

The Tourist Accommodation (Licence Duties) Act

[1st July 1984]

ARRANGEMENT OF SECTIONS

Act 24 of 1988.

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Schedule - The Tourist Accommodation (Licence Duties) Regulations, 1988
(Section 4)

1. Short title.

1. This Act may be cited as the Tourist Accommodation (License Duties) Act.

2. Interpretation.

2. In this Act -

"the Board" means the Tourist Board established under section 3 of the Tourist Board Act;

"Commissioner" means the Commissioner of Inland Revenue;

"hotel" has the same meaning as in section 2 of the Tourist Board Act;

"licence" means a licence granted pursuant to section 22 of the Tourist Board Act;

"licence duty" or "duty" means licence duty payable under this Act;

"officer" includes any person employed in the Inland Revenue Department as well as any person expressly authorized by the Commissioner for the purposes of this Act;

"operator of any tourist accommodation" means the person who owns business concerned with the operation of such tourist accommodation and includes the manager or other principal officer of that tourist accommodation;

"resort cottage" has the same meaning as in section 2 of the Tourist Board Act;

"tourist accommodation" means any accommodation in respect of which a licence is required pursuant to section 22 of the Tourist Board Act.

3. Application.

3. This Act applies to every tourist accommodation in respect of which a licence is granted or an application is made to the Board for the grant of such licence.

4. Imposition of licence duty.

4. (1) Subject to the provisions of this Act, there shall be payable in respect of every tourist accommodation to which this Act applies, licence duty in accordance with the provisions of this section.

(2) Licence duty shall be paid to the Commissioner by the operator of the tourist accommodation at such rates, in such manner and on such terms and conditions as may be prescribed in regulations and, without prejudice to the generality of the foregoing, such regulations may provide for the exemption of persons specified therein, in whole or in part, from liability to pay the licence duty.

(3) Regulations made under subsection (2) shall be subject to affirmative resolution of the House of Representatives.

(4) Until varied or revoked by regulations made under subsection (2), the provisions of the Schedule shall have effect.

(5) All regulations made under subsection (2) shall have the same force and effect as if they were contained in the Schedule.

5. Power to waive remit or refund licence duty.

5. The Minister may, upon the application of any person liable for payment of licence duty, waive, remit or refund such duty in whole or in part; and any such waiver, remission or refund may be subject to such conditions as the Minister may see fit to impose.

6. Refund of duty.

6. (1) If for any period, the operation of any tourist accommodation is suspended for purposes of refurbishing or as a result of a decline in business or as a result of any emergency, the operator of that tourist accommodation may apply to the Board for a certificate confirming that the operation of the tourist accommodation is suspended for that period.

(2) Where a certificate is issued pursuant to subsection (1) and licence duty has been paid in respect of the period, or any part thereof, specified in the certificate, the Commissioner shall refund a sum equal to the licence duty which has been paid in respect of that period.

(3) Where the Commissioner is satisfied that any amount of licence duty has been overpaid he may, on the proper document for such overpayment being certified by the proper officer, refund the amount overpaid.

(4) No refund under subsection (3) shall be made in respect of any overpayment unless such refund is applied for within two years after the date of payment.

7. Records to be kept.

7. The operator of a tourist accommodation shall-

(a) exhibit in a conspicuous place on the premises used for the purpose of the tourist accommodation, any current record of payment of the licence duty issued by the Commissioner;

(b) keep such books, records and accounts in relation to that tourist accommodation as may be prescribed by the Commissioner;

(c) permit the Commissioner or any officer authorized in that behalf by him to enter at any reasonable time any premises used for the purpose of that tourist accommodation and to inspect and make copies of such entries in any books, records, accounts or other documents which relate or appear to the Commissioner or officer to relate to that tourist accommodation;

(d) if required to do so by the Commissioner or any officer authorized in that behalf by him, produce at such time and place as the Commissioner or such officer may specify, any books, records, accounts or other documents relating to the tourist accommodation; and

(e) at such times and to such persons as the Commissioner may specify, make such returns as may be approved by the Commissioner and give such other information relating to the tourist accommodation as the Commissioner may require or as may be prescribed.

8. Offences.

8. (1) Every person who -

(a) fails to pay any licence duty payable by him; or

(b) in connection with any licence duty -

(i) makes any statement which he knows to be false in a material particular;

(ii) recklessly makes any statement which is false in a material particular; or

(iii) with intent to deceive, produces or makes use of any book, record, account, return or other document which is false in a material particular; or

(c) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion by him or any other person, of any licence duty, shall be guilty of an offence.

(2) Any person guilty of an offence under subsection (1) shall be liable -

(a) on summary conviction before a Resident Magistrate to a fine not exceeding -

(i) fifty thousand dollars; or

(ii) three times the amount of licence duty which is unpaid or in respect of which payment is sought to be evaded, as the case may be,

whichever is the greater, and in default of payment to imprisonment for a term not exceeding twelve months;

(b) on conviction before a Circuit Court to a fine not exceeding -

(i) one hundred thousand dollars; or

(ii) three times the amount of licence duty which is unpaid or in respect of which payment is sought to be evaded, as the case may be,

whichever is the greater, and in default of payment to imprisonment for a term not exceeding two years.

(3) A conviction for an offence under subsection (1) shall not in any way affect the liability of any person for the unpaid licence duty.

(4) Any person who contravenes any of the provisions of section 7 shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars and in default of payment to imprisonment for a term not exceeding twelve months.

(5) Any person who contravenes any provision of this Act or the Regulations for which no special penalty is provided shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

(6) This section shall come into operation on the 29th day of December, 1988.

SCHEDULE (Section 4)

THE TOURIST ACCOMMODATION (LICENCE DUTIES) REGULATIONS, 1988

1. These Regulations may be cited as the Tourist Accommodation (Licence Duties) Regulations, 1988.

2. In these Regulations "Collector" means the Collector of Taxes for the parish in which licence duty is paid.

3. (1) Licence duty payable under the Act shall be paid at the appropriate rate specified in the Appendix.

(2) Subject, to regulation 4, payment of licence duty in respect of a tourist accommodation may be paid for a period of three months, four months, six

months or twelve months, commencing from the 1st day of July, 1984 or, as the case may be, any subsequent date with effect from which the licence is granted.

4. The Commissioner shall waive the license duty payable by any tourist accommodation on or after the 1st of May, 1986, where he is satisfied that the *per diem* room rate chargeable by that tourist accommodation in respect of eighty *per centum* or more of the bedrooms in that tourist accommodation does not exceed J\$29.00.

5. (1) The Collector shall issue to the person making payment of licence duty, a receipt showing the amount so paid.

(2) Without prejudice to section 6 of the Act (which relates to refund of licence duty), if the operator has paid to the Collector on account of licence duty under this regulation an amount which he was not liable so to pay, the amount of overpayment may, if the Commissioner so permits, be recovered from any subsequent amount which he is liable to pay during the same year.

6. If, during any period for which the licence duty has been paid (hereinafter referred to as the "current licence duty period") the number of bedrooms in any tourist accommodation is increased or decreased as a result of alterations involving the physical structure of the premises, the operator of that tourist accommodation shall-

(a) forthwith notify the Board and the Collector that such alteration is being carried out; and

(b) within fourteen days after the completion of the alteration -

(i) if the alteration results in an increase in the number of bedrooms, pay to the Collector in respect of each bedroom added to the premises, additional licence duty in accordance with the following formula -

additional licence duty payable in respect of number of bedrooms added X
number of days after completion of the alteration remaining in the current
licence duty period _____ total number of days in
the current licence duty period; or

(ii) if the alterations result in a reduction in the number of bedrooms, be entitled to a refund of licence duty in accordance with the following formula-

amount of licence duty paid in the current licence duty period in respect of the
bedrooms subsequently removed X number of days after completion
of the alteration remaining in the current licence duty period.
_____ total number of days in the current licence
duty period.

7. All licence duty due and payable under the Act may be enforced under the provisions of the Tax Collection Act excluding the provisions of sections 15 and 18 of that Act (which relate to payment in moieties or quarterly).

8. (1) Every operator of a tourist accommodation, whenever called upon to do so by a Collector or by any officer authorized by the Collector, shall produce to the Collector or such officer, as the case may be, for inspection at the premises of the tourist accommodation-

(a) all books, records and accounts and other documents relating to amounts of licence duty paid in respect of the tourist accommodation; or

(b) such of those books, records, accounts or other documents as may be specified by the Collector or officer.

(2) The Collector or officer, by reference to the information obtained from an inspection of the books, records, accounts or other documents produced under paragraph (1), may, on the occasion of each inspection, prepare a certificate showing-

(a) the amount of license duty which it appears from the documents, records and accounts so produced that the operator is liable to pay to the Collector for the period covered by the inspection; and

(b) any amount of license duty which has not been so paid.

(3) The production of such a certificate shall be sufficient evidence that the operator is liable to pay to the Collector in respect of the period mentioned in the certificate the amount shown therein pursuant to paragraph (2) (b), and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

APPENDIX (Regulation 3)

Rate of Licence Duty

Licence to operate -

(a) any hotel which, pursuant to paragraph 3 (1) of the Hotels (Accommodation Tax) Resolution, 1980, is classified as -

(i) a category "A" or "B" hotel ... in respect of each bedroom in that hotel \$600 per annum

(ii) a category "C" hotel ... in respect of each bedroom in that hotel \$300 per annum

(iii) a category "D" hotel ... in respect of each bedroom in that resort hotel \$150 per annum with effect from 1st May, 1986

(b) a resort cottage ... in respect of each bedroom in that resort cottage
\$300 per annum

other tourist accommodation ... in respect of that accommodation \$300 per
annum