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TOURISM TRANSFORMATION: ADDRESSING LEGAL GAPS IN MALAYSIA'S TOURISM INDUSTRY ACT 1992

Marina Abu Bakar^{1*}, Sukriah Ismail², Muhammad Hafiz Azizan³

¹ Academy of Contemporary Islamic Studies, Universiti Teknologi MARA Perlis, Malaysia
Email: marinaab@uitm.edu.my

² Kulliyah of Shariah and Law, Universiti Islam Antarabangsa Sultan Abdul Halim Mu'adzam Shah, Malaysia
Email: sukriahismail@unishams.edu.my

³ Kulliyah of Islamic Finance, Management Sciences and Hospitality, Universiti Islam Antarabangsa Sultan Abdul Halim Mu'adzam Shah, Malaysia
Email: muhammad@unishams.edu.my

* Corresponding Author

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Abstract:

The tourism industry is an important economic sector in Malaysia, contributing to economic development, job creation, and cultural promotion. The Tourism Industry Act 1992 (Act 482) plays a significant role in regulating and promoting the development of the tourism industry in Malaysia. However, since its enactment, there have been several weaknesses in this law that require attention and improvement. This study aims to analyse the legal interpretations within the Tourism Industry Act 1992 (Act 482), identify existing weaknesses, and propose practical solutions within the context of Malaysia. This study adopts a qualitative research design. The data for the study involves sources such as legal documents, industry reports, and existing tourism regulations in Malaysia. The analysis results show several key weaknesses in the act, including bureaucracy in the licensing process, non-comprehensive definitions, and disproportionate penalties. To address these weaknesses, this study proposes several solutions, such as improving the licensing process, updating legal definitions, and introducing better review and appeal mechanisms. This study emphasizes the importance of learning from best practices in developed countries to enhance the effectiveness and fairness in the implementation of tourism laws. With the proposed improvements, it is hoped that Malaysia's tourism industry can continue to grow sustainably and competitively.

Keywords:

Tourism Industry, Malaysia, Tourism Industry Act 1992 (Act 482)

Introduction

The tourism industry in Malaysia has played a significant role in the country's economic development, contributing substantially to its gross domestic product and employment opportunities (Karimi, 2018). The industry has received strong support from the government, with the establishment of the Ministry of Tourism (formerly the Ministry of Culture, Arts, and Tourism) to coordinate and direct tourism development initiatives in line with the National Tourism Master Plan (Mazumder et al., 2009). Malaysia's tourism industry has flourished, with the country being ranked among the top 10 tourism destinations globally (Sin & Jusoh, 2019). The industry has been identified as a key driver of economic activity and social development, with tourism receipts expected to reach RM262.2 billion by 2025, growing at an annual rate of 4.5% (Sin & Jusoh, 2019).

The success of the Malaysian tourism industry can be attributed to a variety of factors, including its natural potential, cultural heritage, infrastructure, and government planning. (Hussin & Buchmann, 2018; Karimi, 2018) Moreover, the industry has generated substantial multiplier effects and linkages within the broader economy, fostering national integration and unity (Mazumder et al., 2009). However, the existing legal framework, the Tourism Industry Act 1992, may not adequately address the evolving needs and challenges of the tourism industry. Currently, the Act will be strengthened to enhance enforcement against fraud in tourism packages to improve oversight and protection for consumers. Deputy Minister of Tourism, Arts and Culture Malaysia, Khairul Firdaus Akbar Khan, emphasized the need to update the long-overdue Act. This will aid in more effectively monitoring fraud in tourism packages. He also outlined the Ministry of Tourism, Arts and Culture's efforts in addressing complaints and collaborating with enforcement agencies to take action against companies involved in tourism package fraud (Astro Awani, 2024).

One of the primary shortcomings of the Tourism Industry Act 1992 is its limited scope, focusing primarily on the regulation of travel agents and tour operators. The Act does not provide a comprehensive regulatory framework for the diverse and dynamic tourism sector, which encompasses a wide range of businesses and activities, such as accommodation, transportation, attractions, and supporting services. Furthermore, the Act lacks provisions to address emerging trends and issues in the tourism industry, such as the growth of alternative accommodation options (e.g., Airbnb), the impact of digital technologies on tourism marketing and distribution, and the increasing emphasis on sustainable tourism practices (Liew-Tsonis & Cheuk, 2012). To address these gaps, a comprehensive review and amendment of the Tourism Industry Act 1992 is necessary to ensure that the legal framework can effectively support the development and management of the tourism industry in Malaysia. The revised Act should consider incorporating provisions to regulate a broader range of tourism-related businesses, establish standards and guidelines for sustainable tourism practices, and enable the government to adapt to the evolving landscape of the industry. Therefore, this study is conducted to analyse the legal interpretations within the Tourism Industry Act 1992 (Act 482), identify existing weaknesses, and propose practical solutions within the context of Malaysia. By addressing the legal gaps in the Tourism Industry Act 1992, Malaysia can ensure that its tourism industry remains competitive, responsive to market trends, and aligned with the principles of sustainable development.

This study offers a detailed examination of the Tourism Industry Act 1992, identifying its strengths and shortcomings, particularly its limited scope in regulating various sectors within

the tourism industry and its inadequacy in addressing modern challenges like digitalization, alternative accommodations, and sustainable tourism practices. This study also proposes specific amendments to the Tourism Industry Act 1992, aiming to broaden its regulatory coverage, enhance enforcement mechanisms, and integrate sustainable tourism practices. These recommendations are designed to ensure that the legal framework can effectively support the dynamic nature of Malaysia's tourism industry.

Literature Review

Tourism in Malaysia

Malaysia's tourism industry has grown significantly since the 1960s, becoming the second most important economic sector after petroleum (Marzuki, 2010). The government has played a crucial role in developing tourism through policies, planning and infrastructure investments (Awang, 2010; Bhuiyan et al., 2013). Key initiatives include the Tourism Development Corporation in 1972, the first Tourism Master Plan in 1975, and subsequent national development plans (Marzuki, 2009; Mosbah & Saleh, 2014). Malaysia has successfully positioned itself as a top tourist destination, ranking among the world's top 10 in terms of international arrivals (Mosbah & Saleh, 2014). The industry's growth has been driven by government expenditures on promotion, infrastructure investments and effective knowledge management practices (Giap et al., 2016; Hayat & Al Mamun, 2020). However, challenges remain, including the need to establish a strong, consistent destination image to differentiate Malaysia from competitors (Mohamad, 2012).

The government's efforts to develop the tourism industry have been a key factor in its success. Tourism planning and development at the local authority level have been crucial, with the government playing an important role in stimulating the industry's growth (Saad et al., 2014). The government has implemented various plans and policies to promote sustainable tourism, including the National Tourism Policy, Economic Transformation Program, and Local Agenda 21 (Bhuiyan et al., 2013). Tourism research in Malaysia has grown significantly since 2010, with various forms of tourism have emerged, including visual arts tourism (ShawHong, 2020), agrotourism (Jaunis et al., 2022), and Islamic tourism (Hassan et al., 2018). These developments have generally had positive economic and social impacts on local communities (James & Hussin, 2021). Yet, issues endure, such as water resource management (Anang et al., 2021) and the need for improved infrastructure and market diversification in Islamic tourism (Hassan et al., 2018). Despite these challenges, Malaysia continues to position itself as a preferred tourist destination with diverse offerings.

Recent research on tourism in Malaysia highlights several key trends and focuses areas. Bibliometric analysis reveals a significant increase in tourism research since 2010, with Universiti Teknologi MARA leading in publications (Othman & Rosli, 2023). Medical tourism success factors include healthcare quality, cost competitiveness, and government involvement (Turai et al., 2023). New tourism destinations and products are emphasized for industry competitiveness, with seven major themes identified (Azmi et al., 2023). Smart tourism destinations are explored in relation to sustainable development goals (El Archi et al., 2023; Khizar et al., 2023). The integration of resilience and sustainability concepts into risk management practices for tourism-forestry systems is proposed (Jamil et al., 2024). Additionally, occupational health issues in various sectors, including tourism, are examined,

with mental health, infectious diseases, and musculoskeletal disorders being prominent concerns (Awaluddin et al., 2023).

Tourism Law and Regulation in Malaysia

The regulation of the tourism industry in Malaysia is primarily governed by the Tourism Industry Act 1992 (Act 482). This legislation plays a vital role in overseeing and fostering the development of Malaysia's tourism sector, addressing various aspects such as licensing, enforcement and consumer protection. Despite its significant contributions, several studies and reports highlight gaps and areas for improvement in the current legal framework. The Tourism Industry Act 1992 was enacted to regulate the tourism industry in Malaysia. It establishes the requirements for obtaining licenses to operate as tour operators, travel agents and tourist guides. The Act also includes provisions for the suspension or revocation of licenses in cases of non-compliance (Tourism Industry Act 1992). However, the Act has faced criticism for its inefficiencies and the bureaucratic hurdles it creates for businesses. For instance, Ibrahim et al. (2018) in their study noted that the licensing process under the Act is cumbersome and time-consuming, especially for small and medium-sized enterprises (SMEs). They argue that the Act needs to be revised to streamline the application process and make it more accessible for smaller operators. According to Mohd Daud et al. (2018), the Malaysian tourism industry faces several legal challenges that need addressing. Their study highlights issues such as the lack of comprehensive regulations for emerging tourism trends and the need for better enforcement mechanisms to ensure compliance. The researchers suggest that regular updates to the legal framework are necessary to keep pace with the dynamic nature of the tourism industry.

One of the critical aspects of tourism regulation is consumer protection. The Act aims to protect tourists from fraudulent practices by ensuring that only licensed operators are allowed to offer tourism services. However, enforcement remains a challenge. According to Awang et al. (2008), there have been numerous instances where tourists have fallen victim to scams, particularly involving travel packages. A notable example is the fraud involving umrah packages, where many Malaysian pilgrims were deceived by fraudulent operators. The Malaysian Association of Tour and Travel Agents (MATTA) has called for stricter enforcement and amendments to the Act to include more stringent penalties for offenders (MATTA, 2017). To address these challenges, scholars suggest adopting best practices from developed countries. For example, Australia's tourism regulation framework involves regular updates to legal definitions and consultation with industry stakeholders to ensure the laws remain relevant and comprehensive (Dredge & Jenkins, 2011). Similarly, Estonia's use of blockchain technology in streamlining licensing processes has been lauded for its efficiency and transparency (World Tourism Organization, 2019).

The need for amendments to the Tourism Industry Act 1992 is widely acknowledged. The tourism industry leaders are calling on the government to undertake a comprehensive review of the outdated Tourism Industry Act 1992, saying there is a need to weed out unlicensed operators in the sector. Urgent action is needed ahead of the upcoming Visit Malaysia Year 2026, which the government hopes will attract 35.6 million tourists and generate RM147.1 billion in tourism receipts (Free Malaysia Today, 2024). Additionally, Ibrahim et al. (2018) propose that Malaysia should consider adopting automated systems for license renewal and more flexible eligibility criteria for new operators.

Medical tourism has become a significant part of Malaysia's tourism industry. Musa et al. (2012) explored the travel behaviour of inbound medical tourists in Kuala Lumpur. Their findings indicate that while Malaysia is a popular destination for medical tourists due to its affordable and high-quality healthcare services, there is a need for specific regulations to address the unique requirements and challenges of this niche market. They suggest that integrating medical tourism regulations within the broader tourism legal framework could enhance the industry's growth and sustainability. The homestay programme in Malaysia is another area where the legal framework plays a crucial role. Salleh et al. (2013) examined the legal framework for homestay programmes and identified several gaps that need to be addressed. They noted that while the programme is beneficial for promoting cultural exchange and rural development, there is a lack of clear regulations governing the operation of homestays. The researchers recommend developing specific guidelines and standards to ensure the safety and quality of homestay experiences for tourists.

Saufi et al. (2014) investigated the inhibitors to host community participation in sustainable tourism development in developing countries, including Malaysia. Their research highlights the importance of involving local communities in tourism planning and development. They argue that the legal framework should support community participation and ensure that tourism development benefits local populations. The researchers also emphasize the need for legal provisions that promote environmental sustainability and protect natural resources. Tham & Croy (2018) discussed various issues and challenges facing Malaysia's tourism and hospitality industry. They identified regulatory challenges, including outdated laws and the need for better enforcement mechanisms. The researchers suggest that Malaysia should adopt best practices from other countries to enhance its legal framework.

Empirical studies have further highlighted the impact of regulatory frameworks on tourism development. Lim & McAleer (2004) conducted a comprehensive analysis of tourism policies in Southeast Asia, noting that Malaysia's regulatory environment could benefit from a more integrated approach to policy-making and enforcement. This integration can help address inconsistencies and gaps in the current legal framework. Another study by Henderson (2003) examined the relationship between tourism laws and sustainable tourism development in Malaysia. The findings suggest that while the Tourism Industry Act provides a foundation, there is a need for more specific regulations that address environmental sustainability and community involvement in tourism planning. While the Tourism Industry Act 1992 has laid the foundation for regulating Malaysia's tourism sector, it requires significant updates to address current challenges. By learning from international best practices and incorporating technological advancements, Malaysia can create a more robust legal framework that promotes growth, ensures compliance, and protects consumers.

Recent investigations into tourism law and regulation in Malaysia underscore several central themes. The development of halal tourism is a growing focus, with studies examining Shariah compliance in tourism businesses (Solehudin & Ahyani, 2024) and the advantages and challenges of halal tourism in Malaysia (Hasan et al., 2023). Researchers have also explored proposed risk management frameworks for tourism-forestry systems to promote resilience and sustainability (Jamil et al., 2024). These studies collectively demonstrate Malaysia's efforts to regulate and develop various aspects of its tourism industry.

Technology and Innovation in Malaysia Tourism

The tourism industry in Malaysia, like many other sectors, has been significantly influenced by advancements in technology and innovation. These advancements have transformed the way tourism services are delivered and experienced, leading to enhanced efficiency, improved customer satisfaction and greater competitiveness in the global tourism market. The adoption of technology in the tourism sector has been pivotal in reshaping the industry's dynamics. Technology has facilitated various aspects of tourism, from online bookings and digital marketing to the use of mobile applications for travel planning. According to Hjalager (2010), the integration of information and communication technologies (ICT) in tourism has led to the development of smart tourism destinations, enhancing the overall travel experience. In Malaysia, the government's emphasis on digital transformation has spurred the adoption of ICT in tourism. The Malaysian government's initiatives, such as the Malaysia Digital Economy Blueprint (MyDIGITAL), aim to boost digital infrastructure and encourage innovation across industries, including tourism (Malaysia Digital Economy Corporation, 2021). This has resulted in the proliferation of online travel agencies (OTAs), mobile travel apps, and virtual tours, making it easier for tourists to plan and manage their travel experiences.

Innovation in tourism services is another critical area that has seen substantial growth. The development of new tourism products and services, driven by technological advancements, has allowed Malaysia to cater to diverse tourist preferences. For instance, Musa et al. (2012) highlight how the emergence of medical tourism in Kuala Lumpur has been supported by innovative healthcare services and robust digital marketing strategies. Similarly, the homestay program in Malaysia has benefited from technological innovations. Salleh et al. (2013) discuss how online platforms and social media have played a crucial role in promoting homestay accommodations, enabling local hosts to reach a global audience. This has not only increased the visibility of homestay options but also enhanced the booking process for international tourists.

Despite the benefits, the integration of technology in tourism also presents certain challenges. Issues such as cybersecurity, data privacy, and the digital divide between urban and rural areas need to be addressed to ensure equitable access to technological advancements. Tham & Croy (2018) point out that while urban centres in Malaysia have embraced digital tourism initiatives, rural areas still lag due to limited infrastructure and technological literacy. On the other hand, opportunities abound for leveraging technology to enhance sustainable tourism practices. Saufi et al. (2014) emphasize the potential of technology in promoting sustainable tourism through initiatives like eco-friendly travel apps, digital monitoring of tourist sites, and the use of renewable energy in tourism facilities. These innovations not only contribute to environmental conservation but also attract eco-conscious travellers to Malaysia.

Looking ahead, the continuous evolution of technology promises to bring further innovations to Malaysia's tourism industry. The adoption of emerging technologies such as artificial intelligence (AI), blockchain, and augmented reality (AR) can revolutionize various aspects of tourism. AI-powered chatbots, for instance, can enhance customer service by providing instant responses to tourist inquiries, while blockchain technology can improve transparency and security in transactions (Werthner et al., 2015). Additionally, AR and virtual reality (VR) technologies offer immersive travel experiences, allowing potential tourists to explore destinations virtually before making travel decisions. These technologies can be particularly

beneficial in promoting Malaysia's cultural heritage and natural attractions to a global audience.

Current analyses on technology and innovation in Malaysia's tourism sector emphasize several significant trends. Digital transformation is reshaping the industry, with blockchain, fintech, and knowledge management driving value creation and innovation (Ratna et al., 2023). Social media and websites are becoming central to tourism marketing (Irawan, 2023). New tourism destinations and products are emerging as competitive strategies, influenced by technological changes and current trends (Azmi et al., 2023). Technology-driven service innovation is a prominent topic, with creative technology and digital transformation identified as areas needing further research (Park et al., 2023). Sustainable and innovative approaches are crucial for increasing tourism destination potential (Ismatillaevna et al., 2023). The adoption of Industry 4.0 technologies is transforming the sector, though challenges in integration and interoperability persist (Buhalis et al., 2024). For Malaysian MSMEs, overcoming technology adoption barriers is essential for enhancing competitiveness (Loo et al., 2023).

Research Methodology

Research Design

The methodology for this study adopts a qualitative research design, incorporating multiple methods of data collection and analysis to thoroughly examine the legal interpretations within the Tourism Industry Act 1992 (Act 482), identify existing weaknesses, and propose practical solutions within the context of Malaysia. This approach is informed by the methodological frameworks presented in prior research, which emphasize the importance of qualitative analysis in understanding complex legal and regulatory issues (Creswell, 2013; Silverman, 2016).

Data Collection Method

Data collection involves sourcing from a variety of primary and secondary materials. Primary data includes the Tourism Industry Act 1992 itself, along with subsequent amendments and related legislative texts. These documents provide the foundational legal framework necessary for the analysis. Secondary data is gathered from industry reports, government publications, academic articles, and consultancy reports that provide practical insights and critiques of the Act's implementation. This multi-source approach is consistent with best practices in qualitative research, ensuring a comprehensive understanding of the issue (Flick, 2018).

Data Analysis Approach

The study employs document analysis as the primary method for examining both primary and secondary data. Content analysis is used to systematically identify and categorize key provisions within the Act, coding the text to reveal patterns, themes, and recurrent issues related to the Act's regulatory scope and effectiveness. Thematic analysis is then applied to further explore these themes, allowing for a deeper understanding of the Act's weaknesses, particularly in addressing contemporary challenges such as digital transformation, alternative accommodation options, and sustainable tourism practices. This analytical approach not only highlights the Act's limitations but also aids in developing practical recommendations for its amendment. These methods allow for the identification of recurring issues and the development of a nuanced understanding of the Act's weaknesses (Bowen, 2009; Braun & Clarke, 2006).

Validity and Reliability

To enhance the validity and reliability of the findings, the study employs triangulation by cross-referencing data from multiple sources, ensuring that the conclusions drawn are well-supported and reflective of the broader context. One potential limitation of this study is the reliance on secondary data sources, which may be subject to biases or may not fully capture the latest developments in Malaysia's tourism sector. To address this, the study incorporated a wide range of secondary sources and cross-referenced them with primary data, including the original text of the Tourism Industry Act 1992 and its amendments, to ensure a more comprehensive and accurate analysis.

Another limitation is the inherent challenges in interpreting legal texts, which is complex and subject to varying interpretations. To mitigate this, the study employed a systematic document analysis, using content and thematic analysis techniques to carefully code and categorize the data. Lastly, the dynamic nature of the tourism industry presents a challenge in ensuring that the analysis remains relevant in the face of rapid changes, such as the rise of digital platforms and evolving consumer behaviours. To address this, the study emphasized the importance of continuous legal review and proposed recommendations that are adaptable to future industry trends.

Analysis and Discussions

Analysis of Weaknesses in the Tourism Industry Act 1992 (Act 482)

The Tourism Industry Act 1992 plays a crucial role in regulating Malaysia's tourism sector, but it has several weaknesses that need attention. In Part I, Section 1 names the Act and specifies its commencement date to be set by the Minister, potentially causing significant delays in implementation if no date is appointed promptly. For example, delayed updates to tour guide certifications have previously caused confusion and operational setbacks. Section 2 defines key terms like "tour operator" and "tour guide", but the definitions may not encompass modern tourism services, creating regulatory gaps. The rise of digital tourism platforms, such as Airbnb experiences, exemplifies this issue, as they often don't fit neatly into existing categories.

Part II deals with licensing for tour operators and guides. Section 3 requires a license to operate, but the bureaucratic process can be slow, making it hard for small businesses to start quickly. A small eco-tour company in Sabah faced a six-month delay in obtaining a license due to red tape. Section 4 outlines the licensing procedure, which can be overly complex and burdensome, particularly for start-ups. A cultural heritage tour operator struggled with the extensive documentation, leading to delays and added costs. Section 5 specifies eligibility criteria, including stable financial status, which can be too stringent for new operators. A recent graduate with innovative adventure tour ideas found it difficult to meet these financial requirements despite having a solid business plan. Section 6 details the validity period of licenses and renewal procedures, which can also be bureaucratic and disrupt business continuity. A well-established operator faced operational delays due to a lengthy renewal process. Section 7 allows the Minister to set additional conditions for licenses, which can change frequently and create uncertainty among operators. For example, sudden changes in safety regulations required costly and confusing adjustments. Section 8 grants the power to cancel or suspend licenses if conditions are unmet, but without clear review or appeal

mechanisms, this power can be misused. A tour guide faced suspension due to an administrative oversight with no clear appeal process.

Part III covers control and supervision. Section 9 gives the Minister the authority to issue regulations and guidelines, but frequent changes can cause instability. Operators struggled with frequent updates to environmental compliance standards, leading to operational disruptions. Section 10 allows for inspections and audits, which can be burdensome for small operators. A rural tour operator found that frequent audits consumed significant time and resources, impacting service quality. Section 11 requires operators to maintain records and submit reports, which can be onerous for small businesses. A family-run tour business found these requirements resource-intensive, detracting from their core activities.

Part IV addresses penalties and offenses. Section 12 sets penalties for operating without a valid license, which can be excessive for small businesses making minor errors. A new operator who missed a renewal deadline faced severe financial penalties, threatening their business. Section 13 outlines general penalties for unspecified offenses, which may not be proportionate to minor infractions. A small operator received a hefty fine for a minor paperwork error, highlighting the need for more nuanced penalties. Section 14 allows for the prosecution of individuals within companies for offenses, but in large companies, it can be hard to determine responsibility, leading to unfair legal actions. Mid-level managers in a large tourism conglomerate were held accountable for compliance failures beyond their control.

Analysis of Proposed Solutions in the Tourism Industry Act 1992 (Act 482)

The Tourism Industry Act of 1992 is essential in governing and promoting the growth of Malaysia's tourism sector. However, despite its importance, several weaknesses in the Act hinder its effectiveness. For instance, Section 1 of the Act states that it will come into force on a date set by the Minister, which can cause delays and uncertainties if not promptly addressed. A clear solution in Malaysia is to specify the commencement date within the legislation or announce it immediately after the law is passed, similar to practices in the Malaysian Anti-Corruption Commission Act 2009. Developed countries often use automatic enforcement mechanisms, reducing delays and uncertainties and providing a more predictable regulatory environment. Moreover, the definitions in Section 2 may not encompass all variations of tourism services, leading to gaps and confusion. To address this issue, Malaysia can regularly review and expand these definitions to be more inclusive, akin to Australia's approach of updating legal definitions through industry consultations. This proactive updating ensures that the legislation remains relevant and comprehensive as new tourism services and models emerge.

The bureaucratic and time-consuming process of obtaining a license under Section 3 presents another significant barrier, especially for small businesses. Simplifying the application process through a user-friendly online portal can alleviate this issue, similar to Malaysia's Companies Commission (SSM) online business registration system (Companies Commission of Malaysia (SSM), 2024). Estonia's implementation of blockchain technology for streamlining licensing processes offers a model for efficiency and transparency, ensuring that new entrants can quickly and easily comply with regulatory requirements (European Commission, 2024). Additionally, Section 4's complex and burdensome application forms can discourage new entrants to the market. Simplifying these forms and providing clear guidelines for applicants, as seen with the Ministry of Domestic Trade and Consumer Affairs for business licensing,

could significantly lower the entry barriers (MATRADE, 2024). Developed countries like New Zealand utilize smart forms that adapt questions based on the applicant's responses, reducing complexity and making the process more accessible to all business sizes (European Commission, 2024).

The stringent eligibility criteria in Section 5 can deter new or small operators from entering the market. Introducing training programs and financial support to help operators meet these requirements can be beneficial, similar to the Tourism Malaysia Training and Development Centre's tailored courses. The UK's more flexible criteria for start-ups and small businesses promote entrepreneurship and innovation in the tourism sector, encouraging a diverse range of new businesses to flourish (UK Serious Fraud Office, 2024). The renewal process under Section 6 can also be burdensome, disrupting business operations. Automating this process for compliant operators would help, drawing inspiration from the automatic renewal system used by the Malaysia External Trade Development Corporation (MATRADE) for export licenses. Similarly, developed countries often employ automatic renewal systems with notifications, ensuring businesses can continue operating without interruption, as seen in the United States.

Frequent changes in conditions under Section 7 can cause uncertainty for operators. Providing adequate notice periods before changes take effect, similar to the telecommunications sector's practices, can enhance stability. Developed countries typically conduct regular industry consultations before implementing new conditions, ensuring that changes are well-communicated and understood, as demonstrated in the European Union (European Commission, 2024). Section 8 grants the power to cancel or suspend licenses if conditions are not met, which can be misused without clear review mechanisms. Establishing an independent body to review and hear appeals, akin to the Malaysian Competition Commission (MyCC), would ensure fair and unbiased decisions (MyCC, 2024). Developed countries often form independent tribunals to hear appeal cases, ensuring that all parties receive a fair hearing, as practiced in Australia's Administrative Appeals Tribunal.

The frequent regulatory changes permitted under Section 9 can destabilize the industry. Implementing a fixed schedule for regulatory updates, such as every two years, can provide stability, similar to the Securities Commission Malaysia's periodic guideline updates (Tourism Malaysia, 2024). Developed countries like Canada maintain stable regulatory frameworks, with changes only occurring after thorough consultations, ensuring that the industry can plan and operate with confidence. Inspections and audits mandated by Section 10 can be a significant burden, particularly for small operators. Limiting inspections to necessary situations based on risk analysis can alleviate this burden, similar to the Department of Environment's approach. Developed countries use data analytics to identify high-risk operators, targeting inspections more effectively and reducing unnecessary burdens on compliant businesses, as seen with the UK's Health and Safety Executive (UK Health and Safety Executive, 2024).

Record-keeping and reporting requirements under Section 11 can be resource-intensive for small businesses. Implementing an online system for automated reporting would ease this burden, akin to the Inland Revenue Board's e-Filing system. Developed countries integrate digital record systems that facilitate real-time reporting and monitoring, such as Singapore's Accounting and Corporate Regulatory Authority (ACRA), making compliance simpler and less costly (ACRA, 2024). Excessive penalties for operating without a valid license, as outlined in Section 12, can be detrimental to small businesses for minor infractions. Adjusting penalties

based on business size and the severity of the offense, similar to the Malaysian Communications and Multimedia Commission's (MCMC) approach, would ensure a fairer system (MCMC, 2024). Developed countries implement progressive fine systems with warnings before harsh penalties, ensuring that minor mistakes do not result in disproportionate consequences, as seen in Germany.

General penalties under Section 13 may not be proportionate to minor offenses, leading to potential injustices. Reviewing these penalties to ensure they are appropriate for the offenses committed, as done by Bank Negara Malaysia, can enhance fairness (BNM, 2024). Developed countries employ flexible penalty systems that adjust to the context of the offense, ensuring justice and proportionality, as demonstrated by the US Environmental Protection Agency (US EPA, 2024). Determining responsible individuals in large companies under Section 14 can be challenging, potentially leading to unfair legal actions. Providing clear guidelines for individual responsibilities within companies, similar to the Malaysian Anti-Corruption Commission's guidelines, can help clarify accountability. Developed countries use forensic analysis to identify responsible individuals in large corporations, ensuring that those truly accountable are held responsible, as practiced by the UK's Serious Fraud Office (UK Serious Fraud Office, 2024).

By adopting solutions tailored to the Malaysian context and learning from best practices in developed countries, Malaysia can enhance the Act's implementation. These improvements will ensure a sustainable and competitive tourism industry, benefiting the economy, creating jobs, and promoting cultural heritage. Implementing these changes will help Malaysia's tourism sector thrive, providing a robust framework for continued growth and development. The analysis of weaknesses and solutions for the Tourism Industry Act 1992 (Act 482) in Malaysia is shown in Table 1.

Table 1: Analysis of Weaknesses and Solutions for the Tourism Industry Act 1992 (Act 482) in Malaysia

Section	Issue	Suggested Solution (Malaysia)	Suggested Solution (Developed Countries)
Section 1	Delays due to commencement date set by the Minister	Specify the commencement date within the legislation or announce it immediately after the law is passed	Use automatic enforcement mechanisms to ensure prompt implementation
Section 2	Definitions may not cover all variations of tourism services	Regularly review and expand definitions to be more inclusive	Update definitions periodically through industry consultations
Section 3	Bureaucratic and time-consuming license application process	Simplify the application process through a user-friendly online portal	Utilize blockchain technology for efficient and transparent licensing processes
Section 4	Complex and burdensome application forms	Simplify forms and provide clear guidelines for applicants	Implement smart forms that adapt based on the applicant's responses

Section 5	Stringent eligibility criteria for new or small operators	Introduce training programs and financial support for operators	Offer flexible criteria and support for start-ups and small businesses
Section 6	Burdensome renewal process	Automate the renewal process for compliant operators	Employ automatic renewal systems with notifications to prevent disruptions
Section 7	Frequent changes in conditions causing uncertainty	Provide adequate notice periods before changes take effect	Conduct regular industry consultations before implementing new conditions
Section 8	Potential misuse of license cancellation/suspension powers	Establish an independent body to review and hear appeals	Form independent tribunals to ensure fair and unbiased decisions
Section 9	Frequent regulatory changes causing instability	Implement a fixed schedule for regulatory updates (e.g., every two years)	Maintain stable regulatory frameworks with changes occurring after thorough consultations
Section 10	Burden of inspections and audits on small operators	Limit inspections to necessary situations based on risk analysis	Use data analytics to target inspections more effectively
Section 11	Resource-intensive record-keeping and reporting requirements	Implement an online system for automated reporting	Integrate digital record systems for real-time reporting and monitoring
Section 12	Excessive penalties for minor infractions	Adjust penalties based on business size and severity of the offense	Implement progressive fine systems with warnings before harsh penalties
Section 13	General penalties may not be proportionate	Review penalties to ensure appropriateness for offenses	Use flexible penalty systems that adjust to the context of the offense
Section 14	Difficulty in determining responsible individuals in large companies	Provide clear guidelines for individual responsibilities within companies	Use forensic analysis to identify responsible individuals in large corporations

Source: Author's Own

There are several examples and their potential impact on various stakeholders within the tourism industry, which can enhance the effectiveness and credibility of the proposed solutions for the Tourism Industry Act 1992 (Act 482). For instance, specifying the commencement date of new regulations within the legislation, similar to practices in the Malaysian Anti-Corruption Commission Act 2009, can reduce implementation delays and uncertainties, thereby providing clarity for businesses. Regularly updating the definitions of tourism services, as seen in Australia, ensures that legislation remains relevant to new and evolving services, thus reducing

legal ambiguities. Simplifying the license application process through an online portal, akin to the Companies Commission of Malaysia's system or Estonia's blockchain technology, can ease compliance for small businesses and streamline operations.

Additionally, reforming complex application forms by implementing smart forms, as practiced in New Zealand, and introducing training and financial support programs, similar to those offered by the Tourism Malaysia Training and Development Centre, can lower entry barriers for new and small operators. Automating the renewal process for compliant operators, as demonstrated by MATRADE's export license system, and providing adequate notice periods before regulatory changes take effect, as seen in the telecommunications sector, can reduce administrative burdens and provide stability.

To address the potential misuse of license cancellation powers, establishing an independent review body like the Malaysian Competition Commission would ensure fair decisions. Implementing a fixed schedule for regulatory updates, akin to the Securities Commission Malaysia's periodic updates, and using data analytics for targeted inspections, as practiced by the UK's Health and Safety Executive, can enhance regulatory stability and focus resources effectively. Digital record-keeping systems, such as Singapore's ACRA, and adjusting penalties based on business size and offense severity, similar to the Malaysian Communications and Multimedia Commission's approach, can simplify compliance and ensure fair enforcement.

By integrating these solutions, Malaysia can improve the Tourism Industry Act 1992, creating a more robust regulatory framework that supports industry growth and benefits businesses, consumers, and the broader economy. These changes will foster a more predictable, fair, and efficient regulatory environment, ultimately enhancing the sustainability and competitiveness of Malaysia's tourism sector.

Conclusion

This research has provided a comprehensive analysis of the Tourism Industry Act 1992 (Act 482) and its role in regulating Malaysia's tourism sector. The study identified several key weaknesses within the Act, including inefficiencies in the licensing process, outdated and non-comprehensive definitions, and disproportionate penalties. These issues have hindered the effectiveness of the Act in fostering a robust and fair tourism environment. In summary, the research findings underscore the need for significant updates to the Act. Key recommendations include streamlining the licensing process by adopting a more user-friendly digital platform, regularly reviewing and expanding legal definitions to cover emerging tourism models, and revising the penalties to ensure they are proportional and fair. Drawing on best practices from other countries, such as automatic enforcement mechanisms and flexible penalty systems, could also enhance the Act's effectiveness.

However, this study has several limitations. Firstly, the analysis is based primarily on secondary data from legal documents and industry reports, which may not capture all the nuances of the Act's implementation. Additionally, the research does not include primary data from direct stakeholder interviews or surveys, which could provide deeper insights into the real-world impact of the Act. The recommendations are thus based on theoretical analysis and comparisons with practices from other countries, which may not fully account for Malaysia's unique socio-economic context. For further research, it is recommended to conduct empirical

studies to assess the impact of these proposed changes on the tourism industry. Investigating the experiences of stakeholder such as tourism operators and consumers can provide valuable insights into the practical challenges and benefits of implementing these reforms. Additionally, comparative studies with other countries' tourism legislation could offer further guidance on optimizing Malaysia's regulatory framework. Looking ahead, the future outlook for Malaysia's tourism industry appears promising, provided that the recommended improvements are implemented effectively. The industry is poised for growth, driven by its rich cultural heritage and increasing global travel trends. By addressing the current legislative gaps and adopting progressive practices, Malaysia can enhance its competitiveness and sustainability in the global tourism market, ensuring continued economic benefits and cultural promotion.

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