

MEMORANDUM FOR THE CABINET
BY THE HON. MINISTER OF JUSTICE AND BY
THE HON. MINISTER OF EDUCATION, CULTURE
AND TOURISM, ON THE BILL RELATING TO
THE HOTELS AND CATERING ESTABLISHMENTS
ACT, 1966

The said Bill is intended to govern and control the operation and management of hotels and catering establishments in Malta. It introduces the principle of the classification of hotels and catering establishments under different categories according to standards along which they are established and operated, such standards being prescribed by the Minister by regulations.

A Hotels and Catering Establishments Board is established for the purpose of classifying hotels and catering establishments in accordance with the regulations and for the purpose of issuing certificates of classification. Such Board will have the power to reclassify a hotel or catering establishment in a lower category, if it is satisfied that the standard obtaining at the time when a certificate of classification was issued has been allowed to deteriorate.

The Bill also provides that no person is to keep or manage a hotel or catering establishment unless he is licensed by the Board to be a hotel manager or a catering establishments manager.

The Board shall only issue such licence to proper and fit persons and where it is satisfied that the premises which any such person is about to manage are structurally and hygienically adapted for use as a hotel or catering establishment.

Any decisions of the Board may be appealed against to the Minister responsible for tourism.

A very important provision in the Bill enables the Minister or, if he so empowers it, the Board to fix the maximum and minimum rates which may be charged by hotel-keepers and by catering establishments keepers. The Minister may by regulations impose a multa not exceeding £50 on any persons charging higher rates than those fixed as above.

Provision/....

Provision is made so as to prevent a hotel or catering establishment being advertised or otherwise represented as belonging to a higher category than that to which it actually belongs.

Hotel-Keepers are given the right to retain any goods which a guest brings into the hotel and which are in the hotel-keeper's possession until such guest has paid any rates lawfully charged by the hotel-keeper.

Finally, consequential amendments are made to the Code of Police Laws. That Code was amended by Act No. X of 1957 so as to include some provisions on the same subject matter which is governed by the present Bill: such provisions are now repealed and the Code of Police Laws will only continue to govern lodging houses.

Hon. Ministers are requested to approve the Bill under reference which is in the interest of the Tourist Industry in Malta.

2nd December, 1966.

A B I L L
entitled

AN ACT to regulate hotels and catering establishments and to provide for matters connected with or incidental to the aforesaid purpose.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the House of Representatives of Malta, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and commencement.

1. This Act may be cited as the Hotels and Catering Establishments Act, 1966 and shall come into force on the 1st May, 1967.

Interpretation.

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

"accommodation" includes the provision of suitable furniture, furnishings and equipment for the purpose thereof;

"appeal" means an appeal under section 12 of this Act;

"Board" means the Hotels and Catering Establishments Board constituted in accordance with the provisions of section 3 of this Act;

"catering establishment" means any establishment, building or premises, howsoever described, purveying for reward food and refreshments for consumption in such establishment, building or premises;

"catering establishment keeper" means any person to whom a licence to keep or manage a catering establishment has been issued in accordance with the provisions of section 4 of this Act and includes any person to whom a licence has been lawfully transferred in accordance with the provisions of section 6 of this Act;

"classify"/....

"classify" includes "reclassify" and "classification" shall be construed accordingly;

"company" includes any society of persons, whether corporate or unincorporate, whether vested with legal personality or not;

"guest" means a person who stays at a hotel and has sleeping accommodation placed at his disposal;

"hotel" means any building, howsoever described, containing not less than ten bedrooms, in which accommodation is provided for the public by a common management and includes any number of buildings, howsoever described, which are grouped together, contain in the aggregate not less than ten bedrooms for the accommodation of the public, have in common ancillary hotel services and amenities and are operated by a common management;

"hotel-keeper" means any person to whom a licence to keep or manage a hotel has been issued in accordance with the provisions of section 4 of this Act and includes any person to whom a licence has been lawfully transferred in accordance with the provisions of section 6 of this Act;

"licence" means a licence granted or transferred in accordance with the provisions of this Act;

"Malta" has the same meaning as is assigned to it in section 126 of the Constitution of Malta;

"Malta Government Tourist Board" means the Board established by section 3 of the Malta Government Tourist Board Ordinance, 1958;

"Minister"/...

"Minister" means the Minister responsible for Tourism;

"prescribed" means prescribed by regulations made under this Act.

Part II

Hotels and Catering Establishments

Hotels and
Catering
Establishments
Board.

3. (1) There shall be established a Board constituted in accordance with the provisions of subsection (2) of this section and it shall exercise the functions and perform the duties assigned to it by this Act or by any regulations made thereunder in accordance with the provisions of section 15 of this Act.

(2) The Board shall consist of:-

- (a) A Chairman who shall be a member of the Malta Government Tourist Board;
- (b) a person appointed by the Minister after consultation with such body or bodies as may be in existence from time to time and which in the opinion of the Minister are representative of hoteliers in these Islands; and
- (c) such other persons not being more than five in number as the Minister, after consultation with the Malta Government Tourist Board, may appoint from time to time.

(3) The term for which any member of the Board is to hold office and the conditions subject to which he is to hold office shall be such as may be determined by the Minister at the time of his appointment; but all members of the Board shall hold office during the pleasure of the Minister.

(4)/....

(4) Any member of the Board may at any time resign his membership upon giving notice thereof in writing to the Chairman.

(5) Every question coming or arising before the Board shall be decided by the votes of a majority of those present and voting thereon, provided that the Board will have been convened as prescribed.

(6) In the case of an equality of votes the Chairman shall have a second or casting vote.

(7) The Board may regulate its own procedure and may act notwithstanding any vacancy among its members.

Licence.

4. (1) No person shall keep or manage a hotel or catering establishment unless he shall have previously obtained and is in possession of a licence from the Board specifying, by reference to its name and to the premises where it is established and operated, the hotel or catering establishment in respect of which the licence is granted.

(2) Every such licence shall be in the prescribed form and shall expire on the thirty-first day of December next following the date of issue. It shall be, thereafter, renewable from year to year.

(3) Any person who keeps or manages a hotel or catering establishment without a licence or not in accordance with the licence shall be guilty of an offence and shall on conviction be liable to a fine (multa) of not less than five pounds and not more than fifty pounds.

5. (1) No licence shall be granted by the Board under this Act unless the person applying therefor satisfies the Board that -

- (a) he is of good character and is a fit and proper person to keep or manage a hotel or catering establishment, as the case may be, and

(b)/....

Conditions under which licences are to be granted.

- (b) the premises in respect of which application is made are structurally and hygienically adapted for use as a hotel or catering establishment, as the case may be.

(2) No hotel or catering establishment shall be licensed under a name which in the opinion of the Board is undesirable, unsuitable or misleading.

Transfer of
licences.

6. A licence to keep or manage a hotel or a catering establishment may, with the consent in writing of the Board previously obtained, be transferred to the name of any person who in the opinion of the Board fulfils the requirements of paragraph (a) of subsection (1) of the last preceding section.

Cancellation
of licences.

7. (1) Where it appears to the Board, after such inquiry as it may deem fit, that a hotel or a catering establishment is being kept in an unclean or insanitary condition or is being conducted in an unsatisfactory manner, the Board may, by order in writing, require the hotel-keeper or the catering establishment keeper, as the case may be, to remedy the defect within such period, not being less than one month, as may be specified in the order.

(2) Where an appeal has been made against the order of the Board, such order shall have no effect if it is revoked by the Minister but, if the order is confirmed or varied by the Minister, the period to remedy the defect in accordance with the Board's order or the Minister's decision, as the case may be, shall expire on such date as the Minister shall specify.

(3) If the hotel-keeper or catering establishment keeper, as the case may be, fails to remedy the defect as ordered by the Board or as decided by the Minister within the specified period, the Board may cancel the licence in respect of the hotel or catering-establishment in regard

to which/....

to which the Board's order was made.

(4) Where a person to whom a licence has been granted or transferred in accordance with the provisions of this Act is convicted of a crime which, in the opinion of the Board, is of such nature as to render the person so convicted no longer a fit and proper person to hold such licence, the Board may cancel the licence issued to that person.

(5) The cancellation of a licence under subsection (3) or (4) of this section shall take effect on the expiration of ten days from the date on which the notice of such cancellation has been communicated to the hotel-keeper or catering establishment keeper, as the case may be:

Provided that, where an appeal has been made against such cancellation, it shall not take effect unless the Minister confirms it in which case it shall take effect on the expiration of ten days from the date on which the Minister's confirmation has been communicated to the appellant.

Hotel or
catering
establishment
operated by
a Company.

8. (1) No company shall operate a hotel or catering establishment unless such hotel or catering establishment is managed by a hotel-keeper or catering establishment keeper, as the case may be.

(2) Where a licence has been granted or transferred to a person who holds his appointment as hotel-keeper or catering establishment keeper, as the case may be, from another person, such licence shall be deemed to be cancelled on the revocation of such appointment:

Provided that any person whose licence is deemed to have been cancelled in accordance with the provisions of this section shall not be precluded, subject to the provisions of this Act, from obtaining another licence.

(3) For the purpose of the last preceding subsection the term "another person" shall be construed as meaning also a company.

(4) Where a company infringes the provision of subsection (1) of this section, every person who, at the time of such infringement, was a director, manager, secretary or other similar officer of such company or was purporting to act in any such capacity shall be guilty of an offence, unless he proves that the infringement took place without his knowledge and that he exercised all due diligence to prevent it, and shall be liable on conviction to a fine (multa) of not less than ten pounds and not more than one hundred pounds.

Classification
of hotels and
catering
establishments.

9. (1) The Board shall classify hotels and catering establishments in such manner as in its opinion will best conform with regulations made for that purpose under paragraph (a) of subsection (1) of section 15 of this Act:

Provided that the Board shall not be obliged to reclassify a hotel or catering establishment before the lapse of one year from its last classification.

(2) Any classification of a hotel or catering establishment shall be published in the Government Gazette, as soon as may be after it becomes effective.

(3) Any person who, in writing, advertises or otherwise represents a hotel or catering establishment as belonging to a higher category than that to which it actually belongs according to its classification at the time of such advertisement or representation, shall be guilty of an offence and shall be liable on conviction to a fine (multa) of not less than ten pounds and not more than one hundred pounds.

Reclassification
of hotels
and catering
establishments.

10. (1) Where it appears to the Board, after such inquiry as it may deem fit, that a hotel or a catering establishment is not being kept or managed in a manner conformable to the standard

of a/....

of a hotel or a catering establishment of the category in which such hotel or catering establishment is classified, in accordance with the provisions of any regulations made under this Act, the Board may, upon giving notice thereof to the hotel-keeper or catering establishment keeper, as the case may be, remove the name of such hotel or catering establishment from such category and place it in a lower category.

(2) The reclassification of such a hotel or catering establishment made under the last preceding subsection shall take effect on the expiration of ten days from the date on which notice thereof is communicated to the hotel-keeper or catering establishment keeper, as the case may be:

Provided that, where an appeal has been made against such reclassification, it shall not take effect unless it is confirmed by the Minister or, if it has been modified by him, it shall have effect accordingly and the Minister's decision shall have effect on the expiration of ten days from the date on which notice thereof is communicated to the appellant.

Delivery of certificate.

11. (1). Any certificate of classification which has been cancelled shall be delivered to the Board.

(2) Any certificate of classification in respect of a hotel or catering establishment which has been reclassified shall be delivered to the Board and a fresh certificate, altered to meet the circumstances of the case, shall be issued in its place.

(3) Any hotel-keeper or catering establishment keeper who does not comply with any request of the Board made for the purpose of this section shall be guilty of an offence and shall be liable on conviction to a fine (multa) of not less than five pounds and not more than fifty pounds.

Appeals.

12. (1) Any person who is aggrieved by -
- (a) the Board's decision to refuse the grant or transfer of a licence under this Act,
 - (b) the Board's decision regarding the classification of a hotel or catering establishment,
 - (c) the Board's decision to cancel a licence granted under this Act,
 - (d) any order or direction of the Board given in accordance with the provisions of this Act or any regulations made thereunder,

may within ten days from the date on which such decision, order or direction, as the case may be, is communicated to him appeal therefrom in writing to the Minister.

(2) The Minister shall consider such appeal and, after such further inquiry as he may deem fit and such consultation with the Malta Government Tourist Board as he may deem expedient, he shall confirm, revoke or modify the decision, order or direction, as the case may be, of the Board in the light of what he believes to be the best interests of tourism in these Islands.

(3) The decision of the Minister in accordance with the provisions of subsection (2) hereof shall be final and conclusive.

Register of guests.

13. (1) Every hotel-keeper shall keep a register in a prescribed form wherein he shall cause every guest to write his name together with such other particulars as may be prescribed.

(2) Every hotel-keeper shall present such register for inspection whenever so requested by any police officer not below the rank of Inspector, member of the Board or any other person authorised for the purpose in writing by the Chairman of the Board.

- (3) (a) Any hotel-keeper who -
- (i) fails to keep the aforesaid register; or
 - (ii) fails, neglects or refuses to comply with the requirements of this section,

shall be guilty of an offence and shall be liable on conviction to a fine (ammenda) not exceeding ten pounds.

- (b) Any guest who makes or causes to be made in any register kept in accordance with the provisions of subsection (1) of this section any statement or entry knowing the same to be false in a material particular, shall be guilty of an offence and shall be liable on conviction to a fine (ammenda) not exceeding ten pounds.

Right of access and inspection.

14. (1) Any member of the Board or any other person authorised in writing to that effect by the Chairman of the Board shall have at any reasonable time access for any purpose connected with this Act, to any hotel or catering establishment in respect of which there is in force a licence and he shall have the right to inspect any part of the building of such hotel or catering establishment.

(2) Any person who denies the said right of access or in any manner hinders or obstructs the said right of inspection shall be liable on conviction to a fine (multa) of not less than five pounds and not more than fifty pounds.

Regulations.

15. (1) The Minister may from time to time make regulations for carrying into effect the

provisions/....

provisions of this Act, for ensuring the good and efficient working of hotels and catering establishments and, without prejudice to the generality of such powers, may make regulations for all or any of the following purposes:-

- (a) providing for the classification of hotels and catering establishments and the issue of certificates of classification in respect thereof, and prescribing in relation to each category the minimum requirements which hotels and catering establishments are to satisfy in order to be classified under such category;
- (b) prescribing the fees leviable in respect of the grant of any licence or the issue of any certificate of classification under this Act;
- (c) fixing or enabling the Board to fix the minimum and maximum rates which may be charged by a hotel-keeper or catering establishment keeper, in respect of such categories of hotels or catering establishments as the Minister may from time to time determine, for the accommodation, including services, provided in a hotel falling within any of the said categories, or for refreshments, meals and drinks, including services, purveyed in a catering establishment falling within any of the said categories, and, prescribing the manner in which such rates shall be brought to the notice of customers;
- (d) regulating the subject matter of any printed leaflet, brochure, advertisement and any other publicity material relating to hotels or catering establishments for distribution or insertion in any publication in Malta or abroad;

(e)/....

- (e) providing for returns to be supplied from time to time by hotel-keepers to the Malta Government Tourist Board or to any person authorised by such Board in that behalf, showing the number of guests staying in their hotel and such other statistical data as may be prescribed;
- (f) providing for the appointment of inspectors of hotels and catering establishments and prescribing their powers and duties;
- (g) prescribing anything that is to be prescribed.

(2) Such regulations may impose penalties for the breach thereof not exceeding a fine (multa) of fifty pounds.

(3) Any regulations made under this section shall be laid before the House of Representatives as soon as may be after they are made, and if, within the next twenty days beginning with the day on which such regulations are so laid before it, the House of Representatives resolves that the regulations be annulled, they shall henceforth be void, but without prejudice to anything previously done thereunder or to the making of new regulations:

Provided that there shall not be included in the computation of the said twenty days any period of four or more consecutive days intervening between any two consecutive sittings of the House of Representatives.

Part III

Miscellaneous

Hotel-keepers' right of retention.

16. A hotel-keeper shall have the right to retain any goods which a guest brings into the hotel and which are in the hotel-keeper's possession until such guest has paid any rates lawfully charged by the hotel-keeper.

Amendment of
Code of
Police Laws
(Cap.13).

17. (1) The sections of the Code of Police Laws specified in Part I of the Schedule to this Act shall be repealed.

(2) The sections of the Code of Police Laws specified in the First Column of Part II of the Schedule to this Act shall be amended in the manner and to the extent specified in the Second Column of the said Part of the said Schedule.

Applicability.

18. Nothing in this Act shall apply or be deemed to apply in any way to any convent, monastery, boarding school, college or to any house or premises exclusively used for the accommodation or boarding of persons in a charitable institution or to any other similar body or institution.

THE SCHEDULE

(section 17)

PART I

(Repeals)

Sections 154, 155 and 164A

PART II

(Amendments)

FIRST COLUMN

SECOND COLUMN

Section 156

(a) In subsections (1) and (3) there shall be deleted the words "hotel or";

(b) in subsection (4), for the words "for the keeping of an hotel or lodging house" there shall be substituted the words "for the keeping of a lodging house";

(c) in paragraph (b) of subsection (4) there shall be deleted the words "the designation and the classification determined under section 155";

(d) subsection (6) shall be deleted.

Section 157

For subsections (1) and (2) there shall be substituted the following subsections:-

"(1)/....

FIRST COLUMN

SECOND COLUMN

"(1) A licence under the Hotels and Catering Establishments Act, 1966, to keep or manage a hotel in respect of premises for which there is also in force under the same Act a licence to keep or manage a catering establishment shall be deemed to authorise the holder or holders, as the case may be, of such licences also to:-

(a) supply, during meals only, wine, beer and non-intoxicants; and

(b) supply intoxicating liquors to residents in their rooms at any time during the day or night.

(2) The Commissioner of Police shall be empowered from time to time to exclude an hotel and catering establishment from any of the benefits granted under the provisions of the last preceding subsection and any such exclusion shall be stated on the licences, for which purpose the licensee shall, if so required by the Commissioner of Police, surrender any licence he may at any time hold."

Section 163

The words "hotels and" shall be deleted.

Section 164

The words "hotels or" shall be deleted.

Section 164B

There shall be substituted for section 164B the following:-

"164B. The licensee of any premises licensed under this Part shall

not/....

FIRST COLUMN

SECOND COLUMN

Section 164C

not advertise the premises or cause them to be advertised otherwise than as a lodging house."

There shall be substituted for section 164C the following:-

"164C. It shall be lawful for any Police Officer not below the rank of Inspector at all times to enter any premises licensed under this Part or in respect of which there is in force a licence under the Hotels and Catering Establishments Act, 1966, for the purpose of preventing or detecting any infringement of the provisions of this Code."

Section 164D

There shall be substituted for section 164D the following:-

"164D. In this Part, unless the context otherwise requires -

"hotel-keeper" means the person who is licensed as such under the provisions of the Hotels and Catering Establishments Act, 1966;

"lodging-housekeeper" means the person who is licenced under subsection (1) of section 156 hereof;

"resident" means any person who has a bedroom booked in his name for the night in an hotel."

Objects/....