



## **PLEASE NOTE**

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This document is *not* the official version of these regulations. The regulations and the amendments printed in the [Royal Gazette](#) should be consulted to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the [Table of Regulations](#).

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## CHAPTER T-3.2

### TOURISM MARKET DEVELOPMENT ACT

#### TOURISM MARKETING COUNCIL REGULATIONS

Pursuant to section 18 of the *Tourism Market Development Act* R.S.P.E.I. 1991, Cap. T-3.2, and after consultation with the Tourism Advisory Board, Council made the following regulations:

- 1. In these regulations**
- |   | Definitions          |
|---|----------------------|
| (a) “accommodation” means an inn as defined in the <i>Innkeepers Act</i> R.S.P.E.I. 1988, Cap. I-2;   | accommodation        |
| (b) “prepared meals” does not include prepared meals served in cafeterias at government, hospital or educational institutions;  | prepared meals       |
| (c) “entertainments” includes any activities, events or services for which an admission charge applies pursuant to the <i>Revenue Tax Act</i> R.S.P.E.I. 1988, Cap. R-14 and regulations and includes harness racing;   | entertainments       |
| (d) “lounges” means any licensed premises as defined in the regulations made pursuant to the <i>Liquor Control Act</i> R.S.P.E.I. 1988, Cap. L-14 but does not include clubs as defined in the Act which operate as non-profit organizations such as service clubs; | lounges              |
| (e) “camping facilities” means any serviced or unserviced sites for the purposes of parking or erecting tents, travel trailers, motor homes and vans for a period of less than four months;   | camping facilities   |
| (f) “car rentals” means land transportation vehicles including cars, vans and buses offered for rent for a period of one month or less;   | car rentals          |
| (g) “other tourism item” means any good or service offered for the use of tourists by a business operating between June 1 and September 30 of each year;  | other tourism item   |
| (g.1) “utility” means public utility as defined in the <i>Electric Power and Telephone Act</i> , R.S.P.E.I. 1988, Cap. E-4, except insofar as the definition includes any city or town;   | utility              |
| (h) “voter” means the natural person designated by a tourism operator pursuant to subsections 4(4) and (5) of these regulations;  | voter                |
| (i) “wholesale motor fuel” means gasoline, diesel fuel or propane of the type primarily used for operating internal combustion engines  | wholesale motor fuel |

and sold by wholesalers licensed under the Petroleum Products Act, R.S.P.E.I. 1988, Cap. P-5.1. (EC490/91; 435/93)

Designated tourism products	<b>2.</b> Accommodation, prepared meals, entertainments, lounges, camping facilities, car rentals, wholesale motor fuel, utilities and other tourism items are designated tourism products. (EC490/91; 435/93)
Registration of tourism operators	<b>3.</b> Tourism operators engaged in offering designated tourism products to the public between June 1 and September 30 of each year shall be regulated by the Council and required to register with the Council. (EC490/91; 435/93)
Register	<b>4.</b> (1) The Council shall maintain a continuous up-to-date register of tourism operators who are in good standing which shall be available for inspection by tourism operators and voters without charge during normal business hours of the Council
Rights	(2) Rights and privileges, including the right to vote, are vested in the tourism operator subject to subsections (3), (4) and (5).
Voting	(3) Each registered tourism operator shall have one vote in elections or at meetings called by Council respecting tourism industry matters.
Requirements	(4) In order to exercise the rights conferred by subsection (2) the proprietors of the tourism operator must <ul style="list-style-type: none"> <li>(a) show to the satisfaction of the Council that the tourism operation is established as a business entity in accordance with the laws of the province;</li> <li>(b) designate in writing to the Council the natural person who will exercise the voting rights on behalf of the tourism operator and provide a copy of the signature of the person;</li> <li>(c) designate in writing to the Council the county in which the tourism operator is situated.</li> </ul>
Qualifications of voter	(5) The natural person designated by a tourism operator must <ul style="list-style-type: none"> <li>(a) be 18 years of age; and</li> <li>(b) not be designated to exercise voting rights on behalf of more than one tourism operator.</li> </ul>
Business, eligibility	(6) In determining a business entity pursuant to clause (4)(a), the Council may consider businesses registered under the <i>Partnership Act</i> R.S.P.E.I. 1988, Cap. P-1, the <i>Companies Act</i> R.S.P.E.I. 1988, Cap. C-14, the <i>Revenue Tax Act</i> and other laws related to commercial activity.
Removal from register	(7) The Council may remove from the register any tourism operator which <ul style="list-style-type: none"> <li>(a) is no longer existing as an active tourism operator;</li> </ul>

- (b) is in arrears in the payment of levy;
- (c) is deemed no longer eligible for registration.

(8) The Council in removing a tourism operator from the register shall give thirty days notice in writing stating the grounds therefor, mailed to the latest known address of the operator. Notice

(9) A tourism operator may appeal the removal of its name from the register to the Tribunal. (EC490/91) Appeal

**5.** The board of directors of the Council consists of ten members each of whom must be a voter and Board

- (a) three members of the Council shall be elected from voters from registered tourism operators in Prince County;
- (b) four members of the Council shall be elected from voters from registered tourism operators in Queen's County;
- (c) three members of the Council shall be elected from voters from registered tourism operators in King's County. (EC490/91)

**6.** (1) Subject to subsection (2), Council members shall serve three year terms. Term

(2) Council members will be elected on a three-year staggered basis with the terms of four members expiring in one year, the term of three members expiring in the second year and the term of three members expiring in the third year. (EC490/91) *Idem*

**7.** To be eligible for election or appointment to the Council, a natural person must be a voter designated by a tourism operator registered in the county for which an election is being held. (EC490/91) Eligibility

**8.** (1) The members of the Council shall be elected by the voters by mailed ballot. Election

(2) The Council shall appoint a returning officer who shall cause to be published in at least two daily or weekly newspapers a notice of the holding of election which notice shall be published not later than September 30 and shall advise where nomination forms may be obtained. Returning officer

(3) The returning officer shall not vote in any election except in the event of a tie. Tied vote

(4) Nominations shall be received by the returning officer or postmarked not later than October 31 in each year. Nominations

(5) Every nomination shall be in writing and shall be on a form prescribed by the Council and shall be signed by at least five registered Form

tourism operators or voters in the county for which the election is to be held.

Notice of acceptance

(6) Acceptance of a nomination by the nominee shall be evidenced by a notice in writing from the nominee to the returning officer and such notice shall accompany the nomination.

Nominees declared elected

(7) If the number of nominations received from a county is less than that required to fill the Council positions in the county, the returning officer shall declare elected the voters so nominated.

Appointments

(8) The Council shall make an appointment to fill any uncontested position to be in effect until the term of office for that position expires.

*Idem*

(9) In the event Council is required to make an appointment to fill an uncontested Council position, it will undertake within a period of two months following completion of the election to appoint a voter designated by a tourism operator registered in the county.

*Idem*

(10) Should the Council be unable to appoint a voter as outlined in subsection (9), the Council may appoint a voter designated by a tourism operator registered in another county.

Nominees declared elected

(11) If the number of nominations received equals the number of Council positions being contested in a county, the voters so nominated shall be declared elected for the ensuing term by the returning officer.

Election by marked ballot

(12) If the number of nominations received exceeds the number of Council positions being contested in a county, the returning officer shall conduct an election for such county by mailed ballot.

Eligibility to vote

(13) For the purpose of conducting an election, voters who were designated by registered tourism operators by or on September 30 in each year shall be eligible to nominate and run for Council office, as well as vote in the election. (EC490/91)

Voting

**9.** (1) A voter is entitled to vote for the number of candidates equal to the number of Council positions being contested in a county.

*Idem*

(2) No voter shall cast more than one ballot in an election.

Ballot

(3) The returning officer shall cause to be mailed to each voter in the county for which an election is being held, a ballot which shall bear the name of each candidate nominated to represent such county.

Notice

(4) The voter shall be deemed to have received a ballot under subsection (3) which is addressed to him at the address appearing on the register of tourism operators two days after the mailing thereof by the

returning officer. Failure of any voter to receive such ballot shall not invalidate any election.

(5) Each ballot shall have a counterfoil attached thereto which the voter shall sign when casting the ballot. Counterfoil

(6) All ballots shall be returned by mail or personally delivered with the counterfoil attached, to the returning officer and shall be postmarked or delivered not later than the last day of November in each year. Return of ballots

(7) Each candidate in an election is entitled to appoint one scrutineer to represent him at the opening and counting of ballots. Scrutineers

(8) The returning officer may appoint such persons as he considers necessary to witness the counting of ballots. Witnesses

(9) The Council may appoint an additional witness to represent the Council. *Idem*

(10) The failure of a scrutineer or witness to witness the counting of ballots shall not invalidate the election. Validity

(11) The returning officer shall compare the voter's signature on the counterfoil of the ballot with the signature appearing in the register. *Idem*

(12) Only those ballots of which the counterfoil signature has been validated by the returning officer shall be counted. *Idem*

(13) All ballots shall have the counterfoil removed before being counted. Removal of counterfoil

(14) Ballots shall be opened and counted by the returning officer not later than December 10 of each year, in the presence of the scrutineers and witnesses, and a complete report of the results, bearing the signature of those present, shall be filed with the Council. Counting

(15) The candidate or candidates receiving the greatest number of votes shall be declared elected by the returning officer. Declaration

(16) In the event of two or more candidates for election receiving an equal number of votes, the returning officer shall determine the successful candidate, if necessary. Casting vote

(17) The returning officer shall formally declare elected successful candidates in each county no later than December 14 of each year. (EC490/91) Date of declaration

**10.** (1) Each member of the Council shall assume office at the first meeting of the board of directors of the Council following the annual Assumption of office

meeting of the Council, but in any event not later than April 30 in each year.

Officers	(2) The board of directors of the Council at its first meeting following the annual meeting of tourism operators shall elect from its members a chairman, vice-chairman, secretary, treasurer and such other officers as it may determine. (EC490/91)
Vacancy	<b>11.</b> If an elected member becomes unwilling or unable to act or if a vacancy occurs on the Council for any other reason, the Council may appoint a voter designated by a tourism operator registered in the county to fill the unexpired term of office of the member being replaced. (EC490/91)
Failure to attend without just cause	<b>12.</b> The Council shall declare vacant the office of any member of the Council who has failed to attend three consecutive meetings of the Council or six Council meetings in a fiscal year except if the member can show just cause. (EC490/91)
Convictions	<b>13.</b> The Council may declare vacant the office of any member of the Council who has been convicted of any offence under the Act or any indictable offence under the <i>Criminal Code</i> . (EC490/91)
Cessation of business	<b>14.</b> The Council may declare vacant the office of any member of the Council whose tourism operator discontinues being a registered tourism operator during his term. (EC490/91)
Cessation of designation	<b>15.</b> The Council shall declare vacant the office of member of the Council who discontinues being a voter designated by a tourism operator except if the member can show just cause. (EC490/91)