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1984, No. 1

An Act to amend the law relating to inns and innkeepers

(2 August 1984)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same as follows:

1. Short Title - This Act may be cited as the Innkeepers Act 1984.

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

"Guest" means any traveller to whom an innkeeper is liable as an innkeeper in accordance with section 5 of this Act;

"Inn" means any house or place whose proprietor or licensee holds out that, to the extent of his available accommodation, he will provide, without special contract, sleeping accommodation for any traveller presenting himself who appears able and willing to pay a reasonable sum for the services and facilities provided and is in a fit state to be received;

"Innkeeper" in respect of licensed premises land or buildings, means the holder of a current licence pursuant to section 17 of the Tourist Authority Act 1968 and in respect of any other inn means the proprietor thereof;

"Licensed hotel" means any premises land or building in respect of which a licence is for the time being in force under the Tourist Authority Act 1968.

(2) While any licence continues in force under the Tourist Authority Act 1968 the licensed premises be deemed to be an inn, and the holder of the licence shall be deemed to be an innkeeper.

INNKEEPERS' LIABILITY

3. Replacement of existing law - (1) The provisions of sections 2 and 4 to 9 of this Act shall have effect, in place of the rules of the common law and of the provisions of any previous enactment to define an innkeeper and to regulate his liability as an innkeeper for the loss of or damage to property brought to the inn by guests, and to define the persons to whom he is so liable.

(2) Without limiting the generality of subsection (1) of this section, it is hereby declared that nothing in section 86 of the Fires Prevention (Metropolis) Act 1774 of the Parliament of Great Britain shall be constructed to affect in any way the liability of an innkeeper as an innkeeper, or to prevent any action being taken against him in respect of such liability.

4. Liability of innkeeper - (1) Subject to the provisions of this Act, every innkeeper shall be liable as an innkeeper for the loss of or damage to property brought to the inn by any guest, whether or not the loss or damage was caused by the default or negligence of another guest or of the innkeeper or his servant or agent.

(2) The provisions of this Act shall not limit or affect any other liability incurred by an innkeeper in respect of any property brought to the inn.

5. Traveller to whom innkeeper liable - An innkeeper shall not as an innkeeper, be liable to any traveller for the loss of or damage to property brought to the inn except where:

- (a) At the time of the loss or damage, sleeping accommodation at the inn had been engaged for that traveller; and
- (b) The loss or damage occurred during the period commencing with the midnight immediately preceding, and ending with the midnight immediately following, a period for which that traveller was a guest at the inn and entitled to use the accommodation so engaged, and the property had been received by the innkeeper or his servant.

6. General defences - An innkeeper shall not be liable as an innkeeper for the loss of or damage to the property of a guest if the innkeeper proves that -

- (a) The loss or damage was caused by the default, neglect, or wilful act of the guest or a servant of or person accompanying the guest, or by an act of God or of the Queen's enemies; or

- (b) The guest had assumed exclusive charge and custody of the property or the room in which the property was at the time of the loss or damage, so as to show an intention to relieve the innkeeper from all responsibility.

7. No liability in respect of vehicles or animals - An innkeeper shall not be liable as an innkeeper for the loss of or damage to -

- (a) Any vehicle, or any property left therein; or
(b) Any horse or other live animal, or its harness or equipment.

8. Monetary limit of liability - Where an innkeeper is liable as an innkeeper for the loss of or damage to any property brought to the inn, his liability to any one guest shall not exceed \$300 in respect of any one article, or \$1,200 in the aggregate, unless the guest proves that -

- (a) The property was stolen, lost, or damaged through the default, neglect, or wilful act of the innkeeper or his servant; or
(b) The property was deposited by or on behalf of the guest expressly for safe custody with the innkeeper or with a servant of his authorised or appearing to be authorised for the purpose, and was, if so required by the innkeeper or that servant, in a container fastened or sealed by the depositor; or
(c) At a time after the guest had arrived at the inn either the property was offered for deposit as aforesaid and the innkeeper or his servant refused to receive it, or the guest or another guest acting on his behalf wished so to offer the property but, through the default of the innkeeper or his servant, was unable to do so.

9. Liability not affected by agreement - No agreement between an innkeeper and a guest shall have any force or effect to exempt the innkeeper in whole or in part from his liability as an innkeeper.

DISTRAINT AND SEIZURE

10. Property of guests and other persons not to be distrained -

(1) No property of any guest, traveller, or visitor which is in any inn or any of its appurtenances, or in any place used or occupied therewith in the ordinary course of resort, shall be distrained or seized for or in respect of any claim for the rent of the inn or any other claim whatsoever against the inn or its appurtenances or against the innkeeper.

(2) If any property is distrained or seized contrary to the provisions of subsection (1) of this section, the distraint or seizure shall be void, and any Justice of Peace (subject to the value of the property not exceeding \$200) or any Judge may, on application, order the property to be restored to its owner and award such costs as he thinks fit.

11. Power of sale to recover debt - (1) Where any person deposits with any innkeeper any property, other than a vehicle or property left in a vehicle or a horse or other live animal or its harness or equipment, or leaves any such property

in the inn or any of its appurtenances, and the person is or becomes indebted to the innkeeper may, in satisfaction of the debt, sell and dispose of the property by public auction in accordance with this section.

(2) The property shall not be sold until it has been in the charge or custody of the innkeeper, or in or upon the premises, for 2 months without the debt having been paid or satisfied.

(3) Notice of the sale shall be given by advertisement published 3 times in a newspaper circulating in the locality in which the inn is situated, with an interval of not less than 3 nor more than 7 days between each publication. The advertisement shall state that the sale will be held on or after a specified date, not being sooner than 28 days after the date of the first publication of the advertisement, and shall give a brief description of the property intended to be sold, together with the name of the owner or person who deposited or left it, where the name is known.

(4) The innkeeper may apply the proceeds of the sale in or towards payment of the debt and of the costs and expenses of the advertising and sale, and shall, on demand by the person who deposited or left the property, pay to that person the surplus proceeds (if any).

12. Power to sell unclaimed goods - (1) Any innkeeper may sell and dispose of, by public auction, any property left in his charge, if the person who left it does not reclaim it within 6 months.

(2) The provisions of subsection (3) of section 11 of this Act shall apply to every such sale.

(3) The innkeeper shall, on demand made by the person who left the property, pay to that person any surplus proceeds of the sale remaining after payment of the costs and expenses of the advertising and sale.

13. Disposal and unclaimed surplus proceeds of sale - (1) Where within 3 months after any sale under section 11 or section 12 of this Act the surplus proceeds of the sale are not claimed by the owner of the property, the innkeeper shall pay the amount of those proceeds to the Treasury Department and shall thereafter be relieved from all liability in respect of the money so paid.

(2) All money payable to the Treasury Department under subsection (1) of this section shall be recoverable as a debt due to the Crown.

(3) Any money paid to the Treasury Department under this section shall be deemed to have been so paid as unclaimed money, and the provisions of the Unclaimed Moneys Act 1970 shall apply thereto.

This Act is administered by the Department of Justice.