

Jharkhand Tourism Development and Registration Act, 2015

JHARKHAND

India

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Act 17 of 2015

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Jharkhand Tourism Development and Registration Act, 2015(Act No. 17 of 2015)An Act to enact a law relating to registration of persons engaged in Tourist trade, Constitution of Tourism Development Authority(s) and other matters connected therewith.Be it enacted by the Legislative Assembly of Jharkhand in the sixty sixth year of the Republic of India, as follows :Chapter-I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Jharkhand Tourism Development and Registration Act, 2015.(2)It extends to the whole of the State of Jharkhand.(3)It shall come into force from the date of notification in the Official Gazette.

2. Exemptions.

(1)The Government may by notification direct that all or any of the provisions of this Act shall not, subject to such terms and conditions as it may specify, apply generally;(i)to a premises used for a public purpose of a charitable nature or to any class of premises used for such purposes;(ii)to a premises held by a public trust for a religious or charitable purpose let out at a nominal rent;(iii)to a premises held by a public trust for a religious or charitable purpose and administered by a local authority; and(iv)to a rest house, dak bungalow, circuit house, inspection hut, sarai or any institution or premises managed or run by the Government or a local authority.(2)The Government may also by order, direct that all or any of the provisions of Chapter-iv shall not apply to such hotels or institutions, or such class of hotels or institutions, subject to such terms and conditions, if any, as may be specified in the order.

3. Definitions.

- In this Act, unless there is anything repugnant in the subject or context: (a) "adventure sports" means an outdoor activity undertaken for sports or recreation on land or in water or in the air as the case may be, which shall include water sports, aerosports, trekking, rock climbing, rafting, bunji-jumping and ballooning with an inherent risk to the life or limb of the participant or any other sports as may be notified by the Government from time to time; (b) "adventure sports operator" means any person or organization or enterprise, as the case may be engaged in or offering to engage for adventure sports on commercial basis i.e. for the purpose of training, recreation or sports; (c) "amenity" includes roads, water-supply, street lighting, drainage, sewerage, toilet, information centre, souvenir shop, garbage disposal, bar, restaurant, hotel, motel, golf course, amusement park, guest house, school, housing, hospital and various recreation facilities and such other convenience and facility as the State Government may, by notification in the Official Gazette, specify to be an amenity for the propose of this Act; (d) "Authority" means Tourism Development Authority established under Section 4 of this Act. (e) "Certificate of Registration" means a certificate issued under this Act. (f) "Department" means the Department of Tourism, Art Culture, Sports & Youth Affairs, Jharkhand. (g) "Government" means the Government of Jharkhand; (h) "guide" means a person who engages himself as a paid guide for the tourists; (i) "local authority" means the Municipal Corporation or Municipal Council or Cantonment Board or Nagar Panchayat or Gram Panchayat or Special Area Development Authority; (j) "malpractice" include cheating, toutting, impersonation, obstruction in allowing free choice for stay or travel arrangement, charging rent or remuneration higher than that fixed under this Act failure to display the rent list, failure to give cash memos, willful failure to execute an order within the stipulated period and according to the terms agreed upon, failure to provide accommodation to the tourists when available, failure to provide promised facilities and providing substandard equipment and untrained personnel by the adventure sports operator; Explanation. - The expression "toutting" means coercing for accommodation, transportation, sight seeing or pestering for any particular premises, establishment or any other services connected with tourism with the consideration of personal benefit; (k) "Official Gazette" means the Rajpatra, Jharkhand; (l) "prescribed" means prescribed by rules made under this Act; (m) "prescribed authority" means the authority notified as such by the Government ' provided that different authorities may be notified for different areas and for different provisions of this Act; (n) "regulation" means a regulation made under this Act by the Authority constituted under Section 4; (o) "rule" means a rule made under this Act by the State Government. (p) "season" means the period from 15th September to 15th March and from 15th April to 15th June ; and rest of the period shall constitute "off-season"; (q) "tourism unit" means any establishment providing facilities and services to the tourists and includes hotel, resort, motel, time share unit, appartment, house boat, motor caravan, guest house, yatri niwas, restaurant and bar, amusement park, theme park, water sports centre, aerosport centre, golf course, handicraft village complex, camp river cruise, lake cruise project light and sound show adventure sports complex, training institutes for adventure sports or tourism industry doing business for a monetary consideration and any others type of establishment as may be notified by the Government from time to time; (r) "tourism unit operator" means any person who owns, runs or operates a tourism unit and includes a person managing or operating the affairs on behalf of the proprietor; (s) "tourist" means a person or group of persons, including pilgrims visiting the State of Jharkhand; and (t) "travel agent" means a person engaged in

the business of making travel arrangements for tourists for monetary consideration; Explanation- the expression "travel arrangements" includes :- (a) arrangement for transportation by any mode; (b) arrangement for lodging with or without food; and (c) rendering other services such as arranging for games and sports, receipt or despatch of personal belongings of a tourist or taking photograph(s) of a tourist, hiring of guides photographers, arranging equipment for travel or adventure sports.

Chapter-II Tourism Development Authority

4. Establishment and constitution of the Authority.

(1) The Government may, by notification in the Official Gazette, establish an Authority to be known as the "Tourism Development Authority" for carrying out the purposes of this Act for a specific Tourist place, as may be notified by the State Government. While notifying such tourist place, the extent and boundaries of such place would also be specifically mentioned so as to clearly demarcate the jurisdiction of such authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and may, by the said name sue and be sued.

(3) (i) The Authority shall consist of a Chairman, a Managing Director, an Executive Director, six other Directors, who shall be nominated by the State Government and who shall hold their office, on terms and conditions to be prescribed in this behalf, at the pleasure of the State Government.

(ii) Directors of the Authority shall be nominated by the Government, by notification, from amongst the persons, who have outstanding contribution or expertise in the field of development and promotion of tourism industry and having experience of working in the tourism and travel trade for at least 10 years.

(iii) Principal Secretary/Secretary of Department of Tourism, Art Culture, Sports & Youth Affairs shall be the Chairman of the Authority.

(iv) The State Government may, if it is found to be expedient, appoint the same person as Chairman and Managing Director of the Authority.

(4) (i) The Deputy Commissioner of the concerned district or as notified by the Government will be the Managing Director of the Authority. The Managing Director will also be the Vice Chairman of the Authority and carry out all the appertain functions in this regard.

(ii) The services of the Executive Director of the Authority shall be taken on deputation or on contractual basis for a period of three years in the first instance on extend-able basis. Such services may, however, be terminated in case of unsatisfactory performance or due to resignation after giving a notice of 15 days to either party.

(iii) The Executive Director of the Authority shall perform, among others, the following duties under the general guidance of the Managing Director : (a) he shall receive all the moneys on behalf of the Authority and issue receipt and maintain proper account for the same; (b) he shall withdraw money from the fund of the Authority to make payments of salaries and allowances and for the expenditures of the Authority; (c) he shall attest any order of the Authority; (d) he shall be the Member Secretary of the Authority and carry out all functions appertain therewith; (e) he shall carry out any such duty, which may be assigned to him from time to time by the Authority or State Government.

(5) The non-official Directors shall be paid such allowances as may be notified by the Government from time to time.

(6) Every Director and every officer and employee of the Authority shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

5. Term of office.

(1)The non-official Directors shall hold office of the Authority for a period of two years from the date of their appointment and they shall be eligible for re-appointment.(2)If the Government considers that the continuance in office of any nonofficial Director is not in the interest of the Authority, the Government may make an order as terminating his term and thereupon, he shall cease to be a member of the Authority notwithstanding the fact that the term to which he was nominated has not expired.(3)Any non-official Director of the Authority may resign his office by a letter addressed to the Chairman and the resignation shall take effect from the date of acceptance of his resignation by the Chairman.

6. Disqualifications.

- A person shall be disqualified for being a member, if he:(a)has been convicted and sentenced to imprisonment for an offence, which in the opinion of the Government involves moral turpitude; or(b)is an un-discharged insolvent; or(c)is of unsound mind; or(d)has been dismissed or removed from the service of the Government or a Corporation owned or controlled by the Government; or(e)has directly or indirectly by himself or by any partner, employer or employee, any share or interest in any contract or employment with by or on behalf of the Authority.

7. Meetings of the Authority.

(1)An ordinary meeting of the Authority shall be held once in a quarter, on the date, time and place fixed by the Chairman.(2)The Chairman may, whenever he thinks fit call a special meeting.(3)Every meeting of the Authority shall be presided over by the Chairman and in his absence by the Vice-Chairman and in the absence of both, by any other member chosen by the member present.(4)The Member-Secretary of the Authority shall make available the notice along with the agenda of the meeting to all the members of the Authority at least twenty four hours before the meeting.(5)The presence of 50% members of the total number of the members of the Authority shall form the quorum of a meeting.(6)The proceedings of the meeting of the Authority shall be attested by the Chairman and maintained by the Member-Secretary of the Authority.(7)The Authority may form sub-committees as may be considered necessary to perform its functions and activities.(8)The duties, functions and the term of office of the sub-committees formed under sub-section (7) shall be determined by the Authority.

8. Establishment, Power and functions of the Authority.

(1)The Authority shall have its own establishment, for which the regulations shall be framed with the prior approval of the Government.(2)The Authority shall systematically execute and get executed necessary programmes and manage all the activities of the Department for achieving the objectives of this Act.(3)The Authority shall :(a)be responsible for planning, development and maintenance of the tourist place/zone amenities thereto and allotment of land, execution of lease, rent, charges and matters connected thereto.(b)provide and maintain the tourism related services

such as information, reservations, guidance, parking, toilets, cleanliness of tourist spots, environmental upgradation, publicity etc.;

(c) assist the local body in maintaining the sanitation and infrastructural facilities at the tourist spots;

(d) build and maintain parks, lakes and recreation centres, fountains or any other such facility, which may enhance the tourism value of the area;

(e) take up developmental measures for various sections of tourism industry and those engaged in allied activities;

(f) regulate the construction, expansion, maintenance and operation of all tourism units and allied activities, subject to the general superintendence and control of the Department, in such a manner so that the tourism activities become environmentally and culturally sustainable;

(g) prepare a tourism master plan for its area and all tourism units and establishment performing tourism related activities shall conform to the said master plan and the Authority may order to modify or close down the tourism units or establishment not conforming to the master plan;

(h) regulate all such activities and services in the notified tourist place, which commensurate with the religious sentiments of the tourists visiting such notified tourist place so as to promote tourism in such place; and

(i) have the powers of the Commissioners of Municipality as specified in Section 196, 197, 198, 200, 201 and 202 of the Jharkhand Municipal Act, 2000 (Adopted) for purposes of removal of encroachment on roads, house gullies and land in the development area and properties of the Authority.

(j) perform such other duties and functions as may be entrusted to it from time to time by the Department or the Government.

(4) The Authority shall : (a) charge fee on any of the direct services provided by it; and (b) receive donations or grants from the Department, Central Government, State Government, Semi Government and Non-Government Organizations and any other source and also borrow from any source, with the prior approval of the State Government

(5) The State Government may from time to time entrust the Authority with any other work that is connected with planned development, maintenance of the tourist place.

(6) The State Government may, by notification in the Official Gazette vest the Authority or the Chairman or the Managing Director with power under any other Act for planning, development and maintenance of civil and tourist amenities like housing, schools etc. and vacation of encroachment, etc., that are exercisable by any local authority or statutory body or State Agency under any law for the time in force in this regard.

(7) Where, in the opinion of the Authority, as a consequence of any development having been executed by the Authority in any development area the value of any property in that area which has been benefited by the development has increased, the Authority may, with the prior approval of the State Government, levy upon the owners of the property or any person having interest therein a betterment charge in respect of the increase in value of the property resulting from the execution of the development. Provided that no betterment charge shall be levied in respect of land owned by the State or Central Government.

(8) Such betterment charge shall be an amount in respect of any property situated in a development area, equal to one-third of the amount by which the value of the property on the completion of the execution of the development scheme, estimated as if the property were clear of buildings exceeds the value of the property prior to such execution estimated in like manner.

(9) The State Government may acquire any land required for the purpose of the Authority, which shall be deemed "Public Purpose" under the Land Acquisition Act, 1894.

(10) The State Government may, by a deed of lease, transfer, on terms and conditions as may be decided by the State Government, to the Authority, any developed or undeveloped land vested in the State of Jharkhand for the purpose of development or use in accordance with the provision of this Act.

(11) If any land so placed at the disposal of the Authority under sub section (10) is required at any time by the State Government, the Authority shall restore it to the State Government.

(12) Any

money due to the Authority on account of fees, rent or charges, or disposal of land, building or other properties, move-able and immoveable, or by way of rents and profits, may be recovered by the Authority as arrears of land revenue under the State Public Demands Recovery Act, 1914.(13)The Authority may, with the prior approval of the State Government, by a Resolution published in the Official Gazette, make Regulations to carry out the purposes of this Act.

9. Funds of the Authority.

(1)The Authority shall have its own funds, to which shall be credited the following and all payment of the Authority shall be made therefrom : (a)All moneys received by the Authority from the State Government by way of grants, loans advances or otherwise;(b)All fees, rents, charges, levels and fines received by the Authority under this Act;(c)All moneys received by the Authority from disposal of its moveable and immoveable assets;(d)All moneys received by the Authority by way of loan from financial and other institutions and debentures floated for the execution of a scheme or schemes of the Authority duly approved by the State Government.(e)The authority can collect fund through private sources like donation, private loan etc.(f)The revenue generated through government and non-government sources will be managed under financial rule.(2)The Authority shall have power, subject to the provisions of this Act, to spend such sums as it thinks fit to cover all administrative expenses of the Authority and on object or for purposes authorised by this Act and such sums shall be treated as expenditure out of the funds of the Authority.(3)All money standing at the credit of the Authority which cannot immediately be applied as provided in sub-section (2) shall be deposited in P/L Account.

10. Budget, Accounts and Audit.

(1)The Authority shall prepare a budget every year in respect of the financial year next ensuing, showing the estimated receipts and expenditures of the Authority and shall forward it to the State Government such number of copies thereto as may be prescribed by Rules and the State Government may issue any directive as may be considered expenditure for the purpose of this Act.(2)The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance sheet in such form as may be prescribed by the Government.(3)The accounts of the Authority shall be audited annually by the Internal Audit Section under the Finance Department, Jharkhand and any expenditure incurred by it in connection with such audit shall be payable by the Authority to the Internal Audit Section under the Finance Department, Jharkhand and the Authority shall forward the same to the Department.(4)The Internal Audit Section under the Finance Department, Jharkhand shall have the same rights, privileges and authority in connection with such audit as Accountant General of Jharkhand has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers of the Authority.(5)The accounts of the Authority as certified by the Internal Audit Section under the Finance Department, Jharkhand together with the audit report thereon shall be forwarded annually by the Authority to the Department.

11. Special audit of accounts.

(1)Notwithstanding anything contained in section 10 the Government may order a special audit of the accounts of the Authority to be conducted by such person or agency as it may think fit relating to any particular transaction or a class or series of transactions for a particular period.(2)Where an order is made under sub-section (1), the Authority shall present or cause to be presented for audit such accounts and shall furnish to the person or agency appointed under sub-section (1), such information as the said person or agency, may require for the purpose of audit.

12. Annual report.

- The Member-Secretary of the Authority shall prepare the annual report of the activities of the Authority within three months from the date of the expiry of the financial year and a copy thereof shall be forwarded to the Department.Chapter-III Registration of Tourism Units, Travel Agents, Guides and Adventure Sports Operators

13. Registration of the tourism unit.

(1)Every person intending to operate a tourism unit shall before operating the tourism unit, apply for registration to the prescribed authority in the prescribed manner:Provided that any person already operating a tourism unit on the date of commencement of this Act, shall apply for registration within ninety days from the date of commencement of this Act;Provided further that any person, operating a tourism unit makes any addition or alteration in the tourism unit, shall apply for fresh registration within ninety days from the date of such addition or alteration.(2)Every application made under sub-section (1) shall be disposed of within a period of ninety days from the date of receipt of application, failing which the application shall be deemed to have been accepted for registration.(3)No person shall operate a tourism unit unless it is registered in accordance with the provisions of this Act.

14. Registration of the travel agent of guide.

(1)No person shall carry on the business of a travel agent or a guide unless he is registered in accordance with the provisions of this Act.Provided that no person shall be eligible to be registered as a guide, unless he possesses such qualifications as may be prescribed.Provided further that notwithstanding any prescribed qualification, the persons who are working as guides, on the date of commencement of this Act, shall ipso facto be registered as guides.(2)Every person intending to act as a travel agent or a guide shall, before he commences to act as such apply for registration to the prescribed authority in the prescribed manner:Provided that any person acting as travel agent or a guide on the date of commencement of this Act, shall apply for registration within ninety days from the date of commencement of this Act.(3)Every application made under this Section shall be disposed of within a period of ninety days from the date of receipt of application, failing which the application shall be deemed to have been accepted for registration.

15. Registration of the adventure sports operator.

(1) No person shall carry on the business of adventure sports unless he is registered in accordance with the provisions of this Act. (2) Every person intending to operate an adventure sports institute or to act as an adventure sports operator shall before he commences to act as such, apply for registration to the prescribed authority in the prescribed manner. (3) Notwithstanding anything contained in sub-section (2), any person already acting as an adventure sports operator shall apply for registration within ninety days from the date of commencement of this Act. (4) Every application, made under this section shall be disposed of within a period of ninety days from the date of receipt of application, failing which the application shall be deemed to have been accepted for registration.

16. Certificate of registration of the tourism unit travel agent, guide and adventure sports operator.

- The prescribed authority shall, unless registration is refused under Section 13, 14 or 15 direct the name and particulars of the tourism unit or travel agent or guide or adventure sports operator, as the case may be, cause to be entered in the register maintained for the purpose and shall issue a certificate of registration to the tourism unit or the travel agent or the guide or the adventure sports operator, as the case may be, in the prescribed form.

17. Refusal to register the tourism unit, travel agent, guide and adventure sports operator.

- The prescribed authority may refuse registration of the tourism unit or travel agent or guide or adventure sports operator, as the case may be, under this Act on any of the following grounds : (a) If the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, is convicted of any offence under Chapters-XIV and XVI of the Indian Penal Code, 1860 or under any of the provisions of this Act or any offence punishable under any law providing for prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption and two years have not elapsed since the termination of the sentence imposed upon him. (b) If the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, has been declared an insolvent by a court of competent jurisdiction and has not been discharged. (c) If the name of tourism unit operator or a travel agent or a guide or an adventure sports operator, as the case may be, has been removed from the register on the grounds mentioned in clauses (c), (d), (e), or (g) of Section 18 and three months have not elapsed since the date of such removal. (d) if the premises of the tourism unit do not conform to the prescribed standard; (e) if the travel agent or a guide or an adventure sports operator does not possess any of the prescribed qualifications; (f) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, does not hold a certificate of registration required to be held by him under this Act. (g) if the tourism unit operator fails to produce the proof that the structure of the tourism unit has been built in accordance with the building bye-laws made under the provisions of the relevant Act or under any other local laws in force; and (h) if in the opinion of the prescribed authority there is any sufficient ground to be recorded in writing, for refusing registration: Provided

that no application for registration shall be refused unless the person applying for registration has been allowed an opportunity of being heard.

18. Removal of name of the tourism unit, travel agent, guide and adventure sports operator from the register.

- The prescribed authority may, by order, in writing remove the name of tourism unit or travel agent or guide or adventure sports operator, as the case may be, from the register and cancel the certificate of registration issued under Section 16, on any of the following grounds, namely (a) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, ceases to operate the tourism unit or ceases to act as a travel agent or a guide or an adventure sports operator for which he is registered; (b) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, is convicted of any offence under Chapters-XIV and XVI of the Indian Penal Code, 1860 or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption and two years have not elapsed since the termination of the sentence imposed upon him; (c) if the tourism unit operator or the travel agent or the guide or an adventure sports operator, as the case may be, is declared insolvent by a court of competent jurisdiction and has not been discharged; (d) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, fails to comply with any of the provisions of this Act or rules framed thereunder; (e) if the tourism unit operator fails to remove a lodger or willfully keeps the lodger in a tourism unit, who becomes a nuisance for the inmates in his tourism unit as well as adjoining building(s); (f) if any complaint of malpractice is received and proved against the tourism unit operator or the travel agent or the guide or adventure sports operator, as the case may be; (g) if the tourism unit operator makes structural changes in the tourism unit without the approval of the appropriate authority under the relevant Act or any other local authority constituted under the local law; (h) if the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, has obtained the certificate of registration by misrepresentation or fraud; (i) if the adventure sports operator does not maintain equipments, manpower and other facilities according to prescribed standards for safety; (j) if the adventure sports operator does not take the precautions regarding safety measures, as may be prescribed; and (k) if such tourism unit operator, or the travel agent or the guide or the adventure sports operator, as the case may be, fails to comply with any of the directions issued by the Department from time to time or obstructs the inspection of its premises by the authorised officers of the Department or indulges in any such activities, which is detrimental to growth of tourism and its promotion. Provided that before removing the name of any tourism unit or the travel agent or the guide or the adventure sports operator, as the case may be, from the register under this section, the prescribed authority shall give a notice to the tourism unit or the travel agent or the guide or the adventure sports operator, as the case may be, indicating the grounds on which it is proposed to take action after giving him an opportunity of being heard.

19. Classification of tourism unit.

- The prescribed authority may in consultation with the committee to be constituted in the prescribed manner;(a)classify the tourism units into various classes, as may be prescribed; and(b)fix the number of lodgers to be accommodated in each room in case of accommodation.

20. Notifying the fair rates.

(1)The prescribed authority shall, notify the fair rates or service charges, if any, commensurate to the standard/class of the tourism units and quality of food, accommodation and service, as specified by the tourism unit, which may be charged during "season" and "off-season" periods for boarding or lodging or for both from the tourists:Provided that in case of dispute with regard to the rates to be charged, the decision of the committee constituted under Section 19, shall be final:Provided further that the rates for lodging shall be notified with reference to each room or specified accommodation and the number of the lodgers to be accommodated.(2)The prescribed authority shall notify the fair rates, as may be specified by the travel agent or by the guide, which may be charged for the services rendered to a person engaging him as such.(3)The prescribed authority shall, notify the fair rates, as may be specified by the adventure sports operator commensurate to the standard of the adventure sports and other facilities, which may be charged by him from the tourists or from the customers.

21. Revision of fair rates.

- The prescribed authority shall, from time to time, revise the fair rates notified under Section 20.

22. Notifying the fair rates until notified by the prescribed authority.

- Till such time, the prescribed authority does not notify the fair rates and the number of lodgers to be accommodated in each room, as required under Sections 19 and 20, the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, shall notify the fair rates and intimate the same to the prescribed authority by 31st July each year and separate rates may be fixed for "season" and "off- season" periods and such rates shall be effective from 1st October of that year till 30th September of the following year.

23. Display of information.

- Where under Sections 19 and 20, the prescribed authority has notified or revised the fair rates, the number of lodgers to be accommodated in each room, or even in case where the prescribed authority has not notified the fair rates, the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, shall display a notice of the fair rates, the number of lodgers to be accommodated in each room at a conspicuous place in a tourism unit, business premises of the travel agent, the guide or the adventure sports operator and an agent of the tourism unit operator shall also keep a copy certified by the prescribed authority, of such information on his person.

24. Charges recoverable in excess of fair rates.

(1)Notwithstanding any agreement to the contrary, no tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, shall charge any amount in excess of the fair rates notified.(2)Any sum paid by the lodger or by a customer in excess of the fair rates fixed shall be refundable to the lodger or to a customer by the tourism unit operator or the travel agent or the guide or the adventure sports operator, as the case may be, through the prescribed authority.

25. No ejectment to be made if fair rates paid.

- No tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, shall evict or refuse any service to a lodger or to a customer so long as he pays or is ready and willing to pay the fair rates notified and observes and implements the other conditions of his agreement in so far as they are consistent with the provisions of this Act.

26. When tourism unit operator may recover possession.

(1)Notwithstanding anything contained in this Act, a tourism unit operator shall be entitled to recover possession of the accommodation provided by him on obtaining an order from the prescribed authority to the effect that:(a)the lodger has been guilty of a conduct which constitutes a nuisance or annoyance to any other lodger; or(b)the lodger has failed to pay the accommodation charges; or(c)the lodger has failed to vacate the accommodation on termination of the period of the agreement in respect thereof :Provided that before issuing an order under this section, the prescribed authority may conduct a summary enquiry and shall pass an appropriate order in a summary manner.Provided further that any party aggrieved by an order of the prescribed authority may prefer an appeal before the Deputy Commissioner of the concerned district, who shall dispose it of in a summary manner.(2)If the lodger against whom the order has been passed under sub-Section (1) does not comply with the said order, the prescribed authority may take assistance from the police for the implementation of the order and every police officer shall render the assistance for the implementation of the said order.

27. Tourism Unit operator, travel agent, guide and adventure sports operator to present detailed bills.

- Every tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, shall present detailed bills to the lodgers and other customers and shall give receipt in acknowledgement of all payments.

28. When the tourism unit operator may honour confirmation of booking at a particular rate.

- If a tourism unit operator confirms a booking, at a particular rate, he shall, even if accommodation at higher rates alone is available at the time of arrival of the person for whom accommodation

stands booked, be honoured at the booked rate

29. Power of entry, inspection, seizer and supply of statistical data by tourism unit operator etc.

(1)The prescribed authority or any officer authorised by the Government may, in order to ensure that any of the provisions of this Act is not being implemented by the tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, enter the tourism unit or business premises of the travel agent or guide or adventure sports operator and inspect all accounts, registers, documents and other books with or without prior notice.(2)If the prescribed authority or any officer authorized by the Government has reasons to suspect that any tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, is attempting to evade or has evaded any of the provisions of this act, such authority or officer may, for reasons to be recorded, seize such accounts, registers, documents or other books of such tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, as may be necessary, and shall grant a receipt of the same and retain the same so long as may be necessary for examination thereof or for the purpose of any proceedings under this Act.(3)Every tourism unit operator or travel agent or guide or adventure sports operator shall supply statistical data regarding inflow of tourists, the employees employed by the unit concerned and any other information as directed by the department by the tenth of each following month to the prescribed authority.

30. Travel agent guide and adventure sports operator not to demand tips etc.

- The travel agent or guide or adventure sports operator, as the case may be, shall not demand tips, gratuity, presents or commission other than the rates as fixed under Section 20 from any person engaging him or from any tourism unit operator, in whose tourism unit such person resides or intends to reside

31. Insurance.

- The adventure sports operator shall provide sufficient insurance cover as may be prescribed to persons availing of his services.

32. Appeal.

(1)Subject to the provisions of sub-Section (2), an appeal shall lie from every order of the prescribed authority under this Act to the appellate authority to be appointed by the Government.(2)Every such appeal shall be preferred within ninety days from the date of passing of the order:Provided that the appellate authority may entertain the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.(3)The appellant shall have a right to be represented by a counsel or by a duly authorised agent and the prescribed authority may be represented by such officer or person as the prescribed authority may appoint. (4) On receipt of any appeal, the appellate authority shall, after giving the

appellant a reasonable opportunity of being heard and after making such inquiry as it deems proper, pass such order as it may deem fit, after recording the reasons thereof.

33. Revision.

- The revisional authority, to be appointed by the Government, may, either on its own motion or on an application made by an aggrieved party, call for the records of any case disposed of by an appellate authority, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed by appellate authority, it may pass such order thereon as it may deem fit and such order shall be final: Provided that no such application for revision shall be entertained after the expiry of the said period of ninety days from the date of passing of the order passed by the appellate authority; Provided further that revisional authority on its own motion can call from the record of any case decided or pending before any authority and pass such order as it may deem fit; Provided further that no order under this section shall be made to the prejudice of a person unless he has had a reasonable opportunity of being heard either personally or through a counsel or by a duly authorised agent.

Chapter-V Offences and Penalties

34. Penalty for violation of any order of the Authority.

(1) Any person who violates any order of the Authority in respect of removal of any structure or encroachment or uses any land or building in contravention of any regulation framed by the Authority in this behalf shall be punishable with fine which may extend up to Rs 1,00,000/- or simple imprisonment for a term which may extend to six months or both and in case of continuing offence with further fine, which may extend to Rs 500/- for every day after conviction till such violation continues. (2) All fines realized in connection with prosecution under this Act shall be paid to the Authority. (3) No court below the rank of a Judicial Magistrate of the First Class shall try any offence under this Act.

35. Penalty for default in registration.

- Any person, carrying on the business of a tourism unit or travel agent or guide or adventure sport or any other business connected with tourist trade, as the case may be, without a proper registration under this Act or in contravention of any of the provisions of this Act, shall be punishable with simple imprisonment for a term not exceeding six months or with fine not exceeding Rs. 50,000.00 or with both, and if the breach is continuing with a minimum fine of Rs. 500.00 per day and maximum of Rs. 2,000.00 per day till the default continues.

36. Penalty for false statement.

- If any person who is required to make a statement under this Act, willfully makes a false statement or suppresses a material fact with the intention to mislead the prescribed authority, he shall be punished with simple imprisonment for a term which may extend to three months or with fine not exceeding Rs. 25,000.00 or with both.

37. Certificate not to be assigned without permission.

- Any person who lends, transfers or assigns the certificate of registration issued under this Act, without the permission in writing of the prescribed authority, shall be punished with simple imprisonment for a term which may extend to six months or with fine not exceeding Rs. 50,000.00 or with both.

38. Certificate to be shown to persons on demand.

(1) Any person registered under this Act shall at all times, on demand, produce and show his certificate of registration to any of the following persons, namely : (a) the prescribed authority or any other officer duly authorised by it in this behalf; (b) any authority authorised by the Government or any officer authorised by the Director, Tourism, Jharkhand; and (c) any bonafide customer. (2) Any person who refuses on demand to show his certificate to, or allowed to be read by, any of the persons authorized to demand it, shall be punishable with fine not exceeding Rs. 10,000.00.

39. Penalty for malpractice.

- Any person who commits a malpractice or contravenes any other provision of this Act for which no specific penalty has been provided, shall be punished with simple imprisonment for a term which may extend to three months or with fine not exceeding Rs. 1,00,000.00 or with both.

40. Obstructing lawful authorities.

- If any person wilfully obstructs or offers any resistance to, or otherwise interferes with the discharge of the functions of the prescribed authority or any other officer authorised by it, exercising any power, or performing any duties conferred or imposed upon it or him by or in pursuance of this Act or the rules made thereunder, he shall be liable to punishment with simple imprisonment which may extend to three months or with fine not exceeding Rs. 1,00,000.00 or with both.

41. Power of court to try cases summarily.

- All offences under this Act shall be tried in a summary way by a Chief Judicial Magistrate or by any other Judicial Magistrate of the First Class specially authorised by the High Court and the provisions of Sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 shall, as far as may be, apply to such a trial. Provided that when at the commencement of or in the course of a summary trial under this section, it appears to the Magistrate that the nature of the case is such that it is for any reason, undesirable to try summarily, the Magistrate shall after hearing the parties record an order to that effect and thereafter recall any witness, who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

42. Institution of proceedings.

- No prosecution shall be instituted against any person for any offence under this Act, except on a complaint made by the prescribed authority or the officer authorized by it or the Government in this behalf.

43. Powers of prescribed authority to summon and enforce attendance of witnesses and other persons.

- The prescribed authority shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 while hearing an application under this Act in respect of the following matters, namely: (a) summoning and enforcing attendance of the complainant or the person against whom complaint is made under this Act and witnesses required in connection therewith; (b) compelling the production of any document; and (c) examining witnesses on oath, and may summon and examine suo moto any person, whose evidence appears to be material.

44. Compounding of offences.

(1) The prescribed authority may accept from any person who is reasonably suspected of having committed an offence under this Act, a sum of money by way of compounding of such offence and may out of the money so received, compensate the person against whom the offence has been committed, to the extent the prescribed authority deems reasonable. (2) On the composition of offence, no further proceedings in respect thereof shall be taken against the accused and if any proceeding has already been instituted against him in a court, the composition shall have the effect of acquittal. Chapter - VI Miscellaneous

45. Notification of changes.

(1) Whenever a tourism unit for which a certificate of registration is held by a person devolves by inheritance or otherwise upon any other person or undergoes a change in respect of any particular entered in the register under this Act, such person shall, within thirty days of the date of such devolution or change, notify in writing the fact to the prescribed authority. (2) The prescribed authority shall make necessary changes in the register maintained for the purpose and in the certificate of registration. (3) Notwithstanding anything contained in sub-section (2), the prescribed authority may remove from the register the name of the person in whose favour the certificate was issued and cancel the certificate of registration, if the successor is not eligible to be registered under this Act.

46. Return of the certificate of registration.

- When a certificate of registration is cancelled under this act, the person holding the certificate shall, within seven days from the date of service in the manner prescribed of the order of cancellation, return it to the prescribed authority.

47. Duplicate certificate.

- If a certificate of registration issued under this Act is lost, damaged or destroyed, the prescribed authority shall, on an application made in this behalf by that person holding such certificate and on payment of the prescribed fee, issue a duplicate certificate.

48. Renewal of certificate.

- The tourism unit operator or travel agent or guide or adventure sports operator, as the case may be, registered under this Act shall get renewed the registration certificate after a period of three years from the date of issuance of registration certificate by the prescribed authority and shall also pay renewal license fee as may be prescribed.

49. Certificate of registration to be kept exhibited.

- The certificate of registration shall be kept by a person holding it in a conspicuous place at the principal place of his business and if he has no principal place of business, he shall keep it on his person.

50. Proceedings before the prescribed authority to be judicial proceedings.

- All proceedings before the prescribed authority under this Act shall be deemed to be judicial proceedings for the purposes of Sections 193 and 228 of the Indian Penal Code, 1860.

51. Indemnity.

- No suit, prosecution or other legal proceedings, whatsoever shall lie against the Government or any person in respect of anything, which is in good faith done or intended to be done under this Act.

52. Power of Government to apply Act to other person.

- The Government may, by notification in the Official Gazette, direct that all or any of the provisions of this Act or of the rules made thereunder shall, with such exceptions, adaptations or modifications as may be considered necessary, apply to persons doing the business in the State of Jharkhand of outdoor photography or of letting or plying for hire houseboats, dongas, bathing, boats, shikaras, dandis, pithus, ponies as may be specified in the notification and the prescribed authority may fix the rates to be charged for the services to be rendered.

53. Power to make rules.

(1)The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for : (a)The State Government may, by notification in the Official Gazette,

make rules to carry out the purposes of this Act for a Tourism Development Authority and in particular provide for;(i)removal of encroachments on lands belonging to the Authority;(ii)removal of unauthorized structures;(iii)demotion of buildings which may interfere with the planning or which may have been erected in contravention of the Regulations of the Authority;(iv)the submission of reports and returns by the Authority to the State Government on matters relating to the duties, power responsibilities of the Authority;(v)the issue of directions by the State Government laying down broad principles for the fulfillment of aims and objects of the Act.(b)the maintenance of registers, books and forms by tourism unit operators, travel agents, guides and adventure sports operators for the conduct of the business;(c)the form of application for registration and certificate of registration.(d)the fee for the registration, renewal and issuance of duplicate certificate;(e)the manner of giving notices under this Act;(f)classification of tourism units;(g)qualification for registration as tourism unit operator, travel agent, guide and adventure sports operator;(h)safety measures and standards to be adopted in the conduct of rts and facilities to be provided;(i)standards for maintenance of hygiene and cleanliness, waste disposal and minimum facilities in various types of tourism units;(j)manner of publication of the names and addresses of the tourism unit, travel agent, guide and adventure sports operator removed from the register;(k)manner in which the fair rates shall be displayed, type of tickets and receipts to be issued, submission and maintenance of accounts and statement thereof to the prescribed authorities and collection and deposit of license fee, renewal fee and other dues;(l)procedure for admission to training institutes, standard of syllabus, staff, equipment, and buildings; and(m)the place where prescribed authority shall hold enquiry under this Act and all matters expressly required to be prescribed under this Act.(3)All rules made under this section shall be subject to the condition of previous publication.

54. Savings.

- Save as aforesaid, the provisions of this Act and Rules and Regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law in force in the State.