

Tanzania

## Hotels Act

### Chapter 105

Legislation as at 31 July 2002

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# Tanzania

## Hotels Act Chapter 105

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*[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]*

*[Act No. 22 of 1963; R.L. Cap. 521; Acts Nos. 23 of 1972; 12 of 1981; 16 of 1983; 10 of 1986; 10 of 1987; 13 of 1989; 18 of 1991; 24 of 1997; 25 of 1997]*

**An Act to make provision for hotels and for payment of a hotel levy.**

### **Part I – Preliminary provisions (ss. 1-2)**

#### **1. Short title**

This Act may be cited as the Hotels Act.

#### **2. Interpretation**

In this Act, unless the context requires otherwise—

"**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 there and carried on with a view to profit or gain, but does not include—

- (a) any establishment which has accommodation for less than six guests;
- (b) any 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, in Part II, a member of a Board and includes the Chairman;

"**Minister**" means, in Part II, the Minister responsible for matters relating to the tourist industry and in Part III, means the Minister responsible for finance.

### **Part II – Establishment of Hotels Boards (ss. 3-23)**

#### **3. Establishment of Hotels Boards**

The Minister may, by notice published in the *Gazette*, establish an Hotels Board for any area or areas of Tanzania and each 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.

#### 4. Membership of Boards

- (1) A Board shall consist of a Chairman and any 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 appointment, but shall be eligible for re-appointment.
- (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 the notice as the effective date of resignation, or if the date is not specified, from the date of receipt of the notice, that member shall cease to be a member of the Board.
- (5) Whenever any vacancy occurs by reason of the death, cancellation or 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 Tanzania 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 that 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 its members or by any defect in the appointment of any member.

#### 5. Board not liable for acts done in good faith

No Board or any member 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.

#### 6. Meetings and procedure of Boards

- (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. Appointment of Secretary

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

## 8. Authentication of documents

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

## 9. Reimbursement of expenses

The Minister may authorise out of moneys appropriated by Parliament for the purpose—

- (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. Licences

- (1) Subject to the provisions of section 11, a Board may issue to any person a licence authorising that 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.
- (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;
  - (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 the form which may be prescribed.

## 11. Conditions for issue or renewal of licences

No licence under section 10 shall be issued or renewed by a Board unless the applicant satisfies the Board —

- (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.

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

- (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;
  - (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 in it, the Board may without prejudice to any proceedings which may be taken against the 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 the licence for any period which the Board may specify or cancel such licence.

## 13. Appeals

- (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 on it shall be final.

- (2) Where a Board has suspended or cancelled a licence under the provisions of section 12 that suspension or cancellation shall not have effect until the period within which an appeal against the suspension or cancellation may be made to the Minister has elapsed or, if the appeal has been made, until that 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 that person in writing of the reasons for its decision.

## 14. Hotel to be open to all travellers

- (1) An hotel-keeper shall receive and lodge in his hotel all persons coming there 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 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. Limitation of hotel-keeper's liability

- (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 any property except where—
  - (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 his right with respect to it, an hotel-keeper shall not as an innkeeper be liable to make good to any of his guests any loss of or damage to, or have any lien on any vehicle or any property left there, 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 the 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 the hotel-keeper or a person in his employ authorised, or appearing to be authorised, for the purpose and, if so required by the hotel-keeper or the 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 the 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. Notice to be displayed

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 the notice is so displayed.

## 17. Hotel-keeper's right of sale

- (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 to it, where the person depositing or leaving the goods or property is or becomes indebted to the hotel-keeper for any board or lodging:

Provided that—

- (a) no 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 the 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 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 the 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 the notice to the 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 the goods or property any surplus money remaining.

## 18. Register of guests

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 any other particulars as may be prescribed:

Provided that where a visitor's book is kept in an hotel pursuant to the provisions of section 15 of the Intoxicating Liquors Act <sup>1</sup> such book shall be deemed to be a register kept under the provisions of this section.

## 19. Power of inspection

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

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

## 20. Offences and penalties

- (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
- (2) Any person who contravenes the provisions of subsection (1) commits an offence and upon conviction is liable to a fine not exceeding five thousand shillings.
- (3) Any person who—
  - (a) opposes or obstructs a Board or any person authorised 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 authorised in writing by a Board any false information in relation to any matter provided for by this Act,commits an offence and upon conviction is liable to a fine not exceeding one thousand shillings.
- (4) Any hotel-keeper who fails to comply with the provisions of section 18 commits an offence and upon conviction is liable 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 under it 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.

<sup>1</sup>

## 21. Liability of hotel-keeper for acts of agents

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 the hotel-keeper, that 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.

## 22. Regulations

- (1) The Minister may make 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 the 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 any notice of the charges which 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 Part.
- (2) Regulations made under this section may provide in respect of a breach of those provisions penalties not exceeding a fine of one thousand shillings.

## 23. Repeal of R.L. **Cap. 319**

*[Repeals the Control of Hotels Ordinance with savings of licences existing on the date of coming into force of this Act.]*

## Part III – Hotels levy (ss. 24-40)

*[1st August, 1972; Act **No. 23 of 1972**]*

## 24. Interpretation

In this Part, unless the context requires otherwise—

"**Commissioner**" means the Permanent Secretary to the Treasury and includes any person to whom the Permanent Secretary to the Treasury has, by writing under his hand, delegated all or any of his functions under this Act;

"**day**" means a period of twenty-four hours commencing immediately after midnight on any day and expiring at midnight on the following day;

"**guest**" means any person who, in return for a payment of a sum of money (whether the payment is made by that person or any other person), occupies or reserves for occupation hotel accommodation in an hotel for a day or part of a day;

"**hotel levy**" or "levy" means the hotel levy payable under section 26 or section 29;

"**owner**" means the owner of an hotel and includes any person in charge of the management of the hotel and any employee or other person responsible for the collection from the guests of the charges due from them in respect of their stay in the hotel.

## 25. Exemption

The Minister may, by order published in the *Gazette* exempt—

- (a) any hotel or class of hotels from the provisions of this Act;
- (b) any hotel owner or class of hotel owners from payment of an hotel levy in respect of any guest or class of guests.

## 26. Imposition of levy

- (1) Every owner of an hotel shall pay, in respect of every guest, a levy of twenty *per centum* of the hotel charges:

Provided that in no case shall such levy be less than two shillings.

- (2) The levy imposed by subsection (1) shall be paid by the owner in any manner and at any intervals which may be prescribed.
- (3) The levy payable by a guest house owner shall be due to the Local Government Authority responsible for the area in question.
- (4) "Commissioner" under this section includes the Permanent Secretary responsible for Local Government.

## 27. Exemption of VAT registered person

No hotel levy shall, on the coming into operation of the Value Added Tax Act, 1997, be charged on any person who or body of persons which has been registered under Part IV of the VAT Act.

[s. 26A]

## 28. Determination of hotel charges

- (1) For the purposes of this Act "hotel charges" means the payment received, or deemed by subsection (2) to have been received, by the owner in consideration of the hotel accommodation occupied, or reserved for occupation, by any guest and breakfast, if any, served to the guest.
- (2) Where in any case the owner accepts from any guest in return of the hotel accommodation actually occupied by the guest during any period of any day a payment of a sum of money less than the normal charges, the owner shall be deemed to have received from the guest the normal charges and the normal charges shall be deemed to be the hotel charges in respect of the guest.
- (3) For the purposes of this section "normal charges" means—
  - (a) in relation to any hotel which serves food to the guests or to any of the guests who may require to be served with food, the sum of money which the owner would normally require to be paid for—
    - (i) the occupation of hotel accommodation for a day or part of a day by any guest; and
    - (ii) breakfast served to the guest;

- (b) in relation to any hotel which serves no food to any of its guests, the sum of money which the owner would normally require to be paid for the occupation of hotel accommodation for a day or part of a day by any guest:

Provided that where in relation to any guest the owner satisfies the Commissioner that the payment received by him in respect of the hotel accommodation occupied by a guest for any day or part of a day was less than the normal charges because of any special circumstances, the Commissioner may accept levy paid on the payment actually received by the owner in lieu of levy on normal charges.

[s. 27]

## 29. Levy where owner supplies at least two meals

- (1) Where the Commissioner is satisfied—
  - (a) that the owner of any hotel has charged or charges a guest a single payment for hotel accommodation, breakfast and any additional meal or meals or other facilities provided by the hotel; or
  - (b) that any guest at an hotel was normally supplied with meals (other than breakfast) by the hotel,

the Commissioner shall, by notice, in writing addressed to the owner of the hotel require him to pay in respect of that guest, hotel a levy equal to twenty *per centum* of the total payment made by such guest to the owner in respect of the hotel accommodation, meals and other facilities, if any, in lieu of the levy prescribed by section 26, and where an owner is served with a notice under this section he shall be liable to pay in respect of the guest or guests described (either by name or generally) in the notice, hotel levy calculated in accordance with the provisions of this section in lieu of levy calculated in accordance with the provisions of section 26.

- (2) Any requirement made by the Commissioner under this section shall be final and shall not be subject to review by any court or other authority:

Provided that an owner aggrieved by that requirement may appeal against it to the Minister whose decision on the appeal shall be final and conclusive.

- (3) Where the Commissioner is satisfied that the normal practice in the hotels or a large number of hotels in any area is to provide hotel accommodation and two or more meals a day for a single payment, the Commissioner shall, by order published in the *Gazette*, require all the hotels in that area, or any of them as may be described in the order to pay hotel levy calculated in accordance with the provisions of this section, and where the order is made, the owner of any hotel to which the order applies, shall be liable to pay hotel levy so calculated in lieu of the levy prescribed by section 26.

[s. 28]

## 30. Inspection by Commissioner

The Commissioner may, for the purposes of ensuring that the provisions of this Act and of the regulations made under it have been complied with, at any reasonable hour enter any hotel and inspect the register of guests maintained there and any of the books of accounts and documents relating to the number of guests accommodated at the hotel during any period, the number of days each such guest was so accommodated and the hotel charges paid by each guest, and may seize any register, book or document and retain the same until produced as evidence in any court or if not so produced, for a period not exceeding sixty days.

[s. 29]

### 31. Power of Commissioner to estimate levy payable

- (1) Where, after inspection carried out pursuant to section 30, the Commissioner is satisfied that—
  - (a) the owner of the hotel inspected does not keep a proper register of guests or other books of accounts and documents relating to the number of guests accommodated at the hotel during any period or the number of days each guest was accommodated and the hotel charges paid by each guest; and
  - (b) the register or other books of accounts or other documents maintained by the owner or the returns filed by him are incorrect, inadequate, false or too scanty in any material particulars,and that these factors together would not facilitate the ascertainment of the proper levy payable by the owner, he may, according to the best of his judgment, estimate the monthly hotel accommodation occupied, the monthly hotel charges and the monthly levy payable by the owner.
- (2) Where the Commissioner determines the monthly levy payable by any owner of an hotel under subsection (1), that levy shall be deemed to be the levy imposed by section 26(1) and shall be payable by the owner concerned; save that such determination or payment shall not affect any liability otherwise incurred by that person under this Act for non-payment of levy resulting from the circumstances revealed by the inspection referred to in subsection (1).
- (3) The monthly levy determined by the Commissioner under subsection (1) in respect of any past period shall be the levy payable by the owner also in respect of the period subsequent to the date of the determination by the Commissioner until the Commissioner is satisfied that the factors necessitating the application of the provisions of subsection (1) have ceased to exist in relation to the owner.
- (4) Where any owner is aggrieved by a decision of the Commissioner made in pursuance of this section, he may appeal to the High Court in accordance with section 38(3), subject to subsection (5).
- (5) Notwithstanding the right of appeal conferred by subsection (4), no appeal shall be admitted for hearing unless the Commissioner certifies to the High Court that the appellant has first paid the levy as determined by the Commissioner.

[s. 30]

### 32. Penalties

- (1) Where any owner of an hotel or guest house who is, under this Act, liable to pay levy, fails to pay the whole or any part of the levy within the time and in the manner which may be prescribed by regulations made under it—
  - (a) an additional levy equal to twenty-five *per centum* of the unpaid amount of the levy shall thereupon become and be payable by way of penalty by that owner;
  - (b) if any amount remains unpaid by the owner for more than thirty days after the date upon which it is, by regulations made under this Act, required to be paid, the rate of the additional levy prescribed by paragraph (a) shall be increased by ten *per centum* of the amount of levy remaining unpaid in respect of each period of thirty days or part of it after the date during which such amount remains unpaid, and such additional levy by way of penalty shall become and be payable by such owner accordingly.
- (2) Any sum payable by way of penalty under this section shall, for the purposes of this Act, be deemed to be levy and shall be collected and recoverable accordingly.
- (3) The Commissioner may remit in whole or in part any penalty payable under this section; but the remission shall not be in excess of the maximum amount remittable under this section, which may be specified by the Minister by order published in the *Gazette*.

- (4) For the purposes of this section, payment of levy shall be deemed to have been made by the person liable to make the payment only when that payment is received by the Commissioner.
- (5) The Commissioner shall, as soon as may be after he has remitted any penalty, prepare and submit to the Minister a full report on the matter, setting out the circumstances and the reasons leading to or justifying the remission.
- (6) Upon receipt of a report submitted to him pursuant to subsection (5), the Minister may give directions to the Commissioner, in relation to the subject-matter of the report, as he sees fit and may, in addition, take any other action which he deems necessary.
- (7) No action taken or thing done by the Commissioner in pursuance of any of the provisions of this section shall be subject to review or question by or in any court.

[s. 31]

### 33. Recovery of levy and penalty

- (1) Any levy or penalty payable by any owner under the provisions of this Act shall be a debt due to the Government and may be recovered from the owner as a civil debt by a suit at the instance of the Commissioner or any person authorised by the Commissioner in that behalf.
- (2) Without prejudice to the method of recovery of levy and penalties prescribed by subsection (1), where any amount of levy or penalty is due from any owner of an hotel, the Commissioner may file in a court of a resident magistrate having jurisdiction over the area in which the hotel is situated, a certificate stating—
  - (a) the name and address of the person from whom the amount is due; and
  - (b) the amount due,and upon a certificate being lodged in that court such certificate shall be deemed to be a decree passed by that court against the person named in the certificate for payment by such person to the Government of the amount stated in the certificate together with interest on it at ten *per centum* per month from the date on which the certificate is filed until the date of payment, and every such decree may be executed in the same manner as a decree passed by a court of a resident magistrate in a civil suit.
- (3) The provisions of subsection (2) shall apply notwithstanding that the amount involved exceeds the pecuniary jurisdiction of a court of a resident magistrate.
- (4) Every certificate filed in a court of a resident magistrate pursuant to the provisions of subsection (2) shall be conclusive evidence of the truth of the statements contained in such certificate.

[s. 32]

### 34. Collection of hotel levy by distress

- (1) In any case in which an hotel levy is recoverable by suit the Commissioner may, instead of suing for such levy recover the same by distress, and for that purpose may by order under his hand authorise any public officer or an officer of court to execute such distress upon the goods and chattels of the person from whom such levy is recoverable, and such officer may, at the cost of the person from whom such levy is recoverable, employ such servants or agents as he may think necessary to assist him in the execution of the distress.

Provided that—

- (a) where the full amount of the levy due and payable is not recovered by such distress, the Commissioner may, forthwith recover the deficiency in any other manner provided by this Act;

- (b) where the full amount of levy due and payable has been paid after the issue of an order under this section and before the execution of distress, and costs and expenses incurred by the Commissioner prior to the payment of the levy shall be deemed to be a debt due and payable to the Government by the person in respect of whom the order was issued and may be recovered by the Commissioner as hotel levy under this Act.
- (2) For the purposes of levying any distress under this section an officer authorised under subsection (1) of this section together with such servants or agents as such person may consider necessary, may break open in the daytime any premises, and any such officer may require any police officer to be present while the district is being levied and any police officer so required shall comply with such requirement.
- (3) A distress levied under this section shall be kept for ten days, either at the premises at which such distress levied or at such other place as the authorised officer may consider appropriate, at the cost of the person from whom the levy is recoverable.
- (4) If the person from whom a levy is recoverable by distress does not pay such levy together with the cost of the distress within the period of ten days referred to in subsection (3) of this section, the goods and chattels distrained upon shall be sold by public auction for payment of the levy due and payable and all such costs and the proceeds of such sale shall be applied first towards the cost of taking, keeping and selling the goods and chattels distrained upon and then towards the levy due and payable and any remainder of such proceeds shall be restored to the owner the property distrained.
- (5) For the purposes of this section the provisions of the Civil Procedure Code in relation to distress shall, not apply and the Minister shall by regulations published, in the *Gazette* provide for the procedure for distress for the purposes of this section.

[s. 32A]

### 35. Offences

- (1) Any person who obstructs the Commissioner, or any other person authorised by the Commissioner in that behalf in the execution of any duties imposed by section 7 of this Act or by regulations made hereunder, commits an offence and upon conviction is liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both that fine and imprisonment.
- (2) The fine imposed under this Act or by Regulations in respect of—
  - (a) evasion of levy; or
  - (b) levy irregularities, shall not exceed two million shillings or five hundred thousand shillings respectively.

[s. 32B]

### 36. Where offence is committed by body corporate

Where any offence under any regulations made under this Act is committed by a body corporate then, as well as the body corporate, any person who, at the time of the commission of the offence was concerned, as a director or an officer, with the management of the affairs of that body corporate commits the offence and shall be liable to be proceeded against and punished accordingly, unless he proves to the satisfaction of the court that he had no knowledge and could not by the exercise of reasonable diligence have had knowledge of the commission of the offence.

[s. 33]



### 37. Liability of employer or principal

Where any offence under any regulations made under this Act is committed by a person as an agent or employee then, as well as the agent or employee, the principal or employer commits the offence and shall be liable to be proceeded against and punished accordingly unless he proves to the satisfaction of the Court that he had no knowledge, and could not by the exercise of reasonable diligence have had knowledge, of the commission of the offence.

[s. 34]

### 38. Commissioner may compound offence

- (1) The Commissioner may, where he is satisfied that any person has committed an offence under any regulations made under this Act, by order, compound any offence by requiring that person to make payment of not less than fifty thousand shillings:

Provided that—

- (a) the power conferred by this section shall only be exercised where the person admits in writing that he has committed the offence;
  - (b) the Commissioner shall give to the person from whom he receives such sum of money, a receipt therefor.
- (2) Where an offence is compounded in accordance with the provisions of subsection (1) and any proceedings are brought against the offender for the same offence, it shall be a good defence for such offender if he proves to the satisfaction of the court that the offence with which he is charged has been compounded under subsection (1).
- (3) Where any person is aggrieved by any order made under subsection (1), he may, within thirty days of the order being made, appeal against such order to the High Court and the provisions of Part X of the Criminal Procedure Act <sup>2</sup> shall apply *mutatis mutandis* to every such appeal as if it were an appeal against sentence passed by a district court in the exercise of its original jurisdiction.

[s. 35]

### 39. Regulations

- (1) The Minister may make regulations—
- (a) for the better carrying out of the purposes of this Act;
  - (b) for regulating the procedure and the rules of evidence and of jurisdiction of courts in relation to proceedings for offences under the regulations;
  - (c) for regulating procedure on appeals under section 29(2);
  - (d) for the refund of any levy or penalty paid or collected in error;
  - (e) for prescribing anything which may be prescribed.
- (2) Regulations made under subsection (1) may contain penalties for their breach of a fine not exceeding twenty thousand shillings or of imprisonment for a term not exceeding three years or of both such fine and imprisonment.

[s. 36]

**40. Repeal of R.L. Cap. 475**

*[Repeals the Hotel Accommodation (Imposition of Levy) Act.]*

*[s. 37]*

**Schedule (Section 16)****Loss of or damage to guests' property*****Notice***

Under the Hotels Act <sup>3</sup>, 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 five hundred shillings for any one article and a total of one thousand shillings 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 under it attaches to the proprietor of this hotel in any particular case.

**Tangazo*****Kupotea au kuharibika kwa mali za wapangaji***

Chini ya Sheria ya Migahawa (Sura 105), Msimamizi wa Mgahawa 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 Mgahawa.

Walakini madaraka haya—

- (a) yatahusu tu mali za wapangaji waliopanga kulala katika mgahawa;
- (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 mgahawa amekabidhiwa kuzilinda ili zisalimike;
- (c) hayahusu motokari au magari mengine ya aina yeyote au mali ziachwazo ndani yake, au wanyama walio hai.

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