
CHAPTER 288**HOTELS**

LIST OF AUTHORISED PAGES

1 - 6 LRO 1/2010

7 - 15 Original

ARRANGEMENT OF SECTIONS**PART I
PRELIMINARY**

SECTION

1. Short title.
2. Interpretation.

**PART II
LICENSING OF HOTELS**

3. Hotels to be operated only under licence granted by Board.
4. Board may grant licence.
5. Form of licences.
6. Duration of licences.
7. Temporary licences.
8. Board to be notified of change of control in certain cases.
9. Transfer of licences.
10. Variation of licences.
11. Transfer or variation to be endorsed on licences.
12. Default by hotels.
13. Time when decision of Board to take effect.
14. Saving for certain agreements.

**PART III
FINANCIAL PROVISIONS**

15. Hotel licence fee.
16. Hotel guest tax.
17. Duty of hotel operator to collect tax.
18. Board may assess hotel guest tax.
19. Payment of fees and taxes.
20. Hotel guest tax to be paid into Consolidated Fund.

**PART IV
MISCELLANEOUS**

21. Records and returns.
22. Penalty for operating hotel without licence, etc.
23. Penalty in relation to hotel guest tax.
24. Offences by bodies corporate.
25. Appeal to Minister.
26. Appeal to supreme court.
27. Regulations.

SCHEDULE — The Hotels Licensing Board.

CHAPTER 288
HOTELS

An Act to make provision for the licensing of, and the regulation and improvement of standards in, hotels; for the imposition of an hotel guest tax; and for matters connected with or incidental to those purposes.

18 of 1970
20 of 1978
11 of 1994
25 of 1995
16 of 1999
S.I. 42/1999
23 of 2009
32 of 2009

[Assent 21st September, 1970]
[Commencement 1st February, 1971]

PART I
PRELIMINARY

1. This Act may be cited as the Hotels Act. Short title.
2. (1) In this Act, unless the context otherwise requires — Interpretation.

“Board” means the Hotels Licensing Board established by section 3;

“condo-hotel” means a hotel which satisfies the requirements of subsection (3); *16 of 1999, s. 2.*

“Court” means the Supreme Court;

“hotel” means any building (however described), or, in the case of a group of buildings (however described) enjoying common ancillary services, any number of such buildings, in which accommodation is provided for reward for guests by a common management and includes owner-occupied rental homes: *23 of 2009, s. 2.*
32 of 2009, s. 2.

Provided that such building, other than owner-occupied rental homes or (in the case of such a group of buildings as aforesaid) such buildings in the aggregate, shall either —

- (a) contain not fewer than four bedrooms for the use of guests as sleeping accommodation; or
- (b) be equipped with not fewer than ten beds for such use;

“licence” means a licence granted under section 4 or a temporary licence granted under section 7, as the case requires, and “licensee” shall be construed accordingly;

“Minister” means the Minister responsible for Promotion and Development of Tourism;

“operator” means the person who operates the business of an hotel, and cognate expressions shall be construed accordingly;

23 of 2009, s. 2.

“owner-occupied rental homes” means property occupied by a person who being the owner in fee simple or a mortgagor in possession occupies and resides in such property exclusively as a dwelling house on a permanent or seasonal basis;

“regulation” means regulation made under section 27 for the time being in force;

“tax” means hotel guest tax provided for in section 16.

(2) Unless the contrary intention appears, references in this Act to a section are references to a section of this Act, and references in a section to a subsection are references to a subsection of that section.

16 of 1999, s. 2.

(3) In the case of a condo-hotel the following requirements shall be satisfied —

- (a) it shall be licensed under this Act and shall pay hotel licence fees;
- (b) it shall pay hotel guest taxes;
- (c) it shall pay business licence fees;
- (d) it shall pay real property taxes; and
- (e) individual units shall remain in the hotel’s general rental pool for a minimum period of nine months per year.

23 of 2009, s. 2.

PART II LICENSING OF HOTELS

Hotels to be operated only under licence granted by Board.

3. (1) From and after the commencement of this Act, but subject to subsection (3) of section 4 and to section 7, no person shall operate any premises as an hotel except under and in accordance with the terms of a valid licence granted under the said section 4 by the Hotels Licensing Board (which is hereby established) authorising him to operate those premises as an hotel.

Schedule.

(2) The provisions of the Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.

4. (1) Subject to section 15, the Board may, upon an application in that behalf made by any person in the prescribed manner, grant to that person a licence in the prescribed form to operate any premises as an hotel, or may refuse to grant such a licence, or may grant it subject to such terms or conditions as it may see fit to impose.

Board may grant licences.

(2) In the exercise of its powers of licensing under subsection (1) of this section and under section 7 the Board shall have regard to the need in the public interest to maintain an efficient hotel industry in The Bahamas.

5. Every licence shall specify —

Form of licences.

- (a) the name of the operator;
- (b) the name of the proprietor where he is not the operator;
- (c) the description and address of the premises in respect of which the licence is granted;
- (d) the date upon which the licence is to take effect,

and such other particulars, if any, as may be prescribed.

6. Every licence shall take effect on the date specified in the licence as the date on which it is to take effect and shall expire, in the case of an hotel in New Providence or Grand Bahama, on the thirty-first day of December, and, in any other case, on the thirty-first day of March, next following the date so specified, but, subject to section 15, may, upon application made for the purpose in the prescribed manner, be renewed by the Board by endorsement on the licence for a further period expiring on the thirty-first day of December, or, as the case may be, March, next following, and thereafter for further periods expiring on the anniversary of the said thirty-first day of December or March upon application made as aforesaid, successively from year to year, if the Board approves.

Duration of licences.

7. (1) Notwithstanding anything to the contrary, the Board, upon an application in that behalf made by any person in the prescribed manner and upon payment of the prescribed fee, may grant to that person a temporary licence to operate any premises as an hotel for a period not exceeding forty-five days:

Temporary licences.

Provided that a temporary licence may not be granted to any person in respect of the same premises or any part thereof for any number of days exceeding in the aggregate ninety in any year.

(2) A temporary licence shall be in such form, and shall contain such terms and conditions, as may be determined by the Board, and any terms or conditions so determined may modify, in relation to the operation of the premises pursuant to the licence, any of the requirements of this Act or of any regulations to such extent as the Board deems fit.

Board to be notified of change of control in certain cases.

8. (1) Where any alteration is proposed in the control of a company which is the operator of an hotel, such company shall notify to the Board in writing all the particulars of such alteration that are known to the company as soon as they become so known.

(2) If the operator of an hotel fails to comply with the provisions of subsection (1), then the Board may, where there is a licence in force in respect of the hotel, by instrument in writing cancel that licence.

(3) For the purposes of subsection (1), a company shall be deemed to be controlled by a person or persons if that person or those persons, by the exercise of some power exercisable by him or by them acting together, can, without the consent of any other person, appoint or remove all or a majority of the directors of the company; and for the purposes of this provision the expression “director” means any person who occupies the position of a director, by whatever name called.

Transfer of licences.

9. Where a licensee has died or proposes to divest himself or has divested himself of his interest in the business of the hotel in respect of which his licence was granted, the Board may, upon an application in that behalf made by any person claiming the right to succeed to such licensee as the operator of the hotel, and upon payment of the prescribed fee, transfer the licence to that person subject to such terms and conditions as the Board may think fit to impose:

Provided that before transferring any licence under this section the Board shall, where practicable, give to the licensee or, as the case may be, to his legal personal representatives a reasonable opportunity to make any representations that they may wish to make in relation to any such application, and shall take into account any representations so made by them or on their behalf.

Variation of licences.

10. The Board may at any time upon an application in that behalf made by a licensee or of its own motion, vary any of the terms or conditions of a licence:

Provided that in varying any term or condition of a licence the Board shall taken into account any representations made to it by the licensee or on his behalf and shall not vary such term or condition of its own motion without first giving to the licensee a reasonable opportunity to make such representations.

11. Any transfer of a licence or variation of any term or condition of a licence made by the Board under section 9 or 10 shall be endorsed on the licence, together with the date when it was made by the Board and the date when it is to take effect.

Transfer or variation to be endorsed on licences.

12. (1) Where it appears to the Board, after such inquiry as it may deem fit, that any hotel (whether or not being an hotel for the operation of which a licence under section 4 is required) is in default as being conducted in contravention of any Act or rule (including this Act or any regulation) and that such default is capable of remedy by the operator thereof, the Board may by notice in writing require the operator of the hotel to remedy the default within such time, not being less than fifteen days, as may be specified in the notice.

Default by hotels.

(2) If an hotel is in default as alleged by a notice given under subsection (1) and the operator thereof fails within the time specified in the notice to remedy the default complained of by the Board, then the Board may, where there is a licence in force in respect of the hotel, by instrument in writing cancel that licence.

13. A decision of the Board under subsection (2) of section 8 or under subsection (2) of section 12 to cancel a licence, or any decision mentioned in subparagraph (i) or (ii) of paragraph (a) of subsection (1) of section 25, or any assessment mentioned in paragraph (b) of that subsection, or any other decision, act or order mentioned in paragraph (c) thereof, shall take effect as respects any person —

Time when decisions of Board to take effect.

- (a) where no appeal is brought under the provisions of sections 25 and 26, at the expiration of fifteen days from the date on which the decision, assessment, act or order is communicated to that person;
- (b) where such an appeal is brought within the time limited by or pursuant to those sections and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal;

- (c) where such an appeal is brought and is not withdrawn or struck out, as aforesaid, if and when the appeal is dismissed, and not otherwise.

Saving for
certain
agreements.

14. Nothing in this Act shall have effect so as to require to be licensed thereunder any individual who, or any business or undertaking which, under any agreement entered into by or on behalf of the Government of The Bahamas under the authority of any enactment, the said Government agree shall be exempt from licensing by the said Government or any department thereof or any licensing authority.

PART III FINANCIAL PROVISIONS

Hotel licence fee.

15. (1) Where the Board decides to grant or renew a licence there shall be paid before such licence is issued or the endorsement of such renewal is made, a fee in respect thereof of an amount of three dollars for each bedroom provided in the hotel for the use of guests as sleeping accommodation:

Provided that no such fee shall be payable in respect of any hotel —

- (a) in New Providence either having fewer than ten bedrooms for use of guests as sleeping accommodation or equipped with fewer than twenty beds for such use; or
- (b) in any Out Island either having fewer than twenty-five bedrooms, or equipped with fewer than twenty beds, as aforesaid.

(2) This section shall not come into force until such date as the Minister may appoint by notice in the *Gazette*.

Hotel guest tax.
20 of 1978, s. 2.

16. (1) Subject to subsection (4), there shall be paid by each guest of any hotel in any part of The Bahamas a tax (to be called “hotel guest tax”) for each period during which such guest is provided with sleeping accommodation at such hotel.

20 of 1978, s. 2.

S.I. 42/1999.

(2) Subject to subsection (3), the hotel guest tax shall in respect of each such guest be six per centum of his total room rate for the period during which such guest is provided with sleeping accommodation at such hotel.

(3) Notwithstanding subsection (2), the Minister may, subject to subsection (5), by order increase or reduce the rate of the hotel guest tax from a date to be specified in the order.

(4) Hotel guest tax shall not be payable —

11 of 1994, s. 3.

(a) by any person who is a member of the staff of the hotel occupying accommodation as part of his conditions of service as a member of that staff, or by any member of the family of, or by the private guest of, such a person; or

(b) with effect from a date to be specified by the Minister in an order under this paragraph, and subject to subsection (5), by such class or classes of persons as may be specified in the order.

(5) The provisions of sections 31 and 32 of the Interpretation Act shall not apply in relation to any order made by The Minister under subsection (3) or paragraph (c) of subsection (4), but instead every such order shall be subject to affirmative resolution of both Houses of Parliament.

Ch. 2.

(6) In subsection (5) the expression “subject to affirmative resolution of both Houses of Parliament”, in relation to an order, means that the order is not to come into operation unless and until approved by a resolution of each of those Houses; and on and after the date specified in the order as so approved the alteration of the rate of tax or, as the case requires, the exemption from payment of the tax of the class or classes of persons, specified in the order shall respectively have effect.

17. (1) It shall be the duty of every operator of an hotel who provides sleeping accommodation for any guest at that hotel, to collect the hotel guest tax from such guest, and it shall be the duty of every such guest to pay the tax to such operator.

Duty of hotel operator to collect tax.

(2) In the performance of his duty under subsection (1) an operator may add to the account of each such guest the amount of tax payable by that guest.

(3) Any amount of hotel guest tax which an operator of an hotel is required to collect pursuant to this section shall constitute a debt due and payable by such operator to the Treasurer without further demand as soon as the

account of the guest by whom the tax is payable itself becomes due and payable in respect of the accommodation provided for such guest by such operator:

Provided that regulations may permit, either generally or in any particular case, payment of any such amount as aforesaid by such instalments or at such periods as may be prescribed.

Board may assess hotel guest tax.

18. Where, by reason of the failure of the operator of any hotel to produce the prescribed books or records relating to such hotel, or by reason of information contained in any such books or records or which the Board may have received from any other source whatever, the Board is satisfied that it has not been given a true account of the guests provided with sleeping accommodation at such hotel during any period, the Board may, after consideration of any representations or information which the operator of such hotel may make or supply to it, assess the amount which shall be deemed to be the amount of hotel guest tax due and payable by such guest during that period, and the amount so assessed shall be deemed to be the amount of tax due from that operator in relation to that period under subsection (3) of section 17:

Provided that, where an appeal is made pursuant to section 25 against such an assessment, the assessment shall not take effect unless confirmed by the Minister or, where a further appeal is made pursuant to section 26, by the Court.

Payment of fees and taxes.

19. Any fees payable pursuant to section 15 and any hotel guest tax payable pursuant to section 17 shall —

- (a) if the hotel in question is situate in New Providence, be paid to, and collected by, the Treasurer at the Treasury;
- (b) in any other case be paid and collected either to and by the Treasurer as aforesaid or, at the election of the operator of the hotel, to and by the commissioner for the district concerned, to be by him remitted to the Treasurer.

Hotel guest tax to be paid into Consolidated Fund.

20. All hotel guest tax collected under section 19 by the Treasurer shall be paid by him into the Consolidated Fund.

**PART IV
MISCELLANEOUS**

- 21.** (1) The operator of any hotel shall —
- Records and returns.
- (a) keep such books and records in relation to that hotel as may be prescribed; and
 - (b) permit the Minister or any person authorised by him in that behalf to enter into any premises used for the purposes of that hotel and to inspect, and to make copies of entries in, any books, records or other documents which relate or appear to relate to that hotel; and
 - (c) if required so to do by the Minister or any person authorised by him in that behalf, produce, at such time and place as the Minister or such person may specify, any books, records or other documents relating to that hotel; and
 - (d) at such times and to such persons as the Minister may specify, make such returns as may be prescribed and give such other information relating to that hotel as the Minister may require.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding six hundred dollars.

- 22.** (1) Any person who —
- Penalty for operating hotel without licence, etc.
- (a) without lawful excuse operates any premises as an hotel when there is not in force a licence granted by the Board authorising him to operate those premises as an hotel; or
 - (b) having been granted such a licence, operates the hotel in respect of which that licence has been granted otherwise than in accordance with the terms of such licence,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding five hundred dollars for each day during which he so operated such premises.

(2) Where any operator of an hotel in respect of which a licence is, by virtue of section 14, not required under this Act —

- (a) being a company, fails to comply with the provisions of subsection (1) of section 8; or

- (b) having received notice as provided by subsection (1) of section 12, fails to comply therewith,

such operator shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding five hundred dollars.

Penalty in relation to hotel guest tax.

23. Any person who —

- (a) when lawfully required by the operator of an hotel to pay any hotel guest tax payable by him, fails to pay such tax; or
- (b) being the operator of an hotel, fails to make any payment which he is required to make by reason of subsection (3) of section 17 at the time when it becomes due and payable; or
- (c) in relation to any amount paid or payable as hotel guest tax, makes any statement which he knows to be false in any material particular or recklessly makes any statement which is false in a material particular or, with intent to deceive, produces or makes use of any book, record, account, return or other document which is false in a material particular; or
- (d) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion, by him or any other person, of any hotel guest tax,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding six hundred dollars or, at the election of the Minister, treble the amount of the hotel guest tax which is unpaid or in respect of which payment is sought to be evaded.

Offences by bodies corporate.

24. Where any offence under this Act is committed by a body corporate with the consent or connivance of, or is attributable to any wilful neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and liable to be proceeded against and punished accordingly.

Appeal to Minister.

25. (1) Any person aggrieved by —

- (a) a decision of the Board —
- (i) to refuse to grant or renew, or transfer, or vary a term or condition of, a licence; or

- (ii) to vary a term or condition of a licence; or
- (iii) to cancel a licence; or
- (b) any assessment made by the Board under section 18; or
- (c) any other decision, act or order (by whatever name called) of the Board in the exercise or purported exercise of any power or authority conferred upon it by this Act or any regulations,

may within fifteen days from the date on which such decision, act, order or assessment, as the case may be, is communicated to him, appeal in respect thereof in writing to the Minister.

(2) Upon any such appeal the Minister may confirm, modify or reverse the decision, act, order or assessment of the Board complained of or may make such other order, including an order for costs, as he thinks just.

26. (1) Subject to subsection (2), where any person who has appealed to the Minister under section 25 is aggrieved by the decision of the Minister on such appeal, he may appeal to the Court against that decision within fifteen days (or such longer period as the Court may in any particular case for good cause allow) after the making thereof by lodging a notice of appeal with the Minister setting forth the grounds of appeal.

Appeal to
Supreme Court.

(2) No appeal shall lie to the Court pursuant to this section except upon a ground of appeal involving a question of law alone.

(3) Upon the hearing of any such appeal the Court may make such order, including an order for costs, as it thinks just.

27. (1) The Minister may make regulations under this section for the maintenance of high standards in the operation of hotels in every part of The Bahamas, for the protection of persons residing in or resorting to any such hotels and generally for the better carrying out of the purposes of this Act, and, in particular, but without prejudice to the generality of the foregoing, such regulations may make provision for —

Regulations.

- (a) regulating the number of persons who may be accommodated as guests in an hotel and in any room thereof;

- (b) the medical examination of hotel employees, for restricting and controlling the employment in hotels of persons suffering from disease or infection or who have been in contact with persons suffering from disease or infection, and for prescribing standards of personal cleanliness to be observed by the hotel employees;
- (c) prescribing standards for the maintenance of the exteriors and interiors of hotels and the roads, pathways and grounds thereof;
- (d) prescribing the precautions to be taken against the outbreak or spread of fire in hotels and for the protection of persons therefrom;
- (e) prescribing the furnishings and fixtures to be provided in bedrooms and other rooms provided for the use of guests, and the standards to be maintained in connection therewith;
- (f) the keeping of records and registers by operators in relation to the operation of hotels;
- (g) requiring that the licence or the regulations or any part of or extract therefrom, shall be displayed in any prescribed place;
- (h) exempting any person or any premises, or any class of persons or premises, from any such regulations, subject or not to any conditions;
- (i) prescribing any matter or thing required or authorised by this Act to be prescribed.

(2) Regulations made under subsection (1) may, notwithstanding the provisions of section 25(e) of the Interpretation Act, provide for the imposition of a fine not exceeding five hundred dollars for any contravention of, or failure to comply with, the provisions of the regulations.

Ch. 2.

SCHEDULE (Section 3(2))

THE HOTELS LICENSING BOARD

Constitution of Board.

1. The Board shall consist of five persons, to be appointed by the Minister, one of whom shall be by him appointed chairman of the Board.

Tenure of office of members.

25 of 1995, s. 2 and Sch.

2. The chairman and other members of the Board shall, subject to the provisions of this Schedule, hold office for such period not exceeding three years as the Minister may determine, and shall be eligible for reappointment.

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- 3.** The Minister may appoint any person to act in the place of the chairman or any other member of the Board in case of the absence or inability to act of the chairman or such member. Acting appointments.
- 4.** (1) Any member of the Board other than the chairman may at any time resign his office by instrument in writing addressed to the chairman, who shall forthwith cause it to be forwarded to the Minister and, from the date of the receipt by the chairman of such instrument, such member shall cease to be a member of the Board. Resignations.
- (2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and, from the date of the receipt by the Minister of such instrument, such chairman shall cease to be chairman or a member of the Board.
- 5.** The Minister may, if he thinks it expedient so to do at any time revoke the appointment of the chairman or any other member of the Board. Revocation of appointments.
- 6.** If any vacancy occurs in the membership of the Board such vacancy shall be filled by the appointment thereto by the Minister of another person, who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed. Filling of vacancies.
- 7.** The names of the members of the Board as first constituted and every change in the membership thereof shall be published in the *Gazette*. Publication of membership.
- 8.** (1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Board may determine. Procedure of Board.
- (2) A quorum of the Board shall be three.
- (3) Subject to the provisions of this Schedule the Board may regulate its own proceedings.
- 9.** The Board may appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, but subject to the prior approval of the Minister in each case, a secretary and such other officers, servants and agents as it thinks necessary for the proper discharge of its functions: Officers, servants and agents.
- Provided that nothing in this paragraph shall prevent the assigning to the Board, to act as such an officer, servant or agent of the Board, of any public officer or of any officer employed in the Department of Tourism.
- 10.** There shall be paid to the chairman and each member of the Board, not being a public officer, such remuneration (if any), whether by way of honorarium, salary or fees, and such allowances (if any) as the Minister may determine. Remuneration of members.