



LAWS OF MALAYSIA

REPRINT

Act 626

HOTELS (FEDERAL TERRITORY OF KUALA LUMPUR) ACT 2003

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**HOTELS (FEDERAL TERRITORY OF
KUALA LUMPUR) ACT 2003**

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LAWS OF MALAYSIA**Act 626****HOTELS (FEDERAL TERRITORY OF KUALA LUMPUR)
ACT 2003**

ARRANGEMENT OF SECTIONS

PART I**PRELIMINARY**

Section

1. Short title and commencement
2. Interpretation

PART II**LICENSING**

3. Prohibition
4. Application for and grant of licence
5. Documents and information required
6. Duration and renewal of licence
7. Licence for hotel may be issued jointly with other licences
8. Temporary licence
9. Licence to be exhibited and produced
10. Deposit
11. Transfer of licence
12. Suspension or revocation of licence
13. Appeals

PART III**ENFORCEMENT**

14. Power to investigate

Section

15. Search by warrant
16. Search without warrant
17. Search of female person
18. Power to close a hotel
19. Power of entry
20. Power to require name, *etc.*, to be given
21. Examination of person acquainted with case
22. Power to arrest
23. List of things seized
24. Forfeiture
25. Things or goods subject to speedy and natural decay
26. Obstruction, *etc.*

PART IV

MISCELLANEOUS

27. Offence by servant or agent
28. Offence by body corporate
29. General penalty
30. Prosecution
31. Jurisdiction of Magistrate
32. Compounding of offences
33. Money to be paid into fund
34. Powers of police officers under this Act
35. Power to make regulations
36. Repeal
37. Continuance of rules, *etc.*

LAWS OF MALAYSIA**Act 626****HOTELS (FEDERAL TERRITORY OF KUALA LUMPUR)
ACT 2003**

An Act to provide for the licensing and regulations of hotels in the Federal Territory of Kuala Lumpur and for matters connected therewith.

[1 April 2004, P.U. (B) 144/2004]

ENACTED by the Parliament of Malaysia as follows:

PART I**PRELIMINARY****Short title and commencement**

1. (1) This Act may be cited as the Hotels (Federal Territory of Kuala Lumpur) Act 2003.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

“this Act” includes regulations made under this Act;

“Commissioner” means the Commissioner of the City of Kuala Lumpur appointed under section 4 of the Federal Capital Act 1960 [Act 190];

“hotel” means any premises where—

(a) persons are harboured or lodged for hire or reward of any kind; and

- (b) rooms are furnished by the owner, lessee, principal tenant, occupier or manager of such premises for the domestic use of the persons so harboured or lodged,

but does not include—

- (aa) any premises on which the activities mentioned in paragraphs (a) and (b) are being carried on by or on behalf of the Federal Government or the Government of any State or any statutory body established by any written law;
- (bb) any private healthcare facility, child care centre or care centre the establishment or operation of which is controlled or regulated under any other written law;
- (cc) any hostel established by or on behalf of any private educational institution or private higher educational institution and controlled or regulated under any other written law; or
- (dd) any premises let out on landlord and tenant basis;

“licensed hotel” means a hotel in respect of which a licence is in force;

“licence” means a licence granted under section 4 or a temporary licence granted under section 8;

“Minister” means the Minister responsible for local government in the Federal Territory of Kuala Lumpur;

“person” includes a body of persons, corporate or unincorporate, a joint venture or trust;

“licensee” means a person who is granted a licence;

“occupier” means the person in occupation of the premises in respect of which the word is used, or having the charge, management or control of the premises either on his own account or as an agent of another person, but does not include a lodger;

“condition” or “restriction”, when used in connection with a licence, means a condition or restriction imposed under subsection 4(4).

PART II

LICENSING

Prohibition

3. (1) No person shall operate a hotel unless he has been granted a licence by the Commissioner in respect of the hotel in accordance with the provisions of this Act.

(2) No person shall manage a hotel unless the hotel is a licensed hotel.

(3) A person who contravenes subsection (1) or (2) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both, and in the case of a continuing offence shall in addition be liable to a fine not exceeding one thousand ringgit for each day the offence continues to be committed.

(4) For the purposes of this section—

(a) a person who is the owner, lessee, principal tenant, occupier or manager of any premises used as a hotel shall, unless the contrary is proved, be deemed to be operating the hotel; and

(b) any person who for the time being is engaged in the management or in control of the hotel shall, unless the contrary is proved, be deemed to be managing the hotel.

Application for and grant of licence

4. (1) An application for a licence—

(a) shall be made in writing to the Commissioner in such form as he may determine; and

(b) be accompanied by evidence that the applicant has been registered under the Tourism Industry Act 1992 [*Act 482*].

(2) The Commissioner may, at his discretion, grant a licence or refuse to grant a licence to the applicant.

(3) Where an application for a licence is granted, the licence shall be issued upon payment of the prescribed fee.

(4) The licence may be made subject to such conditions or restrictions as the Commissioner may think fit to impose.

Documents and information required

5. For the purpose of considering an application for a licence, the Commissioner may require the applicant to produce to him such documents or to furnish such information as he may specify.

Duration and renewal of licence

6. (1) A licence shall be valid for such period as the Commissioner may determine.

(2) The Commissioner may, at his discretion, renew a licence or refuse to renew a licence.

Licence for hotel may be issued jointly with other licences

7. (1) A licence granted under this Act may be issued jointly with any other licence which the Commissioner has power to grant or issue under any other written law in respect of the hotel or any activity carried on in or by or in conjunction with the hotel.

(2) Where a licence granted under this Act has been issued jointly with any other licence or licences, the revocation of the other licence or any of the other licences shall not affect the validity of a licence granted under this Act.

Temporary licence

8. (1) Pending the consideration by the Commissioner of an application for a licence, the Commissioner may if he is satisfied that the applicant has complied with such conditions and requirements as may be imposed by the Commissioner, issue a temporary licence to the applicant.

(2) The temporary licence issued under subsection (1) shall be valid for a period of six months from the date of issue.

(3) Subject to subsection (4), the period of validity of a temporary licence may be extended for a period of six months on an application made in writing by the applicant on or before the expiry of the first period but may not be further extended.

(4) Where an application for a licence under section 4 is refused by the Commissioner under subsection 4(2), the temporary licence shall cease to be valid.

(5) The fee chargeable for a temporary licence or its extension shall be twice the fee payable in subsection 4(3).

(6) The holder of a temporary licence shall have similar rights, duties, liabilities and obligations as that of a holder of a licence issued under section 4.

Licence to be exhibited and produced

9. (1) A licensee shall exhibit his licence at all times at a conspicuous place in the licensed hotel and shall produce such licence if required to do so by the Commissioner or any authorized officer.

(2) A licensee who fails to exhibit or to produce his licence under subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both.

(3) For the purpose of this section, a reference to a “licence” shall include a copy of the licence certified by the Commissioner to be a true copy of the licence.

Deposit

10. (1) The Commissioner may, before issuing a licence or at any time after that, require a licensee to make a deposit in such sum of money as he may determine to ensure that the conditions or restrictions of the licence and the provisions of this Act are duly observed.

(2) The Commissioner may forfeit the deposit in whole or in part if he is satisfied that there has been a breach of any conditions or restrictions of the licence or a contravention of any provision of this Act.

(3) The Commissioner shall not forfeit the deposit unless the licensee has been given an opportunity to be heard.

(4) Nothing in this section shall be construed so as to preclude a licensee whose deposit has been forfeited under subsection (2) from liability to prosecution.

Transfer of licence

11. No licensee shall transfer his licence to any other person without the prior written approval of the Commissioner.

Suspension or revocation of licence

12. (1) The Commissioner may at any time suspend or revoke a licence granted under this Act if there has been a breach of any condition or restriction of the licence or a contravention of any provision of this Act.

(2) The Commissioner shall not suspend or revoke a licence unless the licensee has been given an opportunity to be heard.

(3) The Commissioner shall notify the licensee of a licensed hotel of the suspension or revocation of his licence—

- (a) by affixing a copy of the notice at a conspicuous place on the premises of the licensed hotel;
- (b) by serving a copy of the notice on the person who has the management or control of the licensed hotel; or
- (c) by serving a copy of the notice on the licensee himself if the licensee is not the person referred to in paragraph (b).

(4) Any person who operates or manages a hotel during the period when the licence granted in respect of the hotel is suspended, commits an offence.

Appeals

13. (1) A person who is aggrieved—

- (a) by the refusal of the Commissioner to grant him a licence or to renew his licence;

- (b) by the revocation or suspension of his licence;
- (c) by the imposition of any condition or restriction in respect of a licence granted to him; or
- (d) by the forfeiture of a deposit under section 9,

may, within thirty days after being informed in writing of the refusal or revocation, or the imposition of the condition or restriction, or the forfeiture, as the case may be, appeal against such decision to the Minister.

(2) The Minister after considering an appeal made under subsection (1), may confirm or set aside the decision appealed against, and the decision of the Minister shall be final.

(3) This section shall not apply to a holder of a temporary licence.

PART III

ENFORCEMENT

Power to investigate

14. The Commissioner or any authorized officer may investigate any offence under this Act.

Search by warrant

15. (1) If it appears to a Magistrate, upon written information and after such inquiry as he deems necessary, that an offence under this Act has been committed or is being committed on or in respect of any premises, the Magistrate may issue a warrant authorizing any authorized officer named therein, to enter such premises with such assistance as may be required, and if necessary by force.

(2) An authorized officer may, in the premises entered under subsection (1), inspect—

- (a) any books, accounts or other documents, including computerised data, which contain or are reasonably suspected to contain information as to any offence suspected to have been committed; and

- (b) any mark, signboard, card, letter, pamphlet, document, item, thing or goods that is reasonably believed to furnish evidence of the commission of such offence,

and may seize any of such books, accounts, documents or data or any copy of such books, accounts, documents or data or any such mark, signboard, card, letter, pamphlet, item, thing or goods.

(3) An authorized officer conducting a search under subsection (1) may, if in his opinion it is reasonably necessary to do so for the purpose of investigating into the offence, search any person who is in or on such premises.

(4) An authorized officer making a search of a person under subsection (3) may seize or take possession of any books, accounts, documents, things or goods found on such person for the purpose of the investigation being carried out by such officer.

(5) Where, by reason of their nature, size or amount, it is not practicable to remove any books, accounts, documents, things or goods seized under this section, the authorized officer making the seizure shall, by any means, seal such books, accounts, documents, things or goods in the premises or container in which they are found.

(6) A person who, without lawful authority breaks, tampers with or damages the seal referred to in subsection (5) or removes any books, accounts, documents, things or goods under seal or attempts to do so, commits an offence.

Search without warrant

16. If the Commissioner or any authorized officer, in any circumstances referred to in section 15, has reasonable cause to believe that by reason of delay in obtaining a search warrant under that section the object of the search would be frustrated or the evidence of the commission of the offence is likely to be tampered with, removed, damaged or destroyed, such officer may enter the premises and exercise all the powers referred to in section 15 in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

Search of female person

17. No female person shall be searched under section 15 or 16 except by another female person and such search shall be conducted with strict regard to decency.

Power to close a hotel

18. (1) Without prejudice to the exercise of the powers conferred on him by sections 14, 15 and 16, the Commissioner may close any licensed hotel for such period as he may determine after giving the licensee or any aggrieved party an opportunity of being heard if he is satisfied that—

- (a) there has been a breach of any condition or restriction of the licence or a contravention of any provision of this Act; and
- (b) such closure is necessary in the interest of public order, public health or morality.

(2) The Commissioner or any authorized officer may close any hotel if he is satisfied that the hotel is operating without a valid licence.

(3) The Commissioner may delegate the exercise of his power under subsections (1) and (2) to a committee appointed by him.

(4) The committee appointed under subsection (3) shall not exercise the power to close any hotel under subsections (1) and (2) except by a majority decision of the committee.

(5) Where a licensed hotel is closed under subsection (1), the licence by which the hotel is operating shall be deemed to be suspended during the period of closure and subsection 12(4) shall apply.

(6) During the period of closure, the licensee of the licensed hotel shall take steps to ensure that all conditions and restrictions of the licence and the provisions of this Act are complied with.

(7) If by the end of the period of closure the licensee still fails to comply with any condition or restriction of the licence or any provision of this Act, his licence shall be revoked.

Power of entry

19. (1) The Commissioner or any authorized officer may, with or without assistants or workmen, enter upon or into any hotel, premise or building for the purpose of—

- (a) making any enquiry, inspection or investigation as to any offence suspected to have been committed under this Act;
- (b) taking any necessary steps to physically close any hotel under section 18; and
- (c) doing any other acts necessary for the efficient administration of this Act.

(2) Any person who wilfully obstructs the entry of any of the persons empowered or authorized under subsection (1) to enter into or upon any hotel, premise or building commits an offence.

Power to require name, etc., to be given

20. The Commissioner or any authorized officer may require any person whom he reasonably believes to have committed or has any connection with any offence under this Act to furnish his full name, identity card number, address and full particulars as the Commissioner or authorized officer deems necessary.

Examination of person acquainted with case

21. (1) The Commissioner or any authorized officer, when exercising the power of investigation under this Act, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) The person examined by the Commissioner or any authorized officer shall be legally bound to answer all questions relating to the case put to him by the Commissioner or authorized officer, but such person may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to questions.

(4) The Commissioner or authorized officer examining a person under this section shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by a person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb print after it has been read to him in the language in which he made it and he has been given an opportunity to make any corrections he may wish.

Power to arrest

22. (1) The Commissioner or any authorized officer may arrest without warrant any person—

- (a) whom he reasonably believes to have committed an offence under this Act; and
- (b) who refuses to give his name and address when it is requested for or if there is reason to doubt the accuracy of the name and the address given.

(2) A person arrested under this section shall be taken to a police station and shall be brought before a Magistrate within twenty-four hours, unless before that time his true name and residence are ascertained, in which case such person shall be forthwith released on his executing a bond for his appearance before a Magistrate if so required.

(3) When any such person is taken before a Magistrate, such Magistrate may either require him to execute a bond, with or without a surety, for his appearance before a Magistrate if so required, or may order him to be detained in custody until he can be tried.

List of things seized

23. (1) Except as provided in subsection (2), where any books, accounts, documents, things or goods are seized under section 15 or 16, the authorized officer making the seizure shall prepare a list of the things seized and immediately deliver a copy of the list signed by him to the licensee or the occupier of the premises which have been searched, or to the agent or servant of the licensee or occupier, at those premises.

(2) Where the premises are unoccupied, the authorized officer making the seizure shall post a list of the things seized conspicuously on the premises.

Forfeiture

24. (1) All books, accounts, documents, things or goods seized under this Act shall be liable to forfeiture.

(2) The court before which the prosecution of any offence under this Act has been held, shall order the forfeiture of any books, accounts, documents, things or goods seized in connection with the offence if it is proved to the satisfaction of the court that an offence against any provision of this Act has been committed and that the books, accounts, documents, things or goods were the subject matter of or were used in the commission of the offence, even though no person may have been convicted of such offence.

(3) If it is proved to the satisfaction of the court that no offence against any provision of this Act has been committed or that such offence has been committed but the books, accounts, documents, things or goods were not the subject matter of or were not used in the commission of the offence, the court may order their release.

(4) If there is no prosecution with regard to any books, accounts, documents, things or goods seized in the exercise of any power conferred under this Act, the books, accounts, documents, things or goods shall be taken and deemed to be forfeited at the expiration of two weeks from the date of seizure unless a claim thereto is made before the expiration of that period in the manner provided in subsection (5).

(5) Any person asserting that he is the owner of any books, accounts, documents, things or goods seized under this Act and that the books, accounts, documents, things or goods are not liable to forfeiture may personally or by his agent authorized in writing, give written notice to the Commissioner or any authorized officer of his claim.

(6) On receipt of a notice under subsection (5), the Commissioner or any authorized officer shall, after such enquiry as may be necessary, direct that the books, accounts, documents, things or goods be released or refer the case to the Magistrate for decision.

(7) The Magistrate to whom the case is referred shall issue a summons requiring the person asserting that he is the owner of the books, accounts, documents, things or goods seized and the person from whom they were seized to appear before him and upon his appearance or default to appear, due service of the summons being proved, the Magistrate shall proceed to the examination of the case and on proof that an offence has been committed under this Act and that the books, accounts, documents, things or goods seized were the subject matter or were used in the commission of the offence, shall order the books, accounts, documents, things or goods to be forfeited or, in the absence of such proof, shall order their release to the person entitled to them.

(8) All books, accounts, documents, things or goods forfeited under subsection (2) or (4) shall be delivered to the Commissioner or an authorized officer, who shall dispose of them in such manner as the Commissioner deems fit.

Things or goods subject to speedy and natural decay

25. (1) Notwithstanding section 24, where any things or goods seized in exercise of the powers conferred under this Act are of a perishable nature or are subject to speedy and natural decay or where the custody of such things or goods involves unreasonable expense and inconvenience, or is believed to cause obstruction or hazard to the public, the Commissioner or the authorized officer may direct that such things or goods be sold at any time and section 24 shall apply to the proceeds of the sale.

(2) The Commissioner or the authorized officer shall not be liable to any person for any deterioration, however caused, in the quality of any things or goods seized under this Act.

Obstruction, etc.

26. A person who—

- (a) assaults, obstructs, hinders or delays the Commissioner or any authorized officer lawfully executing his duties under this Act;
- (b) fails to comply with any lawful demand, notice, order or requirement properly made to him by an authorized officer in the execution of his duty under this Act;

- (c) refuses any authorized officer access to any premises, or fails to submit to a search by a person authorized to search him under this Act;
- (d) omits, refuses or neglects to give to an authorized officer any information which may reasonably be required of him and which he is empowered to give;
- (e) furnishes false, untrue or misleading information to an authorized officer; or
- (f) fails to produce to, or conceals or attempts to conceal from, an authorized officer any books, accounts, documents, things or goods which such officer has reasonable grounds for suspecting were the subject matter of or were used in the commission of an offence under this Act, or which are liable to seizure under this Act,

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

PART IV

MISCELLANEOUS

Offence by servant or agent

27. Where an offence under this Act has been committed by a servant or agent of any licensee, or by any servant or agent of the owner or occupier of an unlicensed hotel, the licensee, owner or occupier shall be deemed to have also committed that offence unless, having regard to all the circumstances, he proves—

- (a) that the offence was committed without his knowledge, consent or connivance; and
- (b) that he had taken all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

Offence by body corporate

28. Where an offence under this Act has been committed by a body corporate, any person who at the time of the commission of the offence was a member of the board of directors, a manager,

a secretary or a person holding an office or a position similar to that of manager or secretary of the body corporate shall be deemed to have also committed that offence and shall on conviction be liable to the same punishment to which the body corporate is liable under this Act.

General penalty

29. A person who commits an offence under this Act for which no penalty is expressly provided shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both, and in the case of a continuing offence shall in addition be liable to a fine not exceeding five hundred ringgit for each day the offence continues to be committed.

Prosecution

30. No prosecution shall be instituted for an offence under this Act except by or with the consent of the Public Prosecutor.

Jurisdiction of Magistrate

31. Notwithstanding any written law to the contrary, a Court of a First Class Magistrate shall have the jurisdiction to try any offence under this Act and to award the full punishment for any such offence.

Compounding of offences

32. (1) The Commissioner or any officer specially authorized in writing by the Commissioner for that purpose may with the consent of the Public Prosecutor compound any offence committed by any person under this Act and prescribed to be a compoundable offence by making a written offer to the person suspected of having committed the offence to compound the offence upon payment to the Commissioner of an amount of money not exceeding the amount of the maximum fine for that offence within the time specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and if the amount specified in the offer is not paid within the period specified in the offer or within such extended period as the Commissioner or the specially authorized officer may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(3) If an offence has been compounded under subsection (1), no prosecution shall be instituted after that in respect of the offence against the person to whom the offer to compound was made and any thing seized in connection with the offence shall be released, subject to such terms and condition as may be prescribed.

(4) All moneys received under this section shall be paid into the fund constituted under any law relating to local government.

Money to be paid into fund

33. The Commissioner shall pay all moneys collected or received and all deposits forfeited under this Act into the fund constituted under any law relating to local government and those moneys or deposits shall form part of that fund.

Powers of police officers under this Act

34. Nothing contained in this Act shall derogate from the powers of a police officer to investigate into any offence under this Act.

Power to make regulations

35. (1) The Commissioner may, with the approval of the Minister, make regulations for the purpose of carrying out or giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may—

- (a) provide for the procedure for the licensing of hotels, the suspension and revocation of licences granted under this Act, the forms to be used and the fees to be paid in respect of such licences;
- (b) regulate the management and control of licensed hotels;

- (c) provide for the registration of persons staying in licensed hotels and visitors in their rooms and of servants and agents of licensed hotels;
- (d) prescribe the offences that may be compounded and the procedures for the compounding of such offences;
- (e) provide for the inspection of licensed hotels and their sanitation; and
- (f) provide for any other matter which the Commissioner deems expedient or necessary for the purposes of this Act.

Repeal

36. The Boarding Houses Enactment [*F.M.S. Cap. 87*], in force in the Federal Territory of Kuala Lumpur by virtue of section 6 of the Constitution (Amendment) (No. 2) Act 1973 [*Act A206*], is repealed to the extent that it applies to the Federal Territory of Kuala Lumpur.

Continuance of rules, etc.

37. All rules, forms, directions, authorization letters and licences made, issued or given under the repealed Enactment shall, in so far as they are consistent with this Act, continue in force until revoked or repealed by this Act.

LAWS OF MALAYSIA

Act 626

**HOTELS (FEDERAL TERRITORY OF
KUALA LUMPUR) ACT 2003**

LIST OF AMENDMENTS

Amending law

Short title

In force from

— NIL —

LAWS OF MALAYSIA**Act 626****HOTELS (FEDERAL TERRITORY OF
KUALA LUMPUR) ACT 2003**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
	— NIL —	

