

CHAPTER 309

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CHAPTER 309

HOTEL PROPRIETORS

An Act to regulate the liability of Hotel Proprietors for loss of or damage to property brought by guests to hotels and to provide for related matters. 1975-2.
1975-35.

[31st July, 1975] Commence-
ment.

PART I

Preliminary

1. This Act may be cited as the Hotel Proprietors Act. Short title.
2. (1) For the purposes of this Act— Interpreta-
tion.
 - “common tariff” in relation to an hotel means the scale of charges fixed by the proprietor of that hotel in accordance with section 4;
 - “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not afforded to persons of another such description;
 - “guest” means a visitor received into an hotel for the purpose of partaking of the facilities provided therein, and includes a visitor who engages sleeping accommodation or on whose behalf such accommodation is engaged, but does not include a person who makes the hotel his place of residence, lodging or boarding;
 - “hotel” means an establishment held out by a proprietor as offering—
 - (a) sleeping accommodation only; or

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(b) food, drink and, if so required, sleeping accommodation, to any visitor who appears able and willing to pay the common tariff and who is in a fit state to be received therein;

“hotel premises” means the hotel and any premises appurtenant or belonging thereto which are used or are capable of being used in connection with the business of the hotel;

“property brought to the hotel” includes any property of a guest of which the proprietor, his agent or servant takes charge or is in charge outside the hotel premises—

(a) during the period for which sleeping accommodation was engaged for the guest; and

(b) during a reasonable period immediately preceding or following the period mentioned in paragraph (a);

“proprietor” means any person having the management or control of an hotel and the conduct of the business therein, and includes a body of persons, corporate or unincorporate, owning an hotel;

“provision of facilities” includes the provision of food, drink, sleeping accommodation and services;

“visitor” means a person who seeks to be received as a guest at an hotel, and includes a person on whose behalf sleeping accommodation is sought at an hotel.

(2) Notwithstanding subsection (1), an hotel shall be deemed to include any establishment in respect of which—

(a) a person is for the time being entitled to a deduction or set-off under section 3 or 4 of the Hotel Aids Act;

(b) a person has been, but is no longer, entitled to any such deduction or set-off, unless such establishment is shown by the proprietor thereof not to be used for the time being as an hotel.

Cap. 72.

PART II

Application of Common Law

Application
of common
law.

3. (1) The common law relating to inns applies only to hotels, and, except where they are inconsistent with this Act, the duties, liabilities, rights and powers attaching at common law to an innkeeper as such attach only to a proprietor.

(2) Without prejudice to any other civil remedy, the rights of action provided for by sections 5 (3) and 10 (3) are in substitution for any right of action at common law in relation to the matters specified in sections 5 and 9.

PART III

Duties of proprietors in relation to reception of guests

4. (1) Subject to section 6 (1), the proprietor shall fix a scale of charges for the provision of facilities to guests at that hotel, and may in the common tariff specify different charges for the provision of different facilities based on the differences in quality or quantity of those facilities.

Common
tariff.

(2) The proprietor shall cause to be kept conspicuously displayed in a place at or near the reception desk, or at or near the main entrance to the hotel, a copy of the common tariff printed in plain type so that it may easily be read by a guest or visitor.

(3) A proprietor who—

- (a) fails to comply with subsection (2); or
- (b) charges for the provision of any facility to a guest at his hotel an amount exceeding that specified in the common tariff in relation to that facility,

is guilty of an offence and is liable on summary conviction to a fine of one thousand dollars.

5. (1) A proprietor, any agent or servant of his who without reasonable grounds refuses or neglects—

Duty to
receive and
entertain.

- (a) to receive any visitor who appears able and willing to pay the common tariff and who is in a fit state to be received as a guest at the hotel, together with any property brought to the hotel;
- (b) to provide, if so requested, a guest with any of the facilities of the hotel; or
- (c) to observe the limits imposed by the common tariff when charging for the provision of facilities for a guest,

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is, without prejudice to subsection (3), liable on summary conviction to a fine of one thousand dollars.

(2) The availability at another hotel or establishment of the facilities required by a visitor or guest to be provided shall not be reasonable grounds for refusing or neglecting to do for that guest or visitor any of the things specified in subsection (1).

(3) A person who alleges that subsection (1) has been contravened in relation to him shall have a right of action before the High Court without proof of special damage.

Discrimina-
tory treat-
ment by
proprietors.

6. (1) A proprietor, any agent or servant of his who—

- (a) fixes the common tariff so that the charge for the provision of any facility to a visitor or guest involves discriminatory treatment; or
- (b) makes a charge for the provision of any facility to a visitor or guest which involves discriminatory treatment,

is liable on summary conviction to a fine of five hundred dollars or imprisonment for three months or both.

(2) A proprietor, any agent or servant of his who refuses or neglects to do any of the things specified in section 5 (1) on grounds involving discriminatory treatment shall, for the purposes of that section, be deemed not to have reasonable grounds for the refusal or neglect, and is, without prejudice to that section, liable on summary conviction to a fine of five hundred dollars or imprisonment for three months or both.

Proceedings
by the
Attorney-
General

7. Notwithstanding section 6, the High Court, if satisfied that—

- (a) a proprietor, any agent or servant of his has contravened section 6; and
- (b) he is likely, unless restrained by an order of the Court, to persist in the contravention of that section,

may, upon the application of the Attorney-General, grant such injunction as the Court considers proper in all the circumstances to prevent further contravention of that section.

PART IV

*Duties of proprietors in relation to
property brought by guests*

8. (1) Subject to subsections (2) and (3), a proprietor shall receive and keep in safe custody any property tendered to him or his servant by a guest for safe custody. Duty to receive goods in safe custody.

(2) A proprietor or his servant may refuse to receive and keep in safe custody any property tendered by a guest which appears to him to be noxious, unwholesome or dangerous, or, having regard to the size or standing of the hotel, to be cumbersome or of excessive value.

(3) A proprietor or his servant may, as a condition to the receiving and keeping of property tendered under subsection (1), require that where the property includes securities, money, jewellery, photographic equipment or other valuable property, that property shall be deposited in a container fastened and sealed by the depositor and that the value of the property be declared by the depositor at the time of the deposit.

(4) Any property required to be deposited in a container fastened and sealed by the depositor shall be so dealt with in the presence of the proprietor or his servant after that property has been inspected or checked, as the case may be, by the proprietor or his servant.

(5) For the purposes of this section, "servant" means a servant authorised or appearing to be authorised to receive property for safe custody.

9. (1) Subject to subsection (2), a proprietor is liable without proof of default, neglect or wilful act by the proprietor, his agent or servant, to make good to a guest any damage to or loss of any property brought to the hotel by a guest where— Liability of proprietor for loss of or damage to property of guest.

- (a) at the time of the damage or loss, sleeping accommodation had been engaged for the guest;
- (b) the damage or loss occurred during the period commencing with the acceptance of the guest into the hotel and ending with his departure therefrom at the end of his stay;

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- (c) at the time of the damage or loss the property was upon hotel premises or had been taken charge of by, or was in the charge of, the proprietor or his agent or servant outside the hotel premises; and
- (d) the guest without undue delay informs the proprietor, his agent or servant of the loss or damage, in the case where the damage or loss is due otherwise than to the default, neglect or wilful act of the proprietor, his agent or servant.
- (2) A proprietor is not liable—
- (a) to make good to a guest any damage to or loss of, nor shall he have any lien on—
- (i) any motor car or other vehicle of any kind or any property left in it, or
- (ii) any domestic animal;
- (b) where the damage to or loss of the property referred to in subsection (1) is due to—
- (i) the default, neglect or wilful act of the guest or a person accompanying or visiting him or in his employment;
- (ii) an act of God;
- (iii) an act of war by the enemies of Her Majesty or to civil commotion;
- (iv) the nature of the property in cases where the property was not tendered, or was refused, for safe custody in accordance with section 8.

1975-35.

Limits to
proprietor's
liability.

1975-35.

- 10.** (1) Subject to subsection (2), where a proprietor is liable under section 9, his liability shall not exceed—
- (a) five hundred dollars in respect of any one article; or
- (b) one thousand dollars with respect to any one guest.
- (2) The limitation on the liability of a proprietor provided for by subsection (1) shall not apply—
- (a) where the property was stolen, lost or damaged through the default, neglect or wilful act of the proprietor, an agent or servant of his;
- (b) where the property was received for safe custody in accordance with section 8, in which case the proprietor's

liability to a guest in respect of that property shall not exceed the value thereof as declared by the depositor at the time it was received for safe custody;

(c) where at the time of the acceptance of the guest into the hotel—

(i) the property was tendered for safe custody in accordance with section 8 and the proprietor, his agent or servant refused to receive it for reasons other than those specified in that section, or

(ii) the guest or a person acting in his behalf was unable, due to the default of the proprietor or that of his servant, to tender the property for safe custody in accordance with section 8;

(d) unless at the time when the property was brought to the hotel, a copy of the notice set out in the Schedule printed in plain type was conspicuously displayed in a place at or near the reception desk, or at or near the main entrance, to the hotel, or in the bedroom allocated to the guest, so that it may easily be read by the guest.

Schedule.

(3) A person who alleges that a proprietor is liable in any of the circumstances mentioned in subsection (2) shall have a right of action before the High Court.

PART V

Proprietor's lien and power of sale

11. (1) Subject to paragraph (a) of section 9 (2), a proprietor shall, in addition to any other civil remedy, have—

Lien and power of sale.

(a) a right to retain, as an innkeeper at common law, under a lien against a defaulting guest; and

(b) a right to sell by public auction,

any property brought to the hotel premises by a guest, whether or not such property is received into safe custody under section 8,

(2) The right to sell under subsection (1) (b) shall not be exercised unless—

(a) the property, other than perishable property, has remained in the safe custody of the proprietor or on

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- the hotel premises for a period of at least six weeks;
- (b) the defaulting guest has not satisfied his debt;
- (c) the proprietor—
- (i) as soon as practicable prior to the sale of any perishable property, or
 - (ii) at least one month prior to the sale of any other property,

causes to be published in a newspaper circulating in Barbados notice of the intended sale containing a brief description of the property to be sold, the time and place of sale, and the name (if known) of the defaulting guest.

(3) A proprietor may apply the proceeds of a sale under subsection (1) (b) towards payment of the amount due to him and the costs and expenses of sale, and shall on demand pay any residue to the defaulting guest.

(4) The debt for the payment of which a sale is made under this section shall not be any other or greater than the debt for which the property could have been retained by the proprietor under his lien.

(5) For the purposes of this section, “defaulting guest” means a guest who is or becomes indebted to a proprietor in respect of facilities provided for that guest by or on behalf of the proprietor.

Provisions of Act not to be waived.

12. The rights, liabilities and duties provided for by this Act shall not be waived, terminated or limited by any notice, contract or agreement or otherwise, by or on behalf of a proprietor, visitor or guest.

s. 10 (2).

SCHEDULE

NOTICE

Cap. 309.

HOTEL PROPRIETORS ACT

Loss of or damage to guest's property

Under the Hotel Proprietors Act, an hotel proprietor 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.

2. This liability however—

- (a) extends only to the property of guests for whom sleeping accommodation has been engaged at the hotel;
- (b) is limited to—
 - (i) five hundred dollars in respect of any one article; or 1975-35.
 - (ii) one thousand dollars with respect to any one guest, except in the case of property which has been deposited or tendered for safe custody;
- (c) does not cover motor-cars or other vehicles of any kind or any property left in them or any domestic animals;
- (d) exists only if the guest informs the proprietor of the loss or damage without undue delay.

3. This notice does not constitute an admission that liability under the Act attaches to the proprietor of this hotel in any particular case.

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