



MONTSERRAT

## CHAPTER 15.16

### **HOTELS AID ACT** and Subsidiary Legislation

#### **Revised Edition**

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

#### **HOTELS AID ACT**

Act 11 of 1954 .. in force 1 January 1954

Amended by Acts: 8 of 1955

24 of 1982

9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

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#### **HOTELS AID REGULATIONS – Section 14**

S.R.O. 2/1955

Amended by Act: 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

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**CHAPTER 15.16**

**HOTELS AID ACT**

**ARRANGEMENT OF SECTIONS**

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**SCHEDULE**



**CHAPTER 15.16**

**HOTELS AID ACT**

*(Acts 11 of 1954, 8 of 1955, 24 of 1982 and 9 of 2011)*

**Commencement**

*[1 January 1954]*

**Short title**

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

**Interpretation**

2. In this Act—

“**articles of hotel equipment**” means any of the articles specified in the Schedule;

“**building materials**” means materials of every description for use in connection with the construction of a hotel and all structures appurtenant thereto;

“**Comptroller of Customs**” means the officer for the time being lawfully discharging the duties of Comptroller of Customs of Montserrat or anyone authorised by him in writing to act on his behalf;

“**construct**” includes erect, repair, alter, reconstruct or extend;

“**customs duties**” includes any customs duty, surcharge and wharfage rate payable on the importation of any article into Montserrat;

“**extension to a hotel**” means any enlargement of the accommodation of a hotel whether by means of a newly erected building or by the structural alteration of the existing building;

“**hotel**” means any building or group of buildings (occupied together) for the accommodation for reward of guests and includes the curtilage thereof and all structures within such curtilage, containing or intended to contain when complete not less than six bedrooms;

“**licence**” means a licence under section 3;

“**licensee**” means the holder of a licence under this Act.

**Grant of licences**

3. (1) Subject to the provisions of section 4 the Governor acting on the advice of Cabinet may grant to every person who desires or who has already commenced—

- (a) to construct a hotel or an extension to a hotel a licence to import into Montserrat or to purchase in Montserrat such building materials for use in the construction of such hotel or extension as may be specified in the licence;
- (b) to equip a newly erected hotel or extension to a hotel a licence to import into Montserrat or to purchase in Montserrat such articles of hotel equipment and in such quantities as may be specified in the licence:

Provided that, no licence shall be granted for the importation or purchase of an article of hotel equipment to replace an article of hotel equipment which has been imported or purchased under the terms of a licence.

(2) Every licence under subsection (1) shall be in such form as may be prescribed and shall be subject to such terms and conditions as the Governor acting on the advice of Cabinet may from time to time impose.

*(Amended by Act 9 of 2011)*

### **Procedure on application for grant of licences**

4. Every application for the grant of a licence shall be in such form and contain such information and be accompanied by such documents as may be prescribed.

### **Free entry of building materials and equipment**

5. (1) Every licensee shall be entitled upon the production of his licence to the proper customs officer to import into Montserrat in accordance with the terms thereof free of all customs duties such building materials or articles of hotel equipment as may be therein specified.

(2) Every licensee who satisfies the Comptroller of Customs that customs duties were paid upon the importation into Montserrat of any building materials or articles of hotel equipment specified in his licence shall be entitled to have the amount of such customs duties refunded. Every claim for repayment under this section shall be made within two years from the date of the payment of such customs duties.

### **Relief from customs duties**

6. (1) Every licensee who satisfies the Comptroller of Customs—

- (a) that any building materials or any articles of hotel equipment specified in his licence were purchased by him in Montserrat; and
- (b) that customs duties were paid upon the importation into Montserrat of such building materials or articles of hotel equipment of the total value of not less than \$480; and
- (c) as to the amount of the customs duties so paid,



shall be entitled to be paid an amount equivalent to the amount of drawback which would have been payable under section 9 of the Customs (Control and Management) Act, in relation to the granting of drawback of customs duties if such building materials or articles of hotel equipment had been exported from Montserrat, and to be refunded the customs duty surcharge and the wharfage rates paid upon the importation of such building materials or articles of hotel equipment:

Provided that, the provisions of the said section 9 restricting the payment of drawback to cases where the goods in respect of which the payment is made are exported within a specified period shall not apply to any payment under this section.

(2) Every licensee who satisfies the Comptroller of Customs—

- (a) that any building materials or any articles of hotel equipment specified in his licence were purchased by him in Montserrat; and
- (b) that customs duties were paid upon the importation into Montserrat of such building materials or articles of hotel equipment of the total value of not less than \$480; and
- (c) that he is unable to ascertain the amount of the customs duties so paid,

shall be entitled to be paid such sum as the Comptroller of Customs may think fit, so however, that no payment under this subsection shall, in the case of building materials or articles of hotel equipment which are rated goods within the meaning of the Customs Duties and Consumption Tax Act, exceed the lowest preferential rate that has been in force for that description of goods at any time during the two years next preceding the date of purchase by the licensee and, in the case of any building materials or articles of hotel equipment liable under the said Act to an *ad valorem* duty, exceed nine per centum of the purchase price where the lowest preferential *ad valorem* rate that has been in force for that description of goods for a period of two years prior to the date of supply was fifteen per centum and pro rata where other *ad valorem* rates have been in force during such period, together with such additional sum (if any) as the Comptroller of Customs may think fairly represents the amount of customs duty surcharge and wharfage rates paid upon such goods upon their importation into Montserrat.

### **Building materials and articles of hotel equipment not to be used for any purpose other than that for which imported**

7. (1) Subject to the provisions of section 8, where any building materials or articles of hotel equipment have been imported into Montserrat under a licence or any sum has been paid under section 6 in respect of any building materials or articles of hotel equipment, such building materials or articles of hotel equipment shall not be sold, exchanged, given away, exported from Montserrat or applied for any purpose other than use in

connection with the construction or equipment of the hotel to which the licence in which those building materials or articles of hotel equipment were specified relates, within three years of the date of the importation of such articles or of the making of the payment under section 6.

(2) Every person who contravenes subsection (1) shall be guilty of an offence against this Act and shall on summary conviction be liable to a fine of \$500 or to be imprisoned for any term of six months or to both such fine and imprisonment and in addition to pay, in respect of such building materials or articles of hotel equipment improperly disposed of, the relevant duties or sums which, but for section 5, would have been payable thereon or which have been refunded under section 6.

### **Comptroller of Customs may permit disposal of materials, etc.**

8. (1) Where the Comptroller of Customs is satisfied that any building materials or articles of hotel equipment which have been imported into Montserrat under a licence or in respect of which any payment has been made under section 6 are no longer required for the purposes of the hotel in respect of which the import licence was granted, he may grant a permit to the licensee to dispose of such building materials or articles of hotel equipment in such manner as he thinks fit.

(2) No permit shall be granted under subsection (1) until the licensee has paid to the Comptroller of Customs or has given security to the satisfaction of the Comptroller of Customs that he will so pay, all sums which would have been payable by way of customs duty or wharfage rate upon the importation of such building materials or articles of hotel equipment or a sum equivalent to the amount of drawback paid to the licensee in respect of such building materials and articles of hotel equipment under section 6.

### **Articles of hotel equipment to be marked**

9. Such of the articles of hotel equipment imported under a licence or in respect of which any sum has been paid under section 6 as the Comptroller of Customs may require to be marked shall be marked with such mark and in such manner as may be prescribed.

### **Power to revoke licence**

10. Where the Governor acting on the advice of Cabinet is satisfied that any licensee has—

- (a) obtained the grant of any licence by any false statement; or
- (b) abused or misused any licence; or
- (c) broken or failed to comply with any conditions of such licence; or
- (d) knowingly broken or failed to comply with the provisions of section 11; or

- (e) failed to pay any sum payable by him under the provisions of this Act,

he may either suspend the operation of such licence for such time and subject to such conditions as he may think fit or may revoke such licence.

*(Amended by Act 9 of 2011)*

### **Employment of Montserratians**

**11.** Except with the consent of the Governor acting on the advice of Cabinet at least 3/5 of the number of persons employed in the construction and maintenance of, and in any other activity in relation to, any hotel in respect of which a licence has been granted under section 3 shall be Montserratians.

*(Amended by Acts 24 of 1982 and 9 of 2011)*

### **Responsibility of employer for act of employee**

**12.** In the case of proceedings against a person under this Act for or in connection with breaches by an employee of such person of the provisions of section 11—

- (a) it shall not be a defence that the employee acted without the authority of the employer; and
- (b) any material fact known to the employee shall be deemed to have been known to the employer.

### **Offences by corporations**

**13.** Where a person convicted of an offence against this Act or any regulations made thereunder is a body corporate, any person who at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

### **Regulations**

**14.** The Governor acting on the advice of Cabinet may make regulations generally for giving effect to the provisions of this Act, and without prejudice to such general power may make regulations—

- (a) prescribing the form of, and the information to be contained in, and the documents to accompany, any application for a licence under section 3;
- (b) prescribing the form in which any licence may be granted under section 3;
- (c) prescribing the type of mark to be affixed to any article and the manner in which such mark shall be affixed;

(d) prescribing penalties not exceeding \$25 for the breach of any regulations made hereunder.

*(Amended by Act 9 of 2011)*

### **Power to change Schedule**

**15.** The Governor acting on the advice of Cabinet may, from time to time by order, add to or remove from the Schedule, any article of hotel equipment. *(Amended by Act 9 of 2011)*

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### **SCHEDULE**

*(Section 15)*

Air conditioning apparatus and appliances  
Bed linen  
Bedsprings  
Bedsteads  
Billiard tables and their appliances  
Carpets  
Chairs  
Chests of drawers  
Crocery  
Cupboards  
Cutlery  
Desks  
Dressing tables  
Dynamos  
Electrical apparatus, appliances and lines  
Iceboxes  
Kitchen equipment and utensils including stoves  
Linoleum and similar floor coverings  
Mats  
Mattresses  
Mirrors  
Organs  
Pianos  
Pillows  
Radios  
Refrigerating apparatus and appliances  
Rugs  
Silver and plated tableware  
Sofas

Tables

Table glassware

Table linen

Telephone apparatus, appliances and lines

Textile furnishings, including bedspreads, curtains and upholstery

Towels

Wardrobes

Wash stands

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## **HOTELS AID REGULATIONS**

### **ARRANGEMENT OF REGULATIONS**

#### **REGULATION**

1. Short title
  2. Form of particulars
  3. Forms of application and documents to accompany
  4. Forms of licence
  5. Marking of articles of hotel equipment
- FIRST SCHEDULE: Form of Application  
SECOND SCHEDULE: Form of Licence  
THIRD SCHEDULE
- 

### **HOTELS AID REGULATIONS – SECTION 14**

*(S.R.O. 2/1955 and Act 9 of 2011)*

#### **Short title**

1. These Regulations may be cited as the Hotels Aid Regulations.

#### **Form of particulars**

2. The particulars contained in every form or document prescribed by these regulations shall be printed, typed or written thereon legibly in ink or some other indelible material.

#### **Forms of application and documents to accompany**

3. (1) Every application for a licence to construct a hotel or an extension to a hotel shall be in the form set forth as Form 1 in the First Schedule and shall be accompanied by—

- (a) the certificate of incorporation of the company or an authenticated copy thereof, where a company is the applicant;
- (b) if so required by the Governor acting on the advice of Cabinet, a plan or diagram drawn to a scale of not less than one inch to every hundred feet of the lands whereon the hotel or the extension to a hotel is built or proposed to be constructed;
- (c) if so required by the Governor acting on the advice of Cabinet, proper plans and drawings on a scale of not less than one-eighth of an inch to one foot, of the hotel or the extension to a hotel to be constructed, together with a specification indicating the dimensions of such hotel or extension to a hotel and the materials with which the same is proposed to be constructed and the estimated quantities of such of the Copying/unauthorised distribution strictly prohibited.

materials as will have to be imported or purchased in Montserrat for such purpose;

- (d) a statement of the period within which such hotel or extension to a hotel is to be constructed and opened for business; and
- (e) such other particulars and information as the Governor acting on the advice of Cabinet may from time to time by notification in the *Gazette* require for the purposes of these regulations.

*(Amended by Act 9 of 2011)*

(2) Every application for a licence to equip a newly erected hotel or extension to a hotel shall be in the form set forth as Form 2 in the First Schedule, and shall be accompanied by—

- (a) the certificate of incorporation of the company or an authenticated copy thereof, where a company is the applicant;
- (b) a full descriptive list of the articles of hotel equipment necessary to be imported or purchased in Montserrat for the purpose of equipping the newly erected hotel or extension to a hotel and the market value thereof at the port of shipment or place of purchase;
- (c) a statement of the period within which such newly erected hotel or extension to a hotel is to be equipped and opened for business; and
- (d) such other particulars and information as the Governor acting on the advice of Cabinet may from time to time by notification in the *Gazette* require for the purposes of these Regulations.

*(Amended by Act 9 of 2011)*

### Forms of licence

4. (1) Every licence in respect of building materials shall be in the form set forth as Form 1 in the Second Schedule.

(2) Every licence in respect of articles of hotel equipment shall be in the form as set forth as Form 2 in the Second Schedule.

### Marking of articles of hotel equipment

5. (1) Every licensee shall, in the manner provided in the Third Schedule, within one month of the date of the importation or purchase, as the case may be, legibly and permanently mark, stamp or engrave every article of hotel equipment imported or purchased under a licence granted to him.

(2) Every licensee who fails to comply with the provisions of this regulation shall be liable on summary conviction to a penalty of \$25.



**FIRST SCHEDULE**

**FORM 1**

*(Regulation 3(1))*

**FORMS OF APPLICATION**

Pursuant to section 3(1)(a) and section 4 of the Hotels Aid Act, I/We hereby make application to the Governor acting on the advice of Cabinet for a licence to (import into Montserrat) (purchase in Montserrat) such building materials as are specified in the documents accompanying this application and I/We submit the following particulars:

Surname and Christian name of applicant or name of applicant company

Address of the applicant or registered address of company

Number of bedrooms in hotel

Dated this ..... day of ....., 20.....

.....  
*Signature of applicant.*

*(Amended by Act 9 of 2011)*

## FORM 2

*(Regulation 3(2))*

Pursuant to section 3(1)(b) and section 4 of the Hotels Aid Act, I/We hereby make application to the Governor acting on the advice of Cabinet for a licence to (import into Montserrat) (purchase in Montserrat) such articles of hotel equipment as are specified in the documents accompanying this application and I/We submit the following particulars:

Surname and Christian name of applicant or name of applicant company

Address of applicant or registered address of applicant company

Situation of hotel

Number of bedrooms

Dates of commencement and of completion or erection of hotel or extension thereto

Purposes for which articles of hotel equipment are to be imported or purchased

Dated this ..... day of the ....., 20.....

.....  
*Signature of applicant.*

*Note: Strike out the words in brackets not applicable.*

*(Amended by Act 9 of 2011)*

**SECOND SCHEDULE**

FORM 1

*(Regulation 4(1))*

**FORMS OF LICENCE**

Whereas due application has been made to the Governor acting on the advice of Cabinet herein for a licence under the Hotels Aid Act, by ..... hotel proprietor (hereinafter called “**the licensee**”):

NOW THEREFORE, the Governor, by and with the advice of his Cabinet, under and by virtue of the powers contained in section 3(1)(a) of the Hotels Aid Act, hereby Grants a licence to the licensee with regard to a certain hotel situate at .....  
.....  
being a newly erected (hotel) (extension to a hotel): And this is to licence and permit the licensee to (import into Montserrat) (purchase in Montserrat) between the.....  
..... (date) and the .....(date)  
for the construction of the said (hotel) (extension to a hotel) the building materials set out or described in the Schedule hereto; and the licensee shall be entitled on production of this licence to the proper Customs Officer and subject to the terms hereof to (import into Montserrat the building materials enumerated or referred to in the Schedule hereto free of all customs duties and of package tax) (be paid drawback of customs duty in accordance with section 6 of the said Act).

GRANTED at Montserrat, this ..... day of ....., 20.....

.....  
*Governor.*

*Note: Strike out the words in brackets not applicable.*

*(Amended by Act 9 of 2011)*

FORM 2

(Regulation 4(2))

Whereas due application has been made to the Governor acting on the advice of Cabinet for a licence herein under the Hotels Aid Act, by ..... hotel proprietor (hereinafter called “the licensee”):

Now therefore the Governor, by and with the advice of his Cabinet, under and by virtue of the powers contained in section 3(1)(b) of the Hotels Aid Act, hereby grants a licence to the licensee with regard to a certain newly erected (hotel) (extension to a hotel) situate at .....

And this is to licence and permit the licensee to (import into Montserrat) (purchase in Montserrat) between the .....(date) and the ..... (date) for the equipment of the said newly erected (hotel) (extension to a hotel) the articles of hotel equipment set out or described in the Schedule hereto; and the licensee shall be entitled on production of this licence to the proper Customs Officer and subject to the terms hereof to (import in Montserrat the articles of hotel equipment enumerated or referred to in the Schedule hereto free of all customs duties and of package tax) (be paid drawback of customs duty in accordance with section 6 of the said Act.)

Granted at Montserrat this ..... day of ....., 20.....

..... Governor.

Note: Strike out the words in brackets not applicable.

(Amended by Act 9 of 2011)

**THIRD SCHEDULE**

*(Regulation 5(1))*

Every article shall be marked in such a manner so that the mark may be easily recognised, and the mark shall consist of the following letters arranged in the following order—

H.     A.  
      A.

\_\_\_\_\_



