

CHAPTER 195

HOTELS AND GUEST HOUSES

Act No. 27 of 1973

AN ACT TO PROVIDE FOR THE LICENSING AND CONTROL OF
HOTELS AND GUEST HOUSES

[1st January, 1975*]

Short title

1. This Act may be cited as the Hotels and Guest Houses Act.

Interpretation

2. In this Act, unless the context otherwise requires—
 - “appropriate form” means a form approved by the Minister for use in any particular case;
 - “Board” means the Hotels Licensing Board constituted under section 3;
 - “chairman” means the chairman of the Board;
 - “hotel” includes a boarding-house, lodging-house, guest-house, and any building, vessel, premises, structure, caravan or house on wheels or any part of any such building, vessel, premises, structure, caravan or house on wheels, not being a public institution, some part of which is used or occupied for the business of receiving guests or travellers desirous of remaining or dwelling therein for any period of time or to which persons are entitled to resort for accommodation for hire or reward of any kind;
 - “licence” means a licence granted by the Board under section 4;
 - “manager” means any person in whose name a licence has been issued;
 - “register” means the register of guests required to be maintained under and by virtue of section 9.

Establishment of Hotels Licensing Board

- 3.—(1) There is hereby constituted a Hotels Licensing Board which shall consist of a chairman and four other members appointed by the Minister.
- (2) The Minister may appoint a secretary and such other officers of the Board as he may deem necessary.
- (3) The chairman and members of the Board shall hold office on the Board for a period of not more than three years but shall be eligible for re-appointment.
- (4) At all meetings of the Board the chairman, or in his absence such member as the other members present may select, shall preside.
- (5) Three members of the Board shall constitute a quorum at any meeting of the Board.
- (6) Meetings of the Board shall normally be in public but the Board may retire to consider any decision in private and may in its absolute discretion hold any meeting or hear any application to it in private.

* Sections 1,2,3 and 13 in force 26th July 1974.

(7) At all meetings of the Board, the decision of the majority of members present shall prevail. In the case of an equality of votes on any decision, the chairman or other person presiding shall have a second or casting vote.

(8) Subject to the provisions of this Act, the Board may regulate its own procedure.

(9) The Board shall cause proper records of its proceedings to be kept.

Requirements for and issue of licences

4.—(1) No premises shall be used as a hotel unless the manager holds a licence in respect of the premises.

(2) No person shall keep or manage any premises for the purpose of a hotel unless he is the holder of a licence issued in respect of the premises.

(3) Licences may be granted by the Board in its absolute discretion to the manager in respect of any premises, on payment of such fees as may be prescribed:

Provided that—

(a) no licence shall relate to more than one hotel; and

(b) no manager shall hold more than one licence at any one time.

(4) Licences shall be subject to such conditions as may in any case be imposed by the Board and such conditions shall be set out in or be attached to the licence.

(5) Every licence shall be in an appropriate form and shall be for a period of one year from the date of its issue.

(6) Every licence shall be displayed and kept displayed throughout its currency in a prominent place to which all persons using the hotel have access.

Conditions under which licences can be granted

5.—(1) No licence shall be granted or renewed by the Board unless it is satisfied—

(a) that the manager is of good character and a fit and proper person to run and conduct a hotel and that the hotel or any part of it will not be run as a disorderly house or for illegal or immoral purposes;

(b) that the premises are reasonably suitable in all respects for use as a hotel:

Provided that where there is in respect of the premises a permit issued by the local authority by or under the provisions of the Public Health Act such permit shall be prima facie evidence that the premises are suitable for use as a hotel. (Cap. 111.)

(2) In renewing a licence the Board may generally take into account the manner in which the hotel has been run and conducted and structurally maintained during any period prior to the date of such renewal.

(3) In this and in section 6 all references to a permit issued by a local authority under the provisions of the Public Health Act shall be confined and relate solely to such permits as are required for the premises to be used as a hotel as defined by this Act. (Cap. 111.)

Suspension and cancellation of licences

6.—(1) When during the currency of a licence it appears or is made to appear to the Board that either—

(a) a hotel or any part of a hotel is being run or conducted in an improper manner or for illegal or immoral purposes; or

(b) a hotel or any part thereof is or has become unsuitable for use as a hotel; the Board may either—

- (i) order the manager of the hotel to carry out such remedies or to undertake such operations or works or to fulfil such conditions as the Board shall deem to be necessary to remedy such defects as it considers exist and may, subject to the provisions of subsection (2), suspend the licence issued in respect of the hotel until such remedies, operations, works or conditions have been carried out and completed or fulfilled to the complete satisfaction of the Board; or
- (ii) cancel the licence issued in respect of the hotel:

Provided that—

- (a) nothing in this subsection shall in any way whatsoever prevent the Board from refusing in its absolute discretion and for any reason whatsoever to restore any suspended licence;
- (b) when any permit issued by a local authority under the provisions of the Public Health Act in respect of a hotel is suspended, cancelled or withdrawn then and in that case any licence issued under this Act shall thereupon be deemed to have been and shall be similarly suspended (in the case of the suspension of the permit) or cancelled (in the case of the cancellation or withdrawal of the permit) and in the event that the licence remains suspended under the provisions of this sub-paragraph for more than three continuous months, it shall be deemed to have been and shall be cancelled after such three months of continuous suspension. (Cap. 111.)

(2) No licence shall be suspended for more than three continuous months and if by the end of such a continuous period a licence is not restored it shall be deemed to have been and shall be cancelled.

(3) When any licence has been cancelled, no application by any person for a ~~new~~ licence in respect of the premises to which the cancelled licence related or for any licence whatsoever to be granted to the holder of the cancelled licence may be made or entertained until at least four months have expired since the date of the cancellation of the licence:

Provided that the Board may in its absolute discretion allow on immediate application for the grant of a new licence to be made by any person including the holder of the cancelled licence.

(4) No suspension or cancellation under subsections (1), (2) or (3) shall take effect until the expiration of fourteen days from the date of such suspension or cancellation.

(5) Where an appeal has been made against any cancellation within the period of fourteen days prescribed by section 8, the cancellation shall not take effect until the appeal has been determined.

Applicants, etc. to be entitled to be heard and to be represented by counsel

7. Any applicant to the Board or any person concerned with a proposal of the Board to suspend or to cancel a licence or any objector to the grant or renewal of a licence or any person wishing to apply for a licence to be suspended or to be cancelled shall be entitled to be heard by the Board, to call evidence and to be represented by counsel.

Appeal to the Minister

8. Any person aggrieved by the refusal of the Board to grant or renew a licence or by the cancellation of a licence may, within fourteen days from the date

of such refusal or cancellation, appeal in writing to the Minister whose decision thereon shall not be subject to any appeal or review in any court:

Provided that any person so aggrieved may, if dissatisfied with the said refusal of the Board as being erroneous on a point of law, also appeal in writing on a point of law only within the said period of fourteen days to a resident magistrate.

Keeping of register

9.—(1) Every manager shall keep or cause to be kept and maintained in the appropriate form a register of all guests of the hotel and shall produce the same to the chairman or any person duly authorised by the chairman in writing or to any police officer.

(2) Any manager or other person who fails to keep or cause to be kept a register or to produce the same to the chairman or any authorised person or any police officer shall be guilty of an offence and shall be liable on conviction to the penalties set out in sub-section (2) of section 10.

Offences and penalties

10.—(1) Any person who causes or allows any premises to be used as a hotel or who keep or manages or allows to be kept or managed any premises, structure, caravan or house on wheels for the purpose of a hotel contrary to provisions of subsection (1) or (2) of section 4 shall be guilty of an offence under this Act and shall, on first conviction, be liable to a fine not exceeding one thousand dollars and, on every subsequent conviction, to a fine not exceeding two thousand dollars or to imprisonment for a period not exceeding three years or to both such fine and imprisonment.

(2) Any person who fails to comply with any of the other provisions of this Act or of any regulations made under this Act shall be guilty of an offence and shall, on first conviction, be liable to a fine not exceeding three hundred dollars and, on every subsequent conviction, to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding one year or to both such fine and imprisonment:

Provided that any previous conviction for an offence under subsection (1) shall be treated as a first conviction for the purposes of this subsection.

(3) On the death, or on such other incapacity as may be prescribed, of a manager, the Board may approve the transfer to another person of the licence held by such manager on an application being made within twenty-one days of such death or other incapacity and, notwithstanding any other provision of this Act, no offence shall be deemed to have been committed by virtue only of there being no licensee in respect of a hotel as a result of the death of a manager for a period of one calendar month from such death or by virtue only of a person other than a manager keeping or managing a hotel for a period of one calendar month from the date of the death or of the commencement of such incapacity of a manager.

Liability of managers for acts of servants, etc. and presumptions

11.—(1) Whenever any person would be liable under the provisions of this Act or of any regulations made thereunder to any pecuniary penalty or forfeiture (including the suspension or cancellation of a licence) for any act, omission, neglect or default, he shall be liable to be convicted and to suffer the same pecuniary penalty or forfeiture for every similar act, commission, neglect or default of any agent or servant employed by him in the course of his business.

(2) Every person who appears to be employed in a hotel, shall, for the purposes of this section be deemed to be an agent or servant employed by the manager, and/or the owner or occupier, of that hotel in the course of the business of that hotel.

(3) Nothing in this section shall be construed as relieving any such agent or servant from any penalty or forfeiture to which he would otherwise himself be liable.

Exemptions

12. The provisions of this Act shall not apply to any premises or class of premises exempted by regulations made under this Act.

Regulations

13. The Minister may make regulations for the better carrying out of the provisions of this Act, and for the rules of procedure of the Board.

Controlled by Ministry of Attorney-General

CHAPTER 195
HOTELS AND GUEST HOUSES

SECTION 13—HOTELS AND GUEST HOUSES REGULATIONS

Made by the Minister

Regulations 2nd Aug., 1974, 21st Oct., 1974, 15th Sept., 1976.

Short title

1. These Regulations may be cited as the Hotels and Guest Houses Regulations.

Applications for a hotel licence

2.—(1) Applications for the grant or for the renewal of a licence for any premises to be used as a hotel under the provisions of the Act shall be made in the form set out in the First Schedule and shall be addressed and sent to the Secretary of the Hotels Licensing Board to arrive not less than 90 days before the date on which the licence is required to commence or to be renewed, as the case may be:

Provided that the Chairman may reduce such period of 90 days when he considers that it would be just and reasonable so to do.

(Proviso inserted by Regulations 21st October, 1974.)

(2) Each application to be made under the provisions of these Regulations must be accompanied by—

- (a) (i) three copies of a detailed block plan of the premises which must specify in detail the use to which each separate room or portion of the premises is to be put; and
- (ii) three copies of a site plan of the premises with sufficient details of the surroundings (including roads, etc.) to enable the premises to be readily located:

Provided that no further block or site plans need be supplied on applications for renewals or on reapplications unless there has been any alteration to the premises since the previous application;

- (b) a complete and true copy of any current permit held in respect of the hotel authorising it to be used as such under the provisions of the Public Health Act; and *(Cap. 111.)*
- (c) an application fee of twenty dollars which shall not be refundable and is distinct from and in addition to the fees prescribed under regulation 7.

Copies of applications, etc. to be supplied

3. A copy of each application together with, when appropriate, one copy of each plan required to be supplied under the provisions of sub-paragraph (a) of paragraph (2) of regulation 2 shall also be sent within the time prescribed by paragraph (1) of regulation 2 to—

- (a) the Commissioner of Police;
- (b) the Commissioner of the Division in which the premises are situated; and
- (c) either to the Town Clerk of the town or to the Secretary of the Rural Local Authority within which the premises are situated.

Advertisement of applications

4. Notice of the receipt of applications for the grant or for the renewal of a licence shall be published once in two consecutive weeks in a newspaper circulating in Fiji in the form specified in the Second Schedule.

Form of licence

5. Subject to minor variations, the form of licence to keep and manage a hotel, as defined in the Act, shall be in the form set out in the Third Schedule.

Hotel registers

6.—(1) The register of guests of the hotel to be kept under and in accordance with the provisions of section 9 of the Act, shall be in such form or forms as the chairman may approve or direct from time to time in respect of each particular hotel:

Provided that—

- (a) every register entry must contain full and accurate details of the following particulars in respect of each guest of the hotel:—
 - (i) the name of the guest
 - (ii) the permanent address
 - (iii) his nationality
 - (iv) the duration of guest's stay
 - (v) the signature of guest.

All entries made in respect of a family may be signed by the head of the family only but shall otherwise contain all the above details in respect of each member of the family staying at the hotel;

- (b) for the avoidance of doubt it is hereby declared that the chairman may approve or direct the use of different forms of registers at different hotels but each such register must contain all the particulars set out in paragraph (a).

(2) Any person who makes any false or incomplete entry or who causes or knowingly allows any false or incomplete entry to be made in a hotel register shall be guilty of an offence.

Licence fees

7. The fees to be paid on the grant or renewal of a licence shall be in accordance with the scale set out in the Fourth Schedule:

Provided that where the premises in respect of which a licence is issued or renewed are situated within the boundaries of a town the Board shall pay over the fee collected for the licence to the council of such town.

(Proviso inserted by Regulations 15th September, 1976.)

Incapacity of manager

8. The following events, in addition to the death of the manager, shall for the

purposes of subsection (3) of section 10 of the Act be treated as an incapacity of the manager:—

- (a) the imprisonment of the manager (incapacity to start from the first day of such imprisonment); or
- (b) the permanent absence from the premises for any reason of the manager for a continuous period of more than one month (incapacity to start from the end of the said period of one month); or
- (c) any illness (whether of the body or of the mind) of the manager which a medical practitioner certifies as being likely to render the manager incapable of managing the premises for a continuous period of more than one month (incapacity to start from the date of such certificate); or
- (d) in any other case which the chairman certifies as being likely to render the manager incapable of managing the premises for a continuous period of more than one month (incapacity to start from the date of such certificate).

Exemptions

9. Unless specifically ordered or directed by the chairman in any particular case, university, teachers' and schools, hostels, Y.W.C.A. hostels, Government hostels and messes, hostels and homes maintained by registered charitable trusts or religious bodies and other similar educational or vocational institutions, and vessels are exempted from the provisions of the Act:

Provided that in any case where there is any doubt a certificate given under the hand of the chairman shall be evidence of such exemption.

FIRST SCHEDULE

[Regulation 2(1)]

HOTELS AND GUEST HOUSES ACT

APPLICATION FOR THE GRANT/RENEWAL OF A HOTEL LICENCE

I (i) of (ii) hereby apply for a licence to be issued with effect from the day of 19..... (iii) in the name of (iv) under the provisions of the abovenamed Act to keep and manage the following premises as a hotel, as defined in the Act:—

.....
.....
..... (v)
2. To the best of my knowledge and belief the said (vi) has

not at any time either been sentenced (whether or not the sentence has been suspended) to any period of imprisonment following his conviction on a criminal charge or been convicted of any offence arising out of or in connection with the operation or running of any premises as a hotel as defined in the Act, except for the following:—

.....
.....
..... (vii)
3. The maximum number of persons for whom sleeping accommodation will be available at the premises in respect of which this application is being made on the said day of 19..... (iii) be (viii).

4. I enclose the following with this application:—

- (a) three copies of a detailed block plan of the premises showing the use to which each separate room or portion of the premises is being put or is to be put; (ix)
- (b) three copies of a site plan of the premises with sufficient details of the surroundings (including roads, etc.) to enable them to be readily located; (ix)
- (c) a complete copy of any permit held in respect of the premises under the Public Health Act authorising its use as a hotel as defined by the Act; (ix)
- (d) twenty dollars (\$20) in payment of the non-refundable fee payable on this application; and
- (e) in the case of an application for a renewal only, the existing licence or a copy of it. (ix)

Dated this day of 19.....

Signed.....
for and on behalf of (i)
.....

NOTES

- (i) Here insert the full names and, where appropriate, capacity of the applicant. In the case of an applicant Company, the "I" should be crossed out and the application should be signed by a director or secretary on behalf of the Company who should add his qualification (i.e. Director or Secretary) and the name of the Company after his signature. In the case of individual applications, all the words after the signature at the end of the application should be deleted;
- (ii) Here insert the full postal address of applicant (or registered address in case of an applicant Company);
- (iii) Here insert date (not less than ninety days after the date of this application) from which the grant/renewal is to commence;
- (iv) Here insert the full names of the proposed licensee. If the applicant and the proposed licensee are the same person the words "the applicant" may be inserted here instead;
- (v) Here insert full name and address or location of the hotel;
- (vi) Here insert full names of the proposed licensee. In cases where the applicant and proposed licensee are the same person, delete the words "To the best of my knowledge and belief" and insert instead

the words "I have", also delete the word "has" immediately following the space;

- (vii) Here insert details of any known appropriate prison sentences or convictions;
- (viii) Here insert the maximum number of people for whom sleeping accommodation will be available at the appropriate date.
- (ix) Delete if inappropriate.

2. All insertions in the above form (other than the signature) should be either typed or written in block capitals.

3. Any further information, which the applicant, considers may assist the Board may be sent with the application and the Board may call for further information before the hearing of the application.

SECOND SCHEDULE

(Regulation 4)

HOTELS AND GUESTS HOUSES ACT

NOTICE OF APPLICATION(S) FOR THE GRANT/RENEWAL OF A LICENCE/LICENCES

Notice is hereby given that an application/applications has/have been received for the grant/renewal of a hotel licence/licences to be held by the person(s) named in the first column below in respect of the premises referred to in the second column below:—

Name(s) of proposed licensee(s)	Name(s) and address(es) of location(s) of premises in respect of which licence(s) is/are able to be held.
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Any person having any objection to the grant/renewal of the proposed licence/any of the proposed licences should set out his objections in writing and send them to me so as to reach me before the .. day of .., 19..... Failure to give written notice will not in any way preclude any person from objecting in person at the hearing of the application (which will take place at..... on or after.....a.m. on the.....day of.....19.....) and objectors who have sent written objections are also invited and advised to attend the hearing and, if appropriate and possible, to call witnesses and to produce evidence in support of their objections.

Dated this day of, 19.....

.....
Secretary,
Hotels Licensing Board, Suva.

NOTE

The above form enables (subject to appropriate amendment) a notice to be published in respect of a number of applications or of a single application only. It is, however, envisaged that notices of applications for grants and notices of applications for renewals should be separately advertised.

THIRD SCHEDULE

(Regulation 5)

LICENCE No. /19

HOTELS AND GUEST HOUSES ACT

LICENCE TO KEEP AND MANAGE A HOTEL

In exercise of the powers vested in it under subsection (1) of section 5 of the Act, the Hotels Licensing Board hereby permits—

..... (i)
to keep and manage for the purpose of a hotel the premises known as and situate at—

..... (ii)
..... (iii)

for the period of one year from..... day of, 19....., subject to him, and all other persons responsible, complying with all the provisions of the Act and of all Regulations at any time made and in force under the Act and with the Special Conditions, if any, set out below.

Dated this day of, 19.....

.....
Secretary,
Hotels Licensing Board

The maximum number of persons for whom sleeping accommodation was stated to be available at the premises at the commencing date of this licence was ... and the licence fee paid, based on that figure, was \$.....

SPECIAL CONDITIONS RELATING TO THIS LICENCE

(Here list any special conditions which the Board imposes in respect of the particular licence).

NOTES

- (i) Here insert full names of licensee manager;
 - (ii) Here insert name of the hotel to be licensed;
 - (iii) Here insert postal address or location of the hotel.
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FOURTH SCHEDULE

(Regulation 7)

FEE PAYABLE ON GRANT OR RENEWAL OF LICENCE

<i>Maximum number of persons for whom sleeping accommodation will be available at the Hotel on the date on which the licence is to commence</i>	<i>Fee payable</i>
Less than..... 15.....	\$ 30
15 to 30.....	50
30 to 50.....	75
50 to 100.....	100
100 to 200.....	200
200 to 500.....	300
Over..... 500.....	400

Controlled by Ministry of Attorney-General