

GOVERNMENT OF ZAMBIA

ACT

No. 27 of 1987

Date of Assent: 28th December, 1987

An Act to enable control to be exercised over hotels for the purpose of enforcing therein reasonable standards of cleanliness, sanitation and service; to repeal and replace the Hotels Act, 1950, and to disapply the In-keepers Act, 1878, so far as it remains in force in Zambia; and to provide for matters connected with or incidental to the foregoing.

[31st December, 1987

ENACTED by the Parliament of Zambia.

1. This Act may be cited as the Hotels Act, 1987, and shall come into force on a date appointed by the Minister by statutory instrument.

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

“Board” means the Hotels Board established under section *three*;

“board” means the supplying of lodging and includes the supplying of lodging and meals by the same establishment whether or not separate charges are made for lodging, meals or any other service;

“Chairman” means the Chairman appointed under section *three*;

“committee” means a committee of the Board, established by the Board under subsection (1) of section *ten*;

“hotel” means a motel, lodge, boarding-house, resthouse, and any other building or premises used for the accommodation of the public in which lodgings are provided and provisions are supplied by the manager thereof but does not include any Government resthouse, hostel, school, or any premises or class of premises exempted from this Act by the Minister under section *twenty-seven*;

Enactment

Short title
and
commence-
ment 4Interpreta-
tion

- “hotel-keeper” means a person to whom a hotel licence has been issued under subsection (1) of section *thirteen*, and includes a person to whom a licence has been transferred under section *fifteen*;
- “hotel licence” means a licence issued under subsection (1) of section *thirteen*;
- “hotel manager’s licence” means a licence issued under subsection (2) of section *thirteen* and “hotel manager” shall be construed accordingly;
- “member” means a member of the Board, appointed under section *three* and includes the Chairman and the Vice-Chairman;
- “public officer” means a person in the employment of—
- (a) a department of the Government;
 - (b) a statutory corporation;
 - (c) a statutory body; or
 - (d) a company in which the Government has majority or controlling interest;
- “register” means the register kept by an hotel-keeper under subsection (1) of section *twenty-one*;
- “Secretary” means the Secretary appointed under section *eleven*;
- “Vice-Chairman” means the Vice-Chairman appointed under section *three*;

PART II

THE HOTELS BOARD

Establishment and composition of Board

3. (1) There shall be established an Hotels Board, which shall consist of—

- (a) a Chairman and a Vice-Chairman;
- (b) an Advocate of the High Court for Zambia;
- (c) a health inspector;
- (d) a member of the Hotels and Catering Association of Zambia;
- (e) a member of the Hotels and Catering Workers’ Union of Zambia; and
- (f) not more than three other members.

(2) The members referred to in paragraphs (a), (b), (c) and (f) of subsection (1) shall be appointed by the Minister in his discretion but the members referred to in paragraphs (d) and (e) shall be appointed by the Minister in accordance with the recommendation of the organisation concerned.

(3) Members, except those referred to in paragraphs (a), (b), (c) and (f) of subsection (1), may nominate a member of their organisation to represent them at a particular meeting and that representative shall, for the purposes of that meeting, be a member.

4. (1) Members shall hold office for three years and may be re-appointed.

Tenure and vacancies

(2) Members may resign upon giving one month's notice in writing to the Minister and may, at any time, be removed by the Minister.

(3) No person shall be appointed a member and where he is a member he shall cease to be a member—

- (a) if he is declared to be of unsound mind;
- (b) if he is an undischarged bankrupt;
- (c) if he is detained, or his freedom of movement is restricted, for over six months under any law in force in Zambia;
- (d) if he is sentenced to a term of imprisonment longer than six months; or
- (e) if he is convicted of an offence involving dishonesty.

5. Members and members of committees shall not receive any remuneration in respect of their services, but the Board may, with the approval of the Minister, determine and pay to them allowances in respect of attendance at meetings or while otherwise engaged on the business of the Board.

Remuneration and allowances

6. (1) The functions of the Board shall be to—

Functions of Board

- (a) enforce in hotels reasonable standards of cleanliness, sanitation and service;
- (b) ensure that proper provision is made for the sanitation of hotels;
- (c) ensure that proper provision is made for hotels to be managed in an efficient manner;
- (d) ensure that proper provision is made for the safety of persons and goods in hotels;
- (e) ensure that the food in hotels is properly stored, prepared, cooked and served;
- (f) ensure that the premises in respect of which a hotel licence is issued are structurally adapted for use as an hotel;
- (g) issue hotel licences and hotel manager's licences;
- (h) enter at any reasonable time the premises of a hotel for the purpose of ascertaining whether this Act or regulations made under it are being complied with; and

(i) do all such things as are necessary to promote the hotel industry and the welfare of guests.

(2) The Board may, by directions in writing and subject to such conditions as it thinks fit, delegate to a member, the Secretary or other official in the Ministry responsible for hotels, any of its functions under this Act.

Proceedings
of Board

7. (1) Subject to this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business at least once in every three months at such places and at such times as the Chairman may determine.

(3) Upon giving notice of not less than fourteen days, a meeting of the Board may be called by the Chairman, and shall be called if not less than four members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of the notice, a special meeting may be called upon giving a shorter but reasonable notice in the circumstances.

(4) The particulars of any business to be transacted at a meeting of the Board shall be circulated to the members together with the notice of the meeting.

(5) Five members shall form a quorum at a meeting of the Board.

(6) The Chairman shall preside at every meeting of the Board or in the absence of the Chairman, the Vice-Chairman shall preside and in the absence of both the Chairman and Vice-Chairman, a member elected by the members present for the purpose of that meeting, shall preside.

(7) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(8) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting but that person shall have no vote.

(9) The validity of any proceedings, act or decision of the Board, shall not be affected by any vacancy in its membership or by any defect in the appointment of any member or because any person not entitled to do so took part in the proceedings.

(10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every meeting of any committee established by the Board.

(2) No hotel manager's licence shall be granted by the Board unless the Board is satisfied that the applicant is of good character and meets such other conditions as the Board may determine.

15. Where a holder of a hotel licence informs the Board that he intends to transfer that licence to some other person, the Board may authorise the transfer if it is satisfied that the conditions specified in or under subsection (1) of section *fourteen* have been complied with.

Transfer of
hotel
licence

16. (1) Where it appears to the Board that after the grant of an hotel licence or an hotel manager's licence—

Revocation
of
licences

- (a) an hotel is being conducted in an unclean or insanitary manner;
- (b) an hotel is not being conducted in an efficient manner;
- (c) the food served in an hotel is not properly prepared, cooked or served;
- (d) any condition specified in or under subsection (1) of section *fourteen* is not being complied with;
- (e) the hotel-keeper or the hotel administration is involved in, encourages, or condones, crime being committed in or around the hotel; or
- (f) the hotel keeper is convicted of an offence under the Control of Goods Act or regulations made thereunder;

the Board may, subject to subsections (2) and (3), revoke the hotel licence or the hotel manager's licence, or both:

Provided that a hotel manager's licence shall not be revoked if the Board is satisfied that any contravention under this subsection took place without his knowledge, consent or connivance.

(2) Where there is a contravention under subsection (1) the Board may require the hotel-keeper, by notice in writing, to correct the contravention within a period, not being less than thirty days, and if the hotel-keeper fails to do so to the satisfaction of the Board within the specified period, the Board may revoke in writing the hotel licence or the hotel manager's licence, but the revocation of either licence shall not take effect until the expiration of thirty days from the date of the notice to revoke:

Provided that where the nature or extent of the contravention is serious, the Board may order that the revocation of the hotel licence or hotel manager's licence shall take effect immediately.

17. (1) The Board may, on the application of an hotel-keeper or on its own motion, grade or re-grade hotels.

Re-grading
of hotels

(2) Where it appears to the Board that an hotel is not being managed in a manner conforming to the class in which the hotel is graded, the Board may, upon giving notice to the hotel-keeper, remove the name of the hotel from the class in

which it is registered and place it in a lower class, but the re-grading shall not take effect until the expiration of thirty days from the date of the notice.

Refusals,
cancellations and
re-gradings

* 18. The Board shall not refuse an application for an hotel licence or an application to transfer an hotel licence or cancel an hotel licence granted under subsection (1) of section *thirteen* or re-grade an hotel under section *seventeen* unless the hotel manager or hotel-keeper has been furnished, in writing, by the Board, with the reasons for the refusal, cancellation or re-grading and has been given an opportunity of appearing before the Board and of being heard in support of the application, or in opposition to the cancellation or re-grading.

Appeal to
Minister

19. (1) A person aggrieved by—

- (a) a refusal by the Board to grant a licence or to permit the transfer of an hotel licence;
- (b) the cancellation of a licence by the Board; or
- (c) the grading or re-grading of an hotel by the Board;

may, within thirty days from the date of receipt of notification of the refusal, cancellation, grading or re-grading, appeal to the Minister, who may confirm, vary or set aside the decision of the Board, or send it back to the Board for further consideration.

(2) If the Minister is satisfied that the failure to lodge an appeal within the thirty days referred to in subsection (1) was not due to the neglect or wilful default of the applicant, he may allow the appeal to be lodged out of time.

(3) In every case in which an appeal under this section has been lodged, the Board shall submit to the Minister in writing the grounds for its decision.

PART V

MISCELLANEOUS

Entry,
inspection and
information

20. A member, or any person authorised in writing by the Board in that behalf may, at any reasonable time, enter and inspect the premises of an hotel and may require the hotel-keeper to furnish such information as is necessary to enable the Board to carry out its functions.

Register of
guests

21. (1) Every hotel-keeper shall keep a register in which shall be recorded the name of every guest and such other particulars as may be prescribed.

(2) Every hotel-keeper shall—

- (a) present the register to every person who intends to stay at his hotel and request him to write his name in the register together with such other particulars as may be prescribed;

8. (1) If any person is present at a meeting of the Board at which any matter in which that person or his spouse is directly or indirectly interested in a private capacity is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

Disclosure
of interest

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it was made.

9. No action or other proceeding shall lie or be instituted against any member for, or in respect of, any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

Immunity
of members

10. (1) The Board may, for the purpose of performing its functions under this Act, establish any committee the Chairman of which shall be a member of the Board and may delegate to any such committee such of its functions as it determines.

Committees
of Board

(2) The Board may appoint, as members of a committee established under subsection (1), persons who are or who are not members of the Board and such persons shall hold office for such period as the Board may determine.

(3) Subject to any specific or general directions of the Board, any committee established under subsection (1) may regulate its own procedure.

(4) Sections *eight* and *nine* shall apply to members of a committee.

PART III

ADMINISTRATION

11. (1) The Public Service Commission shall appoint a Secretary to the Board, which office shall be in the public service.

Secretary
and other
staff

(2) The Secretary is responsible for the administration of the day-to-day affairs of the Board under the general supervision of the Board.

(3) The Public Service Commission shall also provide to the Board the services of such other public officers, which shall include inspectors, as may be required for the efficient discharge of the functions of the Board.

12. (1) No person shall, without the consent in writing given by or on behalf of the Board, publish or disclose to any person otherwise than in the course of his duties, the contents of any document, communication or information, which relates to, and which has come to his knowledge in the course of, his duties under this Act.

Prohibition
of
publication
or
disclosure
of
information
to
unauthorised
persons

(2) A person who knowingly contravenes subsection (1) is guilty of an offence and liable, upon conviction, to a fine not exceeding three thousand kwacha or to imprisonment not exceeding three years, or both.

(3) If a person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates that information to any other person, he is guilty of an offence and liable, upon conviction, to a fine not exceeding three thousand kwacha or to imprisonment for a term not exceeding three years, or both.

PART IV

LICENSING AND GRADING OF HOTELS

Licences

13. (1) No person shall operate an hotel unless he has previously obtained an hotel licence from the Board specifying the premises in respect of which the licence is granted.

(2) No person shall manage an hotel unless he has previously obtained an hotel manager's licence from the Board.

(3) An hotel licence or an hotel manager's licence shall commence on the day on which it is issued and, unless previously cancelled, shall expire on the 31st December following the date of commencement.

Conditions under which licences shall be granted

14. (1) No hotel licence shall be granted by the Board unless the Board is satisfied that—

- (a) the applicant does not fall under any of the disqualifications specified in subsection (3) of *section four*;
- (b) the premises in respect of which the application is made are structurally adapted for use as an hotel;
- (c) proper provision has been made for the sanitation of the hotel;
- (d) proper provision has been made for the hotel to be managed in an efficient manner;
- (e) proper provision has been made for the storage, preparation, cooking and serving of food in the hotel;
- (f) the premises in respect of which the application is made comply with the Public Health Act and regulations made under it, and a certificate to that effect is produced; and
- (g) the applicant meets such additional requirements relating to—
 - (i) paragraphs (b) to (f); or
 - (ii) the welfare of guests;
 as the Board may determine.

- (b) the property was deposited by or on behalf of the guest expressly for safe custody with the hotel-keeper or his servant or agent authorised or appearing to be authorised for the purpose and, if so required by the hotel-keeper or that servant or agent, put into a container fastened or sealed by the depositor; or
- (c) at any time after the guest had arrived at the hotel, either the property in question was offered for deposit and the hotel-keeper or his servant or agent refused to receive it, or the guest or some other person acting on his behalf wished to so offer but through the default of the hotel-keeper or his servant or agent, was unable to do so:

Provided that the hotel-keeper shall not be entitled to the protection of this subsection unless, at the time when the property in question was brought to the hotel, a notice to that effect printed in plain type was conspicuously displayed in a place where it could conveniently be read by his guest at or near the reception office or desk or, where there is no reception office or desk, at or near the main entrance to the hotel.

24. A person who leaves an hotel without either paying his bill for board or making arrangements with the hotel-keeper, his agent or servant that the bill may be left in abeyance is guilty of an offence and liable, upon conviction, to a fine not exceeding one thousand kwacha or imprisonment not exceeding three months, or both.

Settlement
of bill

25. (1) A hotel shall add to every bill a service charge of ten per centum of the bill, which shall be paid in equal shares to all the employees who are unionised or are eligible for union membership.

Service
charge
and tips

(2) An hotel-keeper who contravenes subsection (1) is guilty of an offence and liable, upon conviction, to a fine not exceeding one thousand kwacha or imprisonment not exceeding three months, or both.

(3) The court convicting a hotel-keeper for a contravention of subsection (1) shall, in addition to the penalties prescribed in subsection (2), enter civil judgment in favour of the workers affected and order the hotel-keeper to pay the money owing.

(4) No person is obliged to give a tip for any service rendered in an hotel and the hotel-keeper of each hotel shall display a notice to that effect printed in plain type in a conspicuous place in the hotel where it could conveniently be read by a guest in the hotel.

Offences
and
penalties

26. A person who contravenes this Act or any direction given under it or regulations made under it shall, unless a different penalty is provided, be liable to a fine not exceeding one thousand kwacha or to imprisonment not exceeding three months, or both.

Regulations

27. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act.

(2) In particular but without prejudice to the generality of the power conferred in subsection (1), regulations may be made—

- (a) exempting premises or categories of premises from the provisions of this Act;
- (b) prescribing the form of any licence under this Act and the fees payable therefor;
- (c) providing for the grading of hotels and all matters incidental thereto;
- (d) providing for returns to be supplied from time to time by hotel-keepers to the Board or to any person authorised by the Board in that behalf, showing the number of guests staying at the hotel;
- (e) regulating the hours of employment of any person employed in any capacity in connection with the business of an hotel;
- (f) prescribing the form of the register to be kept under section *twenty-one*;
- (g) requiring the disposal of the register or any part thereof; and
- (h) prescribing any other matter which is required or permitted to be prescribed under this Act.

(3) Regulations made under this section may provide for the cancellation, by the court trying the offence, of the licence of any hotel-keeper who is convicted of any contravention of the regulations.

Application
of Liquor
Licensing
Act.
Cap. 429

28. Nothing in this Act shall affect the Liquor Licensing Act or regulations made under it.

Repeal and
disappli-
cation.
Cap. 261,
41 and 42
Vic c38

29. (1) The Hotels Act, 1950, is repealed.

(2) The Inkeepers Act, 1878, shall, so far as it remains in force in Zambia, cease to have effect.

- (b) present the register for inspection when so requested by a member of the Board, or by a police officer of or above the rank of Sub-Inspector; and
- (c) supply to any police officer of or above the rank of Sub-Inspector the original of any entry in the register or duplicate thereof when requested by that officer.

(3) An hotel-keeper who fails to comply with subsection (2) is guilty of an offence and liable, upon conviction, to a fine not exceeding one thousand kwacha or imprisonment not exceeding three months, or both.

(4) An hotel-keeper may refuse to allow into his hotel a guest who refuses or fails to give the particulars prescribed by or under this Act.

(5) A guest who makes a statement in the register of guests knowing that statement to be false is guilty of an offence and liable, upon conviction, to a fine not exceeding one thousand kwacha or imprisonment not exceeding three months, or both.

22. (1) An hotel-keeper may detain goods brought into the hotel or left in the hotel by a guest indebted to him for board and may continue to detain the goods until the debt is paid but may not detain the clothing which the person is wearing.

Lien of
hotel-keeper

(2) An hotel-keeper shall have the right to sell by public auction goods detained under subsection (1) and shall, after having out of the proceeds of the sale paid himself the amount of the debt together with the costs and expenses of the sale, make reasonable efforts to pay to the guest whose goods have been sold, the surplus, if any, remaining after the sale.

(3) No sale of the goods referred to in subsection (1) shall be made until after the goods have been for six weeks in the charge or custody of the hotel-keeper or in the hotel without the debt having been paid or satisfied.

(4) At least one month before any sale is made under this section, the hotel-keeper shall cause to be published in at least one newspaper circulating in the district where the hotel is situated, an advertisement containing notice of such intended sale and giving briefly a description of the goods intended to be sold, together with the name of the guest who brought, deposited or left the goods, if known.

(5) Where goods are sold under subsection (2) the hotel-keeper shall, before the expiration of the period of seven days beginning with the date of the sale of the goods, prepare a record in relation to the goods containing the following particulars:

- (a) a sufficient description of the goods;
- (b) the method, date and place of the sale;

- (c) the name and principal place of business of the auctioneer;
- (d) the amount of the proceeds of the sale; and
- (e) a statement of each item of the charges of the hotel-keeper in relation to the goods and the transaction to which each item relates;

and shall during the period of six years beginning with the date on which the record is prepared, keep the record together with a copy of the notice of the hotel-keeper to sell the goods and shall at any reasonable time during the period of six years, if so requested by or on behalf of the guest, produce the record, copy and certificate, or any of them, for inspection by the guest or a person nominated in that behalf by him.

(6) A person who fails to comply with this section, is guilty of an offence and liable, upon conviction, to a fine not exceeding one thousand kwacha or imprisonment not exceeding three months, or both.

Liabilities
of an
hotel-keeper

23. (1) Without prejudice to any other liability incurred by him with respect to any property brought into the hotel by a guest, a hotel-keeper shall, except as otherwise provided in this section, be liable to make good to that guest any loss or damage to the property where—

- (a) the loss or damage was incurred in the hotel; and
- (b) the loss or damage occurred during the period the guest has been residing at the hotel or has left the goods in the custody of the hotel-keeper.

(2) Without prejudice to any other liability or right of his with respect thereto, an hotel-keeper shall not, as such, be liable to make good to any guest any loss of, or damage to, or have a lien on, any motor vehicle or any property left therein.

(3) Where the hotel-keeper is liable as such to make good the loss of or any damage to property brought to the hotel, his liability to any one guest shall not exceed one thousand kwacha in respect of any one article, or five thousand kwacha in the aggregate, except where—

- (a) the property was stolen, lost or damaged through the default, neglect or wilful act of the hotel-keeper or his servant or agent;