

**THE ODISHA TOURISM (DEVELOPMENT, FACILITATION AND REGULATION) BILL, 2021**

A

Bill

To provide for the development and facilitation of tourism in the state and to regulate the conduct of persons dealing with tourists in matters connected therewith and incidental thereto.

Be it enacted by the Legislature of the State of Odisha in the Seventy-second Year of the Republic of India, as follows :-

Short title, extent and commencement.

1. (1) This Act may be called the Odisha Tourism (Development, Facilitation and Regulation) Act, 2021.

(2) It shall extend to whole of the State of Odisha.

(3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

Definitions.

2. In this Act, unless the context otherwise requires, --

(a) "Appellate Authority" means any officer not below the rank of Additional Secretary to the Government as the State Government may, by notification, appoint for the purposes of this Act;

(b) "certificate of registration" means a certificate issued under sub-section (2) of section 3;

(c) "guide" means who is authorized under a licence issued under this Act to guide tourists;

(d) "Local Authority" means a Municipality constituted under article 243Q of the Constitution of India, a Panchayat constituted under article 243B of the Constitution of India and includes a Development Authority constituted under Odisha Development Authority Act 1982 and Town Planning Authority constituted under the Odisha Town Planning and Improvement Trust Act 1956 or any other authority declared as such by the State Government;

(e) "malpractices" means --

(i) touting including pestering any tourist or group of tourists for availing facilities of shopping, accommodation, transportation, sightseeing or even goading to the extent of harassing tourist to visit any particular premises or establishment connected with tourism where tourists would like to stay or purchase something,

**Explanation.--** any registered or bona fide service provider already engaged by any tourist or whose services were hired or resorted by the tourist voluntarily, when receives or contacts any tourist at any place where tourist visits such person while so receiving or contacting

shall not be treated as a tout within the meaning of this clause.

- (ii) failure to display prices or tariff,
- (iii) charging a price or tariff higher than that displayed,
- (iv) charging remuneration higher than that fixed,
- (v) failure to give cash memo or credit memo,
- (vi) failure to execute an order according to terms agreed within reasonable time after the expiry of the period for performance of the obligation,
- (vii) the receiving and paying of any monetary gratification or commission for touting, coercing or forcing the tourist,
- (viii) misleading use of terms in branding the service or facility, such as homestay, hotel, motel, houseboat, museum, etc. even when requisite characteristics of such places are missing; or showing of incorrect star rating of a hotel or displaying names or abbreviations and logos similar to those which are in existence since long and reputed as such with the intention to attract the tourists or people at large by colourable imitation of established and reputed name of bona fide service providers or public bodies,
- (ix) any uncalled-for loitering outside any tourist place and hotel with intent to follow any tourist without his wishes;

**Explanation.--** for the purposes of this clause,-

- (i) delay or fault in service owing to mechanical or natural failure of any system or apparatus despite due care and caution would not amount to malpractice,
  - (ii) inability of any service provider to perform its commitments owing to force majeure or State action will not be treated as a malpractice.
- (f) "prescribed authority" means the authority notified as such by the State Government;
- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "service provider" means a person who provides services to a tourist and shall include--
- (i) hotels, apartment hotels, resorts, motels, camping facilities and tented accommodations, homestays and timeshare units,
  - (ii) convention centres,
  - (iii) restaurants, bars, cafeterias and dhabas operating in tourist areas,
  - (iv) cruise ships, cruise boats, houseboats and tourist boats,
  - (v) golf courses, arts and crafts villages, museums, aquaria, amusement parks, water parks and theme parks,
  - (vi) watersports and outdoor adventure facilities,
  - (vii) ropeways,
  - (viii) travel agents and tour operators
  - (ix) tourist transport services including chauffeured and self-driven,

- (x) souvenir and handicraft shops or emporia, or
- (xi) similar service providers who are providing services to the tourists whether registered as such or not;

(i) "State Act" means the law passed by the Legislature of the State of Odisha

(j) "tourist" means a person or group of persons visiting a tourist area within the State outside his usual place of residence for more than twenty-four hours, but not more than one year for business, leisure, recreation, adventure, sports or pilgrimage, and availing facilities and services catering to tourism provided by service providers;

**Explanation** - For the purposes of this clause, the following are not to be regarded as tourists namely:-

- (i) persons coming to take up occupation or activities which are remunerated within the State,
- (ii) person coming to establish residence in the State,
- (iii) persons visiting their hometown or native place or short visit for meeting relatives and friends, attending official work, social and religious functions etc. and stay in their own homes or with the relatives and friends and not using any sightseeing facilities, and
- (iv) foreigner resident in the State having taken up job or occupation in the State.

(k) "tourist area" means any area so notified by the State Government to be a tourist area for the purposes of this Act; and

(l) "tourist police" as referred to in section 11.

**Registration of service providers.**

**3.** (1) Any person intending to operate as a service provider in the State, before operating as such, shall apply to the prescribed authority for registration in such manner and in such form and accompanied with such particulars and fee as may be prescribed:

Provided that any service provider already operating as such before the date of commencement of this Act shall apply to the prescribed authority within ninety days from the date of such commencement.

(2) Every application presented under sub-section (1) shall be disposed of by the prescribed authority within ninety days from the date of receipt thereof.

(3) The prescribed authority shall, unless the application is rejected, record particulars of the concerned service providers in the prescribed register of service providers which are registered as such and the register shall contain such particulars and shall be maintained in such form, as may be prescribed.

(4) Whenever the application of a service provider is allowed and registered under sub-section (3), the prescribed authority shall issue a certificate of registration, in such form as may be prescribed.

(5) Where any application is rejected under section 3, the prescribed authority shall record reasons thereof and communicate the same, in writing, to the applicant: Provided that no application for registration shall be rejected unless a reasonable opportunity of being heard is allowed.

(6) Every service provider who is registered under this Act shall abide by the terms and conditions as may be prescribed and specified in the certificate of registration.

(7) When any service provider fails to comply with any of the terms and conditions stipulated in the certificate of registration, such service provider shall be liable for imposition of penalty which may extend to Twenty Five Thousand Rupees with such conditions and exception as may be prescribed, and certificate of registration shall be cancelled and his name shall be struck off from the register:

Provided that before imposing penalty and cancelling the registration, the prescribed authority shall serve a notice upon him calling him to show cause as to why the purported action should not be taken against him and afford him a reasonable opportunity of being heard.

(8) Where the non-adherence to norms and standards is found to be minimal, the prescribed authority may, instead of proceeding against the service provider under sub-section (7), censure the service provider and ask him to be careful in future.

(9) The register containing names and particulars of service providers shall constantly be maintained, updated and shall be available on the website of the State Government for information of tourists and people in general and may also be published in the periodicals, as the State Government may consider appropriate.

**Issue of duplicate registration certificate.**

**4.** If a certificate of registration granted under this Act is lost, damaged, destroyed or mutilated, the prescribed authority shall on application and on payment of the prescribed fee, issue a duplicate registration certificate in favour of the service provider.

**Appeal.**

**5.** Any person aggrieved by order passed by the prescribed authority under section (3) may prefer an appeal in such form and within such period as may be prescribed to the appellate authority.

**Licensing of guides.**

**6. (1)** The prescribed authority shall issue licences in the manner as may be prescribed to such number of Guides as the State Government may determine, from time to time.

**(2)** Notwithstanding anything contained in any State Act, for the time being in force, the Guides having license shall be allowed free entry into all monuments and places of tourist interest situated within the State.

Provided that necessary permission shall have to be obtained by the Guides in respect to the monuments and places which are under the control of the following, namely: -

- (i) Archaeological Survey of India; or
- (ii) any private trust; or
- (iii) any other agency, which is not controlled by the State Government.

(3) Every guide who has obtained a licence under this Act shall abide by the terms and conditions as may be prescribed and specified in the licence.

(4) Any person who acts as a guide, without obtaining licence from the prescribed authority, shall be liable to be punished with a fine not exceeding one thousand rupees upon the matter being reported to the prescribed authority by any authorized officer of the State Government and the prescribed authority shall hold enquiry and afford opportunity of hearing to such person before passing order of fine.

(5) Any person who is found to be acting as a guide at any tourist area, without obtaining a licence from the prescribed authority, even after being punished under sub-section (4), shall, on conviction, be punished with imprisonment for a term which may extend to fifteen days or with a fine which may extend to two thousand rupees or with both.

**Regulation of certain tourism related activities.**

**7.** The State Government shall make rules to regulate tourism related activities like amusement parks, facilities at ropeways at the sites of embarkation and disembarkation, elephant or camel or horse safari, tourist villages, resorts, rural tourism, handicrafts, and other facilities like restaurants, cafeterias in the tourist area, for the purpose of regulating such services with the object of providing quality facilities and services to the tourists and to the local populace as also to ensure safety and good health of people using such services and for that purpose such regulations may include norms, standards, criteria and terms and conditions for setting up, running and continuing such services or activities:

Provided that if the rules made under this section relates to any matter with respect to which there is a provision in any other law, rule, regulations or bye- laws of the local authority in relation to public health, sanitation, licensing or with regard to safety, such regulation shall be subject to such law, rule, regulation or bye-laws.

**Prohibition of certain activities in tourist areas.**

**8.** (1) No person shall engage in the practice of touting, begging and hawking articles for sale in and around any tourist areas.

(2) Whoever commits an offence of touting under sub-section (1) shall on conviction be punished with imprisonment which may extend to three months or with a fine which may extend to three thousand rupees or with both.

(3) Whoever commits a subsequent offence of touting even after having been punished more than once as mentioned under sub-section (2) shall on conviction be punished with imprisonment which may extend to three years or with fine which may extend to Rupees Thirty Thousand or with both.

(4) Whoever, habitually engages in the practice of touting even after having been punished more than once under sub-section (2) and sub-section (3) shall on conviction be punished with imprisonment which may extend to seven years or with fine which may extend to one lakh rupees or with both.

(5) Whoever practices begging or engages himself in hawking articles for sale at any tourist area, shall upon first contravention of prohibition made under sub-section (1), be dispersed by any officer authorized by the State Government and such person shall be removed from that area.

(6) Whenever it appears to the officer authorized under sub-section (5) that any beggar or hawker or a body of such persons whose activities are prohibited under sub-section (1), have entered in the tourist area, such officers shall direct the persons contravening the prohibition to leave the area.

(7) Whoever commits further violation of the prohibition imposed on begging or hawking articles for sale in any tourist area under sub-section (1), even after having committed violations under sub-sections (6), shall be liable to be punished with a fine not exceeding five hundred rupees.

(8) Whoever commits any subsequent violation of the prohibition imposed on begging or hawking articles for sale in any tourist area under sub-section (1), even after having been punished under sub-section (7), shall, on conviction, be punished with imprisonment which may extend to three months or with a fine which may extend to three thousand rupees or with both.

**Duties of local authorities towards public health and sanitation etc.**

**9.** (1) Notwithstanding anything contained in any State Act, for the time being in force, the local authorities under whose local areas, the tourist areas are situated, shall have the duty to ensure cleanliness and check defacement and defiling of the properties in their respective local areas as also to effectively enforce the laws prohibiting littering on streets and public places and to maintain general cleanliness at all roads, streets and public places and ensure cleaning of roads, drains, and man holes and maintenance of street lights and prevention of encroachments in and around tourist areas.

(2) The State Government shall oversee the compliance of provisions contained in sub-section (1) and may issue directions to the concerned local authorities for strict compliance of their statutory duty and in cases of persistent

non-compliance and default, initiate action against erring local authorities in accordance with the laws governing such local authorities.

**Statistical Information.**

**10.** (1) Every service provider shall be duty bound to furnish such statistical information or statistical data, at such intervals, in such form and to such authority as may be prescribed.

(2) If any person, who is required to furnish the statistical information under sub-section (1), fails to furnish such statistical information within the period as may be prescribed, he shall, upon first non-compliance, be liable to be punished with a penalty which may extend to one thousand rupees and upon second or subsequent non-compliance, be liable to be punished by the said authority with a penalty which may extend to two thousand rupees.

(3) Where any non-compliance of the provisions of sub-section (1) is reported to the prescribed authority by any officer of the State Government, the prescribed authority shall, before imposing penalty under sub-section (2), call upon the defaulting person to show cause as to why a penalty as provided under the said sub-section should not be imposed and after showing cause by the defaulting person, where the prescribed authority is satisfied that the delay in furnishing the statistical information was not deliberate and the said person was prevented by cause beyond his control, he may condone the delay and in case he is not satisfied with the reasons put forth by the defaulting person, he may, by order, impose the said penalty assigning reasons therefore in the order.

(4) Where any person who is bound to furnish statistical information under sub-section (1), continues to contravene the provisions of the said sub-section even after the imposition of penalties under sub section (2) he shall be liable for imposition of penalty which may extend to Rupees Ten Thousand.

**Tourist Police.**

**11.** (1) The Tourist Police shall consist of such specially trained police personnel drawn from Odisha State Police or other suitable trained personnel as the State Government may determine and specify.

(2) The Tourist Police shall-

(a) keep watch on activities of touts, beggars, hawkers, anti-socials drug peddlers and bootleggers;

(b) patrol the tourist areas and timely inform the concerned police station having jurisdiction for initiating appropriate action against illegal activities of such persons in accordance with law to enforce the provisions of this Act;

- (c) discharge such other duties as shall discharge such functions as are assigned to it under this Act and such other functions as the State Government may assign to them, in accordance with laws for the time being in force, in the State.

**Database development and dissemination of information on Tourism.**

**12.** (1) The State Government shall establish a comprehensive tourism database for the tourism sector in the state.

(2) The State Government shall, in respect of the data and information holds, progressively make the data and information available and accessible, through any means, to the public.

(3) The State Government shall, to facilitate the tourist and to promote tourism sector, encourage setting up of various systems and facilities like tourist information desks, centres etc. for dissemination of information on tourism.

**Punishment for false display of registration.**

**13.**(1) Any service provider, who is not registered under this Act, falsely displays or purports to show colourable imitation thereof with the object that he is registered under this Act as a service provider for specific services, the prescribed authority shall have power to impose a penalty not exceeding ten thousand rupees for the first such offence and not exceeding one lakh rupees for the second or subsequent offence:

Provided that before passing the order of penalty, the prescribed authority shall afford reasonable opportunity of being heard.

(2) An appeal against the order of the prescribed authority passed under sub-section (1) may be preferred by any aggrieved person within thirty days from the date of such order, before the appellate authority and the order of the appellate authority shall, subject to revision by the State Government in the manner as may be prescribed, be final.

(3) Where any service provider, even after imposition of penalty under sub- section (1), continues to display or show that he is registered as such by the State Government, he shall, on conviction, be punished with simple imprisonment for a term which may extend to three months or with fine which may extend to rupees twenty five thousand or with both.

**Punishment for Malpractice**

**14.** Whoever commits any malpractices in a tourist area shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to rupees twenty five thousand or with both.

**Protection of action taken in good faith.**

**15.** No suit, prosecution or other legal proceeding whatsoever shall lie against the State Government, any officer or any person in respect of anything which is in good faith done or intended to be done under this Act or the rules, made there under.



**Cognizance of offences by courts.**

**16.** No court shall take cognizance of any offence punishable under this Act except on the complaint made by or under the authority of the State Government or the prescribed authority.

**Offences by companies.**

**17.** (1) Where any contravention of any of the provisions of this Act is made by a company, every person who, at the time when the contravention was made, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.--** For the purposes of this section,-

(a) "company" means, anybody corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

**Compounding of offences.**

**18.** (1) Any offence punishable under this Act may, either before or after the institution of the prosecution, be compounded by the prescribed authority or such other officer as may be specially authorized by the State Government, on payment for credit to the Government of such sum as the prescribed authority or such other officer may specify:

Provided that such sum shall not, in any case, exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded.

(2) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded, and the offender, if in custody, shall be discharged forthwith.

**Formulation of Policy and Scheme for development of tourism**

**19.** The State Government may from time to time formulate policies and schemes for development and facilitation of tourism.

**Delegation of powers.**

**20.** (1) The State Government may, by notification, direct that any

power exercisable by that Government except the power to make rules under this Act shall be exercisable by an officer of the Government, subject to such terms as may be specified in such notification.

**Recovery of dues.**

**21.** The amount of penalty imposed under the provisions of this Act, if not paid by the persons liable to pay within sixty days from the date of final order imposing penalty, shall be recoverable as arrears of land revenue under the Odisha Public Demand Recovery Act, 1962.

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1963

**Act to override other laws.**

**22.** Except as otherwise provided under this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State Act for the time being in force or any custom or usage or instrument having effect by virtue of any such Act.

**Power to make rules.**

**23.** The State Government may, by notification published in the Official Gazette, make rules for carrying out the purposes of this Act.

**Power to remove difficulties.**

**24.** (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provision, not in consistent with the provisions of this Act, which appears to it to be necessary or expedient for removing the difficulty:

Provided that no order under this section shall be made after expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is so made, before the House of the State Legislature.

**Principal Secretary to the Government  
Tourism Department**