

TURKS AND CAICOS ISLANDS

CHAPTER 17.06
TOURIST ACCOMMODATION
(LICENSING) ORDINANCE

Revised Edition
showing the law as at 31 August 2009

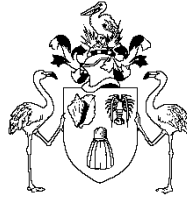
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This edition contains a consolidation of the following laws—

TOURIST ACCOMMODATION (LICENSING) ORDINANCE
Ordinance 10 of 1978 .. in force 30 January 1979 (L.N. 4/1979)

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No Subsidiary Legislation has been made under this Ordinance



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CHAPTER 17.06
TOURIST ACCOMMODATION
(LICENSING) ORDINANCE
ARRANGEMENT OF SECTIONS

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CHAPTER 17.06
TOURIST ACCOMMODATION
(LICENSING) ORDINANCE

(Ordinance 10 of 1978)

AN ORDINANCE TO MAKE PROVISION FOR THE LICENSING OF HOTELS, GUEST-HOUSES AND OTHER PREMISES PROVIDING ACCOMMODATION FOR GUESTS FOR REWARD, FOR THE REGULATION AND IMPROVEMENT OF THE STANDARD OF FACILITIES PROVIDED BY SUCH PREMISES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Commencement

[30 January 1979]

Short title

1. This Ordinance may be cited as the Tourist Accommodation (Licensing) Ordinance.

Interpretation

2. (1) In this Ordinance, unless the context otherwise requires—

“Board” means the Turks and Caicos Islands Tourist Board established under the provisions of the Tourism Ordinance;

“company” means any body corporate whether incorporated within or without the Islands;

“fee” means a fee calculated in accordance with the provisions of section 17;

“guest” means any person, of or above the age of twelve years, who is accommodated for reward in any premises to which this Ordinance applies;

“licence” means a licence, including a temporary licence, issued under the provisions of this Ordinance, and cognate expressions shall be construed accordingly;

“Minister” means the Minister for the time being charged with responsibility for the administration of this Ordinance;

“operator” means the person, whether or not he is the proprietor of the premises concerned, who carries on the business of operating any premises for the purpose of providing accommodation for guests, and cognate expressions shall be construed accordingly;

“premises” means any premises to which this Ordinance applies.

- (2) This Ordinance shall apply to the following premises—
- (a) any hotel or guest-house, being a building or group of buildings occupied or managed together, containing in the aggregate four or more bedrooms for the accommodation of guests for reward; and
 - (b) any other apartment or house (notwithstanding that it is not held out to be a hotel or guest-house or does not provide catering facilities), or two or more such apartments or houses occupied or managed together, used for the purpose of providing accommodation for guests for reward and, either individually or in the aggregate in the case of two or more, containing four or more bedrooms used for such purpose:

Provided that this Ordinance shall not apply to premises leased to a Belonger, within the meaning of section 3 of the Immigration Ordinance, or a person who is the holder of a Permanent Residence Certificate under section 15 of that Ordinance or who is gainfully employed in the Islands, and which are occupied only by that person or by the husband or wife and children of that person.

Hotels and guest-houses to be licensed

3. A person shall not operate any premises for the purpose of providing accommodation for guests except under and in accordance with the terms of a licence in that behalf issued under the provisions of this Ordinance.

Board may grant licences

4. (1) Subject to the provisions of this Ordinance, upon application in that behalf made in the prescribed form and payment of the fee therefor, the Board may grant to the applicant a licence to operate any premises for the purpose of providing accommodation for guests, or may refuse to grant such a licence or may grant a licence subject to such terms and conditions as it may see fit to impose.

(2) In the exercise of the powers conferred by subsection (1) and by section 7, the Board shall have regard to the need, in the public interest, to maintain an efficient tourist industry in the Islands.

Form of licences

5. Every licence shall specify—

- (a) the name of the operator;
- (b) the name of the proprietor, if he is not the operator;
- (c) the description and address of the premises in respect of which the licence is granted;
- (d) the date upon which the licence is to take effect;
- (e) any terms and conditions to which the licence is subject,

and such other particulars (if any) as may be prescribed.

Duration of licences

6. Every licence shall take effect on the date of issue or upon such later date as may be specified therein and shall expire on the thirty-first day of December next ensuing; but, upon application made in the prescribed manner not less than twenty-eight days before the date of expiry and upon payment of the fee therefor, any licence may be renewed by the Board for a further period of one year, and thereafter in like manner may be renewed from year to year, if the Board so approves.

Temporary licences

7. (1) Notwithstanding any other provisions of this Ordinance, the Board, upon application made in the prescribed manner and upon payment of the fees therefor, may grant to any person a temporary licence to operate any premises for a period not exceeding forty-five days:

Provided that a temporary licence may not be granted to any person in respect of the same premises or any part thereof for any number of days exceeding in the aggregate ninety days in any one year.

(2) A temporary licence shall be in such form, and shall contain such terms and conditions, as may be determined by the Board, and any such terms and conditions of a temporary licence may modify, in relation to the operation of the premises to which the licence relates, any of the requirements of any regulations made under this Ordinance.

Notification of change of control of company operating premises

8. (1) Where any alteration is proposed in the control of a company which is the operator of any premises licensed under this Ordinance, the secretary of that company, or any other officer duly authorised in that behalf, shall notify the Board in writing of the particulars of such alteration, and if the company fails to comply with the provisions of this subsection, the Board may by instrument in writing cancel the licence issued to the company in respect of the premises concerned.

(2) For the purposes of this section, a company shall be deemed to be controlled by a person or persons if that person or those persons, by the exercise of some power exercisable by him or by them acting together, can, without the consent of any other person, appoint or remove all or a majority of the directors of the company; and for the purposes of this provision the expression "director" means any person who occupies the position of a director, by whatever name called.

Transfer of licences

9. Where a licensee has died or proposes to divest himself, or has divested himself, of his interests in the business of the premises in respect of which his licence was granted, upon application in that behalf made by any person claiming the right to succeed such licensee as the operator of the premises concerned, and upon payment of the appropriate fee, the Board may transfer the

licence to that person subject to such terms and conditions as the Board may think fit to impose:

Provided that before transferring any licence under this section the Board shall, where practicable, give to the licensee or, as the case may be, to his legal personal representative a reasonable opportunity to make any representations that he may wish to make in relation to any such application, and shall take into account any representations so made by him or on his behalf.

Variation of licences

10. The Board may at any time, upon application in that behalf made by a licensee, or of its own motion, vary any of the terms or conditions of a licence:

Provided that in varying any terms or conditions of a licence the Board shall take into account any representations made to it by the licensee or on his behalf, and shall not vary such terms or conditions of its own motion without first giving to the licensee a reasonable opportunity to make such representations.

Transfer or variation to be endorsed on licences

11. Any transfer of a licence or the variation of any term or condition of a licence, made by the Board under section 9 or 10 as the case may be, shall be endorsed on the licence together with the date when it was authorised by the Board and the date upon which it is to take effect.

Default by operator

12. (1) Where it appears to the Board, after such inquiry as it deems fit, that any licensed premises are being operated in contravention of this Ordinance or contrary to the terms and conditions of the licence, the Board may by notice in writing require the operator to take such steps as may be necessary for compliance with the requirements of this Ordinance, or with such terms and conditions, within such time, not being less than fifteen days, as may be specified in the notice.

(2) If an operator fails, within the time specified, to comply with the requirements of a notice issued under subsection (1), the Board may by instrument in writing cancel the licence in respect of the premises concerned.

(3) The provisions of this section shall be without prejudice to proceedings in respect of any offence committed by an operator or any other person under this Ordinance or any other law.

Appeals

13. (1) Any person aggrieved by any decision of the Board—

- (a) to refuse to grant, renew or transfer a licence, or to impose or vary any terms or conditions of a licence;
- (b) to cancel a licence; or

(c) made in the exercise of any other powers conferred by this Ordinance,

may appeal to the Supreme Court against the decision of the Board within fifteen days of the notification to him thereof, or within such longer period as the court may allow in any particular case.

(2) Upon the hearing of any such appeal the court may make such order, including an order for costs, as it thinks just.

(3) Subject to the provisions of this section, the Judge may make rules of procedure governing appeals under this section.

Time when decisions of Board take effect

14. Any decision made by the Board under this Ordinance to cancel any licence or to impose or vary any terms or conditions of a licence shall take effect upon the expiration of fifteen days, or such longer period as the Board may specify in writing in any particular case, from the date of notification of the decision of the Board to the person concerned:

Provided that if, within such period of fifteen days, notice of appeal against the decision of the Board is given under the provisions of section 13, the decision of the Board shall not take effect until the final determination of the proceedings on the appeal.

Powers of inspection

15. Any person authorised in writing in that behalf by the Board, shall have the power to enter any licensed premises at all reasonable times during day-light hours for the purpose of carrying out any inspection reasonably required for the purposes of this Ordinance and for ensuring compliance with the terms and conditions of any licence.

Penalties

16. (1) Any person who, without lawful excuse—

(a) operates any premises when there is not in force a licence authorising such use of the premises concerned; or

(b) having been granted such a licence operates the premises in contravention of the terms and conditions thereof,

commits an offence and is liable on summary conviction to a fine of \$500 and to a penalty of \$500 for each day during which he so operates the premises.

(2) Any operator who fails to comply, within the time specified for so doing, with the requirements of a notice issued under section 12, and who continues to operate the premises concerned, commits an offence and is liable on summary conviction to a fine of \$500 and to a penalty of \$100 for each day during which he continues to operate the premises while in default in complying with such notice.

(3) Where an offence under this section is committed by a company with the consent or connivance of, or is attributable to any wilful default on the part

of, any director, manager, secretary or other similar officer of the company, or any person purporting to act in any such capacity, he, as well as the company commits an offence and is liable to be proceeded against and punished accordingly.

Licence fees

17. Where the Board decides to grant, renew or authorise the transfer of a licence there shall be paid, before such licence is issued, renewed or transferred, a fee in respect thereof calculated at the annual rate of \$5 for each bedroom provided on the premises for use by guests for sleeping accommodation:

Provided that in the case of the first issue of a licence for any premises or upon the transfer of a licence the fee payable shall be apportioned in relation to that period of the term of the licence which is unexpired at the date of issue of the licence or of approval of the transfer, as the case may be; and no fee shall be payable on the transfer of a licence to a widow or widower in consequence of the death of a spouse who was the licensee.

Regulations

18. (1) The Minister in consultation with the Tourist Board may make regulations for giving effect to the provisions of this Ordinance, and for ensuring satisfactory standards in the operation of any premises to which this Ordinance applies.

(2) Without prejudice to the generality of the power conferred by subsection (1), such regulations may make provisions for—

- (a) regulating the numbers of guests who may be accommodated on any particular premises or class of premises or in any room thereof;
- (b) prescribing standards for the maintenance of the exteriors and interiors of the buildings comprising any premises and the grounds thereof;
- (c) prescribing the precautions to be taken against the outbreak or spread of fire and for the protection of persons therefrom;
- (d) requiring that the licence issued in respect of any premises or copies of any regulations made under this section (or any extract therefrom) shall be displayed in any prescribed place on any premises;
- (e) prescribing any matter or thing required to be prescribed for the purposes of this Ordinance.

