



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 100

Tourist Accommodation Act

Introduction

**Introduced by
Madam Caroline Proulx
Minister of Tourism**

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EXPLANATORY NOTES

This bill replaces the Act respecting tourist accommodation establishments. It establishes new rules applicable to tourist accommodation establishments, in particular by requiring them to be registered and to communicate information regarding their accommodation offering and the related activities and other related services. They are also required to renew their registration at the time of the annual update of the information relating to their accommodation offering.

The bill confers on the Minister of Tourism the power to recognize a body responsible for the registration mechanism under an agreement that sets out the conditions the body must comply with and the responsibilities the body must assume.

The bill also grants the Minister the power to refuse to register a tourist accommodation establishment or to suspend or revoke such a registration and, for those purposes, to take into account certain entries in the judicial record of the person operating the establishment. It also allows the Minister to suspend or cancel a registration at the request of a municipality in the cases provided for by regulation.

The bill renders inapplicable, except in certain circumstances, any provision of a municipal by-law made under the Act respecting land use planning and development that would operate to prohibit the operation, in a principal residence, of a tourist accommodation establishment that complies with the conditions set out by law.

The bill allows the Minister to implement pilot projects with a view to studying, improving or defining standards applicable to tourist accommodation or to experiment or innovate in that area.

The bill also confers on the Minister the power to recognize bodies that provide a service that assesses the quality of accommodation offerings.

The bill establishes penal provisions and entrusts their enforcement to the Minister of Revenue.

The Act respecting the Ministère du Tourisme is amended to entrust the Minister of Tourism with the power to grant an accreditation to a government department or to certain bodies for the tourist information services they provide as well as to suspend or cancel such an accreditation.

Lastly, the bill contains various transitional and consequential provisions necessary for its application.

LEGISLATION AMENDED BY THIS BILL:

- Tax Administration Act (chapter A-6.002);
- Act respecting municipal taxation (chapter F-2.1);
- Act respecting administrative justice (chapter J-3);
- Act respecting the Ministère du Tourisme (chapter M-31.2);
- Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1);
- Act respecting liquor permits (chapter P-9.1).

LEGISLATION REPLACED BY THIS BILL:

- Act respecting tourist accommodation establishments (chapter E-14.2).

Bill 100

TOURIST ACCOMMODATION ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

OBJECTS AND DEFINITIONS

1. This Act provides for the registration of tourist accommodation establishments as well as the communication of the information regarding their accommodation offering and the related activities and other related services for the purposes of the Act respecting the Ministère du Tourisme (chapter M-31.2), in particular for promoting and developing strategic knowledge on tourism.

2. In this Act and the regulations, unless the context indicates otherwise,

“person” means a natural person, legal person, partnership or trust;

“principal residence” means the residence where a natural person usually lives and centers their family and social activities and whose address is the one the person gives to most government departments and bodies;

“tourist” means a person who takes a leisure or business trip, or a trip to carry out remunerated work, of not less than one night outside their principal residence; and

“tourist accommodation establishment” means any establishment in which at least one accommodation unit, such as a bed, room, suite, apartment, house, cottage, ready-to-camp unit or campsite, is offered for rent to tourists, in return for payment, for a period not exceeding 31 days.

3. This Act is binding on the Government and its departments and bodies, except to the extent provided for by government regulation.

DIVISION II

REGISTRATION OF A TOURIST ACCOMMODATION ESTABLISHMENT

4. The operation of a tourist accommodation establishment is subject to the registration of that establishment with the Minister.

5. A tourist accommodation establishment must be registered by means of an application for registration accompanied by a declaration of its accommodation offering and of the related activities and other related services, containing the information and documents prescribed by government regulation.

The registration, including its renewal at the time of the annual update required under section 20, is made on payment of the fees determined by government regulation, which may vary in particular according to the number of accommodation units and the class of establishment determined by such a regulation.

The regulation may, subject to the terms and conditions it determines, exempt a class of tourist accommodation establishments or certain establishments of a given class or, as applicable, the person who operates such an establishment, from the application of this Act or the regulations or some of their provisions.

6. The registration of a tourist accommodation establishment, including its renewal, may be made by a body recognized by the Minister for that purpose, under an agreement that sets out the conditions the body must comply with and the responsibilities the body must assume.

7. No person may transfer the registration of a tourist accommodation establishment.

DIVISION III

REFUSAL, SUSPENSION OR CANCELLATION OF REGISTRATION

8. The Minister refuses to register a tourist accommodation establishment if the person who intends to operate it or operates it, as applicable, does not meet the conditions prescribed by this Act or the regulations.

9. The Minister may refuse to register a tourist accommodation establishment if the person who intends to operate it has, in the three years preceding the application for registration, been found guilty

(1) of an offence under this Act or the regulations; or

(2) of an offence under a provision of an Act or a regulation that, in the Minister's opinion, is related to the operation of a tourist accommodation establishment, in particular an offence under the Building Act (chapter B-1.1), the Act respecting the conservation and development of wildlife (chapter C-61.1), the Consumer Protection Act (chapter P-40.1) or the Environment Quality Act (chapter Q-2), or under any regulation made under any of those Acts.

The Minister may also refuse to register a tourist accommodation establishment if, in the last three years, the Minister cancelled the establishment's registration under the second paragraph of section 12 while the person referred to in the first paragraph was the establishment's operator.

10. The Minister suspends or cancels the registration of a tourist accommodation establishment if the person operating the establishment no longer meets the conditions prescribed by this Act or the regulations.

11. The Minister may suspend or cancel the registration of a tourist accommodation establishment if the person operating the establishment has been found guilty of an offence referred to in section 9.

The person is required to inform the Minister without delay of any offence referred to in section 9 of which the person has been found guilty.

12. At the request of a municipality, the Minister may, in the cases provided for by government regulation and in accordance with the second paragraph, suspend or cancel the registration of a tourist accommodation establishment.

If the request is well-founded, the Minister

(1) suspends the registration for a period of two months;

(2) suspends the registration for a period of six months if the establishment's registration has already been suspended under subparagraph 1; or

(3) cancels the registration if it has already been suspended under subparagraph 2.

For the purposes of the first paragraph, the cases determined by regulation must, in particular, take into account offences under any municipal by-law regarding nuisances, sanitation or safety.

13. The Minister must, before refusing to register a tourist accommodation establishment or suspending or cancelling a registration, notify in writing to the person who intends to operate the establishment or operates it, as applicable, the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and grant the person at least 10 days to submit observations.

14. The Minister's decision must include reasons and be notified in writing to the person concerned.

15. The suspension or cancellation of the registration of a tourist accommodation establishment has effect from the date of notification of the Minister's decision.

16. The Minister may delegate the exercise of the powers provided for in sections 8 and 10 to any person the Minister designates.

17. A decision refusing to register a tourist accommodation establishment or suspending or cancelling the registration of such an establishment may, within 30 days of its notification, be contested before the Administrative Tribunal of Québec.

DIVISION IV

UPDATING OF INFORMATION AND DOCUMENTS

18. A person who operates a tourist accommodation establishment must update the information and documents regarding the establishment as well as the information and documents relating to its accommodation offering and the related activities and other related services by filing an updating declaration with the Minister within 30 days following the date on which a change occurs.

19. Where an update concerns the type of accommodation units offered within the tourist accommodation establishment or the number of units for each type of unit, the person who operates the establishment must send to the Minister the information and documents prescribed by government regulation.

20. A person who operates a tourist accommodation establishment must also, once a year and during the period determined by government regulation, send an application for registration renewal accompanied by an updating declaration in which the person indicates that the information and documents regarding the establishment as well as the information and documents relating to its accommodation offering and the related activities and other related services are accurate or, if such is not the case, the changes that must be made.

This obligation begins the year following the year in which the tourist accommodation establishment is first registered.

21. A tourist accommodation establishment's registration number, name, address and class are public information that the Minister makes available on the Internet.

DIVISION V

MUNICIPAL BY-LAWS

22. No provision of a municipal by-law adopted under the Act respecting land use planning and development (chapter A-19.1) may operate to prohibit the operation of a tourist accommodation establishment in which accommodation in the principal residence of the natural person operating the establishment is offered, by means of a single reservation, to one person or one group of related persons at a time and not including any meals served on the premises.

The first paragraph does not apply to a provision of a zoning by-law or of a conditional use by-law introduced by a by-law amending the by-law concerned and made in accordance with the provisions of Division V of Chapter IV of Title I of the Act respecting land use planning and development, with the following modifications:

(1) any provision contained in the second draft by-law is deemed to have been the subject of a valid application from any zone from which such an application may originate under section 130 of that Act, and sections 131 to 133 of that Act do not apply; and

(2) for the purpose of determining if a referendum poll must be held regarding that by-law, the number of applications that must be reached under the first paragraph of section 553 of the Act respecting elections and referendums in municipalities (chapter E-2.2) is reduced by 50%, rounded up to the nearest whole number.

DIVISION VI

PILOT PROJECT

23. The Minister may, by order, develop and implement a pilot project relating to any area within the scope of this Act or the regulations with a view to studying, improving or defining standards applicable to those areas or to experiment or innovate in those areas.

The Minister determines the standards and obligations applicable under a pilot project, which may differ from the standards and obligations provided for by this Act or the regulations. The Minister also determines the monitoring and reporting mechanisms applicable under a pilot project, and the information that is necessary for the purposes of those mechanisms and that must be sent to the Minister by any person.

A pilot project is established for a period of up to three years, which the Minister may, if the Minister considers it necessary, extend by up to two years. The Minister may modify or terminate a pilot project at any time. The Minister may also determine the provisions of an order made under this section whose violation constitutes an offence and set the minimum and maximum amounts to which an offender is liable. That amount may not be less than \$200 or greater than \$3,000.

DIVISION VII

QUALITY ASSESSMENT OF ACCOMMODATION OFFERING

24. Any body recognized under section 6, any body recognized under section 7 of the Act respecting tourist accommodation establishments (chapter E-14.2) on (*insert the date preceding the date of coming into force of this section*) and any body or group of bodies recognized under section 6 or section 6.1 of the Act respecting the Ministère du Tourisme (chapter M-31.2) may, if it provides a service that assesses the quality of tourist accommodation establishments' accommodation offering and the related activities and other related services, apply to the Minister to be recognized in that regard.

The Minister grants such recognition if the Minister considers that the assessment services are, among other things, provided in an objective and thorough manner.

DIVISION VIII

PENAL PROVISIONS

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

26. Anyone who contravenes section 47 or a regulatory provision determined by government regulation commits an offence and is liable to a fine of \$1,000 to \$10,000 in the case of a natural person and \$2,000 to \$20,000 in all other cases.

27. Anyone who

(1) operates or purports to operate a tourist accommodation establishment without it being registered in accordance with this Act,

(2) makes a false declaration in a document prescribed by this Act and the regulations,

(3) produces a document required by this Act and the regulations that is false or inaccurate or that they ought to have known was inaccurate, or

(4) contravenes section 7,

commits an offence and is liable to a fine of \$2,500 to \$25,000 in the case of a natural person and \$5,000 to \$50,000 in all other cases.

28. Anyone who operates or purports to operate a tourist accommodation establishment whose registration has been refused, suspended or cancelled commits an offence and is liable to a fine of \$5,000 to \$50,000 in the case of a natural person and \$10,000 to \$100,000 in all other cases.

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

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

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

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

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

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

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

DIVISION IX

AMENDING PROVISIONS

TAX ADMINISTRATION ACT

35. Section 69.1 of the Tax Administration Act (chapter A-6.002) is amended by replacing subparagraph z.5 of the second paragraph by the following subparagraph:

“(z.5) the Minister of Tourism, in respect of information held for the purposes of the first paragraph of section 54 of the Tourist Accommodation Act (*insert the year and chapter number of this Act*), to the extent that the information is required for the purposes of that Act;”.

ACT RESPECTING MUNICIPAL TAXATION

36. Section 236 of the Act respecting municipal taxation (chapter F-2.1), amended by section 75 of chapter 7 of the statutes of 2021, is again amended by replacing “for which the operator is required to hold a classification

certificate issued under the Act respecting tourist accommodation establishments (chapter E-14.2) in respect of an establishment other than a principal residence establishment” in paragraph 13 by “that must be registered under the Tourist Accommodation Act (*insert the year and chapter number of this Act*) in a class other than that of principal residence establishments”.

37. Section 244.31 of the Act, amended by section 76 of chapter 7 of the statutes of 2021, is again amended by replacing “for which the operator is required to hold a classification certificate issued under the Act respecting tourist accommodation establishments (chapter E-14.2) in respect of an establishment other than an outfitting or principal residence establishment” in the first paragraph by “that must be registered under the Tourist Accommodation Act (*insert the year and chapter number of this Act*) as a youth tourist accommodation establishment or as a general tourist accommodation establishment and, in the latter case, that is not an establishment operated in an outfitting operation to which the Act respecting the conservation and development of wildlife (chapter C-61.1) or the Act respecting hunting and fishing rights in the James Bay and New Québec territories (chapter D-13.1) applies,”.

38. Section 244.34 of the Act is amended by replacing “In the case of an immovable whose operator is required to hold a classification certificate issued under the Act respecting tourist accommodation establishments (chapter E-14.2)” in the fourth paragraph by “In the case of an immovable that must be registered under the Tourist Accommodation Act (*insert the year and chapter number of this Act*)”.

ACT RESPECTING ADMINISTRATIVE JUSTICE

39. Schedule IV to the Act respecting administrative justice (chapter J-3) is amended

(1) by replacing paragraph 9 by the following paragraph:

“(9) section 17 of the Tourist Accommodation Act (*insert the year and chapter number of this Act*);”;

(2) by inserting the following paragraph after paragraph 13:

“(13.0.1) section 5.2 of the Act respecting the Ministère du Tourisme (chapter M-31.2);”.

ACT RESPECTING THE MINISTÈRE DU TOURISME

40. The Act respecting the Ministère du Tourisme (chapter M-31.2) is amended by inserting the following sections after section 5:

5.1. Only a government department, a government agency referred to in the first paragraph of section 4 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1),

a municipal body referred to in section 5 of that Act and a non-profit body, holders of an accreditation from the Minister with regard to the tourist information services that they provide, may use a sign or poster containing the words “tourist information” or any other word determined by regulation, indicating or implying the presence of a tourist information and welcome site and, if applicable, include the pictogram “?” or “I”.

The Minister establishes the applicable terms for obtaining an accreditation.

“5.2. The Minister may suspend or cancel an accreditation granted in accordance with section 5.1 if the holder, with regard to the tourist information services that the holder provides, no longer meets the applicable conditions. Sections 13 to 15 and 17 of the Tourist Accommodation Act (*insert the year and chapter number of this Act*) apply to the decision, with the necessary modifications.

“5.3. Anyone who contravenes section 5.1 commits an offence and is liable to a fine of \$2,500 to \$25,000 in the case of a natural person and \$5,000 to \$50,000 in all other cases.”

ACT RESPECTING THE SECTORAL PARAMETERS OF CERTAIN FISCAL MEASURES

41. Section 12.7 of Schedule A to the Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1) is amended by replacing subparagraph 2 of the third paragraph by the following subparagraph:

“(2) a tourist accommodation establishment means such an establishment duly registered under the Tourist Accommodation Act (*insert the year and chapter number of this Act*);”.

ACT RESPECTING LIQUOR PERMITS

42. Section 39 of the Act respecting liquor permits (chapter P-9.1) is amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) hold, where such is the case, proof of the establishment’s registration under the Tourist Accommodation Act (*insert the year and chapter number of this Act*) and a certificate issued by the clerk or the secretary-treasurer of the municipality in whose territory the establishment is situated attesting that the establishment complies with the municipal planning by-laws;”.

43. Section 76 of the Act is amended by replacing “for which the holder is permitted under the Act respecting tourist accommodation establishments (chapter E-14.2) and the regulations to use the appellation “hotel”, “motel” or “inn”” in the first paragraph by “registered under the Tourist Accommodation Act (*insert the year and chapter number of this Act*) as a general tourist accommodation establishment”.

DIVISION X

TRANSITIONAL AND FINAL PROVISIONS

44. Unless the context indicates otherwise, a reference to the Act respecting tourist accommodation establishments (chapter E-14.2) is replaced by a reference to the Tourist Accommodation Act (*insert the year and chapter number of this Act*) in the following provisions:

- (1) section 3 of the Travel Agents Act (chapter A-10);
- (2) sections 8, 9 and 37 of the Act respecting assistance for tourist development (chapter A-13.1);
- (3) sections 7 and 12 of the Cannabis Regulation Act (chapter C-5.3);
- (4) section 13 of the Act respecting hours and days of admission to commercial establishments (chapter H-2.1); and
- (5) section 2 of the Tobacco Control Act (chapter L-6.2).

45. A tourist accommodation establishment, for which a classification certificate issued under the Act respecting tourist accommodation establishments is in force on the date of coming into force of this section, is deemed to be registered in accordance with this Act until the expiry of the period covered by the classification fees, approved by the Minister under section 7 of the Act respecting tourist accommodation establishments, that were paid for that establishment.

46. A tourist accommodation establishment, for which a classification certificate issued under the Act respecting tourist accommodation establishments is suspended on the date of coming into force of this section, is deemed to be registered in accordance with this Act. However, that registration is suspended until the end of the suspension period and in accordance with the conditions set out in respect of the classification certificate, with the necessary modifications.

47. The holder of a tourist accommodation establishment classification certificate referred to in the first paragraph of section 12 of the Regulation respecting tourist accommodation establishments (chapter E-14.2, r. 1) must cease to display the sign not later than one year following the date of the coming into force of section 45.

The holder must also, within the same time limit, remove any reproduction of that sign on any advertising used to promote their establishment, and on any website, whether transactional or non-transactional, used in connection with the operation of their establishment.

48. The Minister may, for the purposes of section 11 for a tourist accommodation establishment referred to in section 45, take into account findings of guilty for offences under the Act respecting tourist accommodation

establishments or its regulation pronounced, since the coming into force of that section 11, against the person who operates the establishment.

49. For the purposes of section 9, the Minister may take into account findings of guilty for offences under the Act respecting tourist accommodation establishments or its regulation pronounced, in the three-year period preceding the application for registration, against the person who intends to operate a tourist accommodation establishment.

50. Any contestation before the Administrative Tribunal of Québec of a decision referred to in section 15 or section 32.1 of the Act respecting tourist accommodation establishments, in progress on the date preceding the date of coming into force of this section, continues before that Tribunal as though it were a contestation of a decision referred to, respectively, in section 17 of this Act or in section 5.2 of the Act respecting the Ministère du Tourisme (chapter M-31.2), with the necessary modifications.

51. With respect to a provision of a zoning by-law or conditional use by-law in force on 25 March 2021, the first paragraph of section 22 applies only from 25 March 2023.

Before 25 March 2023, a municipality may, in accordance with the second paragraph of section 22, readopt a provision referred to in the first paragraph without amendment.

For the purposes of this section, a provision referred to in the first paragraph, readopted without amendment in accordance with the second paragraph of section 21.1 of the Act respecting tourist accommodation establishments, is deemed to be readopted in accordance with the second paragraph of section 22 of this Act.

52. This Act replaces the Act respecting tourist accommodation establishments (chapter E-14.2).

53. Subject to section 54, the Minister of Tourism is responsible for the administration of this Act.

54. The Minister of Revenue is responsible for inspections and investigations relating to the enforcement of this Act, for the regulations and orders made under this Act and for the administration of Division VIII; for those purposes, this Act is deemed to be a fiscal law for the purposes of the Tax Administration Act (chapter A-6.002).

The Minister of Municipal Affairs, Regions and Land Occupancy is responsible for the administration of section 22.

55. The provisions of this Act come into force on the date or dates to be set by the Government.

