

TANGANYIKA



No. 22 OF 1963

I ASSENT,

Julius K. Nyerere
.....
President

16TH MAY, 1963

An Act to amend the law relating to Hotels and to repeal the Control of Hotels Ordinance

[.....]

ENACTED by the Parliament of Tanganyika.

1. This Act may be cited as the Hotels Act, 1963, and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint: Short title and commencement

Provided that subsections (1) and (2) of section 20 shall come into operation at the expiration of a period of three months after such date as is appointed by the Minister under this section.

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

Interpretation

“Board” means an Hotels Board established under section 3;

“Chairman” means the Chairman of a Board;

“hotel” means any establishment intended for the reception of travellers or visitors who may choose to stay therein and carried on with a view to profit or gain, but does not include—

- (a) any such establishment which has accommodation for less than six guests;
- (b) any such establishment which provides sleeping accommodation in dormitories only; or
- (c) any Government rest-house;

“hotel-keeper” means any person who is the holder of a valid licence issued or deemed to be issued under section 10;

“member” means a member of a Board and includes the Chairman;

“Minister” means the Minister for the time being responsible for matters relating to the tourist industry.

3. The Minister may, by notice in the *Gazette*, establish an Hotels Board for any area or areas of Tanganyika and each such Board shall exercise and perform within the area or areas for which it is established the powers and duties conferred and imposed on a Board by the provisions of this Act. Establishment of Hotels Boards

Membership
of Boards

4.—(1) A Board shall consist of a Chairman and such number of other members, being not less than five and not more than ten, as the Minister may from time to time determine.

(2) The Chairman and the other members of a Board shall be appointed by the Minister and, subject to the provisions of this Act, shall hold office for three years from the date of their appointments, but shall be eligible for reappointment.

(3) The Minister may at any time cancel the appointment of any person as a member of a Board.

(4) Any member of a Board may resign from the Board by notice in writing addressed, in the case of the Chairman, to the Minister, and in any other case to the Chairman, and as from the date specified in such notice as the effective date of resignation, or if no such date is specified, from the date of receipt of the notice, such member shall cease to be a member of the Board.

(5) Whenever any vacancy occurs by reason of the death, cancellation of appointment or resignation of any member of a Board such vacancy shall be filled by the appointment by the Minister of a member who shall hold office for the unexpired residue of the period of office of the member in whose place he is appointed.

(6) If any member of a Board is incapacitated by illness, temporary absence from Tanganyika or other sufficient cause from performing the duties of his office the Minister may appoint another person to act in his place and every person so appointed shall have all the powers and duties of the member for whom he is acting until such member is again able to perform the duties of his office or ceases to hold office as a member of the Board.

(7) Subject to the provisions of subsection (1) of section 6 the validity of the proceedings of a Board shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

Board not
liable for
acts done
in good faith

5. No Board or any member thereof shall be liable for any act or default done or omitted to be done in good faith and without negligence in the exercise of any powers or duties conferred or imposed by this Act.

Meetings and
procedure
of Boards

6.—(1) A quorum for any meeting of a Board shall be—

- (a) if the total membership of the Board does not exceed seven, three; or
- (b) if the total membership of the Board exceeds seven, four.

(2) At every meeting of a Board a decision of the members present and voting shall be deemed to be the decision of the Board.

(3) The Chairman shall preside at every meeting of the Board at which he is present and in the absence of the Chairman the members present shall elect one of their number to be chairman for that meeting.

(4) The Chairman or the person elected to be chairman for a meeting shall have a casting as well as a deliberative vote.

(5) No member of a Board shall vote upon or take part in or be present at the discussion of any matter in any meeting of the Board in which he himself, his spouse, any member of his family, his partner or any nominee of his has any pecuniary interest, direct or indirect.

(6) In this section, a member of the family of a member of a Board shall be deemed to include his father, mother, child, brother or sister and any person married to his father, mother, child, brother or sister.

(7) Subject to the provisions of this section and of any regulations made under paragraph (f) of section 22, a Board may regulate its own procedure.

7. A Board may appoint any person, whether a member of the Board or not, to be secretary to the Board and such person when so appointed shall conduct the correspondence and keep the records of the Board and shall perform such other duties as the Board may from time to time direct. Appointment of Secretary

8. Every notice, order or other document issued by a Board shall be signed by the Chairman thereof or by some other person authorized by the Chairman to act on his behalf and when so signed shall for all purposes be deemed to have been duly issued by such Board until the contrary is proved. Authentication of documents

9. The Minister may authorize out of moneys appropriated by Parliament for the purpose— Reimbursement of expenses

- (a) the reimbursement of travelling expenses incurred by members of and the Secretary to a Board;
- (b) the provision of stationery for the use of a Board; and
- (c) the payment of such a salary as he may approve to a person appointed as Secretary to a Board who is not a member of the Board.

10.—(1) Subject to the provisions of section 11, a Board may issue to any person a licence authorizing such person to carry on the business of an hotel, either personally or through the agency of any other person, on the premises specified in the licence. Licences

(2) A licence issued by a Board under this section—

- (a) shall be issued free of charge and shall, subject to the provisions of section 12 and of subsection (4) of section 20 expire on the thirty-first day of December next following the date of issue thereof;
 - (b) may, subject to the provisions of section 11, be renewed from the date of its expiration for a further period of one year and thereafter from year to year; and
 - (c) may, with the prior consent of the Board (which consent shall be endorsed upon the licence) be transferred to any other person.
- (3) Every application to a Board for the issue, renewal or transfer of a licence under this section and every licence issued by a Board under this section shall be in such form as may be prescribed.

11. No licence under section 10 shall be issued or renewed by a Board unless the applicant therefor satisfies the Board— Conditions for issue or renewal of licences

- (a) that the premises in respect of which the application is made are structurally suitable for use as an hotel and that proper provision has been made for the health and comfort of the guests; and
- (b) that proper provision has been made for the sanitation of the premises; and
- (c) that proper provision has been made for the storage, preparation, cooking and serving of food in the hotel.

Board's power to require matters to be remedied and to suspend or cancel licences

12.—(1) Where a Board is satisfied—

- (a) that the premises of an hotel have ceased to be structurally suitable for use as an hotel; or
- (b) that an hotel is being kept in an unclean or insanitary condition; or
- (c) that the provision made in an hotel for the health and comfort of the guests has ceased to be adequate; or
- (d) that an hotel is being so conducted as to constitute a nuisance or annoyance to persons in the neighbourhood,

the Board may, after giving the hotel-keeper the opportunity of being heard, by notice in writing require him before the date specified in the notice to remedy to the satisfaction of the Board the defects specified in the notice.

(2) If the hotel-keeper fails to comply with the requirements of a notice under subsection (1) before the date specified therein, the Board may without prejudice to any proceedings which may be taken against such hotel-keeper for an offence against the provisions of this Act, after calling upon the hotel-keeper to show cause why his licence should not be suspended or cancelled, suspend such licence for such period as the Board may specify or cancel such licence.

Appeals

13.—(1) Any person aggrieved by—

- (a) the refusal of a Board to grant or renew a licence;
- (b) the refusal of a Board to consent to the transfer of a licence to another person; or
- (c) the suspension or cancellation of a licence by a Board,

may, within thirty days after receiving from the Board notification of the reasons for its decision, appeal to the Minister whose decision thereon shall be final.

(2) Where a Board has suspended or cancelled a licence under the provisions of section 12 such suspension or cancellation shall not have effect until the period within which an appeal against such suspension or cancellation may be made to the Minister has elapsed or, if such appeal has been made, until such appeal has been heard and determined.

(3) A Board shall, on the application of the person whose application for the issue, renewal or transfer of a licence has been refused or whose licence has been suspended or cancelled inform such person in writing of the reasons for its decision.

Hotel to be open to all travellers

14.—(1) An hotel-keeper shall receive and lodge in his hotel all persons coming thereto who are travellers and shall entertain them at reasonable prices without any special or previous contract, unless he has reasonable ground for refusing accommodation to any such person.

(2) An hotel-keeper shall make reasonable provision for the reception of a traveller's luggage.

(3) Notwithstanding the other provisions of this section, an hotel-keeper may demand reasonable payment in advance as a condition of the provisions of accommodation desired by a traveller.

15.—(1) Without prejudice to any other liability incurred by him in respect to any property brought to the hotel, an hotel-keeper shall not be liable as an innkeeper to make good to any traveller any loss of or damage to such property except where—

Limitation of
hotel-keeper's
liability

(a) at the time of the loss or damage sleeping accommodation at the hotel had been engaged for the traveller; and

(b) the loss or damage occurred during the period commencing with the midnight immediately preceding, and ending with the midnight immediately following, a period during which the traveller was a guest at the hotel and entitled to use the accommodation so engaged.

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

(3) Where an hotel-keeper is liable under subsection (1) to make good any loss of or damage to property brought to the hotel, then, subject to the provisions of section 16, 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 such hotel-keeper or any person in his employ; or

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

(c) at a time after the guest had arrived at the hotel, either the property in question was offered for deposit as aforesaid and such hotel-keeper 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 such hotel-keeper or a person in his employ, was unable to do so.

16. Every hotel-keeper shall cause a notice in the form set out in the Schedule to this Act and printed in plain type in the Swahili and English languages, to be conspicuously displayed at a place where it can conveniently be read by his guests 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; and he shall be entitled to the benefit of section 15 in respect of property brought to his hotel only while such notice is so displayed.

Notice to be
displayed

Hotel-keeper's
right of sale

17.—(1) An hotel-keeper shall, in addition to the ordinary lien at common law of an innkeeper, have the right absolutely to sell and dispose by public auction of any goods or property deposited with him or left in his hotel or in any premises appurtenant or belonging thereto, where the person depositing or leaving such goods or property is or becomes indebted to such hotel-keeper for any board or lodging:

Provided that—

- (a) no such sale shall be made until after the said goods or property have been for a period of six weeks in his charge or custody or in or upon his premises without such debt having been paid or satisfied;
- (b) the debt for the payment of which a sale is made under this section shall not be any other or greater debt than the debt for which the goods or other property could have been retained by the hotel-keeper under his lien at common law as an innkeeper; and
- (c) at least one month before any such sale is effected the hotel-keeper shall cause to be inserted in a newspaper circulating in the district where such goods or property have been deposited or left, an advertisement containing notice of such intended sale and giving shortly a description of the goods or property intended to be sold, together with the name, if known, of the owner or person who deposited or left the same, and, if the address of such owner or person is known to him, shall send a copy of such notice to such owner or person.

(2) The hotel-keeper shall out of the proceeds of the sale of any goods or property sold pursuant to this section, after paying himself the amount of his debt and the costs and expenses of the same, pay on demand to the person depositing such goods or property any surplus money remaining thereafter.

Register of
guests

18. Every hotel-keeper shall keep in his hotel a register which shall contain the name and address of every guest who lodges at the hotel and such other particulars as may be prescribed:

Cap. 365

Provided that where a visitors' book is kept in an hotel pursuant to the provisions of section 33 of the Intoxicating Liquors Ordinance such book shall be deemed to be a register kept under the provisions of this section.

Power of
inspection

19. Any member of a Board, or any person authorized in writing by a Board for the purpose, may at all reasonable times enter upon any hotel or any part thereof, within the area for which such Board has been appointed, for the purpose of inspecting such hotel or any part thereof, the furniture and equipment thereof or the register of guests kept therein:

Provided that nothing in this section shall authorize entry into any bedroom without the prior permission of the occupier thereof for the time being.

Offences and
penalties

20.—(1) No person shall, in any area for which a Board has been established, carry on the business of an hotel, either personally or through the agency of any other person, unless he is the holder of a valid and subsisting licence issued in respect of that hotel under section 10.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand shillings.

(3) Any person who—

(a) opposes or obstructs a Board or any person authorized in writing by a Board in the exercise of any of its or his powers, duties or functions under this Act; or

(b) knowingly gives a Board or any person authorized in writing by a Board any false information in relation to any matter provided for by this Act;

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand shillings.

(4) Any hotel-keeper who fails to comply with the provisions of section 18 shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand shillings.

(5) Any hotel-keeper who is convicted of an offence against the provisions of this Act or of any regulations made thereunder shall be liable, in addition to any penalty which may be imposed by any court, to have his licence suspended or cancelled by a Board.

21. Any hotel-keeper who employs in his hotel any agent, clerk, servant or other person shall be answerable for the acts and omissions of such agent, clerk, servant or other person in so far as such acts or omissions concern the business of such hotel-keeper; and if such agent, clerk, servant or other person commits any act or makes any omission which is an offence against the provisions of this Act, or which would be an offence if committed or made by such hotel-keeper, such hotel-keeper 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.

Liability of
hotel-keeper
for acts of
agents

22.—(1) The Minister may make regulations—

Regulations

(a) providing for the classification of hotels and the standards appropriate to each class;

(b) prescribing the duties and obligations of hotel-keepers and hotel managers in relation to the carrying on or management of the business of hotels, whether generally or in respect of any class or classes of hotels, and, in particular the duties and obligations of such persons to persons residing in or visiting hotels;

(c) providing for the display of tariffs in an hotel showing particulars of the maximum charges for the grades or classes of accommodation and for meals in the hotel and for the giving of such notice of such charges as may be specified to a Board;

(d) providing for returns to be submitted by hotel-keepers to Boards;

(e) exempting any class or description of hotel from all or any of the provisions of this Act;

(f) prescribing the procedure to be followed by any Board in the exercise of its powers, duties and functions under this Act;

(g) prescribing anything which is required under the provisions of this Act to be prescribed;

(h) generally for the better carrying into effect of the purposes and provisions of this Act.

Of notice

(2) Regulations made under this section may provide in respect of a breach of the provisions thereof penalties not exceeding a fine of one thousand shillings.

Repeal and
savings
Cap. 319

23.—(1) The Control of Hotels Ordinance is hereby repealed.

(2) Notwithstanding the repeal of the Control of Hotels Ordinance any licence to carry on the business of an hotel issued under section 5 of that Ordinance and in force immediately prior to the coming into operation of this Act shall be deemed to be a licence issued under section 10 of this Act and shall, subject to the provisions of this Act, remain in force until the date of its expiry.

SCHEDULE

(Section 16)

NOTICE

LOSS OF OR DAMAGE TO GUESTS' PROPERTY

Under the Hotels Act, 1963, an hotel-keeper may in certain circumstances be liable to make good any loss of or damage to a guest's property even though it was not due to any fault of the proprietor or staff of the hotel.

This liability however—

- (a) extends only to the property of guests who have engaged sleeping accommodation at the hotel;
- (b) is limited to Shs. 500/- for any one article and a total of Shs. 1,000/- in the case of any one guest, 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 any live animals.

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

TANGAZO

KUPOTEA AU KUHARIBIKA KWA MALI ZA WAPANGAJI

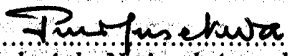
Chini ya Sheria ya Mikahawa ya mwaka 1963, Msimamizi wa Mkahawa ikipasa aweza kustahili kulipishwa mali ya wapangaji iliyopotea au kuharibiwa ingawaje upoteaji au uharibifu huu haukutokana na makosa yake mwenyewe au ya wafanyi kazi wa Mkahawa.

Walakini madaraka haya—

- (a) yatahusu tu mali za wapangaji waliofanya mipango ya kulala katika mkahawa;
- (b) yatakomea Sh. 500/- kwa kitu cho chote kimoja na kufikia kiasi kisichozidi jumla ya Sh. 1,000/- kwa kila mpangaji mmoja yeyote isipokuwa kwa mali ambazo mlinzi wa mkahawa amekabidhiwa kuzilinda ili zisalimike;
- (c) hayahusu motokari au magari mengine ya aina yeyote au mali ziachwazo ndara yake, au wanyama walio hai.

Tangazo hili kwalo isifikiriwe kuwa sheria hii inahusu kila mkahawa au madaraka hayo yanahusu kila mwenye mkahawa kwa hali yeyote.

Passed in the National Assembly on the twenty-fourth day of April, 1963.


Clerk of the National Assembly