of the country as a tourist destination.
- **National security:** This is a legitimate reason for regulation. Thus, for example, it is important that foreign citizens or residents may be required to produce a passport and/or visa and to register their details on arrival at a hotel. The hotel register is open to police inspection. There may be designated areas, such as border areas that are declared off-limits for tourists as a matter of national security and their own safety.
- **International obligations:** Georgia is a signatory to international treaties and conventions. These may require a system of regulation and control. Georgia is a member of the IATA and the International Civil Aviation Organization, for example. Thus aircraft, airports, aircrew, etc. must meet certain international standards. There are international agreements and conventions to protect the environment (including the marine environment); Phytosanitary agreements on the inspection intended to prevent the spread and the introduction across national boundaries of pests of plants and plant products; EU requirements, etc.
- **Quality control:** A procedure or set of procedures intended to ensure that a manufactured product or performed service adheres to a defined set of quality criteria or meets the requirements of the client or customer. Mostly this is a matter left to the market. The hotelier or tour operator will wish to ensure that the accommodation or tours meet the standards they set and advertise. Governments become involved where defects in the product or services can endanger lives or property. Otherwise, the sale of defective services is left to consumer protection legislation and/or litigation not licensing.

However, most countries have grading schemes (voluntary or mandatory) based on the accommodation and amenities provided by hotels.

- **Quality assurance:** A procedure or set of procedures intended to ensure that a product or service under development (before work is complete, as opposed to afterward) meets specified requirements. As with quality control the state is only involved where the product or service can endanger lives (e.g., taxis).
- **Safety:** This is usually the reason given for construction permits and driving licenses, for example. Governments may regulate the construction and management of hotels to ensure the safety of guests, for example. Likewise, strict standards might be laid down for the type of buses that can be used as tourist transportation.
- **Health and hygiene:** This is more often dealt with by a combination of certification, inspection and enforcement (such as closing down a restaurant).
- **Proof of skills/professionalism:** Usually a combination of certification, registration, and/or licensing. It ordinarily requires continuing professional development courses or training.
- **Consumer protection:** These are mechanisms of preventative legal care for the consumer. Mostly it is dealt with by public law, statutory offenses, inspection and enforcement. Not by licensing, permits, etc. There is an exception to this in tourism law where the consumers are foreign tourists who are not familiar with the country, spend a short time there and cannot practically seek enforcement through the courts. Thus, suppliers may be required to hold a license.
- **Fair trading and fair competition:** This is best dealt with by the mechanisms described for consumer protection.

- **Disclosure of information:** This is the main justification for registration. It may also be backed up by disclosure provisions in statutes and/or by an official statistics law.
- **Foreign recognition:** This is why certification and accreditation mechanisms, transparent, and properly administered and enforced are important.
- **Avoiding fraud or corruption:** Registration, published and audited accounts are useful mechanisms. Licensing and permits frequently give rise to corruption not prevent it.
- **Controlling market entry:** Usually frowned upon in a free-market economy, it is necessary in certain circumstances to protect scarce resources (e.g., forest products, fish stocks, access to vulnerable heritage, etc.).
- **Financial security:** It is important where a person or entity receives funds from the general public, which may be at risk if not properly regulated (e.g., banks, insurance companies, other financial institutions, airlines, travel agents, etc.).

E. THE NEED FOR BETTER DRAFTING STANDARDS

Much of the existing legislation and regulations have been poorly drafted or use out-of-date approaches to regulation. The key issues to avoid in drafting a new Tourism Law and regulations are:

- **Inconsistent quality in legislation:** Contemporary Georgian legislation, particularly in some highly technical areas and which has recently been enacted, is thorough and detailed and matches international standards. However, the existing Tourism Law is poorly structured and/or poorly drafted. The new Tourism Law should be drafted to international standard, with implementing regulations that are consistent with the main law.
- **Exhortative content and vague provisions:** In many former Soviet countries, some of the provisions found in the laws or regulations exhort meritorious behavior (e.g., “employers shall encourage healthy behavior among their staff”). That is not a legal provision. How would it be measured? How would it be enforced? It could be the subject of a health campaign but not a law. However, “employers will provide staff with an annual medical check-up” or “employers will ensure that at least one person on duty at all times has been trained to provide first aid (basic medical assistance” is measurable and enforceable. “Tour operators shall provide their clients with a written or electronic copy of the following information....” Is better than” tour operators shall inform the client of the details of the tour.”
- **Provisions that are too vague to be enforceable** (e.g., “tourist buses shall be clean”). It is better to state in exact terms, such as “tourist buses shall be thoroughly cleaned at the start/end of each working day and shall be subject to inspection, such inspection based on the standards laid down in the Tourist Transport Regulations...”
- **Ultra vires regulations:** A law may empower a minister or public body to issue regulations. Those regulations cannot legally exceed the powers granted in the law.
- **Inconsistent definitions and terminology:** Inevitably, a range of definitions of the same trade, profession, activity, transaction, object, etc., arises across the legislative and regulatory framework. There may be inconsistent definitions of a hotel in the Tourism Law, tourism zones law, that used by EG and the tax law.
- **Inconsistent and harsh penalties.** There is a need for consistent use of penalties in the new law and regulations. Fiscal penalties should reflect the harm caused by the miscreant. The aim should surely be to provide a deterrent linked to the likely consequences of the breach. The terms of imprisonment imposed in serious cases (e.g., for breach of safety regulations) must not be harsh and out of all proportion to the alternative fine, therefore imposing a much heavier burden on the less well-off who cannot afford to pay the fine than on the wealthier provider, for whom the fine is merely a hazard of doing business.

There is also a need to consider the effect of inflation on penalties stated in the law. The way that other countries address this matter is to have a scale of penalties that are updated in accordance with inflation. This scale is updated from time to time by order of the Parliament or Ministry of Justice Laws thereafter refer to a penalty at “level x” on the scale.

- **Excessive discretion for ministers:** Most legislation gives ministers the power to issue implementing regulations, decrees, notices, permits, etc. In some cases, they empower the minister to grant exemptions or to waive the application of particular rules in certain cases. This is undemocratic and contrary to the rule of law. It leaves ministers open to accusations of corruption. It is a massive deterrence to investors, particularly foreign investors. In some cases, the effect is the opposite, domestic investors suspecting that foreigners are given privileges of not complying with legislation at the discretion of ministers.

However, there is, sometimes, a need for ministers to be permitted to exercise a discretionary exemption, but this must be tightly drafted, strictly controlled, transparent, the criteria used expressed publicly and be subject to challenge in the courts. On no occasion, should a minister be permitted to extend legal burdens to cover people or transactions or activities not covered in the original legislation.

There is a danger that legislation is passed and then filed away, with the private sector left to comply, but totally unclear as to what their obligations were. There is a need for:

- Public awareness seminars.
- Public sector training.
- Private sector compliance guides.
- A directory of public services.
- A “contact person” in every public authority, so that those needing information know who to ask.

F. ENFORCEMENT

1. BACKGROUND

In preparation for the implementation of the Tourism Law, the GNTA and, in particular, the tourism inspectorate needs to undergo a training program on positive compliance mechanisms. The provisions in the detailed Concept of the draft law (the Concept) relating to industry regulation are there not to burden tourism businesses or to catch their owners out but to improve and maintain appropriate standards of delivery of tourism services. They also relate to consumer protection, accountability and public safety. The aim should be to assist the sector to comply by providing information, advice, guidelines, training and other assistance. A system of notices should be adopted to make plain to the service provider what he or she is doing wrong, what needs to be done to put it right, where help or assistance can be obtained and a reasonable period of time to comply without penalty. There will, of course, be occasions where more stringent sanctions such as closure orders, suspension of licenses, etc., fines, or even terms of imprisonment may be necessary in the case of safety matters, hygiene issues or persistent noncompliance but these measures should very much be last rather than a first resort.

2. COMPLIANCE AND INSPECTION

It is important to be clear about the goal of transforming inspection into a positive compliance system. This comes from the general goals of creating a business enabling environment for the tourism sector in Georgia:

- To reduce the regulatory burden on businesses by reducing the time and cost of compliance.
- Create an incentive for businesses that currently operate in the informal sector to graduate to the formal sector and for new entrepreneurs to start up new tourism businesses.
- Develop a system for efficient and effective registration of informal businesses.
- Improve transparency and reduce uncertainty for businesses about the procedures for compliance with regulatory requirements.
- Reduce the administrative burden for businesses and entrepreneurs to comply with relevant laws and regulations.

- Increase the quality and effectiveness of inspections leading to improved regulatory compliance and reduction of regulatory costs.

There is a need to minimize the regulatory burden'. Any new inspection process should decrease, rather than increase, the regulatory burden. Transparency, certainty, efficiency and support for compliance will contribute to the reduction of the burden. Reducing the duration and frequency of inspections and the cost of compliance is essential. The effective use of an information management system (IMS) should also help.

An amnesty should be given to those in the informal sector and a “honeymoon” period in which they are assisted to comply. Likewise, for new business start-ups. The provision of easy-to-read guides under this project will ensure that those required to comply are properly informed of their obligations.

Throughout this part of the report, there is a reference to “inspection” and “inspectors.” However, it should be pointed out that inspection is not the only mechanism for ensuring compliance with the law. As stressed above, this can be achieved by ensuring that regulations are published, supported by clear easy-to-read guides, certain in their terms, coherent and consistent with other legislation. They also have to be achievable and enforceable. Those responsible for enforcement should provide those required to comply with assistance. Where inspection is needed, it should be according to a rational system, explained to the one required to comply, be strictly within the limits of the law, with minimum disruption and cost to the business.

A positive approach should be taken by inspectors (e.g., consulting businesses on any difficulties they have on compliance and providing feedback to regulators); make a call to clarify things, or send an informative reminder or warning letter. Inspection in the business premises is the most expensive form of reaction for the inspectorate and the business. Therefore, this form of reaction should be used only when it is necessary. If the goal could be achieved using other measures instead of inspection that are less burdensome for the business, as well as for the inspectorate, these should be used.

It should be emphasized that entrepreneurs are the clients of the inspectorate and not “the accused.” The inspectorate is there to help entrepreneurs to achieve full compliance with the law and regulations. The inspectorate is also there to lower risks and thereby ensure the protection of the public and the environment. This “service” ethic needs to be underpinned by the legal framework for inspections and by the inspections manual. However, the law alone cannot change the nature of every inspector and the policy of every inspectorate, this needs to be established by a code of professional ethics, training, incentives and, where necessary, sanctions.

3. RISK-BASED ASSESSMENT

Risk assessment is a systematic examination of a trade or commercial entity, premises, job or process that is carried out for the purpose of:

- Identifying any significant hazards that are present.
- Determining whether or not what the owner or controller of that entity has already done enough to reduce the risk of someone being harmed to an acceptable level, and if not.
- Deciding what further control measures he or she must take to reduce the risk to an acceptable level.

This would be applied in assessing the safety of hotel premises, for example.

A “hazard” is something that has the potential to cause someone harm or ill health. An inspector or compliance officer may make this assessment based on the risk arising from the nature of the activity itself, from the risk based on the record or experience of the person carrying out that activity or by a combination of the two. Depending on the degree of harm and the likelihood of the risk occurring, the inspector or compliance officer can prioritize inspection. Self-assessment of risks should also be used.

It is vital that risk assessments are carried out by a person who is experienced and competent to do so. This requires training and continuing professional development. Competence requires knowledge, awareness, training, and experience. Those carrying out a risk assessment should be supervised and, occasionally, tested. The assessor is a watchdog rather than a bloodhound. He or she is there to help

ensure that risk is minimized, not there to “hunt down the guilty party.” Of course, if he or she comes across criminal behavior, this must be reported. A competent assessor does not know everything about everything but knows what he or she knows and what he or she does not and when to call in further expert help.

There are eight steps to carrying out a risk assessment:

- Identify the hazards.
- Identify those at risk.
- Identify existing control measures.
- Evaluate the risk.
- Decide/implement control measures.
- Record assessment.
- Monitor and review.
- Inform.

The following is a simple 1 to 5 risk ranking system used by the health and Safety Executive in the United Kingdom.

How likely is it that the hazard may result in harm?

1. Highly unlikely
2. Unlikely
3. Possible
4. Probable
5. Certain

If the hazard does result in harm, how severe would the injury be?

1. Scratch (trivial)
2. Cut (minor injury)
3. Fracture (major injury—over three-day injury)
4. Amputation (major injury)
5. Death

To carry out a risk ranking simply multiply the likelihood by the severity.

		Likelihood						
		1	2	3	4	5	Likelihood	Severity
Severity	1	1	2	3	4	5	1 Highly Unlikely	1 Trivial
	2	2	4	6	8	10	2 Unlikely	2 Minor Injury
	3	3	6	9	12	15	3 Possible	3 Over 3 days injury
	4	4	8	12	16	20	4 Probable	4 Major injury
	5	5	10	15	20	25	5 Certain	5 Incapacity or Death

After the multiplication you are left with a number from 1 to 25, which you can match against the following table to get the residual risk (i.e., the risk that remains after the controls are in place).

Priority

1	Urgent action—Risk numbers 15 through 25
2	High priority—Risk numbers 10 through 12
3	Medium priority—Risk numbers 5 through 9
4	Low priority—Risk numbers 2 through 4
5	Very low priority—No action required (risk number 1)

The risk ranking will now indicate the residual risk either low, medium, or high. If the risks are acceptable (low risk) then the next steps may be skipped: if the risks are still moderate/high (medium/high risk) then something must be done to bring the risk to a "tolerable" level. Actions 1 through 5 should be prioritized.

8. REGULATING THE SECTOR

A. ACCOMMODATION

1. DEFINITIONS

The following definitions should be used consistently in all legislation, regulations, orders, notices, etc., in relation to the tourist accommodation:

- a) "Accommodation unit" is the premises or part thereof where accommodation is offered to tourists.
- b) "Boarding house" means a house where guests are provided with accommodation and at least three main meals in exchange for payment.
- c) "Bed and Breakfast" means accommodation offered in a private home, consisting of a room for the night and breakfast the next morning for an inclusive price.

Comments

- *Distinctions should be made in the law between hotels and other types of tourist accommodation, most particularly, in the case of the latter where the owner resides in that property.*
 - *In the case of hotels, there is a public responsibility to provide accommodation to all who are willing and able to pay. This reflects international practice.*
 - *In the case of accommodation in which the owner resides, such as bed and breakfast accommodation, the obligation is less strict, and the owner has discretion as to whom he or she accommodates in his or her house.*
- d) "Farmhouse" means a holiday premises that is constructed and finished to represent a typical Georgian farmhouse, located in an area compatible with a farmhouse environment.
 - e) "Furnished units" means an apartment or house with a separate entrance that provides sleeping accommodation, cooking, and sanitary facilities for the exclusive use of the person, and guests of that person, who booked it.

Comments

- *Distinctions are made in the law between hotels and other types of tourist. This ensures a comprehensive list of tourist accommodation. It may be that "furnished apartments" is preferred.*
- f) "Guesthouse" means a building that is part of, or adjacent to, the owner's residence and where accommodation is provided to tourists for payment.
 - g) "Hotel" means an establishment that has rooms available for the accommodation of travellers, the owner of which holds the establishment out as offering food, beverages, and, if so required, accommodation, without any special contract, to any traveller presenting himself who appears willing and able to pay the published rate for the services and facilities, provided that he is in a fit state to be received. The main occupation of the premises must be for the purpose of carrying on a trade as a hotelier.

Comments

- *"Hotel:" This definition reflects international legal practice. It enables the MoESD to exempt small hotels by providing for a minimum number of rooms. The emphasis is on the accommodation of travellers i.e., guests who stay for relatively short periods of time.*
- *Thus, it is not a lodging or boarding house.*

- *“Holds the establishment out” means this is its principal purpose and the invitation is to the public. It is not a private house. The hotel “offers” food, beverages and accommodation. This does not prevent it from refusing unsuitable guests, those who are unwilling or unable to pay or to provide proof that they can pay, or refuse particular categories of travellers when required to do so by law.*
 - *The reference to “without a special contract” means that the hotel must provide accommodation, food and beverages to bona fide travellers without their having to book in advance if he has these things available. This does not mean that he cannot take advanced bookings and give priority to them. Nor does it mean that he cannot require the guest when checking in to sign a form, etc.*
- h) “Restaurant” means an establishment that provides food and beverages for consumption on the premises, to any traveller presenting himself who appears willing and able to pay the published sum for the food and beverages, if he is in a fit state to be received.

Comments

- *“Restaurant:” This excludes “take-away” food outlets. “Published” means the price displayed on a notice on the premises and/or in the menu.*
- i) “Sanitary facility” includes washbasins, sinks, baths, showers, urinal, and water closet.
- j) “Self-catering unit” means an accommodation unit for use by guests that, in addition to the facilities and furnishings, also provides kitchen facilities.
- k) “Timeshare” means the right to use and occupy a unit on a recurrent periodic basis according to an arrangement or a contract allocating this right among various projects.
- l) “Tourist accommodation” means accommodation made available to visitors.

Comments

- *This is a wider category than hotels and furnished apartments. While, for the most part, tourists will tend to be accommodated in hotels or furnished apartments, there are some, particularly domestic tourists and those from the diaspora, who may choose to stay in the residences of private citizens as paying guests. Student residences, youth hostels, rest houses, guesthouses, pensions, etc., are not usually covered by hotel or furnished apartment regulations. Nonetheless, the authorities may wish to check up on these other accommodation providers. Therefore, creating a register of tourist accommodations is recommended in this law.*
- m) In respect of timeshare, a “unit” means that portion of a timeshare project that is designated for separate occupancy.

2. OVERVIEW OF INTERNATIONAL PRACTICE

A distinction is made in most countries between hotels and other tourist accommodation. A hotel is considered in common law and civil law countries as a public place to which any traveller who is willing and able to pay for accommodation and is in a fit state to be received must be provided with a room if there is one available. There are exceptions, and these are set out in the Concept in Section 9 of this report. Other tourism accommodation providers do not have this obligation if they do not breach anti-discrimination legislation.

Most countries have a designation/definition of a hotel in their law but only some require special registration and/or licenses. Many require special planning permission, building permits and liquor licenses for hotels. Few set out minimum guest bedroom requirements or specify amenities that must be provided. This latter is left to classification and grading schemes. In some, classification and grading are a state matter, others have a state system but administered by a quality assurance entity and still, others have no state system, leaving it to market and/or the private sector.

Hotel Registration Required

- Argentina, Australia, France (local), Greece, Hungary, Ireland, Italy, Malta, Netherlands, Serbia, Spain, and Turkey.

Hotel Licences Required

- Argentina, Australia, Austria, Greece, Hungary, Israel, Malta, Spain, and Turkey.

Minimum Number of Rooms Specified

- Argentina, Armenia, Hungary, Israel and Italy.

State Classification

- Armenia, Australia, France, Ireland, Israel, Italy (local). Malta, Serbia, Spain, and Turkey.

Special Liability for Hotelkeepers

- Argentina, Armenia, Australia, Austria, Canada, France, Greece, Hungary, Ireland, Israel, Italy (local). Lithuania, Malta, Netherlands, Serbia, Spain, and Turkey.

Generally, the regulation of other forms of tourist accommodation is less rigid and demanding than those required of hotels. Some do not regulate them at all, leaving it to the market to determine quality issues. Most are governed by other laws such as health and safety, public nuisance, etc. Some countries have voluntary registration and certification systems and, in others it is mandatory.

Other Tourist Accommodation Registration Required

- Argentina (some provinces), Armenia, Australia (local permits), Austria, Canada (Newfoundland, Nova Scotia, Prince Edward Island and Quebec), France, Greece, Hungary, Ireland, Israel, Italy (local). Lithuania (local), Malta, Netherlands (local), Serbia, and Spain.

Other Tourist Accommodation Classification

- Argentina (some provinces), Armenia (voluntary), Australia (local), Austria (voluntary), France, Greece (Chamber of Commerce), Hungary, Ireland, Israel, Italy (local). Malta and Serbia.

3. ALTERNATIVE #1 (IRELAND)

Ireland is a major tourist destination. The Republic of Ireland's population is approximately 4.8 million. Georgia's population is approximately 3.7 million. Both countries are dominated by their capital city and its airport is the main hub for tourists visiting the country. During a period of austerity in the 1990s, when the agricultural sector was affected the Irish government made a push to drive tourism as a spearhead sector of the economy. Helping rural farmers to earn supplementary income from tourism was part of that policy. Apart from infrastructural projects and a strong marketing campaign, the government tackled quality assurance issues. This was addressed through high standards of hospitality training and reviewing the classification and grading system.

Fáilte Ireland (Welcome to Ireland) was established as the National Tourism Development Authority under an Act of that name in 2003, following the amalgamation of Bord Fáilte Éireann and the CERT. The latter had been established in 1963 to take over the training of workers in the hospitality industry. The mandate of Fáilte Ireland is "to encourage, promote and support tourism as a leading indigenous component of the Irish economy." It is the NTO. It engages in tourism marketing, training, product development, research and statistics, tourism standards, enterprise support, capability building.

Fáilte Ireland sets the requirements for the various categories of accommodation and has regular monitoring of the standards in all forms of approved accommodation. It has specific powers and functions in relation to the registration and grading of tourist accommodation. It manages appointed subcontractors for the inspection and registration assessment of various accommodation categories.

All hotels must be classified using the Fáilte Ireland Hotel Classification Scheme. Hotels must attain the Approval minimum entry level requirements in order to comply with the Registration and Renewal of Registration Regulations for Hotels 2016. The scheme was developed in close consultation with the IHF.

In order to comply with the Registration and Renewal of Registration Regulations, any business using the prescribed term "hotel" must meet the regulations and register with Fáilte Ireland. If a hotel wishes to

be classified from 2 stars to 5 stars, then they must meet each of the criteria relevant to that classification.

Any tourism business calling themselves a guesthouse must be registered with Fáilte Ireland. In order to become registered, the business must have a minimum of seven guest bedrooms with private en-suite bathrooms, and no more than 30 guest bedrooms also with private bathrooms. Breakfast should be provided.

A bed and breakfast establishment is defined as an Irish home bed and breakfast and includes a townhouse, farmhouse, or country house. It must have at least two, and no more than six guest bedrooms. The maximum number of bedrooms in the house cannot be more than nine, including the family bedrooms. In the case of houses with guest bedrooms without private bathrooms attached, there should be one bath and one shower provided for the first six persons accommodated, including the owner's family. If more than four guest bedrooms are provided, planning permission for bed and breakfast use is necessary.

Any tourism business calling themselves a holiday apartment or holiday cottage must be registered with Fáilte Ireland. In order to become registered as a holiday hostel, the business must be under the direct management of the owner or allocated manager of the hostel. There should be space for a minimum of 20 guests on the premises, and facilities should include sleeping, dining and lounge accommodation, as well as toilets, bathing facilities and either a serviced or a self-catering kitchen.

In order to become registered as a youth hostel, the business must be under the direct management and control of a no-profit organization or association whose primary object is the provision and management of youth hostels.

There should be space for a minimum of 20 guests, and the premises must contain sleeping, dining and lounge accommodation, as well a toilet, bathing facilities and either a serviced or self-catering kitchen.

Caravan and camping parks must also be registered with Fáilte Ireland. It must consist of a site comprising 20 or more touring pitches and not more than 50 touring pitches per hectare. There should be toilets and a washing-up facility provided within a permanent structure, and the site should be constructed, laid out, or adapted and properly equipped for use as a caravan or camping park.

Registered holiday camps must provide sporting and recreational facilities, and the accommodation must consist of either a block of separate serviced bedrooms, self-catering houses or self-catering apartments.

Comments

- *This model focuses on quality issues and is comprehensive for the tourism accommodation sector.*
- *The requirements for the sector were developed in consultation with the IHA and with local tourist boards.*
- *The standards are regularly reviewed.*
- *The sector is properly defined.*
- *The inspection is subcontracted out to experts in quality assurance.*
- *Those establishments that are classified pay fees that cover the cost of the process.*
- *The system is highly regarded by the tourism sector and incentivizes businesses to make improvements.*

The designation of a "hotel" may only be used by establishments that meet the requirements of the regulations and the classification of 2 to 5 stars.

- *It builds the confidence of tourists booking tourist accommodation in advance as they know what to expect.*

4. ALTERNATIVE #2 (MALTA)

Malta is a small island nation with a very important tourism sector. Unlike Ireland, there is a licensing system. Having had a tourist boom in the 1980s and 1990s, there was a view among some northern European tourists that Malta had become rather jaded. The government sought to make the country a more upmarket destination with a reputation for high standards of facilities and service. A new legal framework was introduced.

Hotels: There is no minimum number of rooms specified for an enterprise to be classified as a hotel in law. Hotels are required by law to be registered (as a hotel, not just as a business) and licensed. There is a state classification system. The MoESD does not regulate the design of hotels as this falls within the powers of the Malta Planning Authority and Malta Environment and Resources Authority. Occupational health and safety issues are governed by the Occupational Health and Safety Authority but are more related to employer-employee relationships than the protection of the public.

Hotel liability is a civil law matter. The rule of “prudence, diligence and buon paterfamilias” versus negligence and recklessness. It is also a criminal law matter should a person suffer an injury or death in a hotel.

Guesthouses are governed by holiday premises regulations as are bed and breakfast establishments. Airbnb is not specifically regulated as such except that the law requires that whosoever provides accommodation to tourists must have a license. Campsites must obtain a police license. Timeshares are regulated by Malta’s implementation of the EU Timeshare Directive.

The legislation is contained in the Malta Travel and Tourism Services Act 2003. Article 18 provides that it is illegal to operate a hotel, guesthouse, hostel, or holiday premises without a license. It further provides that it is illegal to provide holiday accommodation in a house without a license. Licenses must be renewed on an annual basis. The license may be issued subject to conditions. The license holder must be of good character; the premises must be suitable and meet all legal requirements, and the use of the premises as holiday accommodation must be “desirable in accordance with government policy at the time.” This latter, may, for example, be used for zoning requirements, to avoid public nuisance or to avoid saturation of hotel premises, guesthouses, etc., in a particular area. There is a prohibition on the use of undesirable, misleading, or unsuitable names.

There is a compulsory classification system for hotels and other tourist accommodation. There is provision for appeals and for reclassification.

A register of guests must be kept and open to inspection by the police and the MTA.

The minister is empowered to make regulations on standards, level of service, and amenities. The Holiday Premises Regulations 2003: All holiday premises must be classified, prior to being licensed, according to the criteria established according to the second schedule with regard to holiday premises and according to the third schedule with regard to farmhouses. The Second Schedule provides:

- General conditions (on amenities)
- Conditions relating to:
 - Bedrooms.
 - Bathrooms.
 - Kitchen.
 - Dining/living room area.
 - Common areas (if applicable).
 - Pool area (if applicable).
 - Laundry facilities.
 - Fire safety.

The third schedule with regard to farmhouses also provides:

- General conditions (on amenities)

- Conditions relating to:

- Bedrooms.
- Bathrooms.
- Kitchen.
- Dining/living room area.
- Common areas.
- Maintenance and other services.
- Pool area (if applicable).
- Laundry facilities.

Holiday premises are classified by the MTA in three grades: "Standard," "comfort," and "superior," with "standard" denoting the lowest grade and "superior" denoting the highest grade. The holiday premises category includes:

- Apartments (to be classified as "standard," "comfort, and "superior").
- Studios (to be classified as "standard" and "comfort).
- Villas (to be classified as "comfort").
- Villas with exclusive swimming pool within the premises (to be classified as "superior").

The classification grades of these categories also apply to similar accommodation properties such as townhouses, maisonettes, and terraced houses, "as the Authority may deem appropriate."

Farmhouses are classified by the MTA in two grades, either a "comfort" grade or a "superior" grade, with "comfort" denoting the lower grade and "superior" denoting the higher grade.

The MTA may, in exceptional circumstances, for the purpose of classification, accept alternative services and amenities instead of those set out in the regulations "as the Authority may deem appropriate." However, it may, at any time, after giving reasonable notice, withdraw the concession of accepting alternative amenities or services in lieu of amenities and services specified in the classification regulations.

According to an expert in Tourism Law in Malta, the state classification is running well. It is in line with Chapter 409.04 Tourism Accommodation Establishment Regulations 2012. They are effectively enforced. The enforcement provisions are in Part VII of the Malta Travel and Tourism Services Act 2003. There is no evidence of any pressure to replace the system.

5. ALTERNATIVE #3 (ISRAEL)

In Israel, in 1992, as part of a "laissez-faire" economic approach and following criticism that the existing system was out of date, the star rating system was abolished. The government expected the cancellation of the star-rating system to increase the competition in the hotel industry and to bring hotel prices down.

Tourism Services Regulations (Hotels) 2001 provides that: "A hotel may publish information with regard to its standard, the services and additional services it renders, so long as it does not mention stars or similar symbols." The regulations include a status referred to as a "registered hotel," which is a hotel that has a valid business license, fulfills certain requirements set out in the regulations and adheres to other relevant requirements of the law.

However, this did not kill the star rating system. The Ministry of Tourism uses criteria known as the "Physical Standards" for approving hotel planning and for the purpose of providing government grants and support. Travel agents and hotel chains continue to use stars to describe the standards of a hotel (either using the number of stars a hotel had until 1992 or making their own assessment). The industry

(including the lawyers who represent the industry) needs the star system to understand and set out the standards to be applied to the construction or management of a hotel.

In 2006, the minister appointed the Public Committee for the Examination of the Quality of the Tourism Service and Product. One of its recommendations was as follows: “We suggest to introduce a new rating system for hotels, that will be accepted by the industry. We do not mean to reinstate the government rating system (revoked in 1992), but rather to base the system on voluntary rating, on a commercial basis, carried out by an international organization of good reputation.”

The Israel Hotels Association did not want a government rating system and was not interested in increasing the ministry’s powers as a regulator. Many were happy to leave things as they were and thought that in the era of Trip Advisor and Expedia, there was no need for a formal star-rating system. However, there were other reasons for re-establishing a star-rating system. The Ministry of Tourism’s Physical Standards for hotel planning used for defining the standards of the hotel building did not deal with service standards. The needs of travel agents and tour operators for an official system. Employee allowances for board and lodging were paid according to the number of stars a hotel had.

The first draft of the Tourism Services Regulations (Hotels) 2013 was made by the ministry at the beginning of 2012. Discussions with the Israel Hotel Association took place during 2012 and numerous drafts were prepared. The Regulations were passed on August 13, 2012, and were published on January 2, 2013. The Regulations came into force on September 3, 2013.

The main principles of the regulations are:

- Classification is voluntary.
- An existing rating system was adopted (Hotelstars Europe).
- It is regulated and operated by the government.
- Classification is carried out by an external and experienced organization.
- Once a hotel is classified it receives a star certificate, it is valid for three years.

A hotel that has been classified may contest the star-rating it received by applying to an Appeal Committee. It may apply for reclassification (if it has been renovated for instance) and the (external) Inspector will recheck the hotel. The Ministry of Tourism publishes a list of all star-rated hotels in Hebrew and English and updates the list as necessary. The hotel must display its star certificate to the public and display it near the front desk. Once a hotel has been star-rated, it can discontinue its star rating only if the Supervisor, appointed by the Ministry of Tourism, has approved such discontinuation. A star-rated hotel cannot present itself or advertise itself as “un-rated.”

The expenses of the classification are borne by the government. The Hotel Association has representatives on the Advisory Committee and in the Appeal Committee.

6. RECOMMENDATIONS FOR GEORGIA

The Maltese system would be a good fit for Georgia. It provides for licensing and mandatory state classification. Argentina, Australia, Austria, Greece, Hungary, Israel, Malta, Spain, and Turkey all require licensing too and Armenia, Australia, France, Ireland, Israel, Italy (local). Malta, Serbia, Spain, and Turkey have state classification schemes.

The Maltese system works well and is efficient. It has lasted 16 years. There are administrative fees to cover the costs and the system provides incentives for tourist accommodation providers to improve their facilities or, at least to maintain them at the standard that their classification requires. The system was worked out in consultation with the private sector. The detailed standards are set out in Regulations so that they can be more easily amended than provisions in an Act (primary legislation).

It may take some time to get the legislation for licensing through and so it might be useful to emulate the Maltese Classification system but, initially, as a voluntary system.

Once the legislation is enacted, the voluntary system could then become mandatory and become a condition for a license. Lessons from the Israeli experience are also useful.

Implementation of the Law on Tourism

- Draft an easy-to-read guide for staff of the GNTA, MoESD and other relevant ministries and public bodies.
- Draft an easy-to-read guide for the private sector.
- Hold a series of workshops on the legislative provisions.
- Prepare a communications strategy to inform the sector of the new legal framework.
- Establish the Tourism Private Sector Advisory Committee (TPSAC). Devise its remit and procedures.
- Establish a tourism inspectorate:
 - Decide whether these are to be GNTA employees or subcontractors or a mixture of both.
 - Draft an Inspection Manual.
 - Draft code of conduct for inspectors.
 - Prepare contracts for subcontractors if applicable.
 - Design badges for inspectors.
 - Design an electronic system for inspections and provide inspectors with a hand-held device.
 - Devise a risk-based assessment system for Inspections of tourist accommodation.
 - Decide on implementation area by area or category by category.
- Provide guidance on hotel safety standards as set out in Part 8. Discuss these with the planning, building control, health and safety, fire and municipal authorities, and agree on a common inspection strategy.
- Establish the Tourism Standards Committee. Appoint members and develop its remit and modus operandi to fulfill its functions under the law and implementing regulations.
- Devise the registration system for tourist accommodation. Devise an online portal for online registration.
- Establish a Registration, Licensing and Classification Division within the GNTA.
- Determine the fees for registration, licensing, and classification.
- Devise standard notices for registration, licensing, and classification.
- Agree on the start date for implementation.

Hotels and Tourist Accommodation Regulations

- There are important definitions that supplement those in the Concept:
 - “Hostel” means a supervised lodging place providing basic accommodation to travelers.
 - “Hotel room” means an accommodation unit for use by guests, having its own entrance, bedroom and, where required by this Regulation or other legislation or regulations, an interconnected bathroom, as well as appropriate fixtures, furniture and furnishings.
 - “Storey” means the part of a building that is situated between the top of any floor being the lowest floor level within the storey and the top of the floor next above it being the highest floor level within the storey; or if there is no floor above it, being the top of the floor and the ceiling above, or, if there is no ceiling above it, the top of the floor and internal surface of the roof.

Implementation of the Regulations

- Design standard certificates of registration for the different types of tourist accommodation.
- Determine the fees for certificates and replacements.

- Draft standard Inspection notices and warning notices for those that refuse access.
- Draft standard format for price displays at tourist accommodation.
- Design a classification system.
- Design classification and grading notices for display at the tourist accommodation establishment.
- Determine fees for classification/grading notices and for the replacement of lost or damaged notices.
- Agree on standards for tourist accommodation establishments with health and safety, building control, municipality, and fire services.
- Hold workshops on compliance with this regulation.
- Create a standard register of guests.
- Agree on the scale of penalties for offenses under the regulations with the Ministry of Justice.
- Set up an appeals system and penalties.

B. TOURIST GUIDES

1. DEFINITIONS

The following definitions should be used consistently in all legislation, regulations, orders, notices, etc., in relation to tourist guides:

“Tourist guide” means a person, who for payment, describes and, or, interprets for tourists the archaeology, history and environment of Georgia, the nature and culture of the Georgian people, and their achievements.

Comments

- *By a “person,” means a natural person, not a company or an app on a mobile phone.*
- *Tourist guides should be distinguished from a tour manager. The latter deals with the logistics of a tour, assisting the tourist on their package tour. They do not carry out the duties of a tourist guide.*
- *A tourist guide might also be a tour manager, but the regulated part of their work is as a tourist guide.*
- *The tourist guide might be an employee of a tour operator or ground-handling agent or, more commonly, act as an independent tourist guide.*
- *Whatever their contractual arrangements, the legal obligations apply to them as a professional.*

2. OVERVIEW OF INTERNATIONAL PRACTICE

Most EU countries license tourist guides either on a national or local basis. There are usually educational requirements, training, language skills and an ethical code. Some distinguish between national guides, local/municipal guides, and guides for specific places (e.g., museums, monasteries, art galleries, or themed guides such as opera guides or sports guides).

Some countries acknowledge that tourist guiding is a profession and that it should self-regulate and let the market decide on whether to pick a guide that is a member of that professional body or one who is not. For this self-regulation, the standards of the professional body need to be marketed so that tourists are aware of them and can make an informed choice. The professional body needs to be rigorous in maintaining and enforcing those standards.

Licenses Required

- Argentina, Armenia, Austria, Canada (Montreal and Quebec City), Greece, Hungary, Israel, Malta, Spain, and Turkey.

Certification

- Lithuania

Self-regulation

- Australia, Canada (most provinces), England, France (but permits are required for entry to national museums and historic monuments), Ireland, Netherlands (except permits are required in some provinces), Scotland, United States (most states), Wales

Though these countries rely mostly on self-regulation and licenses are not required, it does not mean there are no laws applicable. In all, it would be an offence to falsely claim or to infer membership of the professional association when that is untrue.

3. ALTERNATIVE #1 (WALES)

Wales is a small country with a population of just over 3 million. It is part of the United Kingdom but has devolved powers on a range of matters upon which it can enact legislation in the Welsh National Assembly. Laws on labor matters, commercial law, and competition law, for example, however, are still the responsibility of the UK Parliament and government. Tourism is devolved to the National Assembly.

Tourist guides are not licensed in Wales, but the government has an accreditation system. Membership of the Wales Official Tourist Guides Association is open to those tourist guides that have completed a professional course in tourist guiding in Wales that has been recognised by the Welsh government. Members of Wales Official Tourist Guides Association are the only guides officially recognized by Welsh government to guide in Wales. All have undergone extensive training, passing both practical and academic guiding examinations.

There are three categories of qualification:

- **All Wales “Blue Badge:”** The highest award for practical tourist guiding in Wales. They must have passed practical guide examinations in delivering commentary on a moving vehicle, a walking tour and three site tours. The site tours include at a religious building, a gallery and museum. They must also have passed written examinations about Wales, the United Kingdom, and the EU. They are qualified to deliver tours that cover more than a single geographic region of Wales.
- **Regional “Green Badge:”** These guides are qualified to guide in a defined region of Wales. They are required to pass practical guide examinations and to deliver commentary on a moving vehicle, a walking tour and a site tour. They must also pass a written examination about both their region and Wales.
- **Level 2:** These are qualified to guide in a particular location within Wales. They have passed practical guide examinations to deliver commentary on a walking tour and a site tour. They must also have passed a written examination about their location.
- **Level 1:** These guides are qualified to guide within a defined site within Wales. They have passed both written and practical guide examinations to deliver commentary on their site.
- **Knowledge Endorsement:** These are accredited “knowledge-only” qualifications. Guides have passed a written guide examination in a particular field of interest. This would be much more in-depth than what is covered within normal tourist guiding qualifications.

All Wales Official Tourist Guides Association has professional liability insurance to a minimum of £3 million/GEL 10.5 million.

It should be noted that there is no legal requirement to have a license or membership of the association. “Approval” by the Welsh government, in this case, means accredited, it is not a pseudo-license.

Comments

- *This is a good transitional model for Georgia.*
- *It ensures that guides demonstrate the appropriate knowledge and skills.*
- *Courses are accredited by the Welsh government.*

- *There are different levels of guiding, thereby addressing issues raised by stakeholders in Georgia.*
- *There are no costs to the government.*
- *It builds the confidence of tourists booking tourist guide services as they know what to expect.*

4. ALTERNATIVE #2 (ISRAEL)

The Tourism Services Law 1976 defines a tourist guide as providing tourist guide services for consideration (payment) or provided by a person transporting passengers for consideration or a person joining or accompanying a group of foreign tourists, on each of the following:

- On a sightseeing trip.
- At a site or institution of interest for foreign tourists, except tour guiding within the precincts of an institution provided on its behalf.

All tourist guides must be licensed by the Ministry of Tourism (MTA).

Licensed tour guides are required to renew their license every two years and participate in one training course per year. To secure a place in the training course, tour guides must register and pay in advance.

The 1976 law permits the minister to prescribe minimum prices for tourist guide services. A tourist guide cannot unreasonably refuse to provide a service within the scope of his business or attach to conditions to providing tourist guide services that are not permitted under regulations.

The minister may confer upon tourist guide services the title, designation or emblem of an approved guide for foreign tourists or some other similar title; and he or she may regulate the manner of using the title, designation or emblem so conferred and the modes of canceling them. This provides for designation as an "Approved Tourist Guide." He or she may prohibit, require, restrict, impose supervision, on or grant exemption from any matter he or she is authorized to regulate under the 1976 law, and he or she may do so either generally or according to classes or grades of tourist guide services.

The MTA may refuse to issue or renew a license or issue it subject to preconditions or attach conditions to it. It may cancel or vary the tourist guide license in any one of the following cases:

- The circumstances under which the license was issued have changed.
- The provisions of the law or conditions prescribed thereunder have been infringed.
- Any act or omission of the licensee in a matter relating to the provision of tourist guide services disqualifies him, in the opinion of the MTA, for a license issued to him or her, or for a class or grade to which he or she has been assigned.
- The licensee has been convicted of a flagrant offense or a violation of an enactment relating to his guide business.

Such a decision may be limited or unlimited in time or may come into force upon the licensee failing to fulfill a condition attached to it. Where the license is revoked or a grade denied by the MTA, the licensee may lodge an objection with the minister. A license cannot be revoked unless the licensee has been given a reasonable opportunity to be heard.

It is an offence to provide tourist services without a license. The burden of proving that he or she has a license lies with the tourist guide. The penalty for providing a tourist guide service without a license is a fine and there are additional fines for each day that he or she provides the service having been instructed by the MTA to desist. There are also penalties for breach of conditions related to the license. Fines are imposed for failing to cooperate with an inspector or for making a false statement or to provide false particulars to an inspector. An inspector who has been appointed by the MTA may, if he or she is convinced that it is necessary in order to ensure the implementation of this law or to prevent an offense against its provisions: interrogate any person carrying on the business of a tourist guide and require him or her to show a license under this law and other documents and to furnish him with information and

statements, which may, in the opinion of the inspector, indicate that an offense under this law has been committed.

All tourist guides must enroll in intensive courses in a university for at least two years. The courses specializing ancient and modern history. In addition, they must study basic archeology, the plants and animals of the land, the culture, legal system and geology and climate conditions. These courses are accompanied with many field trips. At the end of these courses, the guides must pass intensive licensing examinations. Guides must enroll in continuing education comprised of special, yearly short courses taught by university lecturers where they are updated on new developments.

Amendments have been proposed as follows:

- Licenses for tourist guides should only be necessary for those guiding foreign tourists.
- For locals: A licensed tourist guide should only be required for an organized tour in a vehicle with more than 25 people.
- Priests and pastors should be allowed to act as tourist guides for their congregation at holy sites without a license.
- Tourists from countries with a “unique language” may bring their own tourist guide, and such tour guides are not required to have a tourist guide license.

5. RECOMMENDATIONS FOR GEORGIA

The Israeli system, including the proposed amendments, would be a good fit for Georgia. It addresses the issues raised re tourist guide services by stakeholders. It provides for licensing and mandatory qualifications, training and continuing professional development. Licensing is also required in Argentina, Armenia, Austria, Canada (Montreal and Quebec City), Greece, Hungary, Israel, Malta, Spain and Turkey.

It may take some time to get the legislation for licensing through and so it might be useful to emulate the Welsh approved guide system, initially, as a voluntary system. Once the legislation is enacted, the voluntary system could then become mandatory and become a condition for a license.

The GNTA should work with the Georgian Association of Guides (GAG) in developing the standards to be applied under the regulations and with the educational authorities in developing the qualifications and training. Advice might be sought from the World Federation of Tourist Guide Associations and the Guild of Armenian Guides. The latter provides training courses involving 112 hours theory and 48 hours practical. Trainings are delivered by World Federation of Tourist Guides' Associations (WFTGA) accredited trainers and lecturers.

Implementation of the Law on Tourism

- Devise the qualifications and training requirements.
- Liaise with the WFTGA and GAG.
- Liaise with the Ministry of Education.
- Determine the classification of tourist guides (local. site-specific, national).
- Design the badge.
- Draft an easy-to-read guide for staff of the GNTA, MoESD, and other relevant ministries and public bodies.
- Draft an easy-to-read guide for tourist guides and tour operators that use their services.
- Hold a series of workshops on the legislative provisions.
- Prepare a communications strategy to inform the sector of the new legal framework.

- Decide on implementation area by area or category by category.
- Determine the fees for registration and licensing.
- Devise standard notices for registration and licensing.
- Agree on the start date for implementation.

C. INSTRUCTORS (EXTREME TOURISM)

1. DEFINITIONS

The following definitions should be used consistently in all legislation, regulations, orders, notices, etc., in relation to tourist guides:

“Adventure tourism” is a leisure activity that takes place in an unusual, exotic, remote, mountainous, or wilderness destination and involves high levels of involvement and activity by the participants, most of which takes place outdoors.

“Adventure tourism instructor” is one who facilitates, supports, and provides instruction to tourists engaged in adventure tourism.

2. OVERVIEW OF INTERNATIONAL PRACTICE

The following is a nonexclusive list of adventure/extreme tourism:

- Backpacking.
- Mountain biking.
- Motorised biking.
- Boat trips.
- Bungee-jumping.
- Canoeing and kayaking.
- Experiential travel.
- Horseback-riding.
- Hot-air ballooning.
- Parachuting and paragliding.
- Rafting, including whitewater rafting.
- Trekking.
- Skiing.
- Tunnel and cave exploring.
- Wildlife watching.

Most countries do not specifically regulate adventure tourism and do not specifically regulate adventure tourism instructors. In Argentina, they are not licensed but must hold a certificate from the relevant national or international organisation. In Canada, ski instructors are expected to be members of the Canadian Ski Instructors Alliance (CSIA). In France, ski instructors must comply with the Code of Tourism. In Austria, there is licensing, and Hungary provides standards for those providing horse-riding. In Malta, article 3 of the Malta Travel and Tourism Services Act provides that:

“No person shall offer, promote, organize or provide any recreational diving service unless such person holds a valid license for the purpose issued by the Authority in terms of these regulations. Any promotional material shall clearly state the name of the dive center and the license number issued by the Authority. (The authority is the MTA).

Though these countries mostly rely on self-regulation and licenses are not required, it does not mean there are no laws applicable. In all, it would be an offence to falsely claim or to infer membership of the professional association when that is untrue. The question of liability also arises. In the case of an adventure tourism instructor providing services under a package travel arrangement provided by a tour operator, the tour operator would be liable for loss or personal injury caused due to negligence by the instructor. This will be provided in Georgia’s adoption of the new EU Package Travel Directive. In the case of loss or injury caused due to the negligence of an instructor directly employed by the tourist, liability is subject to the civil code regarding fault and culpability.

Most countries will insist on their own laws governing liability. The PTD provisions apply throughout the EU. But Georgia should insist that instructors specify that Georgian law applies in their contracts.

3. ALTERNATIVE #1 (CANADA)

In Canada, ski instructors are expected to be members of the Canadian Ski Instructors Alliance (CSIA). It is a federally recognized teaching institution and it trains and certifies ski instructors. It is a member of the International Ski Instructors' Association (ISIA). ISIA encompasses the national ski teaching associations of some 38 alpine nations. Its purpose is to provide a forum for the exchange of ideas among countries and to harmonize certification equivalencies regarding international standards. CSIA has a code of conduct and code of ethics for ski instructors

The Code of Ethics sets out the standards of behaviour expected of members while they perform their duties. "The CSIA's reputation is based on its members' adherence to conducting business and relationships in a positive environment that is based on the respect of others, openness, fairness, integrity and the respect of all applicable laws and regulations." This Code is designed to give members a clear understanding of the conduct expected of them. It is the responsibility of all members to perform their duties as an instructor in compliance with the guidelines set forth therein.

- Respect for Participants: Members must be respectful of the dignity of all participants in the sport. It includes honouring the following values:
 - Respect: Treat all participants in the sport with respect at all times.
 - Provide constructive feedback to participants in a caring manner that is sensitive and adapted to their needs.
 - Refrain from engaging publicly in demeaning descriptions of others in the sport.
 - Rights: Respect people as autonomous individuals and refrain from intervening inappropriately in personal affairs that are outside the generally accepted jurisdiction of an instructor.
 - Equity: Treat all participants equally and without discrimination.
 - Empowerment: Encourage and facilitate participants' abilities to be responsible for their own behaviour, performance and decisions.
 - Confidentiality: Exercise discretion in recording and communicating information so that information is not interpreted or used to the detriment of others.
- Responsible Teaching: Activities of members must be undertaken safely and with the best interest of all participants in mind. More specifically, this principle refers to the following values:
 - Professional Training: Members should be responsible for achieving and maintaining a high personal level of professional competence through appropriate training. Keeping themselves up-to-date with relevant information through personal learning discussions, workshops, courses, conferences, etc., to ensure their services will benefit others.
 - Self-Knowledge: Members should evaluate how the participants' own experience, attitudes, beliefs, values, and stresses influence their actions as instructors and integrate this awareness into all efforts to benefit others.
 - Teaching Limits and Safety: Taking the limits of the participants' knowledge and capacity into account in their teaching practice. Not assuming responsibilities for which they are insufficiently prepared.
 - Refraining from working in unsafe or inappropriate situations that significantly compromise the quality of their services and the health and safety of participants.
 - Refraining from working or providing services when under the influence of drugs, alcohol, or any substance that can alter or impair their judgement and/or professional conduct and put at risk the safety and security of others, including participants.

The code goes on to address:

- Ensuring that every reasonable effort has been applied to help participants reach their potential.
- Harassment and sexual relationships.
- Recognizing and addressing harmful personal practices of others in the sport (e.g., drug and alcohol use/addiction, physical and mental abuse, and misuse of power).
- Integrity in relationships.
- Avoiding conflict of interest.
- Avoiding discrediting ski equipment, manufacturers, sponsors, suppliers, and/or other industry partners.
- Meeting professional financial obligations promptly and conducting all their business dealings in a manner befitting the standards of the organization.
- Responsibility to industry partners: promoting cooperation with resorts, ski schools, the skiing public, and other groups that participate in and promote skiing.

Comments

- *This is a good transitional model for Georgia.*
- *There are already adventure sports instructors that are members of the ISIA.*
- *The existing instructors could be persuaded to create an all-more encompassing Adventure Tourism Organisation or Federation and establish a Code of Ethics based on the Canadian model.*
- *They could negotiate insurance for their members.*
- *There could be a publicity campaign by the GNTA on why it is important to employ an association/federation member.*
- *It ensures that instructors demonstrate the appropriate knowledge and skills.*
- *Instructors could be accredited by the GNTA.*
- *There are no costs to the government.*
- *It builds the confidence of tourists booking adventure tourism guides/instructors as they know what to expect.*

4. ALTERNATIVE #2 (NEW ZEALAND)

The Adventure Activity Regulations 2011 imposes a legal requirement for some adventure tourism operators to undertake an external audit and become registered. In addition, the Health and Safety at Work Act 2015 applies to all operators and it is considered the good practice to undertake an external safety audit even if the activity is not covered by the Adventure Activity Regulations.

The regulations define “adventure activity” as:

An activity:

- That is provided to a participant in return for payment; and
- That is land-based or water-based; and
- That involves the participant being guided, taught how, or assisted to participate in the activity; and
- The main purpose of which is the recreational or educational experience of the participant; and

- That is designed to deliberately expose the participant to a risk of serious harm that must be managed by the provider of the activity; and

In which:

- Failure of the provider's management systems (such as failure of operational procedures or failure to provide reliable equipment) is likely to result in serious harm to the participant; or
- The participant is deliberately exposed to dangerous terrain or dangerous waters; and
- Includes, for example, an activity listed in the schedule.

Those activities are:

- Abseiling or rappelling (if done outdoors).
- Bridge swinging.
- Bungy jumping.
- Canoeing.
- Canyon swinging.
- Canyoning.
- Caving.
- Glacier walking.
- High ropes course crossing, high-wire crossing, or use of zip wire.
- Kayaking.
- Mountaineering.
- Off-road vehicle driving.
- Quad biking or trail biking.
- Riverboarding.
- Rock climbing (if done outdoors).
- Scuba diving.
- Snow activities (if done outdoors and outside a patrolled ski area) such as the following:
 - Skiing.
 - Snowboarding.

The operator of the adventure activity must have a safety audit undertaken and if successful, the safety auditor must issue a safety certificate. The certificate may be subject to conditions. If the Registrar receives a copy of the instructor/operator's safety audit certificate and the other information required by the regulations, the registrar must promptly register the person as an adventure activity operator authorized to provide the adventure activities specified in the certificate. The registrar must not register the person if the registrar is satisfied on reasonable grounds that the instructor/operator:

- Provided false information or evidence in obtaining the certificate; or
- Is not an adventure activity operator; or
- Is unfit to be registered because of the improper way in which the person previously provided adventure activities.

The registrar may, at his or her discretion, not register the person if satisfied on reasonable grounds that the person:

- The person has not complied with a condition of the certificate or of a prior certificate; or
- The person's previous failure to take all practicable steps to safely provide adventure activities has endangered or may have endangered, a person's life; or
- The person has previously provided adventure activities that the person was not registered to provide.

Before declining the person's registration, the registrar must give the person an opportunity to be heard on the matter. The registrar must, if declining a person's registration, give a written notice to the person stating that the person's registration as an adventure activity operator has been declined; and refund to the safety auditor any fees paid for the registration. The registrar's grounds for deciding to decline registration may be informed by the views of the safety auditor that issued the adventure activity

operator's current safety audit certificate; or the views of an inspector resulting from the exercise of his or her functions under the Act.

It is an offence to provide adventure tourism activities if not registered. If this was adopted in Georgia, it would be an offence for a foreign instructor or adventure activity operator to provide these activities if unregistered and an offence for a tour operator to employ an unregistered instructor.

Regulations provide the details that must be provided to the Registrar in addition to the safety audit. Subsequent safety audits may be required by the Registrar.

The register must record the following for each adventure activity operator:

- The operator's full name.
- A description of the adventure activities that the operator is authorised to provide.
- The address of each place of work at which the operator provides the adventure activities.
- If the operator provides the adventure activities through a business or other operation, any legal name or trading name of the business or operation.
- The period for which the operator is registered, being the period for which the operator's current safety audit certificate is valid.
- Any period for which registration is suspended.
- If registration is cancelled, the date of cancellation.

The information recorded on the register must be available on an Internet site for inspection by the public free of charge at all reasonable times.

The registrar must cancel a person's registration as an adventure activity operator if the registrar is satisfied on reasonable grounds that the person:

- Was registered by mistake; or
- Provided false information or evidence in obtaining the current safety audit certificate; or
- Is not an adventure activity operator.

The registrar must cancel a person's registration as an adventure activity operator, or suspend the registration for any period that the registrar thinks fit if the registrar is satisfied on reasonable grounds that the person:

- Is unfit to be registered because of the improper way in which he or she has provided adventure activities; or
- Has not complied with a condition of the current safety audit certificate; or
- Failure to take all practicable steps to safely provide adventure activities has endangered or may have endangered, a person's life; or
- Provided adventure activities that he or she was not registered to provide.

However, before cancelling or suspending a person's registration, the registrar must give the person an opportunity to be heard on the matter. He or she must give written notice to the person that states that the registration as an adventure activity operator has been cancelled or suspended; and for a suspension, specify the period for which the registration is suspended.

5. RECOMMENDATIONS FOR GEORGIA

The Canadian system would, initially, be a good fit for Georgia. It addresses the issues raised by instructors. There is already a system of international certification by the better instructors and this should initially operate on a voluntary basis until an Adventure Tourism Association or Federation is established and has capacity (see associations below). The GNTA could then establish an accreditation scheme for instructors and adventure tourism operators. The Association or Federation could be

organized like the Canadian CSIA and, in cooperation with GNTA, develop standards, training and a Code of Ethics. Only association/federation members would be accredited by the GNTA.

Once capacity develops, Georgia should adopt the New Zealand approach.

Implementation of the Law on Tourism

In addition to the relevant provisions on implementation above:

- Work with GMGA and others to establish a Georgian Adventure Tourism Association or Federation on the Canadian CSIA model.
- Establish standards for qualification and training.
- Develop a code of ethics.
- Determine the classification of adventure tourism instructors (skiing, diving, trekking, etc.).
- Design the certificate.
- Establish an accreditation scheme.
- Draft an easy-to-read guide for staff of the GNTA, MoESD, and other relevant ministries and public bodies.
- Draft an easy-to-read guide for instructors and adventure tourism operators.
- Hold a series of workshops on the accreditation provisions.
- Prepare a communications strategy to inform the sector of the accreditation framework.
- Determine the fees for accreditation.
- Devise standard notices for accreditation.
- Agree on the start date for implementation.
- Determine the date for establishing a safety audit system.
- Determine the criteria for appointment of safety auditors.
- Set out the criteria to be met in the safety audit.
- Appoint the Registrar.
- Establish the Register.
- Devise standard notices for the registrar.
- Devise the registration certificate.
- Draft an easy-to-read guide for staff of the GNTA, MoESD and other relevant ministries and public bodies.
- Draft an easy-to-read guide to registration and the safety audit for instructors and adventure tourism operators.
- Hold a series of workshops on the registration and safety audit accreditation provisions.
- Prepare a communications strategy to inform the sector of the registration and safety audit framework.
- Determine the fees for registration.

D. TOUR OPERATORS AND TRAVEL AGENTS

An online travel agency is just a travel agency without business premises and where all transactions are online. Travel agents with business premises also contract online and so the law and recommendations also apply to both types of travel agents together with the Law on e-Commerce.

Some countries do not distinguish, status-wise, between a travel agent and a tour operator: In France, “agence de voyage” (travel agent) applies to both travel agents and tour operators and it is used interchangeably in Malta (see below). Whereas, in the United Kingdom, there is a clear distinction made between tour operators and travel agents. Since the PTD it does not really matter as the rules apply to the transaction rather than the designation. Thus, instead of “tour operator” the term “organizer” is used (i.e., the party who put together a package, whoever that person is). The person who sells that package on the operator’s behalf is the “retailer.”

1. DEFINITIONS

The following definitions should be used consistently in all legislation, regulations, orders, notices, etc., in relation to tour operators and travel agents:

1. “Ground-handling agent” means a person who arranges tourism services for the clients of a tour operator or other organizers whose principal place of business is outside Georgia and the term also applies to those who refer to themselves as “incoming tour operators.”

Comments

“Ground-handling agent:” These act on behalf of airlines, foreign tourism organizers, conference organizers, sports or religious groups or others abroad in making tourism, business conference, sports travel, or pilgrimage arrangements.

2. “Incoming tour operator” shall have the same meaning as a “ground-handling agent.”
3. “Tour operator” means a person who habitually or regularly puts together tours or packages comprising of two or more of the following and which is offered to the public, directly or through an intermediary, for an inclusive price:
 - a) Guided tours.
 - b) Accommodation.
 - c) Entertainment.
 - d) Transport.
 - e) Travel insurance.
4. “Travel agent” means a person who habitually or regularly undertakes to provide for other persons for a price, one or more separate services rendering possible a journey or sojourn, such services including, but not confined to:
 - a) Selling tour packages on behalf of tour operators (domestic or international).
 - b) Arranging for travel documents in accordance with the prevailing regulations.
 - c) Arranging for transport and/or accommodation for travellers.
 - d) Providing travel insurance facilities.

2. OVERVIEW OF INTERNATIONAL PRACTICE

Most countries license tour operators and travel agencies because of the risk to the consumer of false or misleading representations about the travel product that they cannot examine in advance of travel; concealed extra payments or price increases; unfair contract terms; exclusion and limitation of liability clauses; and being stranded abroad when the tour operator or travel agent becomes bankrupt. Although these issues are dealt with in the general law, this only provides curative remedies to the consumer after the fact and through recourse to the courts. The PTD and other systems of regulating the sector seek to provide preventative legal care to protect the consumer in advance and to provide remedies that do not need court action.

The PTD does not require licensing, but most member states use this as a form of protection. Those that do not, rely on self-regulation but still supervised by the state to ensure compliance. Most states outside of the EU also have licensing of tour operators and travel agents (the latter, whether an online travel agent (OTA) or otherwise). Ground-handling agent/incoming tour operators are not usually licensed as they act on behalf of a foreign tour operator or airline and do not have a direct legal relationship with the consumer. The consumer’s remedy in the event of something going wrong lies with the foreign tour operator.

Countries that License Tour Operators and Travel Agents

Argentina, Austria, Canada (British Columbia, Ontario, Quebec only), Greece, Ireland, Italy, Malta, Serbia, and Spain.

Countries that License Ground-Handling Agents

Argentina, Austria, Canada (British Columbia, Ontario, and Quebec—if they also sell tours to Canadians), Greece, Ireland, Italy, Malta, Serbia, and Spain.

Countries that do not License but have Other Regulations

Armenia and Israel.

Countries that do not License or Directly Regulate

Australia and Netherlands.

Countries that Require Registration

France.

3. ALTERNATIVE #1 (UNITED KINGDOM)

The UK system mainly relies on self-regulation by the sector business associations. By far the best known and the largest is the Association of Business Travel Agents (ABTA), which was established in 1950. In 2007, it changed its name to ABTA, The Travel Association to reflect the fact that it included tour operators and in 2008 it merged with the Federation of Tour Operators.

Its main functions are:

- Raising standards in the industry and by giving guidance on issues from sustainability to health and safety.
- Providing schemes of financial protection.
- Offering “holidaymakers” a course of redress if something goes wrong.
- Presenting a united voice to government to ensure the industry and the public get a fair deal.

There is a code of conduct governing relations between members and other members and between members and the public. Based on good practice it is also founded on UK Commercial and Consumer Protection Law and on EU law. Members, in dealing with the public, are required to provide the consumer with:

- Accurate information so he or she can make an informed choice.
- Advice or assistance on passport, visa, and health requirements.
- An offer of a suitable alternative if there are building works that will seriously impair the holiday.
- A refund of the holiday cost if there is a significant flight delay and he or she doesn't want to travel.
- A response to any complaint he or she might have within 28 days.
- Resolution of any complaint as quickly as possible and, if it cannot be resolved amicably, the guaranteed option of arbitration to find a settlement.

A Code of Conduct Committee deals with complaints and can impose sanctions on members for noncompliance with the code.

ABTA requires certain financial criteria to be met in order to qualify for membership. Members also have to provide a bond. This is calculated by reference to the level of applicable risk turnover (ART). This is defined as gross retail turnover adjusted by various reliefs where ABTA's financial risk is reduced. An applicant that has been trading for more than three years, with no change of ownership and who can

show profitability and business strength will get a reduced bond. Applicants are also required to pay a shortfall insurance premium to cover claims in the event that the bond is deficient in any way.

In accordance with the PTD, the travel organizer (usually the tour operator) is required to provide financial protection against insolvency. The most common method in the United Kingdom is for the organizer to obtain a bond from a bank or insurance company whereby the latter binds itself to pay to an approved body, of which the organizer is a member, a sum to cover the cost of insolvency. The bond must not be less than 25 percent of the organizer's annual turnover. In theory, any organization can apply to be an "approved body," but, in practice, it will most likely be a trade association. The ABTA is the largest of the approved bodies. The approved body is responsible for calling in the bond and distributing the funds to consumers in the event of insolvency.

An alternative is bonding where the approved body has a reserve fund or insurance, which is the case with ABTA. This is a similar system to that above; however, as the approved body has a reserve fund or insurance, the bond is for not less than 10 percent of the organizer's annual turnover (rather than 25 percent). The regulations do not prescribe how the reserve fund is to be created. It may come from membership fees, from insurance, or from a levy imposed on packages sold.

Comments

- *This relies on self-regulation. The industry in Georgia is not sufficiently organized at the moment but it could be supported by the GNTA to reach a state where it could self-regulate and provide services to its members similar to those offered by ABTA.*
- *GNTA would only have to monitor the association, not individual tour operators and travel agents, to ensure that it is enforcing its code of conduct and providing the insolvency protection required by the PTD.*

4. ALTERNATIVE #2 (MALTA)

In order to set up as a tour operator or travel agent the business operator must apply to the MTA for one of the following licenses:

- A travel operator license.
- An excursion operator license.

In addition, the business owner or the employees must previously have obtained a tourism compliance certificate under the Travel & Tourism Licensed Operators Regulations 2016. "Tourism Policy Compliance Certificate" is issued by the MTA following a preliminary assessment conducted to ensure that the proposed business is compliant with current tourism policies and regulations. These are required by:

- Travel agencies that organize trips outside Malta.
- Travel agencies that organize trips inside in the country.
- Excursion organizing businesses.
- Destination management businesses.

Once registered, the travel agency must submit the following documents with the MTA in order to obtain the travel or excursion operator license:

- A development permit issued by the Environment and Planning Authority in Malta.
- Proof that the travel agent is an IATA agent, in the case of travel agents.
- Proof that the agent is part of an international tourism organization, in the case of destination management companies.

Once the license is obtained, the Maltese travel agency must conclude a third-party liability insurance policy.

The regulations set out the system for application: the right to be heard in support of the application, notification of the reason for a decision not to grant the license, fees, suspension and cancellation, and appeals.

Tour operators and travel agents are governed by the Commercial Law on Agency and the general law of contract, subject to the provisions of the PTD.

Malta implemented the PTD by the Package Travel and Linked Travel Arrangements Regulations 2018. Tour operators must provide security for the refund of all payments made by or on behalf of travelers insofar as the relevant services are not performed as a consequence of the organizer's insolvency. If the carriage of passengers is included in the package travel contract, organizers shall also provide security for the travelers' repatriation. Continuation of the package may be offered.

The Package Travel Insolvency Fund Regulations 2016 set up an insolvency fund to provide security to consumers for a refund of money paid upfront for services booked and for the repatriation of the travelers in the event of insolvency of a package travel organizer. The regulations provide for a management board to manage and administer the fund. The board comprises of representatives of FATTA (a travel sector association), the MTA and the chairman appointed by the Minister of Tourism. The board reports to the MTA.

The consumer must have purchased the package from a licensed travel agents/tour operator. The latter is obliged to issue a certificate displaying the MTA license number among other information of the package bought. In the event of an insolvency, consumers must first present this certificate in order that a claim is validated. Travel agents not shown in the list are not authorized to sell package travel and would be in breach of the law if they do so. They are not protected against insolvency and therefore consumers will be unable to submit any claim in the event of an insolvency.

The fund does not replace travel insurance which covers accidents, lost luggage and other risks.

5. RECOMMENDATIONS FOR GEORGIA

It is recommended that a licensing system should be established similar to that of Malta. Once the business association is sufficiently strong enough, the GNTA could follow the UK model and recognize the association as an approved body to self-regulate and to provide its own bonding system.

Implementation of the Law on Tourism

In addition to the relevant provisions on implementation above:

- Work with the existing tour operators and travel agents' associations to merge into one organization. Membership would still be voluntary.
- Establish criteria for associations to be designated a GNTA-approved body.
- Establish standards for qualification and training of travel and tour operations staff based on IATA standards.
- Develop a code of ethics for tour operators, travel agents, and incoming tour operators.
- Draft an easy-to-read guide for staff of the GNTA, MoESD, and other relevant ministries and public bodies.
- Set out the criteria for tour operators and travel agents licenses.
- Devise the application system.
- Determine the fees for the licenses.
- Devise standard notices for licensing.
- Determine the fees for the licenses and the fee for replacing lost or damaged licenses.
- In cooperation with the banks and other financial institutions establish a travel industry trust fund in accordance with the regulations.
- Appoint board members of the trust fund.

- Provide training for the board members on the insolvency provisions in the PTD.
- Agree on the start date for implementation.
- Determine the date for establishing a financial audit system.
- Set out the criteria to be met in the financial audit.
- Establish the register of license holders.
- Draft an easy-to-read guide for staff of the GNTA, MoESD, and other relevant ministries and public bodies.
- Draft an easy-to-read guide to licensing for tour operators and travel agents.
- Prepare a communications strategy to inform consumers of their rights against tour operators and travel agents.

Tour Operators, Travel Agents, and Ground-Handling Agents Regulations

- Reg. 1: Sets out advertising and promotion standards.
- Reg. 2: Contains the legal duties of travel agents.
- Reg. 3: Provides the legal duties of tour operators.

Implementation of the Regulations

- Provide workshops for the industry on the practical application of the regulations.

E. TOURISM TRANSPORTATION

1. Definitions

The following definitions should be used consistently in all legislation, regulations, orders, notices, etc., in relation to tourism transportation:

- “Tourist transportation provider” means a natural person or a juridical person who provides transportation to visitors by means of a motor vehicle, river or sea vessel, airplane or helicopter, or beast of burden.
- “Hang-gliding” is an air sport or recreational activity during which a pilot flies a light, nonmotorized foot-launched heavier-than-air aircraft called a hang glider.
- “Paragliding” is the recreational and competitive adventure sport of flying paragliders.
- “Paragliders” are lightweight, free-flying, foot-launched glider aircraft with no rigid primary structure.

2. Overview of International Practice

In most countries, tourist transportation is the responsibility of the ministry responsible for transport or the ministry responsible for marine transport. The civil aviation agency deals with aircraft (airplanes, helicopters, gliders, balloons, etc.) Beasts of burden are regulated by the ministry responsible for animal welfare. Those are the ministries with the expertise in vehicle/vessel design, construction. Maintenance and road, river, or marine safety. However, the issue of quality of provision and conduct of operators may be a matter for the tourism authorities. Tourists may expect higher quality standards for coaches than that used for domestic transportation.

3. Alternative #1 (Paris, France)

There is strict regulation of motor coaches in Paris. All coaches entering the city must have a Crit’Air (air criteria) sticker. This is a round sticker that corresponds to a vehicle class defined according to air

pollutant emissions. It is only mandatory in certain areas in France, and Paris is one of them. Coaches registered before 2006 are banned in the city.

Tourist coaches are permitted to stop in Paris provided that they stop only for the time strictly necessary to drop off or pick up passengers, with or without the loading/unloading of luggage. During the stop, the engine must be switched off.

Paris has 56 on-street designated places for coaches to pick up/drop off passengers. In addition, there are delivery areas as well as places within the immediate vicinity of hotels and sports and cultural venues to pick up/drop off passengers.

Parking charges apply to all coaches, and the coach parking pass "PASS Autocar" is obligatory. The PASS Autocar is a coach parking pass that must be used by all coaches parking in Paris. It allows coaches to park in coach parks and in designated parking spaces. During the authorized period, coaches can move from one authorized parking area to another one in the zone chosen. Paris is divided into two fare zones.

A municipal decree of January 5, 2017, regulates the travelling, stopping and parking of vehicles in tourist zones. It sets out details of streets in Paris in which tourist coaches are banned from travelling, places where the dropping off and picking up of passengers are authorized, and parking spaces.

Comments

- *This regulation addresses the issue of pollution caused by tourist coaches.*
- *It also provides for a system of drop off and picks up regulations.*
- *It protects tourist zones from being crowded with coaches by banning them from the zones themselves but providing parking spaces a reasonable walking distance away.*
- *There is an organized system for parking coaches for long stops and the pass or subscription can be booked online in several languages.*

4. Alternative #2 (Queensland, Australia)

Tourist Boats

Any boat with an engine of 3kW or more must be registered unless they are off the water. All commercial boats are required to be certified under the Marine Safety (Domestic Commercial Vessel) National Law Act 2012 to operate in Queensland.

The operator must have a safety management system, identifying and managing risks, outlining emergency and maintenance procedures and establishing a culture of safety on board. Owners of these ships must review their safety management system (SMS) annually and keep it up to date to ensure their ship continues to be operated safely. Owners and masters must make sure the safety management system is:

- Developed, maintained, and kept up to date to reflect operational risks.
- Onboard the ship (or on the shore if it is impractical to carry all documents on board).
- Accessible to the ship's crew and the ship's crew is trained and familiar with the SMS, in particular, the operational and emergency procedures.

Certification is required to operate as a master of a commercial vessel. This certificate is nontransferable.

Permits for the use of jetties by tourist boats is a matter for the local government.

Tourist Coaches

A driver authorization is a qualification required by drivers of motor vehicles used to provide a particular public passenger service. Its purpose is to maximize public confidence in relation to drivers of public

passenger vehicles (PPV). The aim is to ensure that drivers of PPVs are suitable persons, having regard to the safety of children and other vulnerable members of the community; the personal safety of passengers and their property; public safety and the reputation of public passenger transport.

The driver has a driver's authorization (DA) that authorizes the holder for the kind of public passenger service being provided. There are three types of driver authorization:

- Booked hire/taxi driver authorization, which authorizes the holder to drive a vehicle being used to provide any kind of public passenger service for which driver authorization is required.
- General driver authorization, which authorizes the holder to drive a vehicle being used to provide any public passenger service other than a booked hire service or a taxi service.
- Restricted driver authorization issued by community or courtesy transport operator to provide community or courtesy transport services for the operator.

The applicant must be entitled to work in Australia, an Australian or New Zealand citizen, a permanent citizen, or a foreigner with a work permit. They must have a driving license and satisfy various suitability requirements, including medical fitness, satisfactory criminal history, and satisfactory traffic history. Failure to maintain these requirements can result in an application being refused or a current DA being canceled, suspended, or amended.

Grounds for refusal, amendment, suspension, or cancellation of DA include:

- Unsuitable criminal history such as a conviction for a driver disqualifying offense.
- Unsuitable traffic history.
- Driver license suspension, cancellation, disqualification, or expiry.
- Failure to comply with a standard or other requirement applicable to DA.
- Provision of false or misleading documentation or information, in relation to an application for DA.
- Failure to meet medical fitness standards.
- If the authority considers it necessary in the public interest.
- Previous cancellation or suspension of a DA.

Under Section 12(1) of the Transport Operations (Passenger Transport) Act 1994 an operator of a PSV must attain and maintain operator accreditation to provide a service of that kind in Queensland. It applies if:

- The service is provided for a fare or other consideration, or
- The service is provided in the course of a trade or business, or
- The service is a community or courtesy transport service.

The purpose of operator accreditation is to encourage the high-quality operation of public passenger services and to make service operators accountable for complying with appropriate standards and legislative responsibilities. There are different categories of operator accreditation. Those relevant for tourist transportation include:

- General services (includes charter bus, tourist, accommodation transfer, tourist transfer, unscheduled long-distance passenger services).
- Motorcycle tourist services.
- Courtesy services.

To obtain operator accreditation the applicant must complete the necessary training requirements.

Successful applicants for a booked hire/taxi DA will be issued an Authorised Queensland Taxi Driver Display Card. This card must be displayed in the vehicle whenever the holder is driving a taxi in any of the city areas in Queensland.

Guidelines are issued on drivers' conduct and responsibilities.

Other Tourist Transport

Paragliding, hang-gliding, gliding, and ballooning are the responsibility of the Civil Aviation Safety Authority.

Beasts of burden are the responsibility of the Department of Agriculture and Water Resources.

5. Recommendations for Georgia

Georgia could benefit from a combination of the Parisienne and Queensland approaches. The former deals with pollution, drop-off points and parking issues, and the latter safety of vehicles and vessels. A Draft Regulation on Tourist Transportation is provided below. The GNTA would need to work closely with the municipalities and the Ministries of Regional Development & Infrastructure/Transport Administration and the ministry responsible for maritime matters.

Implementation of the Law on Tourism and Regulations

- Set out the criteria for:
 - The issue of tourist transportation providers' permits.
 - The criteria for tourist transportation vehicles and vessels.
 - The criteria for the classification of tourist transportation vehicles and vessels.
 - The qualifications of the driver, captain, or pilot.
 - Safety requirements for the vehicle or vessel and its operation.
 - Appropriate arrangements and facilities for passengers.
 - Provisions as to advertising the service.
 - Duties with respect to the display of prices.
 - The maximum drivers' hours and provisions for breaks.
 - Insurance requirements and the financial guarantee required.
 - Colors of buses, coaches, vessels, and logos.
 - Qualifications of personnel and the criteria for the professional competence of the manager.
 - The annual certificate of worthiness for vehicles and vessels, which will be more stringent than regular technical inspection.
- Determine the maximum drivers' hours in accordance with EU law.
- Draft an easy-to-read guide for staff of the GNTA, MoESD, and other relevant ministries and public bodies.
- Devise the application system.
- Design the badge to be worn by drivers, captains, and pilots.
- Design the tourism transportation providers' disc to be displayed on the vehicle or vessel.
- Devise standard notices for permits administration.
- Determine the fees for the permits and the fee for replacing lost or damaged permits.
- Agree the start date for implementation.
- Determine the date for establishing a safety audit system.
- Set out the criteria to be met in the safety audit.
- Establish the register of permit holders.

- Draft an easy-to-read guide to permits for tourist transportation providers and incoming tour operators.
- Prepare a communications strategy to inform consumers of their rights against tour operators and tourist transportation providers.
- Provide workshops for the industry on the practical application of the regulations.
- Establish a special parking spaces scheme.
- Create a passenger notice to be displayed on tourist buses and vehicles.

F. TRADE ASSOCIATIONS

1. Definitions

The following definitions should be used consistently in all legislation, regulations, orders, notices, etc., in relation to trade associations:

“Trade association,” in the context of tourism law and implementing regulations, is a membership organization comprising of persons that are engaged in providing tourism services in general or a particular type or class of tourism services, organized to promote and improve business conditions in that line of tourism; to advocate in the interests of its members; and to provide services to the membership.

2. Overview of International Practice

Tourism business associations (or guilds or unions) are to be found in most countries. The best represent most, sometimes all, members engaged in that profession. As such they are a powerful advocacy group and may be viewed by the relevant Ministry as the key or only representative of that profession. They may be an “approved” or “designated association” by the ministry and may be self-regulated. Though self-regulated, they are still subject to the law and the relevant ministry may supervise and/or audit them to determine whether they should retain their self-regulatory status. There are examples above.

Poor examples are where there are several associations representing the same part of the sector, sometimes in conflict with each other, with an unchanging elite running the association, few women members or young members and conservative in the face of change.

In some countries (e.g., Lithuania), there is a Chamber of Tourism bringing together the associations representing different parts of the sector. In others, this is achieved by establishing a Chapter within the Chamber of Commerce and Industry.

3. Alternative #1 (Irish Hotels Federation)

The IHF was created in 1937 and is now recognized as the national organization of the hotel and guesthouse industry in Ireland. It represents over 1000 hotels and guesthouses in Ireland employing over 57000 people (population of the Republic of Ireland is 4.8 m). Its states its’ primary functions are to promote and defend the interests of its members.

There are 3 key services it provides to its members:

- Bookings.
- Support.
- Representation.

In addition, the following is offered to members via the website:

- Access to a free jobs/recruitment section.
- The exclusive member offers from partner brands.
- A Resource Centre that is “packed with guidance documents and copies of key pieces of legislation to guide you on every topic from the Environment to Human Resources.”

Bookings

The IHF has an annual Hotel & Guesthouse Guide, accommodation website and a strong social media presence. Every year, more than 150,000 printed guides are distributed across 22 countries, acting as a key marketing vehicle in promoting Ireland as a destination domestically and internationally. The Irelandhotels.com website “is a significant driver of online bookings in the Irish market.”

Support

The IHF provides a wide range of practical support to members (e.g., on HR guidance, financial advice, or marketing training). They provide a team to answer members questions, “whether they are big or small.” Key areas include issues regarding the following:

- Health and safety.
- Human resources.
- Marketing.
- Finance and debt management.
- Hospitality legislation.
- Industry classification.

They regularly send out email advisories to notify members about significant events in the tourism industry including details of fraud or theft taking place in other hotels or guest houses.

Members access to a range of training options including a “Digital Marketing Diploma,” specifically tailored for the hotel industry and available at a fraction of the normal price other training providers charge.

Representation

The IHF regularly lobby and represent the hotel and guest house industry at the government and EU levels. It was involved in negotiating a lower VAT rate for the hospitality industry, as well as being actively involved in pay-rate negotiations.

In addition, the IHF is represented on various boards and committees relating to the Tourism Industry these include Fáilte Ireland, Tourism Ireland, Shannon Development, and the Small Business Advisory Group.

4. Alternative #2 (Scottish Tourist Guides Association)

This is the professional association for tourist guides in Scotland and runs the blue, green, and yellow badge system that also is followed in England and Wales. It has over 500 members (population of Scotland is 5.5 m). The Scottish Tourist Guides’ Association (STGA) works closely with other tourism bodies. It provides training in an agreement with the University of Edinburgh. Member services are described on its website and the public can book a guide online. All guides have professional indemnity insurance and public liability insurance. The Association is endorsed by VisitScotland and VisitBritain.

Members are also members of the WGTGA and The European Federation of Tourist Guides.

5. Alternative #3 (Canadian Ski Instructors Alliance)

See C3 above.

6. Recommendations for Georgia

The tourist trade associations in Georgia need strengthening and each of the models above and the Association of British Travel Agents (described in D3) should be adapted in Georgia. The goal is to encourage self-regulation and greater professionalization in the sector. Once strengthened they can then be accredited by the GNTA.

This has been discussed above. The GNTA should develop a system of targets to be reached by these associations before they are to be recognized by the MoESD/GNTA and to acquire self-governing status (i.e., their members would be exempt from licensing requirements if certified by the association as fit and proper to hold such a license). The association, rather than the members, would receive an annual audit

from the MoESD/GNTA to ensure that its systems of transparency, good governance and quality assurance of its members were sufficiently robust as to justify their continued privileged status as a self-governing entity. This would encourage the development of strong, democratic and truly professional bodies for the sector. It would also be more effective and cheaper for the MoESD/GNTA to enforce.

Existing organizations should redraft their constitution, where necessary, to ensure compliance with the GNTA recognition criteria; ensure greater transparency; encourage greater participation of the membership; to provide a framework for self-regulation using an up-to-date code of conduct.

They should be assisted in developing their advocacy skills to better ensure that their voice is heard at all stages of the consideration of the Draft Tourism Act, including at the Council of Cabinet Ministers and in the National Assembly. They also need to ensure that they have sufficient resources to act on their members' behalf. They should be encouraged to prepare a set of proposals outlining how this is to be achieved; how they might seek governmental support; their membership contributions; charges or commission for services provided, etc. The new constitution should emphasize transparency and efficiency in the proper use of financial resources.

The associations should consult existing and potential members on new proposals for providing additional services to their members. The new regulatory framework requires tour operators, for example, to provide a financial guarantee. The tour operators' association should negotiate with the banks/insurers to come up with their own scheme to provide this at a much lower cost to you than members could obtain individually. They should also negotiate other insurance services for our members.

They should also consider the preparation of standard contracts for members; special rates for goods and services; an arbitration service and the provision of basic legal advice.

Implementation

- Set out a program of assistance for tourist trade associations.
- Obtain funding for the delivery of the program.
- Provide training workshops for the association.
- Draft a standard constitution for associations to adopt if they so wish.
- Set out the criteria for accreditation.
- Assist the associations in developing and implementing their codes of conduct.

G. TOURISM DEVELOPMENT AREAS, INCENTIVES, AND TAXATION

1. Definitions

The following definitions should be used consistently in all legislation, regulations, orders, notices, etc., in relation to trade development areas, sites, or circuits:

1. "Tourist attraction" is a physical or cultural feature of a particular place that individual travelers or tourists perceive as capable of meeting one or more of their specific leisure needs, or positive or favorable attributes for a given activity or set of activities as desired by a given customer or market, including climate, scenery, activities, and culture.
2. "Tourism circuit" is defined as a route on which at least three major tourist destinations are located such that none of these are in the same town, village, or city and which are not separated by a long distance.

3. "Tourism development zone" (TDZ) means an area designated as such under the provisions of the law.

Comments

- *"Tourism development zone:" The MoESD/GNTA/government may identify a particular location for TDZ status. In doing so it may set out and implement a tourism development project for that area, carrying out the work itself, jointly with the private sector or may provide the latter support to undertake the work. It might establish a corporation for this purpose or enter into a PPP agreement.*
4. "Tourism site" means an area that contains one or more tourist attractions, and which is designated as such under the law.

Comments

- *"Tourism site": This would enable the MoESD/GNTA to designate sites, which because of their natural beauty, heritage or contemporary importance would be of interest to tourists. Enabling laws may give special protection to these sites, allocate funding for their enhancement, protection or provide tourism facilities and these sites may receive special protection under Planning Acts and Building Regulations.*

2. Overview of International Practice

Many countries have established economic development zones to encourage inward investment in manufacturing industries. The land is often provided or leased at below economic rates, planning restrictions relaxed, planning procedures and other red tape (licenses, permits, authorizations) waived or made efficient and tax incentives provided. Far fewer countries have provided tourism development areas or zones with similar provisions. Where they have been created, they tend to focus on encouraging the building of hotels by providing tax incentives. Several types of fiscal incentives exist. They include government provision of below-market interest loans; tax relief by using credits, deductions, or abatements; direct grants of land and facilities; and taxpayer-financed workforce training for targeted firms and industries.

There is some debate, however, as to the efficacy of these. Critics argue that they:

- Reduce the tax base and result in less revenue for government programs.
- Distort resource allocation by favoring some activities over others.
- Encourage corruption.

Incentives given on a case-by-case basis can also unfairly favor some businesses over others in the same line of business.

Some argue that if private investors are not willing to risk their own funds in a tourism business why should public money be invested, and the private entrepreneur gains the profit¹. Those in favor of tax incentives argue that in the absence of such incentives some projects that may yield substantial public benefits might not be built. Strategically applied tax incentives can correct the market failure by inducing the desired investment and enhance an economy's overall efficiency (i.e., allow an economy to attain its potential output).

Several states in the United States provide for incentives in development zones and England (assisted areas) and Scotland (enterprise areas) do likewise. Japan's Tourism Zone Development Act provides for the creation of tourism zones "to enable longer-stay travel of more than 2 nights and 3 days through cooperation among its tourism sites, with the larger goal of enhancing the attractiveness of these sites." South Korea is creating a number "special tourist zones" providing them with financial incentives to develop its tourism offer as well as deregulation. The Shanghai municipal government established the

¹ Richard M. Bird, "Taxing Tourism in Developing Countries," World Development, vol. 20., no. 8 (1992), p. 1155.

international tourism resorts zone to create a “tourism city” through development of leisure and entertainment products.

France, Italy, Belgium, Greece, the Netherlands, and Switzerland deregulate Sunday trading in designated areas that are popular with tourists.

3. Alternative #1 (Virginia, USA)

The State of Virginia Code 58.1-3851 provides that any city, county, or town may establish, by ordinance, one or more tourism zones. Each locality may grant tax incentives and “provide certain regulatory flexibility in a tourism zone.” The tax incentives may be provided for up to 20 years and may include, but not be limited to:

- Reduction of permit fees.
- Reduction of user fees, and
- Reduction of any type of gross receipts tax.

The extent and duration of such incentive proposals must conform to the requirements of the Constitutions of Virginia and of the United States.

The governing body may also provide for regulatory flexibility in the TDZ that may include, but not be limited to:

- Special zoning for the district.
- Permit process reform.
- Exemption from ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the:
 - Chesapeake Bay Preservation Act.
 - Erosion and Sediment Control Law.
 - Virginia Stormwater Management Act.
 - Any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

The establishment of a tourism zone does not preclude the area from also being designated as an enterprise zone.

Waynesboro City designated, as TDZs, designated geographical areas of the city identified for increased growth in tourism-related businesses. As allowed under the Virginia Code provision, Waynesboro created a TDZ with three areas in autumn of 2013. Industries as identified by the North American Industry Classification System (NAICS code), that locate in a TDZ are eligible for special local incentives ranging from tax and fee reimbursement, local memberships, and marketing and training support. Capital improvements, job creation, quality of jobs, and other factors are scored and a corresponding level of incentives can be earned. Additionally, tourism industry partners may be able to participate in the state gap-financing program. The NAICS Code 561510 covers establishments primarily engaged in acting as agents in selling travel, tour, and accommodation services to the general public and commercial clients.

The Commonwealth of Virginia (state) established the Tourism Development Financing Program (TDFP) as a gap financing program for localities with deficiencies in tourism product and visitor spending. Those must have been researched, identified and substantiated in the community’s comprehensive community plan, and through independent market studies. Prospective projects filling such deficiencies must generate Virginia sales and use tax, such as lodging, dining, meeting space rental and catering, and limited, project-specific retail.

The TDFP’s gap financing reallocates a quarterly percentage of state-collected sales and uses taxes from a certified project created via TDFP. Under that program, the locality is the applicant, while the

developer assumes all debt with lenders. If a locality's deficiency is proven, the developer must secure all the lending required to finance the project, with the agreement that the state, locality, and developer will each pay an equal one-third of the developer's gap financing loan to the gap Lender.

The TDFP provides two different tiers of financing to compensate for a shortfall in project funding. Eligible projects with a total cost of less than \$100 million fall into Tier 1, while eligible projects with a total cost of \$100 million or more fall into Tier 2.

The purpose of the program is to provide a gap financing mechanism for projects that cannot, otherwise, find 100-percent funding or lending for a project.

A new or existing enterprise can apply to be a qualified tourism business. The applicant must prepare a letter or email of interest to the Waynesboro Economic Development Authority (EDA) stating the intention to submit an application and possibly receive TDZ benefits. The letter should be addressed to the director of economic development and tourism and briefly discuss the businesses capital investment and employment plans. A meeting then takes place between the applicant and the Waynesboro Office of Economic Development and Tourism to permit the applicant to describe their interest. The applicant then completes the online application and worksheets, prints and signs. The application must be mailed or delivered together with any requested attachments to the economic development office by the first of the month for consideration at the next EDA meeting. Regular meetings are held on the second Friday of each month. The EDA reviews the application at the next regularly scheduled meeting. The applicant may be asked to attend the meeting to review the plan. If the EDA approves the application a performance agreement is drafted for the applicant's signature.

To remain eligible for ongoing inclusion in the program, the applicant must submit an annual tourism zone program review application to the commissioner of revenue on or before March 1 of each year of the incentive program.

A new tourism business is one that did not already exist in the city at the time of the designation of the TDZ. A "tourism business" is defined as a business whose primary purpose is "to establish a desirable destination to attract tourists from outside of the community and create an environment for those visitors that will deliver a memorable experience or promote educational opportunities while increasing travel-related revenue." Each zone area has specific business types for qualification.

4. Alternative #2 (BTA, England, and Scotland, United Kingdom)

The UK government is planning a new Industrial Strategy for England (Scotland and Wales have their own devolved governments). It invited various sectors to submit their strategies to secure funding for research and elaboration. In February 2017, the Tourism Industry Council (TIC) agreed that a Tourism Sector Deal bid to the UK government would be prepared by October. The Tourism Industry Council, co-chaired by the Parliamentary Under-Secretary of State for Heritage, Sport and Tourism, includes numerous industry leaders, trade bodies and the British Tourist Authority, VisitBritain (BTA). The BTA also agreed to have a facilitating role, offering long-term research, secretarial work, and a timetable for working with the industry to agree the core sector deal bid.

This has been the most extensive consultation exercise within the tourism sector in many years. Four-hundred-fifty-four business and organizations contributed to the discussions. Themes were addressed, workshops and discussions held, and industry leaders helped formulate potential ideas. These were further developed, supported by research, working group sessions, and consultation of small and medium enterprises (SMEs). The latter were facilitated by the BTA. The working groups were as follows:

- **Regulation:** Looking at the core areas of regulation that impact on the industry.
- **Connectivity:** Reviewing the long-term needs of the industry from transport, digital and visa connectivity.
- **Industry of Choice:** Looking at the long-term skills needs of the industry, and future needs.
- **Industry of the Future:** Helping the industry to face future changes likely to impact business and identify opportunities where Britain can lead.

A key recommendation is that of establishing tourism zones. The aim: “Tourism zones would help develop place and product and help the UK’s ambition to be the number one destination in Europe by 2025.” The proposal is that five tourism zones will be piloted across a five-year period. They will “build quality tourism products that meet visitors’ needs and expectations, extending the tourism season and fixing localised transport issues to improve the visitor experience.” Seventy-three percent of tourists arriving by air to the United Kingdom use London as the main gateway. A key goal of the introduction of tourism zones is to inspire visitors to explore more of the United Kingdom and thereby spread the benefits of economic growth generated to the other regions and nations of the United Kingdom.

Outside of the major city destinations, the majority of British destinations are in rural and coastal locations. The report states that “there is potential to boost overall business in new areas by building and developing tourism product. Some of the new “sharing” economy and app-based tourism products are encouraging new exploration of areas not previously used to a substantive visitor economy.”

Tourism is a strong component of the local economy across the United Kingdom, but the report acknowledges that more needs to be done to build a product, encourage an extended season, and fix localised transport issues to improve experience—especially in coastal communities.

Tourism Zone Criteria

- Building on the success of the government’s enterprise zones, areas will bid to the central government to acquire status as a tourism zone.
- Tourism zones should demonstrate the potential to build new and exciting product through local leadership.

Scottish Enterprise Areas

The Scottish government established four enterprise areas to help create supportive business environments for growing industries. By offering incentives and other support for businesses locating at these sites, the government aims to create jobs, attract investment and promote growth. Each enterprise area site offers a range of incentives tailored to fit the individual characteristics of that site, in addition to either:

- Business rates (local taxes) discounts enabling businesses to claim up to £275,000/GEL 966,294 of business rates relief over five years; or
- Enhanced capital allowances enabling businesses to claim up to 100 percent of the cost of certain qualifying investments against the businesses’ taxable profits.

Additional incentives include:

- A streamlined planning process.
- High-speed broadband.
- International promotion and marketing provided by Scottish Development International (SDI).
- Skills and training support provided by Skills Development Scotland.

Regional selective assistance (RSA) grants are available to help projects that will create or protect jobs in Scotland. The amount offered depends on:

- The size of the business.
- The location of the project.
- SDI’s assessment of how much is needed for the project to go ahead.

The grants are available to limited companies, sole traders or partnerships. Large businesses are only eligible if the project involves diversification at an existing location or new activity taking place on a new site. An application can be made whether the business is based in Scotland or not—but the project must take place in Scotland.

To qualify, the project must meet ALL the following criteria:

- Take place within an assisted area in Scotland.

- Directly create or safeguard jobs within the applicant's business.
- Should not be offset by job losses elsewhere.
- Involve an element of capital investment.
- Be mainly funded from the private sector, including the business's own cash resources.
- Be financially viable, make commercial sense and contribute to Scotland's economy.
- Evidence that the project needs RSA to proceed.
- If the applicant is already committed to undertaking the project or if SDI thinks the project would proceed anyway, RSA will not be offered.

SDI reviews the project and the amount of grant available will depend on the assessment of many factors, including:

- Location, size, and cost of the project.
- Size of the business.
- A number of jobs created or protected.
- Quality and type of these jobs.

The purpose is to ensure overall gains in net employment in Scotland. The grant is discretionary, and the level offered will depend on SDI's assessment of how much is needed to make the project go ahead.

English Enterprise Zones

Enterprise zones are part of the UK government's wider Industrial Strategy for England "to support businesses and enable local economic growth." The first 24 zones were launched in 2012, and 24 new zones were created in 2016 and 2017. The incentives are similar to those in Scotland:

- Up to 100 percent business rate (local tax) discount worth up to £275,000/GEL 966,294 per business over a five-year period; or
- One-hundred percent enhanced capital allowances (tax relief) to businesses making large investments in on eight zones in assisted areas,

AND:

- Simplified local authority planning, for example, through local development orders that grant automatic planning permission for certain development or changing how existing buildings are used within specified areas.

In enterprise zone (EZ) sites where enhanced capital allowances are available (assisted areas), businesses now have up to eight years from the launch of the EZ to make their investment.

EZs have established themselves as "the driving force of local economies as they unlock key development sites, consolidate infrastructure, attract business and create jobs." All business rates growth generated by the EZ is kept by the relevant local enterprise partnership and local authorities in the areas for 25 years to reinvest in local economic growth. This enables Local Enterprise Partnerships to reinvest in site development and other local initiatives, such as workforce skills development.

In addition, the government is working actively with enterprise zones to help to unblock any barriers to delivery, such as Department for Transport support with transport infrastructure, Department for Environment, Food and Rural Affairs (DEFRA) support in promptly addressing environmental issues and advice on marketing zones to international investors from the Department for International Trade.

Establishing Tourism Enterprise Zones

The aim is to build on the success of the government's enterprise zones. Areas with tourism potential will bid to the central government to acquire status as a tourism zone. The tourism zones "should demonstrate potential to build new and exciting product through local leadership." It is acknowledged that partnership and collaboration is crucial: bids should be delivered by teams combining the public and

private sectors, including businesses, DMOs, and local enterprise partnerships (LEPs). LEPs are voluntary partnerships between local government and businesses set up in 2011 by the Department for Business, Innovation, and Skills to help determine local economic priorities and lead economic growth and job creation within the local area.

Potential tourism zones must clearly be able to demonstrate that tourism is a dominant part of the local economy.

“Tourism zones can provide the joined-up local leadership to deliver existing and future product development funding such as the Discover England Fund, Coastal Communities Fund, and the new DEFRA Food Hubs program. Tourism Zones would offer a way of helping to find local solutions to problems—such as online visibility, bookable product, best practice models and collective offers.”

The three-year £40 million/GEL 141 million Discover England Fund established by the UK government in 2015 aims to ensure that England stays competitive in the global tourism industry, “by offering world-class English tourism products to the right customers at the right time.” It recognizes that to continue to achieve such growth is not without its challenges:

- More and more destinations recognise the strong growth potential of inbound tourism so that England’s customers from traditional markets see new places to explore, while the strongest growth comes from markets that do not know much about England and may have different expectations.
- The need to ensure that visitors explore all of England and experience the wealth of attractions on offer—currently 54 percent of international visitor spend is in London.
- Transport connections don’t make this exploration easy.
- And customers now expect to book online, use distributors and comparison websites, and see availability even at short notice—“so we need to be tech and digitally savvy as an industry to stay ahead of the curve.”

It’s the goal of the Discover England Fund to tackle these challenges. The investment is made through grant awards to projects

The Coastal Communities Fund was established to support economic growth and create jobs in mainly run-down seaside tourism resorts. Grants were made available for a minimum of £50000/GEL 176,000 to projects aimed at new enterprises or regeneration.

The DEFRA Food Hubs Programme established FEZs to support tourism and inject investment into rural communities across England.

“Food enterprise zones will unleash food entrepreneurs, bringing together researchers, farmers, manufacturers, distributors, and retailers so they can improve productivity and spark new ideas off each other all the way along the supply chain from farm to fork, from lab to lunch.”

Plans for FEZs are underway, including a new Artisanal Food Village in Cornwall, an agri-food park near Malton in North Yorkshire, and a cluster of local artisan food producers around the River Orwell in Suffolk. In East Anglia three FEZs are expected to create thousands of new jobs through expanding existing food businesses and developing new ones. These hubs focus on agriculture, food, and tourism.

Tourism zones will also provide support for regional bus and tram networks to help improve the customer experience.

“Better public transport connectivity both to and within specific geographies could increase the number of potential visitors – potentially reaching those older visitors who no longer wish to drive, younger visitors who do not yet have a car and international visitors who are reluctant to drive on the ‘wrong’ side of the road. By encouraging visitors to travel more widely across the country we can promote the regional spread of tourism.”

The report also recommends:

- Modeling business rates (local taxes) in the tourism zones after the enterprise zone provisions.
- Including tourism as part of local enterprise partnerships, in their management plans.

- Having tourism zones provide localized digital plans, to help SMEs get to new markets and build resilience. Management of the tourism zone will oversee the localized broadband roll-out.

5. Recommendations for Georgia

The Virginia and UK examples are useful models for Georgia. They not only address issues of incentives but also the need for diversification and innovation of the tourism offer in those areas, The English example builds on the existing assisted areas models and includes issues of clusters, transportation, digital upgrade, etc. It is not merely about grants or tax incentives for hotels. Furthermore, both the Virginian model and the English model emphasise community participation, local ownership, local planning, coordination between the government, local authority, investors, NGOs, etc. The Georgian government is committed to a sustainable community development approach. The English approach also provides other support programs such as the food hubs and coastal resort renovation.

Implementation

- Further study on the tourism zones described in this section.
- Build consensus with EG on the replacement of the existing tourism development areas with new tourism zones based on the best of the Virginia and English practices described above.
- Build consensus with the Ministry of Regional Development & Infrastructure/Transport Administration on improving transport connections to the proposed tourism zones and other tourism hubs.
- Devise a program on the food enterprise zones in England to establish food and tourism hubs based on Georgian cuisine and wine.
- Establish a common institutional and legal framework for new tourism zones to replace the existing tourism development areas and start an exercise based on the English model to build consensus for what a new tourism zone should entail.
- Choose a priority zone to be created as a model for others.
- Agree on the designation process, the contents of the decree, and the regulations applicable.
- Agree with EG and the tax authorities on the incentives applicable, not just hotels.
- Establish an incentives package for existing establishments that need renovation or safety measures improved.
- Create a grants system for MSMEs in the zone.
- Work with other MDAs and the local authority to establish a beautification program for the zone.
- Establish a tourism local enterprise partnership for the zone.
- Develop a tourism development fund for the zone.
- Discuss obtaining a reduction of VAT for hotels that only operate on a seasonal basis and for those that must bus in staff from Tbilisi and accommodate them during the season.
- With relevant MDAs develop an HRD program to replace bussed-in staff with local workers and link this to the incentives package.
- Identify government land within the zone that might be leased out to potential investors.
- Hold a preliminary investment fair to attract domestic and international investors.

H. INSURANCE

1. Overview of International Practice

Three kinds of insurance are required in the developed countries:

- Public liability insurance.
- Employers' liability insurance.
- Insolvency protection insurance.

The first two are not confined to the tourism sector but are required of all commercial enterprises.

Public liability insurance: This is also called "third-party insurance." It is used to cover compensation payments and legal costs if a member of the public (e.g., a customer, a supplier, or a passerby) sues the business because they have been injured or their property has been damaged. Usually, damage caused intentionally is not covered, neither is contractual liability. Payment is not automatic; when a claim is made, the insurance provider has the right and duty to defend the insured against the claim.

The legal costs of a defense normally do not affect policy limits unless the policy expressly states otherwise; this is important as defense costs tend to mount substantially when cases go to court. The cost of defending the case might be more than the amount being claimed.

In countries that do not have a legal obligation to have public liability insurance, it is up to the business if it is necessary. However, in most cases, it is usually purchased by businesses that interact with the general public. As with other types of insurance, the cost of public liability insurance will depend on a number of factors, including the type of business run and the level of cover selected.

Though it may not be a general requirement to have public liability insurance, it may be required of those in high-risk activities (e.g., in adventure tourism or in the provision of public transport; see above).

Employers' liability insurance: this is intended to cover the purchaser for compensation claims made by an employee because they suffer injury, illness or property damage as a result of their work. In most European states this is compulsory. It not only covers employees but also contractors, casual workers or temporary staff (e.g., a tourist guide contracted by a tour operator).

Insolvency protection insurance: this is specific to tour organizers and is discussed on page 53 of this report. The PTD requires the tour organizer to provide insolvency protection to consumers. This was implemented in Georgia by *Article 6622 - Travel organizer's obligation to present guarantees to a traveler*, which provides:

A travel organizer shall present solid security guarantees to cover expenses related to the return travel of clients and to refund the amount paid by the traveler in the event of its bankruptcy.

Law of Georgia No 2946 of 28 April 2006 – LHG I, No 15, 16.5.2006, Article 99

The Article does not specify that this must be provided in the form of insurance, but this is one of the possible mechanisms to be used in providing a guarantee. Other mechanisms are by providing a bond or putting advance payments in a trust account accessible by the tour organizer only after the services have been delivered.

Provisions for a trust fund are set out below in the tour operator, travel agent, and ground-handling agent regulations.

2. Alternative #1 (United Kingdom)

See page 66 above.

3. Alternative #2 (Malta)

See page 67 above.

4. Recommendations for Georgia

Whether or not public liability insurance and employers' liability insurance is compulsory in Georgia is a matter of general law. However, the requirement for tour organisers to provide a security guarantee under the PTD is a matter for the MoESD/GNTA. The existing trade associations are not strong enough for the UK model to be adopted and so the Maltese model is more suitable. However, the goal should be to strengthen them so that a trading scheme should ultimately replace a governmental one.

I. CONSUMER PROTECTION

1. Definitions

The following definitions should be used consistently in all legislation, regulations, orders, notices, etc., in relation to consumer protection:

- “Consumer” means a person who purchases goods, facilities, or services, or a combination thereof, and who is not acting in the course of business when doing so.
- “Linked travel arrangement” means at least two different types of travel services purchased for the same trip or holiday, not constituting a package, resulting in the conclusion of separate contracts with the individual travel service providers, if a trader facilitates:
 - a) On the occasion of a single visit or contact with his point of sale, the separate selection and separate payment of each travel service by travelers; or
 - b) In a targeted manner, the procurement of at least one additional travel service from another trader where a contract with such other trader is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.

Where not more than one type of travel service as referred to in point (a), (b), or (c) of point 1 and one or more tourist services as referred to in point (d) of point 1 are purchased, they do not constitute a linked travel arrangement if the latter services do not account for a significant proportion of the combined value of the services and are not advertised as, and do not otherwise represent, an essential feature of the trip or holiday.

- “Package” means a combination of at least two different types of travel services for the same trip or holiday, if:
 - a) Those services are combined by one trader, including at the request or in accordance with the selection of the traveler, before a single contract on all services is concluded; or irrespective of whether separate contracts are concluded with individual service providers, those services are:
 - (i) Purchased from a single point of sale and those services have been selected before the traveler agrees to pay.
 - (ii) Offered for sale at an inclusive total price.
 - (iii) Advertised or sold under the term “package” or under a similar term.
 - (iv) Combined after the conclusion of a contract by which a trader entitles the traveler to choose among a selection of different types of travel services, or
 - (v) Purchased from separate traders through linked online booking processes where the traveller's name, payment details, and email address are transmitted from the trader with whom the first contract is concluded to another trader or traders and a contract with the latter trader or traders is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.
- “Tour operator” means a person who habitually or regularly puts together tours or packages comprising of two or more of the following and which is offered to the public, directly or through an intermediary, for an inclusive price:

- b) Guided tours.
- c) Accommodation.
- d) Entertainment.
- e) Transport.
- f) Travel insurance.
- “Travel agent” means a person who habitually or regularly undertakes to provide for other persons for a price, one or more separate services rendering possible a journey or sojourn, such services including, but not confined to:
 - g) Selling tour packages on behalf of tour operators (domestic or international).
 - h) Arranging for travel documents in accordance with the prevailing regulations.
 - i) Arranging for transport and/or accommodation for travellers.
 - j) Providing travel insurance facilities.

2. Overview of International Practice

Georgia is committed to harmonizing its consumer protection law in certain areas, including tourism and those provisions are discussed in Section 5 of this report. This section looks at additional measures to ensure a fair balance of the rights and obligations of tourism service providers and consumers. No particular country is chosen as a comparator as these rights and obligations are present in most common law and civil law systems. In the former, they are contained in legislation and case law. In the civil law systems such as that of Georgia, they are contained in the commercial code and in regulations. In both, the general law of contract and agency apply.

These provisions supplement those provided in Section 5 and also cover transactions not covered by the PTD. They also provide for fair-trading practices:

3. Recommendations for Georgia

Adoption of the provisions set out in the Concept and implementing regulations.

Implementation of the Law on Tourism

- Draft an easy-to-read guide for staff of the GNTA, MoESD, and other relevant ministries and public bodies on the consumer protection framework.
- Draft an easy-to-read guide for the private sector.
- Hold a series of workshops on the legislative provisions.
- Prepare a communications strategy to inform the sector of the new legal framework.
- Prepare an explanatory memorandum on the draft law for the Ministry of Justice/Parliamentary Committee/parliamentary legal scrutineer.
- Establish the TPSAC. Devise its remit and procedures.
- Establish the Tourism Standards Committee. Appoint members and develop its remit and modus operandi to fulfil its functions under the law and implementing regulations.
- Establish the Tourism Ombudsman’s Office.
- Establish the procedure for dealing with complaints based on a mediation and arbitration system.

Implementation of the Regulations

- Draft standard format for price displays at tourist accommodation.

9. RECOMMENDED LEGISLATION AND REGULATIONS

A. A DETAILED CONCEPT ON THE LAW OF TOURISM

The new Tourism Law should have the following articles:

Part 1:

Purpose

Article 1

This law establishes the policy of the government with respect to tourism; the functions and powers of the MoESD and GNTA; the mechanisms for cooperation between national, regional, municipal, and local authorities in the field of tourism; the principles of regulation and coordination of entrepreneurial activity in the tourism industry; the rights and obligations of tourists; security provisions with respect to tourists; establishment and maintenance of standards of tourism services; the principles for international collaboration; and other matters pertaining to tourism.

Scope

Article 2

A standard clause. The constitution of Georgia, the present law, and other normative acts emitted in accordance with these legislative provisions constitute the legal framework for tourism.

It is important to bear in mind that, although this law provides a comprehensive legal framework for the tourism sector in Georgia, the provisions of the constitution and the general law also apply to public and private tourism entities, tourists' transactions, and to tourists themselves, whether they are Georgian citizens or not.

Definitions

Article 3

This is a very important part of the law. It provides a comprehensive legal taxonomy for tourism in Georgia. All subsequent legislation affecting these sectors should follow these definitions and previous legislation that will continue in existence after the adoption of this law should be amended to comply. This should overcome the current confusion in terminology. It should also assist in the precise targeting of financial assistance and tax exemptions to the sector and help in other areas, such as registration, licensing, classification, etc. It follows UNWTO and other international norms insofar as these are consistent with Georgian legal norms.

A set of legal definitions is provided in Annex 1.

Part 2: Tourism Policy

State Policy on Tourism

Article 4

This article should enshrine the state policy on tourism and provide the context for the rest of the law. It should emphasize that tourism will be supported as a major integrated economic sector with profound cultural, cross-sectoral, inter-regional, and highly socialized characteristics, as well as developing and making tourism a spearhead economic sector aimed at meeting the demands of its citizens and

international tourists for visits, leisure, and recreation—shifting the economic structure, generating employment, and contributing the socioeconomic development of the country.

The main principles of the state policy in the sphere of tourism should be set out as:

- Recognizing tourism as a priority sector of the economy.
- Supporting tourism activity and creating favorable legal, economic, and structural conditions for its development.
- Determining the priority directions for the development of tourism in Georgia.
- Creating a favorable image of Georgia as a tourist destination.
- Creating conditions for the protection of the lawful interests and rights of tourists and tourism service providers.
- Ensuring the development of international cooperation in the sphere of tourism.
- Supporting public associations/unions established by subjects of tourist activity in the manner defined by the law.

The main goals of the state policy in the sphere of tourism should be set out in this article, as should the main issues to be addressed while furthering those goals. The article should specify that state support for tourism is given through economic and financial tools, and through activities aimed at creating and protecting tourism resources, therefore creating the conditions for the sustainable development of tourism.

As this is the government policy, all public bodies are required to pursue it in their dealings with the MoESD/GNTA and the tourism sector. Public bodies must respect the lawful rights and interests of tourists and tourism service providers. Financial and other incentives may need to be created to support tourism development.

Public bodies must ensure the protection of tourism resources as defined in the law. The relevant public bodies need to cooperate in improving, accessibility, transportation, and the improvement and development of infrastructure. The MoESD, GNTA, private sector, educational and training institutions, and the Ministry of Education must cooperate in the development of human resources for the tourism sector.

Part 3: Government Facilitation of Tourism Development

Article 5

This article furthers the provisions of the constitution on economic development and the declared government policy of making tourism a spearhead economic activity by:

- Approving a national policy and strategy for tourism.
- Approving tourism development plans for each region and locality, where appropriate.
- Tourism information, education, and promotion activities.
- Development of infrastructure and facilities in tourism development areas, tourist circuits, tourist villages, tourist zones, tourist sites, and at tourist attractions.
- Assistance for tourism investment in remote and sparsely populated areas.

The law should contain substantial provisions to foster economic development. These affect all public bodies with responsibility for economic development, promotion of investment, planning, finance, and taxation. Other public bodies should have input into the development of the national policy and strategy for tourism.

Part 4: Institutional Framework for Tourism

Functions of the MoESD and GNTA

Article 6

These should include:

- Develop, and submit to the Cabinet of Ministers for approval, the national tourism policy, strategy, and master plan.
- Implement and promote the national tourism policy strategy and master plan and monitor its realization.
- Protect, enhance, and promote the culture and heritage of the Georgian people consistent with the policy on these matters established by the Department of Culture.
- Encourage, develop, and improve the quality of the tourism infrastructure and tourism services in Georgia.
- Promote and provide opportunities for Georgian residents to enjoy leisure and recreation within Georgia.
- Develop comprehensive programs for tourism marketing.
- Encourage the provision and improvement of tourism, leisure, and recreational amenities and facilities in Georgia.
- Carry on, or establish and carry on, either by itself or jointly with any other person, tourism undertakings.
- Promote or assist the establishment, growth, reorganization, modernization, or development of the tourist industry, or any undertaking within that industry.
- Provide or adapt sites and provide, adapt, modernize, or reconstruct premises for tourism undertakings or assist any other person to do any of those things, and provide or assist in the provision of related services or facilities.
- Manage or assist in the management of sites and premises for tourism undertakings.
- Undertake or assist the undertaking of the development, redevelopment, and improvement of the physical environment in which the tourism industry operates.
- Preserve and develop touristic and heritage sites.
- Regulate tourism signage.
- Promote the revival and development of traditional handicrafts and popular arts, festivals, and culture in cooperation with relevant ministries and public bodies.
- Maintain a register of tourist accommodations.
- Maintain a register of restaurants and catering establishments.
- Maintain a register of cultural associations.
- Carry out other tasks relating to tourism, heritage protection, and cultural development, which the government will determine.
- Enhance the trade and professional associations in the tourism sector accredited by the MoESD.
- Support the development of human resources for the tourism sector.
- Promote the provision, maintenance, and safeguarding employment in the tourism sector.
- Promote the efficiency and international competitiveness of the Georgian tourism industry.

These are typical functions an NTA or hybrid NTA/NTO. However, as is elsewhere, the MoESD and GNTA will need the cooperation of other ministries and public bodies in order to successfully carry out their functions. The article should require the MoESD and GNTA to carry out its activities in accordance with government policy and the principles of sustainability set out in this law.

Powers of the MoESD and GNTA

Article 7

These should include:

- Advise the Cabinet of Ministers regarding where there is need to initiate and promote specific normative acts and provide notification concerning the regulations elaborated by relevant ministries and public bodies that have an impact upon, or are affected by, the tourism industry.

- Where the Cabinet of Ministers deems it appropriate, represent government interests in different international organizations in conformity with treaties and other agreements made by the government and develop cooperation with those organizations and with other states.
- Cooperate with professional and trade associations in the tourism sector and other bodies, public or private, that are engaged in tourism activities or in the provision of services to tourists.
- Coordinate technical assistance programs provided by international organizations.
- Promote and undertake publicity in any form in accordance with the laws governing publications and communications.
- Develop and implement, in collaboration with other public institutions, public authorities and nongovernmental organizations, the national strategy for tourism, and the master plan.
- Designate, under regulations issued by the minister, specified areas as tourism development areas, tourism zones, tourism sites, or tourism villages and such areas, zones, sites, and villages that shall be subject to the planning restrictions and eligible for financial privileges specified in the regulations.
- Encourage investment in hotels, other tourist accommodations, restaurants and catering establishments, and tourism enterprises.
- Encourage investment for the preservation of sites, buildings, or items of cultural, natural, historical, or national interest.
- Encourage and collaborate in the development of, and to provide support and assistance to, voluntary groups established for the protection and promotion of Georgian culture, or aspects thereof, that wish to provide services to tourists in cooperation with relevant ministries and public bodies.
- Provide financial assistance to those who are carrying out projects to provide or improve tourism facilities or amenities.
- To designate the titles of certain trades, professions, or activities in the tourism sector as protected in law and prohibiting any person from using such titles if they are not entitled to do so.
- Promote and undertake research and provide technical assistance to those engaged in the tourism industry, cultural associations, and potential investors.
- Protect and promote Georgian handicrafts.
- Reimburse or contribute to the expenses of any other person or organization promoting Georgia as a tourism destination.

The MoESD/GNTA should be given powers that are typical of a national tourism authority. However, these are drafted as enabling powers. It does not have to exercise them from the outset, but only when it chooses to do so and has the capacity to do so. Provided that it acts within its remit, it has complete discretion on whether or how to exercise these powers. It must act, of course, within the law of Georgia, as well as according to the rules and regulations governing ministerial activities and those of civil servants.

The national tourism policy and strategy will be adopted by the whole government and will, therefore, be under scrutiny from other ministries—they will be committed to its contents. The provision of sites/public land will need the approval of the government.

The MoESD will need to work with the Ministry of Labour on labor law issues that are particular to the tourism sector, such as seasonal work, the requirement of workers in the hospitality sector to work unsociable hours, work visas for foreign staff (e.g., chefs), and reciprocal arrangements for Georgian hospitality and tourism workers gaining work experience abroad.

Tourism Private Sector Advisory Committee

Article 8

Increased cooperation between the public and private sectors in the tourism field will be essential. The law should provide for a statutory body, the TPSAC. This removes concerns about ad hoc-ism and clique-ism. It is a formal body with statutory duties. The MoESD/GNTA (through the recommended secretariat's policy coordination unit) should be mandated to consult with the TPSAC in developing the national tourism policy and strategy and the master plan for tourism development.

In appointing members of the TPSAC, regard should be had to ensuring that it includes members from the provinces and that there is a balanced geographical spread.

Tourism Inspectorate

Article 9

This legislation requires effective, efficient, transparent, and just enforcement mechanisms. Quality assurance requires inspection. So to do the requirements of consumer protection and safety and security. This article should provide a legal framework for this.

The MoESD may appoint tourism inspectors to ensure compliance with the provisions of this law and related regulations and other functions that are indicated elsewhere in the law. They may be employees of the MoESD/GNTA or subcontractors. They should be provided with an identity card, which they must present on entry into any premises that are to be the subject of their inspection or to any person from whom they are entitled to obtain information under the provisions of this law and related regulations.

They will need to coordinate their activities with those from other ministries or public bodies that have a right of inspection in order to avoid duplication or the harassment of tourism service providers.

Part 5: Tourism Development Principles

Sustainable Development of Tourism

Article 10

The government in general and the MoESD, in particular, should ensure the sustainable development of tourism in line with the cultural heritage, traditions, and customs of the Georgian people. The sustainable development of tourism should be secured by the observance of the following sustainable tourism principles:

- Tourism planning, organization, and implementation at the local and regional level shall be an integral part of the sustainable development of tourism at the national level.
- Involve different public bodies, the private sector, professional and trade associations, and the population in the planning process.
- Plan and manage tourism in keeping with the protection of the environment and natural resources.
- Equitably distribute advantages and costs among tourism promoters, provinces and local authorities, and the population in host areas.
- Inform, educate, motivate, and involve the local population in the process of tourism facility development.
- Assess on a preliminary basis tourism facility projects and their possible impact after implementation.
- Involve the local population in the formulation of collaborative programs designed to optimize tourism implementation.
- Monitor implementation.

In furtherance of the provisions, the article should require the government and its agencies, and the GNTA and EG in particular, to:

- Ensure the rational use of tourism resources and the promotion of environmental conservation and protection measures in accordance with the national tourism development strategy and annual tourism development programs, approved by the government.
- Promote public interest in tourism.
- Contribute to the development of the tourism industry through direct investment in general and tourism infrastructure.
- Support tourism at the local and provincial level through the creation of adequate conditions for the development of tourism infrastructure.
- Ensure the security, protect the rights, interests, and property of tourists.
- Collaborate with other governments and international organizations in the field of tourism through the adoption, and implementation, of international treaties.
- Ensure that the Ministry of Foreign Affairs/Ministry of Interior creates a favorable entry visa regime for foreign tourists coming to Georgia.
- Facilitate the provision of necessary tourist facilities at the border-crossing points.
- Encourage monitoring mechanisms.

These provisions are based on the UN and UNWTO principles on sustainable development of tourism and on the UNWTO Global Code of Ethics for Tourism.

Principles of Tourism Resources Protection and Utilization

Article 11

While Article 10 focuses on sustainability, Article 11 focuses on economic development. Tourism resources must be protected, enhanced, and utilized so as to maximize their economic potential but consistent with the principles explained in Article 10. The GNTA should uniformly administer tourism resources across the country and issue synchronous policies and measures for the protection and upgrading of tourism resources for sustainable development. The issue of synchronicity of policies is a vital one.

It is important that regulation and administration of tourism is uniform throughout Georgia as the country as a whole will be marketed as a tourism destination abroad and it is essential to ensure, for example, a uniform system of licensing, classification, and consumer protection. This does not undermine local and regional decision-making in the use of local and regional resources.

Part 6: Tourism Development Framework

Classification of Tourism Resources

Article 12

The tourism resources of Georgia should be classified as follows:

- Natural tourism resources: including natural landscapes; geographical peculiarities, climatic and hydrographical and marine conditions; biological features; other natural physical objects, which are attractive to tourists.
- Human tourism resources, which are subdivided into:
 - Material human tourism resources: including historical buildings, relics, and other constructions and artifacts.

- Immaterial human tourism resources: including cultural activities as defined in Article 3 of this law.

Tourism resources should include both those that are commercially utilized and those that are not.

This will enable the establishment of a register of tourism resources.

It must be noted that merely because something is classified as a tourism resource” does not mean that that is its sole or principal purpose. A church or monastery may be classified as a tourism resource because it is attractive to tourists and visited by many of them each year, nonetheless, its principal purpose is as a place of worship and is a spiritual resource.

National Register of Tourism Resources

Article 13

The GNTA should establish and maintain a National Register of Tourism Resources and will record, inspect, evaluate and promote the use of tourism resources. The Article provides should provide for a regular national audit of tourism resources. This will provide an essential database for the government and the GNTA and assists in the gathering of national tourism statistics.

Responsibility for Management of Tourism Resources

Article 14

Individuals and organizations owning tourism resources or having public responsibility for them should be responsible for managing them in accordance with this law and related regulations. Local authorities and regions should cooperate with the MoESD to:

- Determine the division of responsibilities in the management of tourism resources in public ownership; and
- Identify or appoint the person, persons or entity responsible for managing newly discovered or unmanaged tourism resources.

This will provide a greater coordinating role for the GNTA and clarify the role of the municipalities, regions, and local authorities in tourism development.

Principles of Tourism Development Planning

Article 15

The aim is to ensure coordination at national and local levels consistent with the law governing the functions and powers of regions, municipalities, and communities.

Content of Tourism Development Plans

Article 16

Tourism development plans should contain the following details:

- Forecast of tourism development; estimation of investment capital from different investors, including the government, domestic and foreign individuals, and organizations in accordance with the national, regional and community development plans for the period of five years, 10 years, or longer
- Allocation of the infrastructure works and facilities for tourism in each stage in accordance with the tourism potential and the socioeconomic development master plan.
- Public land reserved for tourism development in order to ensure the appropriateness and efficiency of land use.

The region may already be required by law to submit a development plan. This article requires that there should be a tourism development plan as part of that. The GNTA should assist in its preparation and its

approval should be required before it can be adopted as part of the wider tourism master plan. Not all regions will/should be involved in tourism development planning at the outset and so the Article should allow for flexibility. It may merely be applicable to those with priority tourism development areas or to tourism development areas generally, for example. There may need to be a budget allocation to enable them to undertake this planning.

Designation of Tourism Development Areas, Tourist Circuits, and Tourist Zones

Article 17

The government can, by decree, designate specified areas as tourism development areas, priority tourism development areas, tourist circuits or tourist zones, and such areas, circuits, or zones shall be subject to the planning restrictions and eligible for financial privileges specified in the regulations issued by the relevant ministry or bodies in accordance with the directive issued by the government.

This is central to the tourism planning framework laid out in this law. It requires all ministries and public bodies to comply with the provisions of the decree, to facilitate the development of tourism in these areas, and to respect the planning restrictions set out in the decree and accompanying regulations.

Establishment of Tourism Development Agreements

Article 18

The MoESD/GNTA should have the power to enter into legal agreements to enable it to engage in tourism development in partnership with municipalities, regions, communities and the private sector. Each tourism development area would have a partnership agreement. The partnership would be established comprising a board with representatives of the various stakeholders involved in the tourism development area. The resources of the partnership could come from the tourism development fund, other public or private funds, or a mixture thereof. The partnership would be wound up once the project was completed.

The partnership should not be regarded, for legal purposes, as the servant or agent of the state and should not enjoy the privileges or immunity of the state. Neither should its property be regarded as state property.

Designation of Priority Tourism Development Areas

Article 19

The government may designate areas as priority tourism development areas and such areas would be subject to the planning restrictions and eligible for financial privileges specified in Regulations made by the minister under this article. The GNTA should prepare a Development Plan for each priority tourism development area in cooperation with relevant ministries, public bodies, regions, municipalities, local authorities, the private sector, and NGOs in accordance, and submit the plan to the government for approval.

It is recommended that a standard set of zoning, planning, and building regulations be devised for all priority tourism development areas.

Provision of Sites and Premises for the Tourism Industry

Article 20

The government may allocate public land for tourism development and the MoESD shall exercise the power of providing or managing these sites and premises and related facilities in accordance with arrangements to be approved by the government. Any such arrangement may provide that, if it appears to the government that there are circumstances which justify the giving of special assistance it may authorize the MoESD/GNTA to provide premises for the occupation of an undertaking free of rent for such time as the government thinks appropriate.

Development and Improvement of the Environment

Article 21

For the purposes furthering the improvement of the physical environment in which the tourism industry operates; the MoESD shall, after consultation with other ministries, public bodies, local authorities, regional and local authorities, the private sector, and NGOs, from time to time, prepare and submit to the government for approval, proposals for the development, redevelopment, or improvement of any area where the purpose is to enhance the physical environment for tourism.

Designation of Tourist Villages

Article 22

Any village might call itself a tourism village; however, only those meeting certain essential criteria should be officially designated as such. The criteria may relate to the attractiveness of the village, its location on a tourist circuit, its cultural, historical, religious or other heritage, availability of authentic Georgian regional cuisine or particular foodstuffs, refreshments, etc.

These might be promoted as part of a pro-poor policy. They may also be places where tourists can stay with families in the village and get involved as a working holiday. Village festivals might also be promoted. The village may be afforded financial programs of assistance, etc. Consideration should be given to award an annual prize for excellence to a tourism village. World Tourism Day, which is celebrated every year on September 27, under the auspices of the UNWTO, could be a means to promote a new tourism village each year.

Part 7: Economic and Developmental Activity in Tourism.

Organization of Economic Activity in Tourism

Article 23

Economic activity in tourism should be based on the rational use of tourism resources, efficient exploitation of the material and technical basis of the tourism industry, development of tourism infrastructure, increase in the incomes in the state budget, and creation of new jobs for Georgian citizens.

Macroeconomic policy in tourism should encourage the development of domestic and international inbound tourism through the creation and promotion of various tourism products, both on domestic and foreign markets.

Tourism services provided by Georgian tourism enterprises to foreign visitors, whether directly or indirectly, should be considered as exports.

Programs of Financial Incentives for Tourism Projects

Article 24

The aim of any tourism investment strategy should be to substantially increase the income that the country earns from tourism and create a combination of tourist attractions and tourism services that make the country attractive to tourists. In addition, the government needs to:

- Make Georgia an attractive place for domestic and foreign investors to engage in tourism development.
- Maximize the economic impacts of tourism spending.
- Spread the benefits of tourism spending as widely throughout the country as possible.
- Promote job opportunities through tourism development.

- Use tourism development as a means of a poverty-alleviation strategy.
- Protect the environment through sustainable tourism development.
- Empower local communities to become directly involved in tourism development consistent with their needs, customs, and traditions.

Georgia needs to engage in physical product development and tourism resource development. Thus, a tourism development fund should enable the MoESD to help pump-prime investment in the key areas. The aim is to have the financial resources to work with the EG and the private sector and to facilitate the development of these resources. Part of the tourism development fund should be used to provide incentives, small grants and loans, and other set-up assistance to domestic SMEs and individuals in the proposed tourism development areas.

Part 8: Hotel Premises

Structure of the Building

Article 25

This should set out core rules on the construction of hotels, safety, and security.

Design of Hotels

Article 26

The government may prescribe minimum standards for the design and outward appearance of hotels and these shall be set out in regulations issued by the relevant ministry or bodies in accordance with the directive issued by the government.

Fitness and Durability of Materials and Workmanship

Article 27

Work on the construction, adaptation, alteration, or renovation to any hotel must be carried out in a technically proper and workmanlike manner, and the materials used must be durable and fit for their intended purpose. All materials, services, fittings, and equipment used must, so far as reasonably practicable, be sufficiently accessible to enable any necessary maintenance or repair work to be carried out.

Fire Safety

Article 28

Fire safety requirements for hotels.

Access to and Within Hotel Buildings

Article 29

Every hotel building must be designed and constructed in such a way that:

- All occupants and visitors are provided with safe, convenient, and unassisted means of access to the building.
- Safe, unassisted, and convenient means of access is provided throughout the building.
- Every level can be reached safely by stairs or ramps.

- Safe and convenient means of access is provided to each room to be occupied by guests or customers and throughout the common areas.

Liability Insurance

Article 30

A hotel shall purchase a liability insurance policy for its businesses, with the coverage and minimum insured value as specified below:

- Human bodily injury or death, per person: GEL x
- Loss of or damage to property in each incident: GEL x
- Total insured value for the insured period: GEL x

Government's Powers to Issue Detailed Specifications

Article 31

The government may prescribe detailed minimum standards for construction, renovation, and maintenance of hotels and other tourist accommodation, and for tourist restaurants and these shall be set out in regulations issued by the relevant ministry or bodies in accordance with the directive issued by the government.

Part 9: Tourism Enterprise Standards and Consumer Protection

Tourism Enterprise Standards

Article 32

The MoESD may:

- By regulations, establish a Tourism Standards Committee for the purposes of administering a licensing and permits system in accordance with the provisions of this article.
- Prescribe minimum standards for the issuing of licenses for tourist accommodation, tour operators, travel agents, tourist guide, and other tourism enterprises.
- Prescribe minimum standards for the issuing of tourism transportation permits.
- Prescribe the procedures for application, renewal, transfer, and revocation of the licenses and permits and the grounds and procedures for appeal.
- Monitor and enforce the licensing and permits system prescribed in this article.

General Obligations

Article 33

A proprietor of a hotel, tourist accommodation business, tour operator's business, travel agency business, or other tourism enterprise business, or any employee or other person acting on his or her or its behalf, shall not make any:

- False statements about goods or services that he, she, or it sells or offers for sale to the public.
- False or misleading price indication about goods or services that he, she, or it sells or offers for sale to the public.

Where a false or misleading statement is made by an employee or other person acting on behalf of the proprietor, the proprietor will be the person deemed to have made the statement.

Classification of Hotels, Other Tourist Accommodations, and Visitor Attractions

Article 34

The MoESD may, by regulations, make provisions for the classification of hotels, other tourist accommodations, and visitor attractions in Georgia. The criteria, in accordance with which the classification or grading is carried out, shall be prescribed by the regulations.

Registration and Regulation of Tourist Accommodation

Article 35

The MoESD may, by regulations, make provision for the registration of tourist accommodation at which sleeping accommodation is provided by way of trade or business.

For the purposes of registration under this article there should be the following categories of tourist accommodation:

- Hotels, including motels, boutique hotels, apart-hotels, hotel suites, and any establishment that is within the definition of a hotel under Article 3 of this Concept.
- Guesthouses.
- Bed and breakfast establishments.
- Boarding houses.
- Self-catering establishments.
- Hostels.
- Lodges.
- Campsites.

In addition to the general requirements of Georgian law and the other relevant provisions of this Concept, tourist accommodation establishments must meet the following minimum standards:

Premises must:

- Be of substantial and durable construction and structurally safe.
- Be safe, properly lit, and have clearly marked entrances and exits.
- Have a service entrance, separate from the guest entrance, suitably located for the reception of goods necessary for the operation of the establishment.
- Have appropriate heating and ventilation.
- Have appropriate lighting in all rooms to which guests have access.
- Have clear signage indicating evacuation routes in case of an emergency.
- Notices must be prominently displayed in all bedrooms in Georgian and English indicating emergency procedures and evacuation routes.
- Bedrooms and public spaces must be adequately and appropriately decorated and furnished and have an appropriate floor covering.
- Appropriate lighting facilities in bedrooms and all public spaces.
- No trailing wires or faulty electrical sockets or equipment in any part of the premises.
- Appropriate facilities for the storage, preparation, and supply of food and drink.
- Premises, including the curtilage, must be properly maintained and kept clean and tidy.
- Toilet facilities should be of appropriate design, properly equipped, and serviced and maintained in a state of cleanliness.

- Absence of vermin or animals in internal public spaces or bedrooms.
- Adequate supply of ablution facilities and potable drinking water available for guests.
- Adequate security arrangements for the protection of guests and their property.
- Adequate storage and disposal facilities for waste.

Detailed Concept covers domestic as well as international tourism. The government wishes to expand employment opportunities and encourage small businesses. Although small tourist accommodation establishments may not match the standard required to be classified or graded (or deemed suitable for international tourists), they should nevertheless be permitted to provide accommodation and encouraged to improve standards. It is therefore important for the MoESD to know where these small hotels are and the nature and extent of their business.

Display of Business Name

Article 36

Self-explanatory.

Part 10: Hotels

The Hotelier's Duty to Receive Guests

Article 37

The hotelier has the following duties:

- To receive without favor all travelers who present themselves and who are prepared to pay for the accommodation, facilities, and services provided by the hotel.
- To provide such accommodation as he or she has available for use by the public to travelers who are prepared to pay for it.
- To provide reasonable refreshment to any traveler who is prepared to pay for it.

These rules only apply to hotels, not other forms of tourist accommodation. A "hotel" is defined in the Concept as an establishment that has 10 rooms or more available for the accommodation of travellers, the owner of which holds the establishment out as offering food, beverages, and, if required, accommodation, without any special contract, to any traveller presenting him or herself who appears willing and able to pay the published rate for the services and facilities, provided that he or she is in a fit state to be received. The main occupation of the premises must be for the purpose of carrying on a trade as a hotelier.

This definition reflects international legal practice. It enables the MoESD to exempt small hotels by providing for a minimum number of rooms. The emphasis is on the accommodation of travellers i.e., guests who stay for relatively short periods of time. Thus, it is not a lodging or boarding house. "Holds the establishment out" (i.e., this is its principal purpose and the invitation is to the public). It is not a private house. The hotel "offers" food, beverages, and accommodation.

This does not prevent it from refusing unsuitable guests, those who are unwilling or unable to pay or to provide proof that they can pay, or refuse particular categories of travellers when required to do so by law.

The hotel must provide accommodation, food, and beverages to bona fide travellers without their having to book in advance provided that he or she has these things available. This does not mean that he or she cannot take advanced bookings and give priority to them. Nor does it mean that he or she cannot require the guest when checking in to sign a form, etc.

The Right to Refuse Accommodation, Food, and Beverages

Article 38

Hoteliers have a right to refuse accommodation and, or, refreshments if the:

- A person requesting it is not a traveler within the meaning of this law.
- A person has requested accommodation and there is none available at the hotel.
- Particular refreshments requested by the traveler are not available at the hotel.
- Traveler appears unable or unwilling to pay a reasonable price for the refreshments or accommodation available.
- Traveler refuses or fails to provide security for his or her bill when requested to do so.
- A traveler is accompanied by a savage or unsuitable animal, bird, insect, or other wildlife.
- The behavior of the traveler had previously given rise to adverse comments and complaints from other guests.

The Duty to Receive Guest's Luggage and Vehicles

Article 39

The hotelier has a duty to receive and accommodate a guest's luggage, and to receive his or her motor vehicle or bicycle.

There is no duty on the part of the hotelier to provide a garage or other building for motor vehicles.

Notwithstanding these provisions of:

- The hotelier has no duty to receive motor vehicles that are designed principally to carry industrial or commercial goods.
- The hotelier has no duty to receive unusual, unreasonable or dangerous luggage, motor vehicles, or bicycles.

Registration of Guests

Article 40:

Registration of Guests

Self-explanatory.

Duty of Care

Article 41

The hotelier has a duty to take reasonable care for the safety of his or her guests and must ensure that food and drink supplied to guests at the hotel is fit for human consumption. A hotelier who fails to comply should be liable to compensate any guest who suffers death, injury or personal loss because of that breach. Where a claim is made by a guest under it should be valid for the hotelier to prove:

- That the guest was injured or suffered loss as a result of his or her own negligence.
- That the breach, injury or loss was due to an unusual and unforeseeable event, including accidental fire, provided that the hotelier had taken all reasonable precautions against it occurring.
- That the guest's loss or injury was the result of an act or omission of a third party unconnected with the hotelier.
- That the breach, injury, or loss was the result of an act of an enemy of Georgia.

If a court finds a hotelier liable for compensation to a guest, it may reduce the amount assessed in proportion to the guest's contributory negligence.

The defenses to be provided in this article are based on the general defence of “force majeure” to be found in most legal systems. The hotelier is also required by food hygiene regulations to provide wholesome food and drink.

The hotelkeeper is not an insurer of the person of the guest and is only liable for injury to the guest if negligence is proved.

Liability in Respect of Guest’s Property

Article 42

The hotelier is liable for the loss of property brought to the hotel by a guest. This liability is strict and is incurred even though the guest cannot prove negligence on the part of the hotelkeeper. It applies with respect to property brought onto the hotel premises by the guest. It does not matter that the hotelkeeper was not aware of the contents of the guest’s luggage. He or she may not be liable where the guest has retained control of the property in such a way as to relieve the hotelkeeper from liability with respect to that property.

The liability applies only with respect to property brought within the hotel premises or the “hospitium” of the hotel. The hospitium consists of the hotel buildings and those precincts so intimately related to them as to be treated for this purpose as forming part of them (e.g., a beer garden or a carpark). An area may form part of the hospitium of the hotel for some purposes but not for others.

Liability of the hotelkeeper extends to property brought by the guest and placed in that part of the premises in which such goods are usually placed, that is, within the hotel buildings in the case of luggage. The hotelkeeper does not incur strict liability for the property left at the hotel on the guest’s departure.

The standard of care which the hotelier is required to exercise with respect to the guest’s luggage is greater than that of an ordinary, careful person. It is not enough for him or her to prove that he or she used all reasonable care or had taken the usual precautions. Liability is not restricted to negligence. Such negligence would, in many cases, be difficult to prove and would impose an impossible burden on the owner of the goods, who does not, and usually cannot, know what precautions are taken by the hotelier to protect him or her.

This liability includes liability for the acts of employees. Thus, where the loss occurs due to the failure of an employee to perform his or her duties properly, or by the wilful act of an employee, the hotelkeeper is liable. Similarly, the hotelier is liable if the property was stolen by another guest. A hotelier who fails to take adequate steps to prevent theft or to apprehend thieves is negligent.

The hotelkeeper will escape liability if he or she can show that the guest had been negligent. The burden of proof that the guest had been negligent lies with the hotelkeeper. The hotelkeeper must establish that the loss would not have happened if the guest had used the ordinary care that a prudent person may reasonably be expected to have taken under the circumstances. It is not, of itself, negligent for a guest to fail to lock his or her door, in the case of a small hotel, where everyone is under the observation of the staff.

The hotelier is not liable to make good to any traveller any loss or damage to property which the traveller brought to the hotel unless, at the time of the loss or damage, sleeping accommodation at the hotel had been reserved for the traveller. That loss or damage must have occurred during the period commencing with the midnight immediately preceding, and ending with midnight immediately following, the period for which the traveller was a guest at the hotel and entitled to use the accommodation so reserved.

Illness of Travelers and Guests

Article 43

The hotelier shall not refuse to provide refreshment to, or to accommodate, a traveller solely claiming the traveller is ill or has a disability. The hotelier may refuse to supply refreshments, or to provide accommodation, to a traveller or guest who is suffering from any illness specified by the Ministry for Health as a notifiable disease.

A hotelier shall not provide a room, suite, apartment, or other accommodation to a traveller in which a person has, to his or her knowledge, occupied while suffering from a notifiable disease before that accommodation and all articles in it which are likely to retain infection have been disinfected to the satisfaction of a person appointed by the Ministry for Health to inspect the accommodation. The Ministry of Health must ensure that hoteliers are notified as to what is and what is not a “notifiable disease.”

Guests’ Unpaid Debts

Article 44

The hotelier is not liable for the unpaid debts that guests owe to third parties unless the hotelier has expressly guaranteed such debts. The legal position may be different if the hotelier was in the habit of discharging bills left unpaid by the guests. The hotelier would also be liable if he or she had expressly guaranteed such debts.

Right of Security over Guests’ Property

Article 45

The hotelier has a right of security over all goods brought by the traveller to the hotel as his or her luggage, and received by the hotelier as such, for the outstanding debts owed to the hotelier by the guest. The goods of the traveller become liable to this right of security as soon as the traveller enters the hotel with the intention of using it as a hotel and is received on that basis by the hotelkeeper, although the security is not attached until a debt has been incurred.

The fact that some person other than the traveller is to pay for the accommodation does not affect the hotelier’s liability for, and right of security over, the traveller’s goods. This right is not confined to possessions and baggage owned by the traveller but extends to the possessions in the ownership of third persons brought to the hotel by him or her. Thus, the hotelier has a right of security against the true owner of the goods and not merely against the guest only.

Right of Sale of the Guests’ Property

Article 46

The hotelier shall have a right to sell by public auction or other method permitted by the MoESD, any property deposited or left with him or her or in his or her hotel or in any premises belonging to the hotel, where the person depositing or leaving the property is or becomes indebted to the hotelier for accommodation, food, drink, or services provided at the hotel.

Part 11: Dealing with Complaints

Establishment of the Office of Tourist Ombudsman

Article 47

The government shall appoint a tourist ombudsman to assist in dealing with complaints made by Georgian citizens, expatriates, or foreigners against hoteliers, restaurateurs, tourist guides, travel agents, tour operators, ground-handling agents, tourist transportation providers, and other tourism enterprises with respect to the goods and services provided by them.

The government shall, by regulation, set out the administration and organization of the tourist ombudsman’s office, the procedures for dealing with complaints, the remedies that may be provided, and the penalties that may be imposed.

Part 12: Tourist Guides

Powers of Government to make Regulations

Article 48

The government may, by regulations, regulate the activity and modes of operation of tourist guides and, among other things, prescribe:

- The duty of providing tourist guide services through professionally qualified persons.
- Provisions as to the advertising of tourist guide services.

Licensing Criteria

Article 49

The MoESD shall have the power to issue tourist guides' licenses. An applicant for a license to engage in the profession of tourist guiding must satisfy the following conditions:

- Have attained the age of 18 years old.
- Not have been convicted of a felony or a misdemeanor relating to moral turpitude or public indecency.
- Have a diploma in tourist guide services from an educational establishment accredited by the GNTA.
- Have obtained a certification from the relevant embassy or cultural association recognized by the MoESD that he or she is fluent in any language that he or she wishes to offer tourist guide services in; or have a bachelor's degree in that language, a major component of which must include demonstration of fluency in speaking that language.
- Satisfactorily demonstrated to an Inspector appointed under Article 9 of this law that he or she:
 - Is capable of working independently and as a member of a team.
 - Has the range of communication skills and personal qualities essential for the delivery of a tour.
 - Has the range of interpersonal skills essential for meeting tourists' needs.
 - Is aware of the legal obligations pertaining to a tour.
 - Has a sound knowledge of health and safety requirements needed to conduct a tour and to help infirm, disabled, or injured tourists, if required to do so.
 - Has a valid first-aid certificate from an institution accepted by the Ministry of Health.

The MoESD may accredit qualifications obtained outside of Georgia. Any diploma course accredited shall include the following:

- Core knowledge skills covering archaeology and history; the physical environment; flora and fauna; the built environment; religion; society, culture and national institutions; tourism iconography; the tourism industry of Georgia; hospitality, incentive, and events business; tourism and antiquities law.
- Professional guiding skills covering interpretation and presentation; tour planning; running a tourism business and customer care.
- Specialized subject skills.

A "specialist tourist guide" is one that has demonstrated knowledge of a special aspect of tourism including, but not restricted to, one of the following or combination thereof:

- Urban tours.

- Adventure tours.
- Rural tours.
- Viniculture tours.
- Georgian culture tours.
- A specific tourist site or location.

To qualify as a specialist tourist, guide the specialist area must be capable of sustaining:

- A two-hour fixed-route coach, minibus, or Jeep tour.
- A fixed route one-hour walking tour including at least seven stops on the route.
- A combination of both.

These provisions are based on the World Federation of Tourist Guide Associations' recommendations.

Exemptions

Article 50

In exceptional circumstances, the government may exempt a person or category of persons from one or more of the provisions of Article 49 of this law. This provision is vital to cover existing tourist guides that do not currently meet the criteria and to make special provision for guides from the disadvantaged areas that might not have all the qualifications required but are engaged in guiding foreign tourists in their locality.

Tour Guide's Badge

Article 51

Self-explanatory.

Conditions of License and Code of Conduct

Article 52

In addition to satisfying the requirements of Article 49, a tourist guide shall:

- Attend and successfully complete such courses of training and pass such tests of proficiency as the government may require from time to time.
- Inform the GNTA of any change in particulars that he or she provided in his or her application for a license.
- Provide an objective understanding of the place visited, free from prejudice and propaganda.
- As far as possible, ensure that what is presented as fact is true and that a clear distinction is made between truth, myth, stories, legends, traditions, and opinions.
- Use only such language in the course of his or her work that he or she is authorized to use by the GNTA.
- Conduct him or herself in a professional manner befitting the profession of a tourist guide and consistent with the responsibility entrusted to him or her.
- Respect the culture and traditions of the local people and help them maintain their dignity and pride.
- Avoid activities that have a detrimental effect on the value systems of the local community.
- Act courteously to all persons in the course of his or her work as a tourist guide.

- Ensure that tours are conducted with respect for the antiquities, culture, heritage, environment, flora, and fauna of Georgia.
- Refrain from smoking or consuming alcoholic drinks while performing his or her duties as a tourist guide.
- Refrain from inappropriate relationships with clients.
- Fulfill all obligations for which he or she was contracted to supply.
- Issue receipts for all tourist guide services rendered and retain copies of the receipts for a period of not less than one year.
- Not act as a tout for any person or receive any commission, payment, gift or consideration of any kind, other than as provided for in this law, from any person for the purpose of bringing a tourist to patronize the business of that or any other person.
- Keep a record of all assignments performed by him or her as a tourist guide and submit to the MoESD an annual return of such records at a date to be fixed by the GNTA.
- Submit to the GNTA information concerning his or her tourist guide services as may be occasionally required by the MoESD.
- Inform the GNTA in writing when he or she ceases to be a tourist guide within 14 working days thereof.

Suspension and Revocation of a License

Article 53

The MoESD may revoke a tourist guide's license or suspend it for a period not exceeding six months if the tourist guide:

- Made a false statement in his or her application for a license with respect to a material particular.
- Has not performed the functions of a tourist guide for a continuous period of 12 months.
- Has been in serious breach of the provisions of Article 52 of this law or has been in multiple and repeated breach of the obligations set out in that article.
- Is guilty of gross moral turpitude whether while performing his or her duties or otherwise in such a way as to render him or her unfit to hold a tourist guide's license.
- Is by reason of illness or otherwise, incapable of performing his or her duties.

Working while Suspended

Article 54

Where a tourist guide's license has been suspended under the provisions of Article 53, except as provided otherwise by the law, the tourist guide shall not perform the services of a guide during the period that the license is suspended. Any tour operator who knowingly engages the services of a suspended tourist guide or any tourist guide who provides such services when suspended is guilty of an offence.

Exemption from Entry Fees

Article 55

Tourists' guides shall be exempt from paying entrance fees to designated tourists' sites.

Restricted Areas

Article 56

The tourist guide must use his or her best endeavours to ensure that tourists in their group do not enter restricted areas. A list of restricted areas will be issued by the government from time to time.

Prohibition of Charging Unlawful Commission or Seeking Unlawful Benefits

Article 57

A tourist guide or driver of a tourist transportation vehicle shall not request, receive or agree to receive any commission or other benefits from any person for directing a foreign tourist to a particular business establishment or with respect to goods and services acquired therein by a foreign tourist other than the previously agreed contract price.

A tourist guide or driver may not demand any food, drink or accommodation from a hotelier, other tourist accommodation provider, or restaurateur other than that contractually agreed in advance. No person shall give or offer any commission or benefit referred to above. Of course, tourist guides are entitled to be paid their fee. This prohibition is against them attempting to charge extra or to corruptly accept bribes from souvenir shops, etc., to bring their customers to them. It also addresses the situation where unscrupulous tour guides coerce hotelkeepers to provide them with accommodation and food and drink not contractually provided for. The hotelkeeper is often reluctant to refuse as the tourist guide might divert clients to a competitor hotel in the future.

Part 13: Tourism Education

Objectives of Tourism Education

Article 58

The government shall engage in the promotion of tourism education with the following objectives:

- Promote understanding of the country of Georgia and its people; landscape; history, including its religious history, practices, and traditions; culture and relics; handicrafts; to the Georgian people and international visitors and tourists.
- Improve social awareness of tourism; create a civilized, healthy, and safe tourism environment; and develop the hospitable tradition of the nation.
- To promote an understanding of the tourism system, including its nature, characteristics, activities, mechanisms, impacts, segments, trends, and all matters pertaining to tourism.
- To develop and promote entrepreneurial skills for those engaged, or who wish to be engaged in the tourism sector.
- To educate and train those employed, or who wish to be employed in the tourism sector.

Education, Training, and Research

Article 59

The GNTA shall foster and enhance the tourism sector's human resources by:

- Engaging in campaigns to promote awareness in the general population of the contribution of the tourism sector to the national economy and other positive benefits and opportunities which the sector offers for employment and professional development.
- Encouraging schools to improve pupils' awareness of the importance of tourism as a spearhead economic sector.

- Promoting and certifying vocational training courses in colleges and universities for the tourism sector.
- Setting training targets for tourism enterprises.
- Awarding national prizes or awards for excellence in tourism sector provision by tourism enterprises and individual employees.
- Providing flexible rules that will enable tourism sector employees to gain international experience.
- Deal with applications and approve grants with respect to tourism sector training.

The MoESD shall, in cooperation with the Ministry of National Education, have the power to certify vocational training courses for the tourism sector. The GNTA shall itself, and in cooperation with other government agencies, educational establishments, and the private sector, undertake and promote research in the field of tourism.

Part 14: International Cooperation

Framework for International Cooperation

Article 60

The government shall promote international tourism cooperation with other countries and international organizations based on equity, mutual benefit and consistent with national and international law and general rules. It will create favourable conditions for international cooperation between the arts, culture and tourism sectors and its counterparts abroad and between organizations and individuals from Georgia and foreign organizations and individuals.

Favourable policies shall be adopted, in accordance with the law governing foreign investment, to encourage foreign organizations and individuals to invest in the creative industries, tourism infrastructure, tourist villages, tourist zones, and tourist attractions; develop tourism human resources; protect and restore tourism resources; improve the natural environment; engage in tourism research; and develop new kinds of tourism in Georgia.

The government may, by regulations, afford special privileges to citizens of countries with which Georgia has special agreements with respect to travel and/or tourism.

Content of International Cooperation

Article 61

International cooperation shall be encouraged in the following fields:

- Tourism marketing and promotion.
- Development of tourism resources.
- Taking part in cooperative programs of regional and international tourism organizations.
- Human resource development in the field of tourism.
- Science research and advanced technology applications and transfer in the field of tourism.
- Exchange of experts, information, and experience.
- Basic study, protection, embellishment, exploration, utilization, and development of tourism resources.
- Tourism environment protection in tourism development areas, tourist sites and attractions, and tourist destinations.
- Devising and implementing tourism development master plans.

Relations with International Organizations

Article 62

The MoESD and/or, GNTA shall represent Georgia at regional and international tourism organizations. Georgian tourism associations and tourism enterprises have the right to accede to international tourism associations in accordance with the provisions of Georgian law.

B. HOTELS AND TOURIST ACCOMMODATION REGULATIONS

Part 1: General Provisions

Article 1: Short Title

Standard provision

Article 2: Interpretation

See Annex 1. In addition, the following should be included:

- (a) "Alcohol" includes spirits, wine, porter, ale, beer, cider, perry and made-wine or any other fermented, distilled, or spirituous liquor but does not include any liquor that is of a strength not exceeding two degrees proof and does not include alcohol contained in perfume or medicinal products, flavouring essences, or alcohol contained in liqueur confectionery.
- (b) "Bar" includes any place exclusively or mainly used for the sale and consumption of alcohol.
- (c) "Boundary" means the boundary between the land on which a building is situated and land in a different occupation.
- (d) "Hostel" means a supervised lodging place providing basic accommodation to travellers.
- (e) "Hotel room" means an accommodation unit for use by guests, having its own entrance, bedroom and, where required by this regulation or other legislation or regulations, an interconnected bathroom, as well as appropriate fixtures, furniture, and furnishings.
- (f) "Land" includes land covered with water and any interest in, or right over, land and shall also include houses and buildings, whether used as a dwelling or not and also an undivided share in land.
- (g) "Storey" means that part of a building that is situated between the top of any floor being the lowest floor level within the storey and the top of the floor next above being the highest floor level within the storey; or if there is no floor above it, being the top of the floor and the ceiling above; or if there is no ceiling above it, the top of the floor and internal surface of the roof.

Part 2: Registration

Article 3: Registration of Tourist Accommodation

All accommodation provided to tourists, other than Georgian nationals or residents, in exchange for payment shall be registered with the GNTA. The GNTA will issue a tourist accommodation certificate for that establishment if it meets the requirements set out in this Regulation. It shall be an offense for a person to provide tourists, which are not Georgian nationals or residents, with accommodation in exchange for payment in a noncertified establishment.

Applications for registration or certification shall be made in writing in the prescribed form laid down by the GNTA and shall include evidence that the premises are registered with the municipality or other public authorities and meet all the requirements of such premises and businesses as required by Georgian law.

Article 4: Certificates of Registration

The proprietor of an establishment shall prominently display the certificate of registration on the premises. If the certificate is damaged, destroyed, or lost, the proprietor must apply to the GNTA for a new certificate and the application must be accompanied by the appropriate fee. If a certificate is suspended or revoked, the proprietor must remove the certificate from display immediately on being notified.

Article 5: Inspection

Tourist accommodation, restaurants and other catering establishments required to be registered shall be subject to inspection, at the discretion of the GNTA by inspectors appointed under the Tourism Law. Where a request in writing by the GNTA for access to any tourist accommodation, restaurant, or catering establishment for the purposes of inspection has, in the opinion of the GNTA, been unreasonably refused the certificate of registration for that establishment shall be cancelled.

Article 6: Fees

The minister shall set the fees applicable for the issue of a certificate of registration or duplication thereof under this regulation.

Part 3: Trading Standards

Article 7: Display of Charges

The proprietor of a registered tourist accommodation must prominently display the scale of charges for the accommodation that he or she provides and a price list of any additional facilities or service charges.

Article 8: Standards for Tourist Accommodation Establishments

Tourist accommodation establishments shall meet the following minimum standards:

- Premises shall:
 - Be of substantial and durable construction and structurally safe.
 - Safe, properly lit, and have clearly marked entrances and exits.
 - Have appropriate heating and ventilation.
 - Have clear signage indicating evacuation routes in case of an emergency.
- Notices must be prominently displayed in all bedrooms in Georgian and English indicating emergency procedures and evacuation routes.
- Bedrooms and public spaces must be adequately and appropriately decorated and furnished and have an appropriate floor covering.
- Appropriate lighting facilities in bedrooms and all public spaces.
- No trailing wires or faulty electrical sockets or equipment in any part of the premises.
- Appropriate facilities for the storage, preparation and supply of food and drink.
- Premises, including the curtilage, must be properly maintained and kept clean and tidy.
- Toilet facilities should be of appropriate design, properly equipped and serviced and maintained in a state of cleanliness.

- Absence of vermin or animals in internal public spaces or bedrooms.
- Adequate supply of ablution facilities and potable drinking water available for guests.
- Adequate security arrangements for the protection of guests and their property.
- Adequate storage and disposal facilities for waste.

Article 9: Services, Facilities, and Amenities Provided to Nonguests

The proprietor of a certified tourist accommodation establishment shall ensure that any offer of services, facilities, or amenities to persons other than guests shall not prejudice the provision of such services, facilities, or amenities to guests residing in the premises.

Article 10: Register of Guests

The proprietor of a tourist establishment shall maintain a register of guests in accordance with the provisions of an Instruction to this effect issued by the minister.

Article 11: Offences and Penalties

To be inserted.

Part 4: Premises, Fixtures, Fittings, and Equipment

Article 12: Minister's Powers to Issue Detailed Specifications

The minister may, in accordance with the provisions of the Tourism Law and of this regulation, prescribe minimum standards for construction, renovation, and maintenance of hotels and/or another tourist accommodation.

Article 13: Exempted Buildings, Fixtures, Fittings, and Equipment

The minister may, in exceptional circumstances, exempt individual or categories of hotels or other tourist accommodation establishments from any, some or all the provisions of this regulation with respect to building requirements, fixtures, fittings, or equipment.

Article 14: Structure of the Building

Every building that is regulated by this regulation must be designed and constructed in such a way that the loadings that are liable to act on it will not lead to:

- The collapse of the whole or part of the building; or
- Deformations that would make the building unfit for its intended use, unsafe, or cause damage to other parts of the building or to fittings or to installed equipment.

Every building must be designed and constructed in such a way that in the event of damage occurring to any part of the structure of the building the extent of any resultant collapse will not be disproportionate to the original cause. No reconstruction, extension or material alteration of any hotel or other tourist accommodation premises, being a reconstruction, extension or alteration, which will affect the part of the premises:

- To which the public has lawful access.
- Where hotel guests are accommodated.
- That is used as a kitchen where food or drink is prepared for sale to guests or to the general public.
- That is used for storing food or drink which is for sale to the general public.

For the purposes of Article 14, a material alteration is one which will materially affect the character of the premises in question or materially alters the external appearance, shape or size of the premises. The GNTA shall not give its consent under this Article to any reconstruction, extension or alteration without first consulting the relevant municipality, police, fire, health, and other competent authorities. Where this Article is contravened, the MoESD may obtain a court order requiring the premises to be restored to their original condition.

The GNTA may order that, within a time fixed by the order, the owner of those premises shall make such structural alterations that the GNTA, on advice from appropriate authorities, thinks reasonably necessary to secure the proper conduct of the business and, or, to ensure the health and safety of the public. Where a structural alteration order has been complied with, the GNTA shall not make a further structural alteration order with respect to those premises within five years following the date of the first-mentioned order except in the case of public safety.

Article 15: Fitness and Durability of Materials and Workmanship

Work on the construction, adaptation, alteration, or renovation to any hotel or other tourist accommodation must be carried out in a technically proper and workmanlike manner, and the materials used must be durable and fit for their intended purpose. All materials, services, fittings, and equipment used must, so far as reasonably practicable, be sufficiently accessible to enable any necessary maintenance or repair work to be carried out.

Article 16: Facilities

Hotels and other tourist accommodation must be designed and constructed in such a way that the size of any rooms to be occupied by guests and the access to other rooms does not threaten the health of the occupants. Every such building must be designed and constructed in such a way that sanitary facilities are provided for all occupants of, and visitors to, the building and that there is no threat to the health and safety of occupants or visitors. Every room to be occupied by guests or customers must be designed and constructed in such a way that it can be heated and ventilated.

Article 17: Fire Safety

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building:

- Fire and smoke are inhibited from spreading beyond the compartment of origin until any occupants have had the time to leave that compartment and any fire containment measures have been initiated.
- The load-bearing capacity of the building will continue to function until all occupants have escaped, or been assisted to escape, from the building and any fire containment measures have been initiated.
- The unseen spread of fire and smoke within concealed spaces in its structure and fabric is inhibited.
- The development of fire and smoke from the surfaces of walls and ceilings within the area of origin is inhibited.
- The spread of fire to neighboring buildings is inhibited.
- The occupants once alerted to the outbreak of the fire, are provided with the opportunity to escape from the building, before being affected by fire or smoke.
- Illumination is provided to assist in the escape.
- The occupants are alerted to the outbreak of fire.

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, or from an external source, the spread of fire on the external walls of the building is inhibited.

Every building that is divided into more than one area of different occupation must be designed and constructed in such a way that in the event of an outbreak of fire within the building, fire and smoke are inhibited from spreading beyond the area of occupation where the fire originated.

Article 18: Prevention of Flooding and Groundwater Dispersal

Every building must be designed and constructed in such a way that there will not be a threat to the building or the health of the occupants as a result of:

- Flooding and the accumulation of ground water.
- Moisture penetration from the ground.

No building must be constructed over an existing drain that is to remain active. Every building and hard surface within the curtilage of a building must be designed and constructed with a surface water drainage system that will:

- Ensure the disposal of surface water without threatening the building and the health and safety of the people in and around the building; and
- Have facilities for the separation and removal of silt, grit, and pollutants.

Every wastewater drainage system serving a building must be designed and constructed in such a way as to ensure the removal of wastewater from the building without threatening the health and safety of the people in and around the building, and:

- That facility for the separation and removal of oil, fat, grease, and volatile substances from the system are provided.
- That discharge is to a public sewer or public wastewater treatment plant, where it is reasonably practicable to do so; and
- Where discharge to a public sewer or public wastewater treatment plant is not reasonably practicable that discharge is to a private wastewater treatment plant or septic tank.

Article 19: Waterproofing

Every building must be designed and constructed in such a way that there will not be a threat to the building or the health of the occupants as a result of moisture from precipitation penetrating to the inner face of the building except where penetration of moisture from the outside will result in effects no more harmful than those likely to arise from use of the building.

Article 20: Ventilation and Condensation

Every building must be designed and constructed in such a way that:

- The air quality inside the building is not a threat to the health of the occupants or the capability of the building to resist moisture, decay or infestation.
- There will not be a threat to the building or the health of the occupants as a result of moisture caused by surface or interstitial condensation.

Article 21: Lighting

Every building must be designed and constructed in such a way that natural lighting is provided to ensure that the health of the occupants is not threatened.

Article 22: Combustion Appliances

Every building must be designed and constructed in such a way that

- Each fixed combustion appliance installation operates safely.

- Any component part of each fixed combustion appliance installation used for the removal of combustion gases will withstand the heat generated as a result of its operation without any structural change that would impair the stability or performance of the installation.
- Any component part of each fixed combustion appliance installation will not cause damage to the building in which it is installed by radiated or conducted heat or from hot embers expelled from the appliance.
- The products of combustion are carried safely to the external air without harm to the health of any person through leakage, spillage, or exhaust nor permit the re-entry of dangerous gases from the combustion process of fuels into the building.
- Each fixed combustion appliance installation receives air for combustion and operation of the chimney so that the health of persons within the building is not threatened by the build-up of dangerous gases as a result of incomplete combustion.
- Each fixed combustion appliance installation receives air for cooling so that the fixed combustion appliance installation will operate safely without threatening the health and safety of persons within the building.

Article 23: Oil Storage

Every building must be designed and constructed in such a way that an oil storage installation, incorporating oil storage tanks used solely to serve a fixed combustion appliance installation providing space heating or cooking facilities in a building, that will:

- Inhibit fire from spreading to the tank and its contents from within, or beyond, the boundary.
- Reduce the risk of oil escaping from the installation.
- Contain any oil spillage likely to contaminate any water supply, groundwater, watercourse, drain, or sewer.
- Permit any spill to be disposed of safely.

Article 24: Solid Waste Storage

Every building must be designed and constructed in such a way that accommodation for solid waste storage is provided that:

- Permits access for storage and for the removal of its contents.
- It does not threaten the health of people in and around the building.
- It does not contaminate any water supply, ground water, or surface water.

Article 25: Liquefied Petroleum Gas Storage

Every building must be designed and constructed in such a way that each liquefied petroleum gas storage installation, used solely to serve a combustion appliance providing space heating, water heating, or cooking facilities.

Article 26: Access to and Within Buildings

Every building must be designed and constructed in such a way that:

- All occupants and visitors are provided with safe, convenient, and unassisted means of access to the building.
- Safe, unassisted, and convenient means of access is provided throughout the building.
- Every level can be reached safely by stairs or ramps.
- Safe and convenient means of access is provided to each room to be occupied by guests or customers and throughout the common areas.

- In hotels, a proportion of the rooms intended to be used as bedrooms must be accessible to wheelchair users.

Article 27: Electrical Safety

Every building must be designed and constructed in such a way that the electrical installation does not:

- Threaten the health and safety of the people in, and around, the building.
- Become a source of the fire.

Article 28: Prevention of Accidents

Every building must be designed and constructed in such a way that:

- People in and around the building are protected from injury that could result from fixed glazing, projections, or moving elements on the building.
- Fixed glazing in the building is not vulnerable to breakage where there is the possibility of impact by people in, and around, the building.
- Both faces of a window and roof light in a building are capable of being cleaned such that there will not be a threat to the cleaner from a fall resulting in severe injury.
- A safe and secure means of access is provided to a roof.
- Manual controls for windows and roof lights can be operated safely.

Article 29: Noise Abatement

Every building must be designed and constructed in such a way that each wall and floor separating one dwelling from another, or one dwelling from another part of the building, or one dwelling from a building other than a dwelling, will limit the transmission of noise to the dwelling to a level that will not threaten the health of the occupants of the dwelling or inconvenience them in the course of normal activities provided the source noise is not in excess of that from normal activities.

Article 30: Energy Conservation

Every building must be designed and constructed in such a way that provision is made for energy conservation:

- The insulation envelope resists thermal transfer.
- The heating and hot water service systems are designed, installed, and capable of being controlled to achieve optimum energy efficiency, having regard to the thermal transfer of the insulation envelope.
- Temperature loss from heated pipes, ducts, and vessels, and temperature gain to cooling pipes and ducts is resisted.
- Artificial or display lighting must operate and be capable of being controlled to achieve optimum energy efficiency;
- Form and fabric of the building minimize the use of mechanical ventilating or cooling systems for cooling purposes, and the ventilating and cooling systems are designed, installed, and capable of being controlled to achieve optimum energy efficiency.
- Services which use fuel or power for heating, lighting, ventilating and cooling the internal environment, and heating the water, are commissioned to achieve optimum energy efficiency.

C. TOUR OPERATORS, TRAVEL AGENTS, AND GROUND-HANDLING AGENTS REGULATIONS

Article 1: Establishment of a Travel Industry Trust Fund

The government may establish a Travel Industry Trust Fund under the direct control and supervision of the Central Bank of Georgia for the purposes of ensuring that there are sufficient funds to cover the costs of repatriating consumers stranded abroad as a result of the insolvency of tour operators or to repay consumers who have made payments to a tour operator for package travel arrangements that will not be carried out because of the tour operator's insolvency.

Comments

- *This will bring Georgia into line with EU law on this matter and provisions being adopted by many non-EU countries. It provides security for consumers.*
- *It may take some time before this fund is established. The GNTA and the private sector will need to discuss this with the Central Bank, banks and insurance companies.*
- *Licensing will help to ensure that those required to provide a bond or insurance policy are financially sound and therefore low risk.*

Article 2: Licensing Criteria and Applications

An application to the GNTA for a grant, renewal or transfer of a travel agency or tour operator's license must be:

- In such form as may be prescribed by the GNTA.
- Completed and signed by the applicant or his or her agent.
- Lodged with the chief licensing officer.

Together with the form, the applicant must:

- Complete all the formalities required for, and submit a certified copy of, the commercial registration prescribed by the law of Georgia.
- Submit an affidavit of no previous convictions of any offense involving fraud or moral turpitude, for all officers holding managerial or executive positions, the owner of the company and for all the offices' and branches' directors/managers and a Police Clearance Certificate confirming this.
- Legally certified proof that at no time in the three years immediately before the application for the license was the applicant an undischarged bankrupt.
- Submit a valid certificate from the Georgian State Tax Service confirming that all taxes due by the applicant have been paid.
- The registered capital of the applicant must be no less than GEL x.

In the case of an application for a tour operator's license, the applicant must provide sufficient evidence of security for the refund of money paid over by, and for the repatriation of, consumers in the event of insolvency.

Any tour operator that sells, or offers for sale to consumers in Georgia, package travel, package holidays, or package tours must have in force one of the following arrangements:

- An irrevocable and unconditional bond of a minimum GEL x drawn in favor of the Travel Industry Trust Fund from any local bank or insurance company accredited by the Central Bank of Georgia. The bank or insurance company undertakes to pay to the trust fund sufficient funds to cover the costs of repatriating consumers stranded abroad because of the insolvency of the tour operator or to repay consumers who have made payments to the tour operator for package travel arrangements that will not be carried out because of the tour

operator's insolvency. The bond must be valid six months after the termination of the license, automatically renewable, and non-revocable except by written approval of the GNTA.

- An irrevocable and unconditional bank guarantee of a minimum GEL x drawn in favor of an approved body from any local bank or insurance company accredited by the Central Bank of Georgia. The bank or insurance company undertakes to pay to the approved body sufficient funds to cover the costs of repatriating consumers stranded abroad because of the insolvency of the tour operator or to repay consumers who have made payments to the tour operator for package travel arrangements that will not be carried out because of the tour operator's insolvency. The bond must be valid six months after the termination of the license, automatically renewable, and non-revocable except by written approval of the GNTA.
- An insurance policy drawn in favor of the Travel Industry Trust Fund from any local insurance company accredited by the Central Bank of Georgia. The insurance company undertakes to pay to the trust fund sufficient funds to cover the costs of repatriating consumers stranded abroad because of the insolvency of the tour operator or to repay consumers who have made payments to the tour operator for package travel arrangements that will not be carried out because of the tour operator's insolvency. The insurance policy must be valid six months after the termination of the license, automatically renewable, and nonrevocable except by written approval of the GNTA.

Comments

- *An "approved body" is one approved by the GNTA and will be responsible for ensuring the adequacy of the amount of the tour operator's bond. It will be responsible for ensuring that it has sufficient funds to cover the costs of repatriating consumers stranded abroad because of the insolvency of a tour operator that is a member or to repay consumers who have made payments to that the tour operator for package travel arrangements that will not be carried out because of the tour operator's insolvency.*
- *The insurance provided may be under one or more policies.*
- *The aim is to ensure financial stability, honesty, professionalism, and financial security mechanisms to protect the money that consumers have paid in advance for travel and tourism services.*

Article 3: Advertising and Promotion Standards

This prohibits a tour operator, travel agent or ground-handling agent, acting in the course of business, from making a false statement:

- About goods, facilities, or services that he or she provides or on behalf of another, which may mislead the public in general and, in particular, with respect to the following matters:
 - The location of accommodation or facilities provided.
 - The price, size, dimensions, nature, extent, qualities, or characteristics of accommodation or facilities provided.
 - The nature or extent of goods or services provided.
 - Consumer's rights, privileges, or benefits with respect to goods, facilities, or services provided.
- That goods, facilities, or services will be available at a certain date when the person making the statement knew, or ought reasonably to have known, that these would not, in fact, be available or were unlikely to be available.

For the purposes of this article, a statement is one relating to a factual matter that is made orally, in writing, impliedly, electronically, or any combination thereof. The consumer is entitled to compensation for any loss that he or she suffers as a result of relying on the misleading information.

Comments

- *These provisions are consistent with EU legislation. It protects consumers from misleading advertising and promotional materials and provides for compensation where he or she has been misled.*
- *Again, it is essential to check information before delivering it to the consumer.*
- *Breach of this article constitutes an offense.*

Article 4: Requirements as to Brochures and Electronic Displays

No tour operator or travel agent should make available a brochure or an electronic display where packages are offered for sale to the public unless it indicates in a legible and accurate manner the price of any package described in it and adequate information about the matters specified below, to the extent that those matters are relevant to the packages so described:

- The destination and means, characteristics and categories of transport used.
- The type of accommodation, its location, category or degree of comfort, and its main features.
- The meals that are included in the package.
- The itinerary.
- Whether a minimum number of persons is required for the package to take place, and if so, the deadline for informing the consumer in the event of cancellation.

Where a brochure is supplied to the consumer or where he or she is given access to the electronic display before the contract is entered into, the descriptions and information in that brochure or display applicable to the travel services or package travel arrangement purchased will form part of the contract between the consumer and the tour operator.

Comments

- *This is based upon the provisions of the EU Package Travel Directive. It lists the essential information that must be provided.*
- *It is essential, not only that the information provided is accurate but that it is legible (no small print) and that it is sufficient to enable consumers to make an informed choice.*
- *A “brochure” means any brochure in which packages are offered for sale. It does not apply to purely promotional material, provided that specific packages are not described in that material.*
- *A “package” means the pre-arranged combination of at least two of the following components, when sold or offered for sale at an inclusive price and when the service covers a period of more than 24 hours or includes overnight accommodation:*
 - *Transport.*
 - *Accommodation.*
 - *Other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package; and*

the submission of separate accounts for different components shall not cause the arrangements to be other than a package. The fact that a combination is arranged at the request of the consumer and in accordance with his or her specific instructions (whether modified or not) does not of itself cause it to be treated as other than prearranged.

- *Where transport is one of the elements it must be a significant part of the package. Thus, it would be unlikely that a hotel that provides a courtesy coach to the local airport would be considered as providing a package. Likewise, accommodation that is incidental to transport (for example, a cabin or a sleeping compartment on a train) would not be considered a separate element unless it formed an important touristic element (for example, a cabin on a cruise ship or sleeping accommodation on a luxury train).*

- *The price should include all charges, including taxes, supplements, etc.*

Article 5: Information to be Provided to Consumers

Before a package travel contract is concluded, the travel agent or, where he or she does not act through an intermediary, the tour operator must provide the intended consumer with the following information:

- General information about passports, visas and any other documentation required for citizens of Georgia to enter the country or countries included as package destinations and, in the case of non-Georgian citizens a statement that they must check the necessary entry and visa requirements with the appropriate authorities.
- Information about insurance facilities that are available, and which may be relevant to the travel service bought by the consumer.
- General information on health formalities to be complied with at the destination.
- Disclose the booking conditions and any restrictions on the use of the package or the travel service; this includes any restriction on tickets and cancellation conditions.

The information must be provided to the consumer in writing or some other suitable form.

Comments

- *This is based upon the provisions of the EU Package Travel Directive.*
- *While Article 4 relates to information to be provided to the public in general, Article 5 deals with general information to be provided to the particular consumer requesting the package or tour.*
- *The information must be given in writing or in some other suitable form. It is preferable that it should be given in writing, whether it is also in some other appropriate form. It would also be useful to require the consumer to sign an acknowledgment that he or she had received the information specified, perhaps at the time of collecting the tickets.*
- *It could be done online with an electronic signature.*

Article 6: Other Information to be provided by the Tour Operator or Travel Agent to the Consumer

In the case of a package holiday, the tour operator or a travel agent must, in good time before the start of the journey, provide the consumer with a written statement of:

- The times and places of departure and return.
- The time and places of intermediate stops and transport connections and the particulars of the place to be occupied by the consumer.
- In the case of a journey or stay abroad by a child under the age of 16 on the day when the journey or stay is due to start, information enabling direct contact to be made with the child or the person responsible at the place where he or she is to stay.
- The name, address, telephone number and other contact details where available of the representative of the tour operator or travel agent in the locality where the consumer will stay or, if there is no such representative, an agency in that locality on whose assistance a consumer in difficulty would be able to call, or if no such representative or agency, a telephone number or other information that will enable the consumer to contact the tour operator or travel agent during the stay.
- The amount due, the date of payment, the purpose of the payment and an itemized statement of the balance due, if any.

Comments

- *This is based upon the provisions of the EU Package Travel Directive.*

- *This sets out the very specific information to be provided to the particular consumer requesting the package or tour.*
- *The reference to “intermediate stops” are those that significantly affect the nature of the holiday or other travel arrangements. It would not, therefore, include a coffee break or “comfort break.” for example.*
- *This provision does not apply to a child accompanying a parent, guardian or other adults who are not acting on a professional basis. It does apply to school trips and children participating in trips organised by voluntary bodies but making use of a “package” organized by a tour operator.*
- *The terms of the contract must be communicated to the consumer before the contract is made and he or she must be provided with a written copy of the terms.*
- *The requirement to communicate the information in advance does not apply, however, in the case of a late booking where the interval is so short that it would be impracticable.*

Article 7: Minimum Contractual Information

The tour operator or travel agent, on concluding a package travel contract with a consumer, must ensure that, depending on the package being purchased, the contract contains at least:

- The travel destination/s and, where periods of stay are involved, the relevant periods, with dates.
- Where a package includes accommodation, its location, its classification or category and its main features and characteristics.
- Where a minimum number of persons is required for the package to take place, the deadline for informing the consumer in the event of cancellation due to insufficient numbers.
- The meals that are included in the package.
- The itinerary.
- Visits, excursions, or other services that are included in the total price of the package.
- The name, address and other contact details of the travel agent, the tour operator and, where appropriate the insurer.
- The price of the package, and where the package permits price revisions, an indication of the possibility of revision, and the way that such revision may be calculated.
- The payment schedule and method of payment.
- Special requirements that the consumer has communicated to the travel agent or tour operator when making the booking and which and both have accepted.

Comments

- *This is based upon the provisions of the EU Package Travel Directive.*
- *This sets out the essential terms of the contract between the tour operator and the consumer.*

Article 8: Duties of Travel Agents

A travel agency business and its manager must act faithfully and fulfill their obligations according to the Tourism Law and must take all reasonable steps to ensure the proper conduct of those employed by them.

The travel agent must:

- After the contract is made for the provision of travel services, whether by the travel agent or a principal on whose behalf the travel agent is acting, make and confirm the necessary reservations to ensure that the consumer is provided with the travel services contracted for.

- Issue the consumer with a confirmation of the booking.
- Issue the consumer with a receipt on receiving payment or part-payment for payment for the travel services contracted for.
- Pass on to consumers, as soon as possible, all relevant confirmations and documentation received from the principal.
- Ensure that any documentation received from principals is checked before delivery to the consumer and that points, which need clarification are investigated and explained to consumers.
- Not materially alter or delete any part of any principal's documentation or fail to pass on any documentation from a principal intended for a consumer.
- Exercise reasonable care and skill in choosing principals or in deciding to act on their behalf that they are reputable and can deliver the services they advertise in the way and to the extent that they describe them.
- Inform consumers of any cancellation or alteration to the travel agreement as soon as he or she is advised of the situation.
- As soon as is reasonably practicable, inform the principal of any cancellation or alteration to the travel agreement made by the consumer as soon as he or she is advised of the situation.
- Pass on, as soon as possible, any refund received from the principal for the benefit of a consumer.
- Act in good faith as an intermediary between the consumer and the principal, particularly in cases of dispute or complaints.

Travel Agents must take reasonable steps to ensure that:

- Counter staff carefully study travel brochures and other literature or online materials concerning the services provided by the business so that they can impart accurate information to their clients.
- Accurate and impartial information is given to enable their clients to exercise an informed judgment in purchasing tourism services.
- Their clients are sold tours, accommodation and travel arrangements compatible with their individual requirements.
- No advertisement, document or other publication, whether in writing or otherwise, contain anything that is likely to mislead the public.
- Their clients are aware of any booking or other published conditions applicable to their travel arrangements before any contract is made.
- All documentation received from principals is checked before delivering them to clients and that any points requiring clarification are explained to their clients.

Where alterations are made to travel or tour arrangements for which bookings or reservations have already been accepted, the travel agent must inform his or her clients immediately that he or she is advised of the situation and must act as an intermediary between his or her principals and clients in any subsequent negotiations.

Any confirmation and receipt issued should clearly indicate the travel agent's name and address and other contact details and those of the principal where he or she is acting on the principal's behalf.

Article 9: Duties of Tour Operators

In addition to other duties set out in the Tourism Law and this Regulation, the tour operator must:

- Where he or she sells directly to the consumer, without an intermediary, pass to the consumer without delay confirmation of booking, tickets and other relevant documents relating to the travel arrangements and/or package booked.

- Where he or she sells through a travel agent, pass on to the travel agent without delay confirmation of booking, tickets and other relevant documents relating to the travel arrangements and/or package booked to enable the travel agent to transmit these to the consumer.
- Exercise reasonable care and skill to ensure that travel agreements or tours are not cancelled or altered because of overbooking.
- Clearly define the extent of his or her responsibilities as well as liabilities towards the consumer.
- Endeavor not to cancel or make any material alterations to the travel arrangements, tour or package that has been contracted for.
- Where constrained to cancel or make material alterations to travel arrangements, tour or package that has been contracted for, prior to its commencement, for reasons beyond his or her control, inform the travel agents and/or, where appropriate, the consumer as soon as possible and refund money paid by them within 7 working days of cancellation.

Tour Operators must take reasonable steps to ensure that:

- Accurate and impartial information is given to enable their clients, corporate or individual, to exercise an informed judgment in purchasing tourism services.
- No advertisement, document or other publication, whether in writing or otherwise, contain anything that is likely to mislead the public.

Article 10: Duties of Ground-Handling Agents

A ground-handling agent must:

- Not charge consumers for goods or services that are available free of charge in Georgia such as charging tourists entry fees to specific places where no such fee is payable.
- Ensure that services included in a tour or travel package are provided in accordance with any representation made by the ground handler.
- Only employ licensed tour guides and use licensed tourist transportation and vessels and vehicles with the required permit.
- Act with reasonable skill and care in the performance of their duties.

Article 11: Transfer of Bookings

In a package travel contract the consumer is entitled to transfer his or her booking to another person ("the transferee") if he or she is prevented from proceeding with the package. This only applies where the consumer is prevented from proceeding due to some substantial reason such as, but not confined to, illness of the consumer, illness or death of a close relative, or the requirements of an employer and not merely due to a change of mind.

The consumer must give the tour operator reasonable notice before the departure date of his or her intention to transfer. The transferee must satisfy any conditions applicable to the package. The consumer and the transferee are jointly and severally liable for the price of the package and for the extra costs arising from the transfer.

Article 12: Price Revision

Any term in a package travel contract permitting price revisions are automatically void unless they provide for decreases in price as well as increases and satisfy the following requirements:

- The term must state precisely how the revised price is to be calculated.
- Price revisions must solely relate to variations in
 - Transport costs, including the cost of fuel.
 - Dues, taxes or fees chargeable for services such as landing taxes or embarkation or disembarkation fees at ports and airports.

- Exchange rates applied to a particular package.

Increases are prohibited within a period of less than 30 days prior to departure and any clause permitting an increase within the 30-day period is void and of no effect. The tour operator must absorb increases of up to 2 percent without passing this on to the consumer. Where increases amount to a significant increase the consumer is entitled to cancel the package without penalty.

Comments

- *This is based upon the provisions of the EU Package Travel Directive.*
- *The article does not prevent a tour operator from giving a “no-surcharge guarantee” or from providing that only some of these factors will give rise to price revisions.*
- *Increases for other factors will be void and unenforceable, but this does not affect the enforceability of the rest of the contract.*

Article 13: Alterations to the Contract

In the case of a package travel contract, where the tour operator is constrained to significantly alter any of the essential terms of the contract, he or she must notify the consumer as soon as possible. A significant price increase is an example of an essential term.

Where significant alterations have been made, the consumer may cancel without penalty or accept a rider to the contract stating the alteration(s) and the impact on the price. The consumer must notify the tour operator as soon as possible of his or her decision and where there is an unreasonable delay this deprives the consumer of the benefits of this Article.

Comments

- *Essential terms would include those set out in Article 7.*
- *It may be useful for the tour operator to specify in the booking conditions what would be considered as essential terms and what is “significant alteration” to those terms.*

Article 14: Cancellation

In the case of a package travel contract, where the consumer cancels under Article 13 or where the tour operator is constrained to cancel the package before the departure date:

- The consumer is entitled, where the tour operator can provide it, to take a substitute package, and where that package is of a lower quality than that originally booked, to be paid the difference in price or to have all monies that he or she has paid under the contract repaid to him or her.
- The consumer is entitled to be compensated for nonperformance of a contract except where the package was cancelled because the minimum number required was not reached or the package was cancelled due to unusual and unforeseeable circumstances beyond the control of the tour operator.

Comments

- *The choice of what to do in the event of cancellation by the tour operator is entirely up to the consumer. He or she is not obliged to accept a substitute package offered by the tour operator, even if this is of higher quality to that originally booked.*

Article 15: Significant Proportion of the Services not Provided

In the case of a package travel contract where, after departure, a significant proportion of the services contracted for are not supplied or the tour operator becomes aware that they will not be supplied the tour operator must make suitable alternative arrangements, at no extra cost to the consumer and provide compensation for the difference between the services supplied and those contracted for.

Where the tour operator is unable to make alternative arrangements, or the consumer has reasonable grounds for rejecting them, the tour operator must arrange for the consumer to be transported back to

the point of departure or to a place agreed by the consumer. The transport provided must be equivalent to that contracted for.

Comments

- *As to what is and what is not a “significant proportion of the services” contracted for is a question of fact dependent on the particular contract.*

Article 16: Liability of Tour Operators

In the case of a package travel contract, the tour operator is liable to the consumer for the proper performance of the contract irrespective of whether the component services are to be performed by him or her or by other parties. The tour operator is not liable where the failure or improper performance was neither due to the fault of the tour operator nor other suppliers of services but was due to:

- The fault of the consumer.
- The fault of a third party unconnected with the provision of the services contracted for and was unforeseen and unavoidable.
- Unusual and unforeseeable circumstances beyond the control of the tour operator, the consequences of which could not have been avoided even if all due care had been exercised.
- An event that the tour operator or the supplier of the services, even with all due care, could not foresee or forestall.

The reference to a third party must be a person wholly unconnected with the package. The tour operator cannot exclude or limit liability for death or personal injury caused by improper performance of the contract and may only limit liability for other losses caused by improper performance where that limitation is fair and reasonable.

The tour operator must give prompt assistance to the consumer in the event of any failure in the performance of the contract not due to the consumer's fault. He or she, or his or her representative, must make prompt efforts to find appropriate solutions where he or she has received a complaint from the consumer about a defect in the performance of the contract.

Comments

- *The organiser may, in turn, have recourse against the actual supplier of the service.*
- *In relation the second defence, the third party must be wholly unconnected with the package. Providers of tours that are offered in connection with a package will not, therefore, be considered “third parties,” even where they make an additional charge for the tour or excursion.*
- *As to what is and what is not “foreseeable” and “avoidable” is a question of fact in the particular circumstances. Air-traffic control delays may be foreseeable, but unavoidable.*
- *The requirement to exercise “all due care” means that the organizer must take all practical steps necessary, irrespective of the cost.*
- *The contract should clearly and explicitly require the consumer to notify the supplier and the organiser immediately of any defect in the service provided. This must be communicated by the consumer at the earliest opportunity and should be in writing or any other appropriate form.*

Article 17: General Qualifications for Tour Operations Staff

The tour operator must ensure that their business has the minimum number of experienced staff in the travel/tourism sector to carry out all its business' functions and must provide proof of qualifications (credentials) and/or records of previous relevant experience, submitted with the application to the GNTA for grant or renewal of a license.

In all cases, the applicant should have at least one full-time staff member in their employment, and in accordance with the Labour Code of Georgia, during office hours. The tour operator must appoint a key executive officer (or can act as such himself or herself if meeting all the requirements) and must ensure that this executive is responsible for the proper administration and operations management of the business. He or she must submit proof that the person acting as operations executive officer has a good command of the Georgian and English or another major language acceptable to the GNTA, and either one of the following:

- At least two years of executive experience in tour operations, or
- One-year executive experience in the tour operations field if holding a degree/diploma in Tourism, or
- Two years' experience in a tour operations managerial position if holding a professional or vocational certificate in tourism (IATA, UFTAA, local tourism institute or equivalent).

Tourist guides, whether employed permanently or temporarily, by the licensee, must possess a valid license issued in accordance with Article 2 of this regulation.

Comments

- *This and the next three articles ensure that the public is advised by trained staff.*

Article 18: Travel Clerks

The MoESD has the power to issue the travel clerk's certificates. Travel agents must employ at least one travel clerk in their business.

A travel clerk is a person qualified in ticketing and reservations and must have training certificates of:

- An accredited tourism institute or the respective service provider's professional and/or vocational courses (e.g., an IATA member), or
- An equivalent course abroad within the last six years, or
- Successful completion of the "IATA/UFTAA Four-level Career Path Program" Level 1 and Level 2, or Level 1 combined with two years of experience in ticketing and reservations.

The MoESD may, by regulations, amend the minimum qualifications and training specified above and may also specify the circumstances in which a travel agency is required to employ one or more travel clerks. A travel agent is entitled to employ a person who does not possess a travel clerk's certificate in a position of authorized clerk for a probationary period of one year. The manager of a travel agency may apply to the GNTA for an extension of the probationary period with respect to any individual employee.

Article 19: Travel Experts

The GNTA has the power to issue travel expert's certificates. A person is entitled to receive a travel expert's certificate if all of the following are satisfied; that is, that he or she:

- Has reached the age of 18 years.
- Has provided a certificate from the police to the effect that he or she has no criminal convictions in relation to offences of dishonesty.
- Has a travel clerk's certificate, has three years of experience and has passed the travel expert's examinations, or has five years of experience in a position recognised by the manager and for which a travel clerk's certificate was not required and has passed the examinations.

The MoESD may, by regulations, vary these criteria.

Article 20: Examinations

The examinations specified in this regulation will be determined by the GNTA, in line with international certification requirements, and must take place at the time and place the GNTA body determines. It must publish, in a manner that it thinks fit, regulations, as to registration procedures for the examinations.

A person may be exempted from the requirement to take examinations where he or she has already acquired certification from another country or international organization that meets the standards laid down by the GNTA.

Article 21: Continuing Professional Development

The GNTA may provide for continuing professional development courses and determine rules and conditions for the participation therein of owners, managers, travel experts, travel clerks, and other employees of travel agencies and tour operations businesses.

Comments

- *The travel industry needs to be able to quickly adapt to new technology and new methods of trading if it is to effectively compete with foreign counterparts.*

Article 22: Restrictions on the Right of Refusal to Provide a Service

A travel agency or tour operator must not unreasonably refuse to provide a service within the scope of his, her or its business.

Comments

- *This enshrines the constitution's prohibition against discrimination.*

Article 23: Display of Price Lists

A travel agent must display at his or her place of business, in a prominent position, a table of services that he or she provides and the prices that it charges for such services, including taxes and compulsory charges.

Comments

- *These are private sector obligations.*

Article 24: Settlement of Accounts and Refunds

Tour operators, travel agents, and ground-handling agents must settle all accounts without delay or within an agreed period if any. A continued failure to settle accounts as they arise must constitute prima facie evidence of an inability to meet liabilities.

If tour operators, travel agents or ground-handling agents receive refunds from their suppliers or principals with respect to their clients, they must normally remit such refunds to clients within 7 working days of their receipt from the principal or supplier.

Article 25: Record of Journeys

A tour operator or ground-handling agent that uses a tourist transportation vehicle for a sight-seeing tour must keep a written record or computerised file that will specify, within 14 days of the end of the sightseeing trip, regarding each day in which the vehicle was used:

- Licence number of the vehicle.
- Name of the driver of the vehicle.
- Name of the guide who conducted the tour.
- Name of the person ordering the tour if the tour was not a prearranged tour prepared in advance by the tour operator and offered to the general public for sale.
- Date and time of the departure of the vehicle for the tour and the date and time of return from it.
- Itinerary of the tour.
- Number of any invoice issued to the person who ordered the tour or, if prearranged, to any person who purchased the tickets for the tour.

The tour operator must keep the records or files for three years from the date of the return from the tour specified in it.

Comments

- *This assists the GNTA, the Ministry of Finance, Ministry of Transport, and the government generally, to prevent anti-competitive practices and unfair or fraudulent trading.*

Article 26: Disputes

In the event of a dispute with a client, the tour operator, travel agent, or ground-handling agent:

- Must make every effort to reach an amicable and speedy solution.
- Must ensure that all correspondence must be handled within the following time limits:
 - No later than 14 days from the date of receipt for an acknowledgment to be sent.
 - No later than 28 days from the date of receipt for a detailed reply to be sent.

Travel agents and ground-handling agents must make every reasonable effort to deal with complaints of a minor and general character with a view to avoiding recourse to principals. When complaints are of such a nature that reference to the principal is necessary, a travel agent or ground-handling agent must use his or her best endeavors acting as an intermediary to bring about a satisfactory conclusion.

D. TOURIST TRANSPORTATION REGULATION

Article 1: Powers of the MoESD to Issue Regulations

The MoESD may regulate the activities and modes of operation of tourist transport providers and, among other things, prescribe:

- The criteria for the issue of tourist transportation providers' permits.
- The criteria for tourist transportation vehicles and vessels.
- The criteria for the classification of tourist transportation vehicles and vessels.
- The qualifications of the driver, captain, or pilot.
- Safety requirements for the vehicle or vessel and its operation.
- Appropriate arrangements and facilities for passengers.
- Provisions as to advertising the service.
- Duties with respect to the display of prices.
- The maximum drivers' hours and provisions for breaks.

Comments

- *This addresses the current gap in the regulation of tourist transportation.*
- *This will require cooperation between the MoESD and ministries responsible for road and sea transportation. The latter will be responsible for all technical and safety issues and the GNTA responsible for quality issues.*
- *The GNTA might consider the International Road Union's International Classification System for Touring Coaches.*

Article 2: Tourist Transportation Permits

The MoESD may grant the following permits:

- A tourist transportation provider's permit.

- A small tourist transportation vehicle or vessel permit for a vehicle or vessel designed to carry 8 persons or fewer, including the driver or captain/pilot.
- A medium tourist transportation vehicle or vessel permit for a vehicle or vessel designed to carry more than 8 persons but fewer than 31, including the driver or captain/pilot.
- A large tourist transportation vehicle or vessel permit for a vehicle or vessel designed to carry more than 30 persons, including the driver or captain/pilot.

It will be an offence to engage in the business of tourist transportation without having a valid permit or to use a vehicle or vessel for the transportation of tourists, in the course of business, where that vehicle or vessel does not have the appropriate permit. The requirement to have a tourist transportation vehicle or vessel permit will not apply to:

- Vehicles or vessels not used in the course of a tourism transportation business and for which no charge is made for carrying tourists or their luggage.
- Scheduled bus, coach, and ferry services following a regular route with scheduled stops at which any member of the public may board and for individual fares are charged depending on the length of that passenger's particular journey.
- Vehicles or vessels carrying students for educational purposes.
- Taxis, including water taxis.
- Car-hire vehicles where a chauffeur is not provided.

The MoESD will issue a set of permit conditions and these will include the following provisions:

- Insurance requirements and the financial guarantee required.
- Colors of buses, coaches, vessels, and logos.
- Qualifications of personnel and the criteria for the professional competence of the manager.
- The criteria for the annual certificate of worthiness for vehicles and vessels.
- The requirement to publish the terms and conditions of any tour or charter.
- Display of the permit on premises and discs on vehicles and vessels indicating that it is certified.
- Duty to provide sufficient information to enable the tourist to make an informed choice about the services they offer.
- The requirement only to use the services of licensed tour guides.
- Where the operator also arranges accommodation for tourists, such accommodation should only be in registered premises.
- Requirements to submit financial information.
- To provide tourists with receipts for all payments made.
- Ensure that drivers, captains or pilots comply with safety rules and code of conduct.
- Maintain vehicles and vessels in a hygienic state and clean appearance.
- Maintain vehicles and vessels in a serviceable condition.
- Comply with any legal provisions on weight restrictions, laden and un-laden, and the maximum number of passengers to be carried.
- Make a daily walk around each vehicle and vessel to check its safety, etc.
- Require drivers, captains or pilots to promptly notify the operator of any defects or symptoms of defects that could adversely affect the operation of the vehicle or vessel.
- Regularly check items that affect the vehicle or vessel's roadworthiness or river or lake worthiness.

- Regularly measure the braking efficiency of each vehicle.
- Require drivers, captains, and pilots to comply with maximum hours and break provisions as required by the Road Transport Law and Labour Code of Georgia.
- Provide that when the vehicle is in motion the driver shall not use a microphone or an attachment thereto, except in cases of emergency or for safety.
- Require the driver, captain or pilot to ensure passenger safety when embarking, disembarking or on board the vehicle or vessel.
- Require the driver, captain or pilot to set down and pick up passengers only at a place where it is safe to do so.
- Prohibiting drivers, captains or pilots from smoking in the vehicle or vessel.
- Requiring a notice to be displayed in the vehicle or vessel setting out passenger obligations under Article 9.

Comments

- *This will require cooperation between the MoESD and the other ministries responsible for road and sea transportation. The latter will be responsible for all technical and safety issues and the MoESD/GNTA responsible for quality issues.*

Article 3: Tourist Transportation Drivers, Captains, and Pilots

The tourist transportation provider is liable for the acts and omissions of the driver, captain or pilot during the course of driving the tourist transportation vehicle or piloting the vessel or carrying out other duties in relation to tourists whether or not that driver, captain or pilot is directly employed by him or her, is self-employed or is employed by another person or whether or not the driver, captain or pilot was paid for his or her services.

The driver, captain or pilot must obey all lawful instructions given by the tourist transportation provider. Where a tourist transportation provider is guilty of an offence under this Article, the driver, captain or pilot may also be prosecuted where there is evidence that he or she was the principal cause of that offence being committed.

The driver, captain or pilot must:

- Have a valid driving or pilot's license.
- Not have committed any serious road traffic or marine offence.
- Not have any conviction for a crime of violence or breach of public morality.
- Be of smart appearance.
- Wear any uniform or badge laid down by the *MoESD* in a notice.
- Not smoke onboard the vehicle or vessel during working hours.
- Not consume alcohol while on duty.
- Be of good health.
- Have sound knowledge of the geography and routes of Georgia.
- A valid first-aid certificate.

Article 4: Display of Tourist Transportation Vehicle or Vessel Permit Disc

The tourist transportation provider must display the tourist transportation vehicle or vessel permit disc in a conspicuous place on the front window of the vehicle or onboard the vessel at all times when providing tourist transportation services. If the disc is damaged, destroyed or lost, he or she must apply to the GNTA for a new disc and the application must be accompanied by the appropriate fee.

If a damaged disc has been replaced by a new one, the tourist transportation provider must, on receipt of the new disc, return the damaged disc to the MoESD. If the permit is suspended or revoked, the tourist transportation provider must return it to the MoESD within 14 days.

Article 5: Replacement Vehicles or Vessels

A tourist transportation provider must satisfy the GNTA that he or she has satisfactory arrangements to provide a suitable replacement tourist transportation vehicle or vessel in the event of the breakdown of one of his or her vehicles or vessels while carrying tourists.

Article 6: Special Parking Places

The MoESD will set out a special parking places scheme in cooperation with municipalities, local authorities and competent authorities at tourist sites to enable tourist transportation vehicles to ensure the safe embarkation and disembarkation of their passengers and the conditions applicable to that scheme shall be laid down in regulations issued by the relevant authorized bodies in accordance with Directions given by the MoESD under this article.

Comments

- *This provision encourages the MoESD to develop a special parking places scheme in cooperation with municipalities and competent authorities at tourist sites to enable tourist transportation vehicles to ensure the safe embarkation and disembarkation of their passengers.*

Article 7: Recordkeeping, Statistics, and Registration

The tourist transportation provider must keep up to date records and to notify the GNTA of any material changes in circumstances, including the address and contact details and name of the manager of his or her operations and any other information required by the GNTA for this purpose.

Article 8: Disorderly Conduct on Tourist Transportation Vehicles and Vessels

It is an offence for the driver, captain or pilot of a tourist transportation vehicle or vessel to knowingly permit disorderly conduct on board the vehicle or vessel.

Article 9: Passenger Obligations

Passengers on tourist transportation vehicles or vessels have the following obligations, a breach of which is an offence:

- To participate in any safety drill organized by the captain or pilot.
- Not to cause distress, discomfort, or offense to other passengers.
- Not to smoke or consume alcohol on any bus or coach.
- Not to interfere with safety equipment.
- To comply with lawful instructions given by the driver, captain, or pilot and/or guide.
- Not to distract the driver, captain, or pilot when the vehicle or vessel is in motion except in an emergency or to indicate a set down point.
- Not to travel in any part of the vehicle or vessel not designated as a place for the carriage of passengers.
- To leave the vehicle or vessel when instructed by the driver, captain, or pilot to do so.
- Not to embark wearing clothing likely to soil the fittings of the vehicle or vessel or another passenger.
- Not to play a musical instrument or electronic device to the annoyance of other passengers.
- Not to carry onboard an article likely to cause harm, annoyance, or offense to other passengers.

APPENDIX 1: DEFINITIONS

The following terms should be consistently used in the new tourism law, implementing regulations, and all other laws governing tourism enterprises and transactions:

1. “Accommodation unit” is the premises or part thereof where accommodations are offered to tourists.
2. “Adventure tourism” is a recreational activity that typically takes place outdoors in an unusual, exotic, remote, mountainous, or wilderness environment and involves high levels of activity by participants.
3. “Adventure tourism instructor” is one who facilitates, supports, and instructs tourists on how to engage in adventure tourism.
4. “Boarding house” is a house where guests are provided with accommodations and three main meals per day in exchange for payment.
5. “Bed and breakfast” refers to accommodations offered in a private home that include a room for the night and breakfast the next morning.

Comments

- *The law should make distinctions between hotels and other types of tourist accommodations, particularly when the owner resides on the property (e.g., bed and breakfast).*
 - *Per international practice, hotels have a public responsibility to provide accommodations to all who are willing and able to pay.*
 - *For accommodations where the owner resides on the premises, the international practice is less strict than with hotels, and it is up to the owner’s discretion on whom to accommodate.*
6. “Consumer” is a person who purchases goods, facilities, or services, or a combination thereof, and does not act in the course of business when doing so.
 7. “Cultural activities” refer to an art, dance, drama, festivals, filmmaking, folklore, literature, music, oral history, songs, radio and television, and electronic or computerized production, or any combination thereof that celebrate or further develop the culture of the Georgian people.
 8. “Cultural tourism” refers to tourist activities that are aimed at the enjoyment of the cultural resources of a certain location, town, or village.
 9. “Furnished unit” is an apartment or house with a separate entrance that provides sleeping, cooking, and bathroom facilities for the exclusive use of the person who booked it, as well as his or her guests.

Comments

- *The law makes distinctions between hotels and other types of tourist accommodations (e.g., furnished units) to ensure it provides a comprehensive list of tourist accommodations.*
10. “Ground-handling agent” or “incoming tour operator” is a person who arranges tourism services for customers of a tour operator or other tourism organizer whose principal place of business is outside of Georgia.

Comments

- *Ground-handling agents act on behalf of airlines, foreign tourism organizers, conference organizers, sports or religious groups, or other foreign entities to make travel arrangements for customers in Georgia.*
11. “Guesthouse” refers to a building that is part of, or adjacent to, the owner’s residence and where accommodations are provided to tourists for payment.

12. “Handicrafts” refer to arts and crafts products created by hand using raw materials and manual tools. Each product unit reflects its producer’s artistic talent and mental creativity. Handicrafts typically have the following characteristics:
- The main stages of production are completed by hand using manual tools.
 - Craftsmen use creativity and diverse designs and techniques to create products.
 - Products have cultural weight.
 - Craftsmen do not produce identical products; instead, each product is unique.
 - Products do not require much capital investment to produce.
 - Products have much value-added.
 - Production techniques can be established for future generations.

Comments

- *This also covers an important activity in the tourism sector. Although principal responsibility for handicrafts may lie with another ministry and the local government, the GNTA has an interest in their development and promotion. It also enables GNTA to recognize new forms of handicraft.*
13. “Hotel” is an establishment that offers accommodations to any traveller who presents himself and is able to pay the published rate for the use of the facilities, provided he is in a fit state to be received by the hotel staff. In addition to accommodations, a hotel sometimes offers travellers food and beverages, but often at an additional cost. To be considered a hotel, the main occupation of the premises must be for carrying out the trade of hotelier.

Comments

- *The definition of a hotel reflects international legal practice. The MoESD can exempt small hotels from this category of accommodations by stipulating that the hotel must provide a minimum number of rooms. The emphasis is on the accommodation of travellers (i.e., guests who stay for relatively short periods of time).*
 - *A hotel is not a lodging or boarding house.*
 - *A hotel “holds the establishment out,” which means this is its principal purpose and an invitation to the public to seek accommodations at the establishment. It is not a private house. The hotel offers food, beverages, and accommodations. This does not prevent it from refusing unsuitable guests who are unwilling or unable to pay the established rate or to provide proof that they can pay. A hotel can also refuse particular categories of travellers when required to do so by law.*
 - *The reference to “without a special contract” means that the hotel must provide accommodations, food, and beverages to bona fide travellers, without the traveller having to book in advance, provided the hotel has rooms available. This does not mean the hotel cannot take advanced bookings and give priority to such advanced bookings, nor does it mean that the hotel cannot require guests to sign forms when checking into the hotel.*
14. “Hotelier” is a person or entity that owns or is the proprietor, franchisee, or lessee of a hotel.
15. “Incoming tour operator” shall have the same meaning as a “ground-handling agent.”
16. “License” means a certificate, qualification, or grade issued by a regulatory authority.
17. “Linked travel arrangement” means at least two different types of travel services purchased for the purpose of the same trip or holiday, not constituting a package, resulting in the conclusion of separate contracts with a travel service provider, if a trader facilitates:
- a) On the occasion of a single visit or contact with his point of sale, the separate selection and separate payment of each travel service by travelers.

- b) In a targeted manner, the procurement of at least one additional travel service from another trader where a contract with such other trader is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.
18. “Lodge” refers to a cottage, cabin, or similar premises located in a rural area that provides accommodations to travellers.
19. “Package” refers to a combination of at least two different types of travel services for the same trip or holiday, if: Services are combined by one trader in accordance with the selections of the traveler before a single contract on all services is concluded, or irrespective of whether separate contracts are concluded with the service provider, those services are:
- Purchased from a single point of sale before the traveller agrees to pay.
 - Offered for sale at an inclusive total price.
 - Advertised or sold under the term “package” or under a similar term.
 - Combined after the conclusion of a contract by which a trader entitles the traveller to choose among a selection of different types of travel services.
 - Purchased from separate service providers through linked, online booking processes in which the traveller’s name, payment details, and email address are transmitted from the first service provider to the second service provider, and a contract for additional services is entered into between the traveller and the second service provider within at the latest 24 hours after confirmation of the booking of the first travel service.
20. “Passenger” refers to any person transported in a tourist transportation vehicle or vessel but does not include the driver of the vehicle or captain of the vessel or other naval staff engaged in piloting the vessel.
21. “Restaurant” refers to an establishment that provides food and beverages for consumption on the premises to any traveller presenting himself who appears willing and able to pay the published rate for the food and beverages if he is in a fit state to be received.

Comments

- *“Restaurant” excludes takeaway food outlets, and “published” refers to the price displayed on a notice on the premises and/or in the menu.*
22. “Restaurateur” is a person or entity that owns or is the proprietor, franchisee, or lessee of a restaurant.
23. “Sanitary facility” includes washbasins, sinks, baths, showers, ls and water closets.
24. “Self-catering unit” refers to an accommodation unit for use by guests that includes kitchen facilities, in addition to the facilities and furnishings.
25. “Souvenir” refers to goods, maps, pictures, postcards, and other such items, other than those that are handmade, sold to tourists as mementoes of their visit to Georgia.

Comments

- *Souvenirs are not handmade items, which is what distinguishes them from handicrafts. In fact, souvenirs do not even need to be manufactured in Georgia, whereas the handicraft industry may need state funding and may be the subject of craft authentication programs.*
26. “Sustainable tourism” refers to tourism that meets the needs of present travellers, while managing resources in such a way that the economic, social, and aesthetic appeal of a destination is protected and enhanced to maintain its cultural integrity, ecological processes, biological diversity, and life support systems.
27. “Timeshare” refers to the right to use and occupy a unit on a recurrent periodic basis according to an arrangement or a contract allocating this right among various owners.
28. “Tourist attraction” is a physical or cultural feature of a particular place that travellers or tourists perceive as capable of meeting one or more of their specific leisure needs. This term can also

refer to positive or favorable attributes of a given activity or set of activities desired by a given customer or market, including climate, scenery, and culture.

29. "Tourism enterprise" refers to an entity or natural person engaged in the business of hotel-keeping, other tourist accommodations, restaurant, catering establishment, travel agency, tour operations, ground-handling agency, tourist transportation, souvenir or handicraft production, retailing, visitor attraction, water sports, or any other business designated as a tourism enterprise by the MoESD and declared as such in the Official Gazette
30. "Tourist" depends on the context in which it appears in the law but can include a visitor whose stay includes at least one overnight stop in a hotel or other tourist accommodations and/or a consumer of tourism services.
31. "Tourist accommodation" means accommodations made available to visitors.

Comments

- *This is a wider category than hotels and furnished apartments. For the most part, tourists tend to be accommodated in hotels or furnished apartments, but some, particularly domestic tourists and those from the diaspora, may choose to stay in the residences of private citizens as paying guests, including student residences, youth hostels, rest houses, guesthouses, and pensions. Tourist accommodations are not usually required to fulfill the regulations of a hotel or furnished apartment. Nonetheless, authorities may wish to check up on these tourist accommodation providers and, therefore, a register of tourist accommodations is recommended in the law.*

32. "Tourism development area" is an area designated as such under the provisions of the law.

Comments

- *The MoESD, GNTA, or government may identify a particular location for tourism development area status to set out and implement a tourism development project in that area. The entity that designates the tourism development area may carry out the work itself, jointly with the private sector, or provide the private sector with support to undertake the work. A corporation may be established for this purpose or enter into a public-private partnership (PPP) agreement.*

33. "Tourist guide" refers to a person who, for payment, describes and interprets the archaeology, history, nature, and culture of Georgia for tourists.
34. "Tourism resources" are components in the natural and anthropological environment that through their qualities and peculiarities are recognized, registered, and capitalized as tourism-related resources. Except for resources regulated under integral protection regimes, tourist resources include, but are not limited to:
 - a) Natural resources, including geology, climate, flora, fauna, landscapes, and mineral deposits.
 - b) Anthropological resources, including archaeological monuments, sites, ensembles, reserves, memorials, folklore elements, and popular arts.
35. "Tourism site" refers to a site designated as such under the law.

Comments

- *If a site's natural beauty, heritage, or contemporary importance may be of interest to tourists, the GNTA may designate it as a tourism site, which then makes the site subject to laws and funding to protect or enhance it, including funding to build tourism facilities. Tourism sites may also receive special protection under planning acts and building regulations.*

36. "Tourism village" refers to a village with a high concentration of tourism resources and a comparative advantage for tourism development.

37. "Tourist transportation provider" is a natural person or entity that provides transportation to travellers by means of porter services, motor vehicles, vessels, airplanes, helicopters, or beasts of burden.
38. "Tourism zone" is an area or several areas designated under the law for special economic assistance to encourage tourism development. Certain activities may be restricted in tourism zones to maintain their tourist value. Such restrictions shall be specified in an order made by the minister.
39. "Tour operator" is a natural person or entity that regularly offers tours or packages to the public through an intermediary for an inclusive price. The tours or packages may comprise two or more of the following:
 - a) Guided tours.
 - b) Accommodations.
 - c) Entertainment.
 - d) Transportation.
 - e) Travel insurance.
40. "Travel agent" is a person who regularly provides customers with one or more separate services to render a journey possible. Such services include, but are not limited to:
 - a) Selling tour packages on behalf of tour operators (domestic or international).
 - b) Arranging for travel documents in accordance with prevailing regulations.
 - c) Arranging for transportation and/or accommodation of travelers.
 - d) Providing travel insurance facilities.
41. "Traveller" is a person who pays a fee to a hotel, restaurant, hostel, pension, or other tourist accommodation to use or consume the establishment's facilities, services, food, and beverages. The traveller's mode of transportation, if any, does not matter.
42. In relation to a timeshare, a "unit" refers to that portion of a timeshare project that is designated for separate occupancy.
 - a) "Visitor" is any individual who travels to a place, other than his usual residence, for less than 12 months and who does not intend to undertake employment at the visited place.

USAID Governing for Growth (G4G) in Georgia

Deloitte Consulting Overseas Projects LLP.

Address: 5 L. Mikeladze St., 0162, Tbilisi

Phone: +995 322 240115 / 17

Email: info@g4g.ge