

CHAPTER 494 - Hotels and Restaurants Act

Commencement Date: 2/1/1972

An Act of Parliament to make provision for the licensing of hotels, hotel managers, and restaurants; for the regulation of hotels and restaurants; for the imposition of a levy for training persons to be employed in hotels and restaurants; and for matters incidental to and connected with the foregoing

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Hotels and Restaurants Act.

Interpretation.
12 of 1984, Sch.

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

"the Authority" means the Hotels and Restaurants Authority established by section 3;

"charge" means a charge made for accommodation, food or drink, or any combination thereof, in a hotel or restaurant, and a service charge imposed in respect of the supply of the accommodation, food or drink;

"hotel" means premises on which accommodation is supplied or available for supply, with or without food or services, to five or more adult persons at one time in exchange for money or money's worth, and includes premises known as "service flats", "service apartments", "beach cottages", "holiday cottages", "game lodges", and "bandas"; but does not include premises on which the only accommodation supplied or available for supply is under a lease or licence of not less than one month, unless by prior arrangement the occupier may, without penalty, terminate that lease or licence on less than one month's notice;

"hotel licence" means a licence to keep or use any premises as a hotel;

"hotel manager's licence" means a licence to exercise overall control over the day-to-day operations of a hotel;

"licence" means a licence granted under the provisions of section 5, and "licensed" shall be construed accordingly;

"licensee" means the holder of a hotel licence, restaurant licence or hotel manager's licence as the context may require;

"Minister" means the Minister for the time being responsible for matters connected with tourism, and "Ministry" shall be construed accordingly;

"restaurant" means any premises on which is carried on the business of supplying for reward any food or drink but does not include—

(a) a bona fide works or staff canteen maintained, for the use of persons employed in any particular undertaking, by that undertaking; or

(b) any premises where food or drink is supplied only to persons who reside or board at, or work at, such premises; or

(c) any portion of a licensed hotel;

"restaurant licence" means a licence to keep or use any premises as a restaurant;

"tariff order" means an order fixing maximum charges made under section 14;

"the Tribunal" means the Hotels and Restaurants Appeal Tribunal established by section 10.

PART II—THE HOTELS AND RESTAURANTS AUTHORITY

Establishment of Authority

3. (1) There is hereby established an authority, to be known as the Hotels and Restaurants Authority, which shall consist of the following members—

(a) a chairman appointed by the Minister;

(b) not less than seven and not more than nine persons appointed by the Minister, of whom—

(i) at least one shall be appointed by reason of his knowledge of the hotel industry and international tourism;

(ii) at least one shall be appointed to represent the interests of hotel keepers;

(iii) at least one shall be appointed to represent the interests of restaurant keepers;

(iv) at least one shall be appointed to represent the interests of hotel and restaurant employees; and

(c) the Permanent Secretary of the Ministry, or a person deputed by him in writing to take his place as a member of the Authority.

(2) Before the Minister makes an appointment under this section, he shall require the person to be appointed to declare whether he has any, and if so what, financial interest in any hotel or restaurant.

(3) It shall be the duty of the Authority to keep under review the standards of hotels and restaurants and to advise the Minister on the improvement and development of hotels and restaurants and on any other matters which may be referred to it by the Minister.

(4) The Authority shall have power—

(a) to issue licences in accordance with section 5;

(b) to investigate and determine complaints in accordance with section 7;

(c) to vary, suspend and cancel licences in accordance with section 8;

(d) no person shall exercise overall control over the day-to-day operation of the restaurant, whether is the owner or the manager of the restaurant, unless he is the holder of the restaurant licence.

(5) In the exercise of its functions under this Act, the Authority shall be guided by the consideration of promoting the well-being and development of the hotel and restaurant industries as a whole, as well as the interests of persons using hotels and restaurants.

(6) The First Schedule shall have effect with respect to the Authority.

PART III—LICENSING

Licences required

4. (1) After the appointed day—

(a) no premises shall be used or kept as a hotel unless there is in force a valid hotel licence in respect of such hotel;

(b) no person shall exercise overall control over the day-to-day operation of a hotel, whether he is the owner or the manager of such hotel, unless he is the holder of a hotel manager's licence;

(c) no premises shall be used or kept as a restaurant unless there is in force a valid restaurant licence in respect of such premises.

(2) In this section, "the appointed day" means such date as the Minister may, by notice in the Gazette, appoint for the purposes of this section, and different dates may be so appointed in respect of different licences or in respect of different areas or of different classes of premises.

(3) In the event of any contravention—

(a) of paragraph *(a)* or *(c)* of subsection (1), the owner, and manager (if any) of the premises concerned;

(b) of paragraph *(b)* of subsection (1), the person concerned, shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

Application for, and grant of, licences 12 of 1984, Sch. Cap. 242.

5. (1) Any person desirous of obtaining a licence, or of obtaining any variation of a licence held by him, shall make application to the Authority in such form, accompanied by such information, as may be prescribed.

(2) An application for the grant of a licence which is in continuation of an existing licence shall be made at least two months before the expiry date of the existing licence.

(3) On receipt of an application under this section, the Authority may make such investigation or require the submission of such declaration or further information as it may deem necessary in order to enable it to consider the application.

(4) The Authority shall not consider an application under this section for the grant of a hotel licence or a restaurant licence unless the application is accompanied by a certificate, signed by a medical officer of health (as defined in the Public Health Act) and dated not more than three months before the receipt by the Authority of the application, to the effect that—

(a) where food will be supplied proper provision has been made of the sanitation of the premises in respect of which the application is made, for the storage, preparation, cooking and serving of food and drink on the premises, and for the health and comfort of persons using the premises; and that the

premises conform in all respects with the provisions of any written law relating to sanitation and public health which apply thereto.

(5) After considering an application under this section and all matters appearing relevant thereto the Authority may, subject to the succeeding provisions of this section, grant to the applicant the licence or variation applied for or may refuse such grant, and may attach to any licence so granted such conditions as the authority may deem expedient.

(6) The Authority shall not grant a hotel licence or a restaurant licence unless it is satisfied that—

(a) the premises in respect of which the application is made are structurally suitable for the use proposed; and

(b) either—

(i) where no tariff order has been made which is applicable to the hotel or restaurant concerned the charges are reasonable having regard to the standards of accommodation, food and service, and to such other matters as the Authority considers relevant; or

(ii) where such a tariff order has been made the charges are not in excess of those authorized by such order

(7) The Authority shall grant a hotel manager's licence unless it is satisfied that the applicant is not a fit and proper person to manage a hotel, proper

(8) Any person who makes or causes to be made either orally or in writing, any declaration or representation which he knows or has reason to believe to be false for the purpose of obtaining a licence or the variation of a licence shall be guilty of an offence and liable to imprisonment for a term not exceeding six months, or to a fine not exceeding five thousand shillings or both.

Provisions concerning licences
14 of 1974, Sch.

6.(1) Every licence shall expire on 31st December of the year in respect of which it is issued.

(2) A hotel licence or restaurant licence shall state the precise name, location and extent of the premises to which it relates, shall be endorsed with every condition imposed by the Authority, and shall be displayed prominently on such premises in a part thereof to which public have access, and where a licence is not so displayed the holder thereof shall be guilty of an offence.

(3) Where hotels have been classified by regulations under section 29, a hotel manager's licence shall state the class of hotel which the licensee is licensed to manage.

(4) A licence shall not be capable of being transferred from the licensee to any other person, and any person who attests or purports to transfer a licence shall be guilty of an offence.

(5) On the cancellation of a licence, the Authority shall forthwith notify the licensee thereof and the licensee shall, within fourteen days of the receipt by him of the notification, surrender his licence to the Authority, and if without reasonable cause he fails to do so he shall be guilty of an offence.

(6) A person guilty of an offence under subsection (2), (4) or (5) shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months or to both.

Complaints

7. (1) Any person who is dissatisfied with the manner in which a hotel or restaurant is conducted may make a written complaint in that behalf to the Authority:

Provided that no such complaint shall be accepted by the Authority unless it is made within twenty-eight days after the matter complained of first came to the notice of the complainant.

(2) Upon receipt of a complaint under this section, the Authority—

(a) if it is satisfied that the complaint is frivolous, vexatious or merely trivial, shall reject the complaint summarily; or

(b) otherwise shall investigate and determine the same.

(3) In any investigation under this section—

(a) the Authority shall inform the licensee concerned of the nature of the complaint and afford him the opportunity of being heard in person;

(b) the Authority may act on general evidence or information relating to the manner in which the business of the licensee is conducted, and shall not be confined to receiving and considering only evidence admissible in a court of law;

(c) the chairman or other person presiding shall have power to administer oaths;

(d) the chairman may, by notice under his hand, summon any person to attend and give evidence and to produce any relevant document.

(4) Any person who, after payment or tender to him of his reasonable expenses, without reasonable excuse fails, when summoned by the Authority, to attend and give evidence or to attend and produce any document which he is required to produce shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

(5) Where, as a result of a complaint made against a licensee the Authority finds after investigation that the complaint is frivolous or vexatious, the Authority may order the person making the complaint to pay to the Authority or the licensee such sum as the Authority considers equitable in relation to expenses incurred and attributable to the complaint, and any sum so ordered shall be recoverable as a civil debt.

Authority may require licensee to remedy matters and may suspend or cancel license for default.

8.(1) Where it appears to the Authority that—

(a) the holder of a hotel manager's licence has ceased to be a fit and proper person to manage a hotel; or

(b) a hotel or restaurant is being conducted in an unclean or insanitary manner; or

(c) a hotel or restaurant is not being conducted in an efficient manner; or

(d) a hotel or restaurant is being so conducted as to constitute a nuisance or annoyance to persons in the neighbourhood or in an improper manner; or

(e) the food served in a hotel or restaurant is not properly prepared, cooked or served; or

(f) any condition specified in subsection (6), or attached to a licence under subsection (5), of section 5 is not being, or has ceased to be complied with; or

(g) any notice given under section 23 is not being complied with, the Authority, after giving the licensee the opportunity of being heard, may give notice in writing to the licensee concerned specifying the matters which it considers require to be remedied, and requiring him to remedy them to its satisfaction before a specified date.

(2) If a licensee fails to comply with the requirements of a notice given to him under subsection 1), the Authority may without prejudice to any liability on the part of the licensee to be prosecuted for an offence under this Act, call upon the licensee to show cause why his licence should not be suspended, varied or cancelled, and thereafter, if the licensee fails to show good cause, the Authority may suspend, vary or cancel the licence.

(3) Where an employee of a licensee has his employment prematurely terminated by reason of a requirement made under this section, no action shall lie in any court against the Authority in respect of the termination.

Appeals

9.(1) Any person who is aggrieved by—

(a) the refusal of the Authority to grant or vary a licence; or

(b) the attaching of any condition to a licence; or

(c) the variation, suspension or cancellation of a licence, may, within fourteen days of the notification of the act complained of being received by him, appeal in writing to the Tribunal, whose decision shall be final.

(2) Where the Authority has suspended, varied or cancelled a licence, the suspension, variation or cancellation shall not have effect until the end of the time within which an appeal may be made to the Tribunal or, if an appeal has been made, until the appeal has been heard and determined.

(3) Where a person's application for a licence or for the variation of a licence is refused, or where a person's licence is suspended, varied or cancelled, or a person is aggrieved by the decision of the Authority, that person may in writing require the Authority to give the reasons for its decision, and the Authority shall give its reasons in writing accordingly.

Appeal Tribunal

10. (1) There is hereby established an appeal tribunal, to be known as the Hotels and Restaurants Appeal Tribunal, which shall consider and determine appeals under section 9.

(2) The Tribunal shall consist of—

(a) a chairman appointed by the Minister; and

(b) not less than two and not more than four other members appointed by the Minister.

(3) A person shall not be qualified to be appointed a member of the Tribunal if he is a member of the Authority.

(4) There shall be an assessor to the Tribunal, who shall be an advocate of not less than five years' standing, appointed by the Tribunal with the approval of the Minister, and the assessor, when the Tribunal so requires, shall attend the proceedings of the Tribunal and advise it on questions of law.

- (5) For the purposes of the hearing and determination of appeals by the Tribunal—
(a) the chairman or other person presiding may administer oaths;
(b) the chairman may, by notice under his hand, summon any person to attend and give evidence and to produce any relevant document.
- (6) The costs of an appeal shall be in the discretion of the Tribunal, which may make such order as to costs as appear to it just; and any such costs shall be recoverable as a civil debt.
- (7) Any person who, after payment or tender to him of his reasonable expenses, without reasonable excuse fails, when summoned by the Tribunal, to attend and give evidence or to attend and produce any document which he is required to produce shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.
- (8) The Second Schedule shall have effect with respect to the Tribunal.

PART IV—DUTIES, LIABILITIES AND PRIVILEGES OF HOTEL KEEPERS

Register and book to be kept by licensee

- 11.**(1) Every holder of a hotel licence shall keep a register in his hotel and shall enter or cause to be entered in the register the name and address of every guest who stays at the hotel and such other particulars as may be prescribed.
- (2) Every holder of a hotel licence shall enter or cause to be entered regularly in a book kept for the purpose all such particulars (other than particulars prescribed in respect of the register required by subsection (1) to be kept) as may be prescribed.
- (3) Any person who fails to comply with this section, or who makes or causes or permits to be made in any register or book required by this section to be kept any entry which he knows or has reason to believe to be false, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

Liability to guests

- 12.**(1) The liability of an innkeeper at common law shall be subject to the modifications hereinafter contained in this section.
- (2) Without prejudice to any other liability incurred by him with respect thereto, the holder of a hotel licence shall not be liable to make good to a guest any loss of or damage to property brought to the hotel except where—
- (a) at the time the loss or damage occurred, sleeping accommodation at the hotel had been engaged for the guest; and
- (b) the loss or damage occurred between the midnight immediately preceding and the midnight immediately following a period during which the guest was entitled to use the accommodation so engaged.
- (3) Without prejudice to any other liability or right of his with respect thereto, the holder of a hotel licence shall not be liable to make good to a guest any loss of or damage to nor shall he have any lien upon, any vehicle, or any property left in a vehicle, or any live animal or its harness or other equipment.

(4) Where the holder of a hotel licence is liable in the circumstances described in paragraphs (a) and (b) of sub-section (2) to make good any loss of or damage to property brought to the hotel, then, subject to section 13, his liability to any one guest shall not exceed five hundred shillings in respect of any one article or one thousand shillings in the aggregate, except where—

(a) the property was stolen, lost or damaged through the default, neglect or wilful act of the licensee or a person in his employ; or

(b) the property was deposited by or on behalf of the guest expressly for safe custody with the licensee or a person in his employ authorized, or appearing to be authorized, for the purpose and, if so required by the licensee or the person in his employ, in a container fastened or sealed by the depositor; or

(c) at the time after the guest had arrived at the hotel, after the property in question was offered for deposit as aforesaid and the licensee or a person in his employ refused to receive it, or the guest or some other guest acting on his behalf wished so to offer the property in question but, through the default of the licensee or a person in his employ, was unable to do so.

(5) Every holder of a hotel licence shall cause a notice in the form in the Third Schedule, printed in plain type in Kiswahili, English, French, German, Italian and any other language which may be prescribed, to be displayed prominently at a place where it can conveniently be read by the guests at or near the hotel reception office or desk or where there is no reception office or desk, at or near the main entrance of the hotel; and he shall be entitled to the benefit of this section in respect of property brought to his hotel only while such notice is so displayed.

Right of sale

13.(1) The holder of a hotel licence shall, in addition to the ordinary lien of an innkeeper at common law have the right absolutely to sell by public auction any property deposited or left with him or in his hotel or in any premises appurtenant or belonging to the hotel, where the person depositing or leaving the property is or becomes indebted to him for accommodation, food or drink at the hotel:

Provided that—

(i) no such sale shall be made until after the property has been for a period of six weeks in his charge or custody or in or upon his premises, without the debt having been paid or satisfied;

(ii) 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 property could have been retained by the holder of a hotel licence under his lien at common law as an innkeeper; and

(iii) at least one month before the sale is effected, the holder of a hotel licence shall cause to be inserted in a national newspaper an advertisement giving notice of the intended sale and a short description of the property intended to be sold, together with the name (if known) of the owner or person who deposited or left it, and if the address of such owner or person is known to him he shall send a copy of the notice to such owner or person.

(2) The holder of a hotel licence shall, out of the proceeds of the sale of any property sold pursuant to subsection (1), after retaining the amount of his debt and the costs and expenses of the sale, pay on demand to the person who deposited or left the property any surplus money remaining thereafter.

PART V—REGULATION OF PRICES

Minister may impose tariff
12 of 1984, Sch.

14.(1) The Minister may at any time carry out a review of the charges made by hotels or restaurants in any area, and as a result of such a review he may, after giving not less than one month's notice in the Gazette of his intention to do so, by order, fix minimum or maximum charges which may be made by any hotel or restaurant, in that area.

(2) An order under subsection (1) may—

(a) either specify the charges themselves or prescribe the method by which they are to be calculated;

(b) be made applicable to specified hotels or restaurants or to hotels or restaurants of a specified class.

(3) Where any charge is made in a hotel or restaurant which exceeds the maximum charge or which is below the minimum charge fixed by a tariff order relevant to that hotel or restaurant, the holder of the restaurant licence or, as the case may be, the manager of the hotel shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding one month or to both, or in the case of a second or subsequent offence to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

PART VI—CATERING TRAINING AND TOURISM DEVELOPMENT LEVY

Interpretation

15. In this Part—

"the Fund" means the training and tourism development levy fund established by section 17;

"levy" means a catering training and tourism development levy imposed by an order under section 16, and "levy order" means that order;

"the Trustees" means the Catering Tourism Development Levy Trustees established by section 18.

Training levy
15 of 2003, s. 55.

16.(1) The Minister may, by order, require payment by the owners of hotels and restaurants of a catering training levy.

(2) A levy order may provide for the amendment of any previous levy order and may make different provisions in relation to hotels and restaurants and in relation to different classes of hotels or restaurants.

(3) A levy order may contain provisions as to the evidence by which a person's liability to the levy, or his discharge of that liability, may be established, and as to the time at which any amount payable by any person by way of the levy shall become due.

(4) All moneys received in respect of the levy shall be paid into the Fund and, if not paid on or before the date prescribed by the levy order, the money and any sum payable under subsection (5) shall be a civil debt recoverable summarily by the Trustees.

(5) If any person fails to pay any amount payable by him by way of the levy on or before the date prescribed by the levy order, such person shall be liable to a penalty of five thousand shillings and thereafter to an additional penalty of three per centum of the amount of the levy due, for each month or part thereof during which the amount due remains unpaid.

(6) Any person who fails to comply with any provision of a levy order shall be guilty of an offence, and liable to a fine not exceeding twenty thousand shillings, or to imprisonment for a period not exceeding twelve months or to both.

Training levy fund

17.(1) There is hereby established a training and tourism development levy fund which shall be vested in the Trustees and into which shall be paid—

- (a) all proceeds of the levy;
- (b) any moneys derived from the sale of surplus assets of the Trustees;
- (c) all moneys, from any other source, provided for or donated or lent to the Trustees.

(2) Any moneys in the Fund not immediately required for the purposes of the Trustees may be placed on deposit at a bank or invested by the Trustees in any securities in which trustees may, for the time being, by law invest or in any other securities approved for the purpose by the Treasury.

Establishment of Trustees Cap. 494

18. (1) There is hereby established a body of trustees, to be known as the Catering and Tourism Develop Levy Trustees, which shall consist of six persons appointed by the Minister who shall nominate one of such persons as the chairman of the Trustees.

(2) The Catering and Tourism Development Levy Trustees shall, by that name, be a body corporate having perpetual succession and a common seal, and may, in its corporate name sue and be sued, and, for the purposes of its functions, may purchase or otherwise acquire, hold, manage and dispose of property, movable or immovable, and may enter into such contracts as the Trustees may deem necessary or expedient.

(3) Subject to subsection (4), a trustee shall hold office for such period, not exceeding five years, as the Minister may specify in his appointment and at the expiration of such period shall be eligible for reappointment.

(4) The office of a trustee shall become vacant—

- (a) if he resigns his office by notice in writing addressed to the Minister;
- (b) if he dies;
- (c) if he is adjudicated bankrupt;
- (d) if he is made the subject of a reception order under Part VI of the Mental Treatment Act;
- (e) if he is sentenced to a term of imprisonment by any court; or
- (f) if the Minister is satisfied that the trustee is physically incapable of fulfilling, or by reason of misconduct is unsuitable to exercise, the functions of his office and terminates the appointment of the trustee.

Functions of Trustees

19. (1) The functions of the Trustees shall be—

- (a) to control and administer the Fund;
- (b) to establish, equip and control such establishments for the training of persons for employment in hotels and restaurants as the Minister may approve;
- (c) establishment and develop national standards for testing the skills required by the tourism industry;
- (d) Make such payments out of the Fund as may be necessary to enable the Kenya Tourist Board promote Kenya as a tourist destination both locally and internationally

Procedure of Trustees

20. (1) The Trustees may meet together for the despatch of their business and otherwise regulate their meetings as they may think fit.

(2) The quorum necessary for the transaction of the business of the Trustees shall be four.

(3) If the chairman of the Trustees is absent from any meeting the trustees present at the meeting shall elect one of their number to preside thereat, and the chairman or person so presiding shall have a casting in addition to his deliberative vote.

(4) Any document, other than one required by law to be under seal, may be signified under the hand of one of the Trustees.

Appointment of agents

15 of 2003, s. 56.

20A.(1) The Trustees may, by written notice addressed to any person-

(a) appoint such person to be the agent of a licensee for the purposes of the collection and recovery of the levy due from such licensee; and

(b) specify the amount of levy to be collected and recovered by such agent.

(2) An agent shall pay the levy specified in his appointment notice out of any moneys which may, at any time during the twelve months following the date of the notice, be held by him for, or due from him to the licensee.

(3) Where a person appointed under subsection (2) claims to be, or to have become unable to comply with subsection (2) by reason of the lack of moneys held by or due from him, he shall, as soon as may be practicable, notify the trustees accordingly in writing setting out fully the reasons for his inability so to comply and the Trustees may-

(a) accept the notification and cancel or amend the appointment notice accordingly; or

(b) if they are not satisfied with the reasons, reject the notification in writing.

(4) Unless and until a notification is given by an agent under subsection (3)-

(a) sufficient money for the payment of the levy specified in his appointment notice shall be presumed to be held by him for, or due from him to, the licensee; and

(b) in any proceedings for the collection or recovery of that levy, he shall be estopped from asserting the lack of those moneys.

(5) For the purposes of this section, the Trustees may, by notice in writing, at any time require any person to furnish them within a reasonable time, not being less than thirty days from the date of service of the notice, with a return showing any moneys which may be held by that person for, or due from him to, a licensee from whom a levy is due.

(6) A person who has paid the levy under this section shall, for all purposes, be deemed to have acted with the authority of the licensee, and shall be indemnified in respect of that payment against all proceedings, civil or criminal, and all process, judicial or extrajudicial, notwithstanding any provisions to the contrary in any written law, contract or agreement.

(7) Any person who, without lawful cause or excuse-

(a) fails to comply within thirty days, with a notice given by the Trustees under this section; or

(b) discharges any liability to a licensee in disregard of such notice;

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both, and shall, in addition, be liable to pay to the Trustees the amount of any liability discharged.

Trustees may refrain from recovering levy in certain cases
15 of 2003, s. 56.

20B.(1) Notwithstanding the provisions of this Act, in any case where the Trustees are of the opinion that they should refrain from recovering levy from any licensee by reason of impossibility, or undue difficulty or expense of the recovery of the levy, the Trustees may refrain from recovering the levy in question and thereupon liability to the levy shall be deemed to be extinguished or abandoned.

(2) Where the Trustees have decided to refrain from recovery of the levy under subsection (1), they shall report that decision in writing to the Minister within three months next following the decision.

(3) Where a case has been referred to the Minister, and where he considers it appropriate, he may, in writing, direct the Trustees to-

(a) take such action under this section as the Minister may deem fit; or

(b) obtain the direction of the court upon the case.

Accounts
Cap.412

21. (1) The Trustees shall cause to be kept all proper books of account and other books and records in relation to the Fund and to all their undertakings, activities and property, and shall, within a period of four months after the end of the financial year, cause to be prepared—

(a) a balance sheet showing in detail the assets and liabilities of the Fund as at the end of that financial year;

(b) such other statements of account as may be necessary to indicate the financial status of the Trustees as at the end of that year.

(2) The accounts of the Trustees shall be examined audited and reported upon annually by the and Auditor- General (Corporations).

Cap. 237 not to apply

22.Notwithstanding anything contained in the Industrial Training Act no training committee shall be set up in relation to training in, and no training levy order shall be made in respect of, hotels and restaurants under that Act.

PART VII—SUPPLEMENTARY

Centralized booking

23(1) The Minister may, by notice in the Gazette, direct that the manager of any hotel shall not receive any guest therein except with the written authority of the Minister or such person, officer or bureau, as the Minister may designate for the purpose.

(2) A notice under subsection (1) may be given with regard to a particular hotel, or to a particular class of hotel or to hotels within a specified area.

Temporary licence where licence refused or cancelled

24. Where the holder of a hotel licence or restaurant licence has such licence cancelled, or has his application for a renewal of such licence (to take effect upon the expiration of such licence) refused, he shall be entitled, on payment of a proportionate part of the prescribed fee, to be granted a licence of the kind cancelled or refused for such period, not exceeding six months, as the Authority considers adequate to enable the business to be wound up or disposed of.

Power to enter and inspect premises

25.(1) Any person authorized in writing by the Authority for the purpose, may, at all reasonable times—

(a) enter without warrant any premises on which he has reasonable ground for believing that a hotel business or restaurant business is being carried on, to see whether this Act and any other written law is being complied with, and—

(i) examine and take copies of any register, book, account or document found on the premises relating to or appearing to relate to any hotel or restaurant;

(ii) take possession of any register, book, account or document found on those premises which he has reasonable grounds for suspecting to be or to contain evidence of an offence under this Act or any other written law;

(b) require any person who appears to be carrying on or employed in any hotel business or restaurant business on those premises to render such explanation and give such information relating to that business as he may reasonably require in the performance of his duties;

(c) require any person who appears to be carrying on any hotel business or restaurant business on those premises by notice in writing to that person introduce to him, at a particular time and place, of the registers, books, accounts and documents relating or appearing to relate to that business:

Provided that nothing in this subsection shall authorize entry into any bedroom in a hotel without the prior permission of its current occupier.

(2) Any person who—

(a) resists, hinders or obstructs any person acting in pursuance of subsection (1); or

(b) fails to comply fully and truthfully with a requirement made of him under the said subsection,

shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.

Liability of licensee for acts of agents and servants

26. Any licensing who employs any agent, clerk, servant or shall be answerable for the acts and omissions of the agent, clerk, servant or other person in so far as such acts or omissions concern the business of the licensee; and if the agent, clerk, servant or other person commits any act or makes any omission which is an offence under this Act, or which will be an offence if committed or made by such licensee, the licensee and his agent, clerk, servant or other person shall be jointly and severally guilty of the offence and liable to the penalties provided by this Act:

Provided that it shall be a defence for the licensee to prove he did not know and could not reasonably be expected to know that the act or omission was taking or was to take place and that he took all reasonable steps to ensure that the relevant provisions of this Act were being complied with.

Finance

27.(1) The Minister may, out of moneys provided by Parliament, and with the consent of the Treasury—

(a) pay to the Authority and the Tribunal such sums of money as may be necessary to enable those bodies to discharge their functions under this Act;

(b) pay to the members of the Authority and the Tribunal (other than a member who is a public officer in receipt of a salary) remuneration and traveling and other allowances;

(c) make such other payments as may be necessary to give effect to this Act.

(2) All moneys received or recovered under this Act by or on behalf of the Authority or the Tribunal shall be paid into the Consolidated Fund.

Premises to be excluded 13 of 1978, Sch.

28.(1) This Act shall not apply to any premises of a class specified in the Fourth Schedule or any person managing those premises.

(2) The Minister may, from time to time, review the operation of this Act in relation to its operation to hotels and restaurants and, for the purpose of including or excluding any class of hotel or restaurant from the provisions of this Act, may, by notice in the Gazette, amend the Fourth Schedule.

Regulations

29.(1) The Minister may make regulations generally for the better carrying out of the provisions and purposes of this Act.

(2) Without prejudice to the generality of subsection (1), regulations under this section may—

(a) make provision for the classification of hotels and restaurants and the standards appropriate to each class;

(b) prescribe the minimum size of rooms in hotels or in particular classes of hotels either absolutely or in relation to the number of persons permitted to be accommodated in those rooms;

(c) prescribe the duties and obligations of licensees in relation to the carrying on or management of hotel businesses or restaurant businesses, whether generally or in respect of any class of hotel or restaurant;

(d) provide for the display of tariffs in hotels or restaurants showing particulars of the maximum charges to be made therein, and for the languages in which the tariffs are to be expressed;

(e) provide for returns to be submitted to the Authority by hotels and restaurants including returns relating to business accepted by hotels from or in respect of persons resident outside Kenya;

(f) prescribe the procedure to be followed by the Authority in the performance of its functions under this Act;

(g) prescribe the procedure to be followed on appeals under this Act;

(h) make provision for requiring persons to supply information relevant to the provisions of this Act or the regulations:

(i) prescribe the forms to be used under this Act and the fees to be paid for things to be done under this Act or the regulations;

(j) prescribe anything which under this Act is to be prescribed.

Application of written laws.

Cap.495.

L.N.11/1964 (Kenya Gazette Supp.88 of 1964). L.N. 8/1964 (Kenya Gazette Supp.97 of 1964). No. 10 of 1964 (Kenya Gazette Supp. 132 of 1964). L.N.19/1964 (Kenya Gazette Supp.126 of 1964). L.N. 9/1964 (Kenya Gazette Supp.129 of 1964).

30. The following written laws and all subsidiary legislation made thereunder shall not apply to any premises governed by this Act, that is to say—

(a) the Innkeepers Liability Act, 1863, of the United Kingdom;

(b) the Innkeepers Act, 1878, of the United Kingdom;

(c) the Hotels (Nairobi Area) Act (both in relation to the Nairobi Area and in relation to all other areas);

(d) the Nyanza Province (Amendment of Laws) (Hotels Act and Regulations) Order, 1964;

(e) the Coast Province (Amendment of Laws) (Hotels Act and Regulations) Order, 1964;

(f) the Hotels Enactment of the Central Province;

(g)the Rift Valley Province (Amendment of Laws) (Hotels Act and Regulations) Order, 1964;

(h)the Eastern Province (Amendment of Laws) (Hotels Act and Regulations) Order, 1964;

FIRST SCHEDULE (s. 3 (6))

THE HOTELS AND CATERING AUTHORITY

1. (1) The chairman and other members of the Authority who are appointed by the Minister shall hold office for such period not exceeding three years as may be specified in their instruments of appointment, and shall be eligible for reappointment.

(2) The chairman and any other member appointed by the Minister may at any time resign his office by notice in writing addressed to the Minister.

(3) The Minister may cancel the appointment of the chairman or any other member appointed by the Minister on the ground of his infirmity, incapacity or misbehaviour, or if he is absent from two consecutive meetings of the Authority without the leave of the authority.

2. (1) Meetings of the Authority shall be convened by the chairman at such times and places as the chairman determines, but not less than four times in a year.

(2) The chairman may at any time, and shall at the request in writing of not less than three members, convene a special meeting of the Authority.

(3) A notice convening a special meeting of the Authority shall state the purposes for which the special meeting is convened.

3. (1) If the chairman is absent from a meeting of the Authority, the members present shall choose one of their number to preside at that meeting.

(2) At every meeting of the Authority, the chairman or other member presiding shall have a casting as well as a deliberative vote.

(3) The quorum for a meeting of the Authority shall be six members.

(4) Save as otherwise expressly provided, all orders, directions and decisions of the Authority shall be made, given and notified under the hand of the chairman or other person presiding, or, if thereto authorized by the Authority, under the hand of a member or the secretary.

(5) The Authority may authorize the chairman to exercise on its behalf, at any time when it is not meeting, such of its powers as it may from time to time specify:

Provided that the exercise of such powers shall, to the extent required by the Authority, be reported by the chairman without unreasonable delay to a meeting of the authority.

(6) Minutes of the proceedings of every meeting of the Authority shall be regularly entered by the secretary in a minute book, and the book shall be kept so as to show proper tabulated details of the business conducted or transacted at each meeting.

(7) Subject to this Act and to any general or special directions of the Minister, the Authority shall regulate its procedure as it considers proper.

4. A member shall not at a meeting of the Authority take part in the discussion of or vote upon—

(a) an application by a person who is related to that member within the third degree of affinity or consanguinity;

(b) an application by a person who is a debtor or creditor of that member or in whose business that member has a financial interest.

5. The Minister shall appoint a public officer to act as secretary of the Authority, and may appoint such other public officers to act as staff of the Authority as he may consider necessary.

SECOND SCHEDULE (s. 10(8))

THE HOTELS AND RESTAURANTS APPEAL TRIBUNAL

1. (1) Each member of the Tribunal shall hold office for such period not exceeding three years as may be specified in his instrument of appointment, and shall be eligible for reappointment.

(2) A member of the Tribunal may at any time resign his office by notice in writing addressed to the Minister.

(3) The Minister may cancel the appointment of a member of the Tribunal on the ground of his infirmity, incapacity or misbehaviour, or if he is absent from three consecutive meetings of the Tribunal without the leave of the Tribunal.

2. Meetings of the Tribunal shall be convened by the chairman as occasion requires. the Tribunal shall regulate its procedure as it considers proper.

4. A member shall not at a meeting of the Tribunal take part in the discussion of or vote upon—

(a) an application by a person who is related to that member within the third degree of affinity or consanguinity;

(b) an application by a person who is a debtor or creditor of that member or in whose business that member has a financial interest.

5. The Minister shall appoint a public officer to act as secretary of the Tribunal, and may appoint such other public officers to act as staff of the Tribunal as he may consider necessary

THIRD SCHEDULE (s. 12(5))

NOTICE

THE HOTELS AND RESTAURANTS ACT

(Cap. 494)

LOSS OF OR DAMAGE TO GUESTS' PROPERTY

Under the Hotels and Restaurants Act, the owner of a hotel may in certain circumstances be liable to make good any loss of or damage to a guest's property, even though it is not due to any fault at his or of his staff.

This liability however—

(a) extends only to the property of guests who have engaged sleeping accommodation at the hotel;

(b) is limited to five hundred shillings for any article and a total of one thousand shillings in the case of any one finest, except in the case of property which has been deposited or offered for deposit, for safe custody;

(c) does not cover motor cars or other vehicles of any kind or any property left in them, or live animals.

This notice does not constitute an admission that liability under the Act attaches to the proprietor of this hotel in any particular case.

FOURTH SCHEDULE

(s. 28)

PREMISES EXCLUDED

1. Any premises run by the Government, a local authority, a Charitable institution or religious organization or a Nation or a religious institution

2. Any premises run by a society, members club, institution or other organization and used exclusively by and for the benefit of the members of that society, club, institution or other organization which does not provide for daily membership.

3. Any hotel at which the maximum total charge per night including provision of accommodation, breakfast or any other meal or service, is less than forty shillings per person.

4. Any restaurant at which the gross receipts derived from all sales amount to less than £12,000 per annum- or- in the case of a restaurant that has not previously traded, less than an average of Sh. 20,000 per month for the first three months of trading.

5. For the purposes of paragraph 4 gross receipts sales shall be determined by reference to the accounts kept by the restaurant for the period of months- or three months- as the case may be ending at the end of the month immediately before a lawful request under section 25(1) for their production, and by reference to such other information lawfully required under section as the authority may deem fit

Provided that nothing in this paragraph shall prevent the Authority from disputing those accounts or other information or calling evidence, in the course of proceedings for an offence under this Act, tending to disprove such accounts or information