

B. (iii)

HOTELS ENCOURAGEMENT ACT (CHAPTER 263)

AN ACT TO ENCOURAGE THE CONSTRUCTION OF HOTELS IN THE BAHAMAS BY PROVIDING FOR THE REFUND OF CUSTOMS DUTIES AND EMERGENCY TAXES AND CERTAIN OTHER CONCESSIONS, AND FOR THE EXEMPTION OF SUCH HOTELS FROM CERTAIN TAXATION, AND TO RELIEVE EXISTING HOTEL FROM CERTAIN TAXATION.

[22nd July, 1954]

1. This Act may be cited as the Hotels Encouragement Act.

2. (1) In this Act, unless the context otherwise requires –

“**bedroom**” means a room with a capacity of not less than twelve hundred cubic feet furnished as a bedroom and intended primarily to be slept in;

“**construction plant**” means in the case of a new hotel to be constructed in New Providence, machinery, equipment, tools and trucks of all kinds used in the building trades, but does not include machinery for the manufacture of wooden doors, door-frames, windows, window frames, moldings, cement tile and cement block, and, in the case of a new hotel to be constructed in an Out Island, machinery equipment, tools and trucks of all kinds used in the building trades;

“**customs duties**” means the duties of customs levied by the Tariff Act and any Act passed in amendment thereof or in substitution therefore and any other duties or taxes now or hereafter imposed upon or payable in respect of goods imported into The Bahamas, except stamp duties;

“**existing hotel**” means –

(a) in that part of New Providence described in the schedule to this Act, any premises which at any time after the twenty-second day of July, 1954, up the thirty-first day of December, 1955, are licensed as a hotel under the provisions of the Liquor Licenses Act or any premises in which at any time during the said period is carried on the business of a hotel and which have not less than twenty bedrooms for the accommodation of guests;

(b) Elsewhere in New Providence, any premises which at any time after the twenty-second day of July, 1954, up to the thirty-first day of December, 1955, are licensed as a hotel under the provisions of the Liquor Licenses Act, or any premises in which at any time during the said period is carried on the business of a hotel and which have not less than fifty bedrooms for the accommodation of guests or any premises in which at any time after the twenty-second day of July, 1954, up to the thirty-first day of December, 1965, is carried on the business of a hotel and which have twenty or more but less than fifty bedrooms for the accommodation of guests;

(c) In an Out Island, any premises which at any time after the twenty-second day of July, 1954, up to the thirty-first day of December, 1955, are licensed as a hotel under the provisions of the Liquor Licenses Act, or any premises in which at any time during the said period is carried on the business of a hotel and which have not less than twenty bedrooms for the accommodation of guests or any premises in which after the twenty-second day of July, 1954, up to the thirty-first day of December, 1965, is carried on the business of a hotel and which have ten or more but less than twenty bedrooms for the accommodation of guests;

“materials” means building materials of all kinds, and all equipment, furnishings, supplies, and things necessary –

(a) for the construction, equipping and furnishing of a new hotel so that the same is complete and ready to open for business, or

(b) for the rehabilitation, remodeling, furnishing, refurnishing, equipping, re-equipping, air-conditioning or extension of a new or existing hotel, and if such new or existing hotel is to be constructed or is situate, as the case may be, in an Out Island, includes bunker oil and diesel oil, but does not otherwise include any consumable stores;

“Minister” ns the Minister responsible for Hotel Encouragement;

“new hotel” means –

(a) in that part of New Providence described in the schedule in this Act, any premises completed after the twenty-second day of July 1954*, for use as a hotel or residential club, having not less than twenty bedrooms for the accommodation of guests and

suitable public rooms for the accommodation and entertainment of guests, and

- i. includes the planting and landscaping of the grounds thereof;
- ii. includes, but only to the extent that the same comprises work carried out after the first day of January, 1965**, all other buildings, utility services, airfields, docks, jetties, bridges, dredging, reclaiming and filling operations, road building and other amenities, works and conveniences necessary or desirable in connection with the construction thereof and the improvement of the site upon which the same are constructed;

(b) elsewhere in New Providence, any premises completed after the twenty-second day of July, 1954, for use as a hotel or residential club having not less fifty bedrooms for the accommodation of guests, and suitable public rooms for the accommodation and entertainment of guests or any premises completed after the thirty-first day of December, 1965, for use as a hotel residential club having twenty or more but less than fifty bedrooms for the accommodation of guests and suitable public rooms for the accommodation and entertainment of guests, and

- i. in either case includes the planting and landscaping of the grounds thereof;
- ii. in either case, but only to the extent that the same comprises work carried out after the first day of January, 1965, includes all other buildings, utility services, airfields, docks, jetties, bridges, dredging, reclaiming and filling operations, road building and other amenities, works and conveniences necessary or desirable in connection with the construction thereof and the improvement of the site upon which the same are constructed;

(c) in an Out Island –

- i. any premises completed after the twenty-second day of July, 1954, for use as a hotel or residential club having not less than twenty bedrooms for the accommodation of guests;
- ii. any premises completed after the thirty-first day of December, 1965, for use as a hotel or residential club

- having ten or more but less than twenty bedrooms for the accommodation of guests; or
- iii. any premises completed after the 26th day of May, 1993, for use as a hotel or residential club having not less than five bedrooms for the accommodation of guests.

“New Providence”, notwithstanding the provisions of the Interpretation Act or any other Act means the Island of New Providence only and shall not be deemed to include Paradise Island or any other island or cay;

“Out Island” notwithstanding the provisions of the Interpretation Act or any other Act, means an Out Island as defined by Section 2 or the Interpretation Act and Paradise Island and all other adjacent islands and cays within ten miles of the Island of New Providence;

“promoter” means any person or company or any group of persons or companies acting in conjunction prepared to undertake the construction of a new hotel;

“real property taxes” means the real property taxes levied by the Real Property Tax Act and any Act passed in amendment thereof or in substitution therefore;

“truck” means a motor vehicle constructed for and ordinarily used for the carriage of goods.

- (2) In relation to the definition of “new hotel” in this section contained, the expression “suitable public rooms” shall be construed to mean that the public rooms to be provided shall be of such a size and number as the Minister may deem adequate having regard to the size, type and location of the proposed hotel or residential club.
3. (1) Any promoter who desires to erect a new hotel may make application to the Minister for the approval thereof. Every such application shall be in writing and shall contain full particulars of the proposed new hotel and its amenities and an estimate of the cost thereof, and shall be accompanied by a plan showing the proposed location of the new hotel, by plans and drawings of the proposed building or buildings, and by such other information as the Minister may require.
 - (2) The Minister shall cause the application and the particulars and the information submitted to him under Subsection (1) to be submitted to the Governor General.

4. (1) The Governor General may, if satisfied that the erection of the new hotel will be in the best interests of The Bahamas, enter into an agreement with the promoter providing for the following matters or any of them, namely --
- (a) for the exemption of the promoter from the payment of all customs duties in respect of all materials necessary for the construction, equipping, furnishing and completing of the new hotel which may be imported into The Bahamas including, if the Agreement so provides, stamp duties payable in respect of the importation purchased or taken out of bond herein by the promoter during such period as the Governor General may determine, upon the furnishing of a bond in a form to be approved by the Comptroller of Customs with such sureties (if any) as may be required by the Minister of Finance in double the amount of any customs duties which would ordinarily attach on importation thereof for the payment of such customs duties on a date to be fixed by the Minister of Finance, such bond being conditioned to become null and void, if on or before the date specified in such bond, such materials are applied only for the purpose specified in such agreement; and
 - (b) for the importation into The Bahamas free of all customs duties for such period as the Governor General may determine by the promoter (or by any contractor employed by the promoter or by any sub-contractor employed by any such contractor) or the construction plant required for the construction, equipping, furnishing and completing of the new hotel upon the furnishing of a bond in a form to be approved of by the Comptroller of Customs with such sureties (if any) as may be required by the Minister of Finance in double the amount of any customs duties which would ordinarily attach on importation thereof for the payment of such customs duties on a date to be fixed by the Minister of Finance, such bond being conditioned to become null and void if such construction plant shall be re-exported from The Bahamas on or before the date specified in such bond;
 - (c) for the exemption of the new hotel (and all buildings comprising the same and all additions thereto and the parcel of land upon which the same shall be situate) from the payment of real property taxes and any other taxes now or hereafter imposed on real property for a period of ten years from the date on which the new hotel opens for business;

- (d) for the exemption of the new hotel (and all buildings comprising the same and all additions thereto and the parcel of land upon which the same shall be situate) from the payment of real property taxes and any other taxes now or hereafter imposed on real property in excess of twenty dollars per annum for every bedroom therein for the further period of ten years commencing on the first day of the eleventh year after the date on which the new hotel opens for business;
 - (e) for the exemption from direct taxation upon or against the earnings of or from the new hotel and its amenities, and all additions, thereto, and upon or against any rentals paid in respect of the letting or sub-letting thereof for a period of twenty years from the date on which the new hotel opens for business, and if the promoter or operator of such new hotel is a company, then also for the exemption from direct taxation upon or against any dividends declared in respect of the shares of such company or any interest paid by such company in respect of its indebtedness for the said period of twenty years;
 - (f) for the admission into The Bahamas of key personnel and special workmen both during the construction period and during the operation of the new hotel, subject to the proviso that at all times seventy-five per centum of the total number of persons employed in the construction or operation of the new hotel shall be natives of The Bahamas if such natives of The Bahamas are available to perform the several and respective services required;
 - (g) that no Governmental restrictions, regulations or conditions shall be made affecting the operation of the new hotel which do not similarly affect all similar hotels and that no legislation will be enacted affecting the operation of the new hotel which does not similarly affect all other similar hotels; and
 - (h) for such other matters and concessions as the Governor General shall deem fit and proper having regard to the type and location of the new hotel.
- (2) Every such agreement shall contain covenants on the part of the promoter for the construction, equipping, furnishing and opening of the new hotel and for such other matters as the Governor General shall deem fit and proper having regard to the type of location of the new hotel.

- (3) Every such agreement shall contain mutual covenants on the part of the Governor General and the promoter providing for the following matters, namely --
- (a) that the concessions granted by such agreement shall remain in full force and effect so long only as the new hotel shall continue to be used and operated as a hotel or hotel and cottage colony;
 - (b) that nothing contained in the said agreement shall be deemed to make the promoter liable to pay to the Government any payments in respect of any matter or thing done, executed or happening prior to the date on which such agreement shall cease in respect of which matter or thing payment is waived thereby, or to refund or to repay any customs duties which have been refunded to the promoter under the concessions granted by such agreement except in the circumstances specified in Section 11 or this Act.
 - (c) for the arbitration of all questions and differences between the Governor General and the promoter
 - (d) for the interpretation of such agreement according to the laws of The Bahamas.
- (4) The Minister of Finance shall designate public officers to be inspectors for the purposes of this Act, and every such agreement shall provide for such safeguards as the said Minister may require as to inspection of the site of the new hotel, and of the building being erected thereon, and of any storeroom, warehouse or other place under the control of the promoter in which materials intended for use in connection with the new hotel shall be stored, so as to ensure that --
- (a) in the case of any agreement made under the authority of this Act prior to the coming into force of the Hotels Encouragement (Amendment) Act, 1992, custom duties shall only be refunded in respect of materials used, or which could reasonably be presumed to have been used, in the construction, equipping, furnishing and completing of the new hotel; or
 - (b) in the case of any other agreement, all materials in respect of which customs duties have been exempted pursuant to the provisions of any agreement made under the authority of this Act, are used, or can reasonably be presumed to have been used, in the construction, equipping, furnishing and completing of the new hotel and for such other safeguards and matters,

including the keeping of records, as the Minister of finance shall deem fit and proper in the circumstances.

- (5) The Governor General may extend the period during which construction plant may remain in The Bahamas so that such construction plant may be employed in the construction of one or more new hotels in respect of which agreements have been entered into by the Governor General pursuant to the provisions of this section.
5. (1) The owner of an existing hotel desiring to obtain the concessions hereinafter granted in this section may make application to the Governor in Council at any time after the coming into operation of this Act up to the thirty-first day of December, 1955, for the approval of such existing hotel for the purposes of this Act. Every such application shall be in writing and shall specify the location of the existing hotel, the number of bedrooms contained therein, and the amount of real property taxes assessed thereon for the year in which such application is made.
- (2) Upon being satisfied that such application is in respect of premises comprising an existing hotel within the meaning of this Act, the Governor in Council shall enter into an agreement with the owner thereof providing for the following matters, namely:
 - (a) that for a period of ten years from the date of such agreement such existing hotel (and all buildings comprising the same and all additions thereto and the parcel of land upon which the same is situate) shall not be subject to the payment in any year of real property taxes or any other tax now or hereafter imposed on real property in excess of the amount at which such existing hotel has been assessed for the year in which such application was made or in excess of five pounds for every bedroom contained therein, whichever is the lesser;
 - (b) that for the further period of ten years commencing with the first day of the eleventh year after the date of such agreement such existing hotel (and all buildings comprising the same and all additions thereto and the parcel of land upon which the same is situate) shall not be subject to the payment of real property taxes or any other tax now or hereafter imposed on real property in an amount exceeding five pounds per annum for every bedroom contained therein;

- (c) that for a period of twenty years from the date of such agreement no taxes shall be levied directly upon or against the earnings of or from such existing hotel and its amenities, and all additions thereto, and upon or against any rentals paid in respect of the letting or sub-letting thereof, and if the owner or operator of such existing hotel is a company, no taxes shall be levied directly upon or against any dividends declared in respect of the shares of such company or any interest paid by such company in respect of its indebtedness for the said period of twenty years;
 - (d) that the concessions granted by such agreement shall be granted in consideration of the operation of such existing hotel as a hotel and shall remain in full force and effect so long only as such existing hotel shall continue to be used and operated as a hotel.
- (3) The owner of any existing hotel in respect of which an Act has been passed or an agreement has been entered into by the Govern which is till in force at the coming into operation of this Act whereby concessions in respect of real property taxes and direct taxation have center line Village Road at a distance of two thousand one hundred (2,100) feet South of its junction with the Southern boundary of East Shirley Street (the said distance being measured along the center line of the respective roads) on East by a straight line running due South (true) from the above mentioned point on the center line of Village Road to the Sea on the South by the Sea and on the West by a straight line running due South (true) from the above mentioned point on the center line of St. Alban's Road to the Sea.

Nothing contained in this Act or in any agreement made there under after the coming into operation of this section, shall apply so as to derogate from the operation of the provisions of the Business License Act.

Nothing in Section 2 or 3 of this Act shall affect any agreement which was made under the provisions of the Hotels Encouragement Act and which was in force immediately before the coming into force of this Act.

