

CHAPTER 90

THE HOTELS ACT.

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CHAPTER 90

THE HOTELS ACT.

Commencement: 1 October, 1953.

An Act to consolidate the law relating to hotels.

1. Interpretation.

In this Act, unless the context otherwise requires—

- (a) “authorised person” means any person authorised in writing by the board to carry out any function or to perform any duty of the board under this Act or under any regulations made under it;
- (b) “board” means the Hotels Board established under section 6;
- (c) “hotel” means a house intended for the accommodation of travellers or visitors for payment.

2. Hotel to be open to all travellers.

(1) A hotelkeeper shall receive and lodge in his or her hotel all comers who are travellers and shall entertain them at reasonable prices without any special or previous contract, unless he or she has reasonable ground to refuse such a person accommodation.

(2) A hotelkeeper shall make reasonable provision for the reception of a traveller’s luggage.

(3) Notwithstanding the other provisions of this section, a hotelkeeper may demand reasonable payment in advance for any accommodation desired by a traveller.

(4) Any person who contravenes any of the provisions of this section commits an offence and is liable on conviction to a fine not exceeding two thousand shillings.

3. Limitation of liability of hotelkeepers.

(1) Subject to section 4, no hotelkeeper shall be liable to make good to any guest of the hotelkeeper any loss of or injury to goods or property brought to his or her hotel to a greater amount than the sum of one thousand

shillings, except in the following cases—

- (a) where the goods or property have been stolen, lost or injured through the wilful act, default or neglect of the hotelkeeper or any servant in his or her employ; or
- (b) where the goods or property have been deposited expressly for safe custody with the hotelkeeper; but in the case of such deposit, the hotelkeeper may, if he or she thinks fit, require as a condition of his or her liability that the goods or property shall be deposited in a box or other receptacle fastened or sealed by the person depositing the goods or property.

(2) If any hotelkeeper refuses to receive for safe custody, as mentioned in subsection (1), any goods or property of his or her guest, or if any such guest is, through any default of the hotelkeeper, unable to deposit the goods or property as provided in subsection (1), the hotelkeeper shall not be entitled to the benefits of this section in respect of the goods or property.

4. Copy of Act to be displayed.

Every hotelkeeper shall cause at least one copy of sections 2 and 3, printed in plain type in the English language, to be exhibited in a conspicuous place in the hall or entrance to his or her hotel; and he or she shall be entitled to the benefit of section 3 in respect of goods or property which shall be brought to his or her hotel only while a copy is exhibited.

5. Hotelkeeper's lien.

(1) A hotelkeeper shall, in addition to the ordinary lien at common law of an innkeeper, have the right absolutely to sell and dispose by public auction of any goods or property deposited with him or her or left in his or her hotel or in any premises appurtenant or belonging to it, where the person depositing or leaving the goods or property is or becomes indebted to the hotelkeeper for any board or lodging; but—

- (a) no such sale shall be made until after the goods or property have been for the space of six weeks in his or her charge or custody or in or upon his or her premises without the debt having been paid or satisfied;
- (b) the debt for the payment of which a sale is made under this section shall not be any other or greater debt than the debt for which the goods or other property could have been retained by the hotelkeeper under his or her lien at common law as an

innkeeper; and (c) at least one month before any such sale is effected, the hotelkeeper shall cause to be inserted in one newspaper circulating in the place where the goods or property have been deposited or left, an advertisement containing notice of the intended sale and giving shortly a description of the goods or property intended to be sold, together with the name, if known, of the owner or person who deposited or left the good or property.

(2) The hotelkeeper shall out of the proceeds of sale of any goods or property sold pursuant to this section, after paying himself or herself the amount of his or her debt and the costs and expenses of the sale, pay on demand to the person depositing or leaving the goods or property any surplus money remaining.

6. Establishment of Hotels Board.

(1) There shall be established a board to be known as the Hotels Board, which shall be constituted of such number of persons, not being less than five, as the Minister may from time to time appoint, and which shall carry out the functions and perform the duties conferred or imposed upon it by this Act.

(2) Three members of the board shall form a quorum.

(3) The Minister shall appoint the chairperson of the board from among the members.

(4) Every member of the board shall hold office for three years from the date of his or her appointment, or for such other period as the Minister may appoint; except that the Minister may at any time revoke an appointment.

(5) A decision of the majority of the members of the board shall be the decision of the board.

(6) The chairperson shall have an original vote in common with the other members and also a casting vote, if on any question the voting shall be equal.

(7) Every notice or other document issued by the board shall be signed by the chairperson, or other member of the board acting on his or her behalf, or by the secretary of the board, and every notice or other document so signed shall be deemed to be duly issued on the authority of the board.

7. Board not liable for acts done in good faith.

Neither the board nor any of its members shall be liable in damages for any act done or omitted to be done in good faith and without negligence in carrying out any function or performing any duty of the board under this Act.

8. Hotels to be licensed.

(1) No person shall keep a hotel unless there is in force in respect of the hotel a valid and subsisting licence granted by the board.

(2) No person shall manage or otherwise be in charge of a hotel unless he or she is the holder of a licence for the purpose granted by the board.

(3) A licence granted under subsection (1) or (2) shall remain in force from the date upon which it is granted until the 31st day of December next ensuing.

(4) Any person who—

- (a) keeps a hotel in respect of which there is not in force a valid and subsisting licence granted under subsection (1);
- (b) manages or otherwise is in charge of a hotel without being the holder of a licence granted under subsection (2); or
- (c) employs or permits any person who is not the holder of a licence under subsection (2) to manage or otherwise be in charge of a hotel,

commits an offence and is liable on conviction to a fine not exceeding two thousand shillings.

9. Qualification for a licence.

(1) No licence under section 8(1) shall be granted by the board unless the applicant for it satisfies the board that—

- (a) the premises in respect of which the application is made are structurally suitable for use as a hotel and that proper provision

- has been made for the health and comfort of the guests;
- (b) proper provision has been made for the sanitation of the premises;
- (c) proper provision has been made for the preparation and serving of food; and
- (d) the person who is to manage or otherwise to be in charge of the hotel is duly licensed under section 8(2).

(2) No licence under section 8(2) shall be granted unless the applicant for it satisfies the board that he or she is of good character and is in every other respect a fit and proper person to manage or otherwise be in charge of a hotel.

10. Notice to remedy defects; cancellation of licences.

- (1) Where it is made to appear to the board that—
 - (a) the manager or person otherwise in charge of a hotel is not the holder of a licence under section 8(2);
 - (b) the premises of a hotel have been so altered as to have ceased to be structurally suitable for use as a hotel;
 - (c) the provision made in a hotel for the health and comfort of the guests has ceased to be adequate;
 - (d) a hotel is being kept in an unclean or insanitary condition; or
 - (e) a hotel is being conducted in an unsatisfactory manner,the board may require the hotelkeeper by notice in writing—
 - (f) in the event mentioned in paragraph (a) of this subsection, to replace the manager or person otherwise in charge of the hotel by a person who is the holder of a licence under section 8(2); and
 - (g) in any of the events mentioned in paragraphs (b), (c), (d) or (e) of this subsection, to remedy to the satisfaction of the board the defect specified in the notice,in either case within the period specified in the notice; and if the hotelkeeper fails so to do, the board may cancel the licence granted under section 8(1) in respect of the hotel.

(2) No cancellation of a licence under this section shall take effect until the expiration of ten days from the date of the cancellation.

11. Particulars of complaint to be supplied.

The board shall not refuse any application for a licence under section 8 nor

shall it cancel a licence under section 10, unless the applicant or the hotelkeeper has been given an opportunity of appearing before the board, either personally or by advocate, in support of the application, or in opposition to the cancellation, as the case may be.

12. Appeals.

(1) Any person aggrieved by a decision of the board refusing to grant a licence or cancelling a licence may, within thirty days after receiving from the board notification of the reasons for its decision, appeal to the High Court, whose decision shall be final.

(2) Any person wishing to appeal under subsection (1) shall comply with such rules regulating appeals as may from time to time be made by the Chief Justice.

(3) The board shall on the application of the person concerned inform that person of its reasons for refusing any application or cancelling any licence.

(4) The board shall be entitled to appear by any person authorised by the board at any appeal brought under this section, and the appellant shall be entitled to be heard either in person or by advocate.

13. Regulations.

The board may, with the approval of the Minister who may make his or her approval subject to such amendments as he or she may think necessary, make regulations for all or any of the following purposes—

- (a) prescribing the duties and obligations of any person carrying on or managing a hotel to any person residing in or visiting the hotel;
- (b) prescribing the forms of licence which may be issued under this Act;
- (c) prescribing the procedure to be followed by any person exercising his or her powers, duties or functions under this Act;
- (d) prescribing anything required to be prescribed under this Act; and
- (e) generally for better carrying into effect the purposes and provisions of this Act.

14. Power of entry.

Any member of the board or any authorised person may at all reasonable times enter upon and inspect any hotel or any portion of it.

15. Offences and penalties.

Any person who—

- (a) opposes or obstructs the board or any authorised person in the exercise of any power, duty or function under this Act or under any regulations made under it;
- (b) fails to answer to the best of his or her knowledge any question lawfully asked by the board or any authorised person in the exercise of any power, duty or function under this Act or under any regulations made under it; or
- (c) knowingly gives false information to the board or to an authorised person,

commits an offence and is liable on conviction to a fine not exceeding two thousand shillings.

16. Liability of hotelkeepers for acts of agents, etc.

Every hotelkeeper shall be answerable for every act and omission of any agent, clerk, servant or other person employed in his or her hotel by him or her or on his or her behalf to the extent that the act or omission concerns the business of the hotelkeeper as such; and, if the agent, clerk, servant or other person does any act or makes any omission which is an offence against any of the provisions of this Act, or which would be an offence if done or made by such employer, the employer and his or her agent, clerk, servant or other person shall be jointly and severally liable to the penalties provided by this Act.

History: Cap. 94; Act 10/1969.