



TURKS AND CAICOS ISLANDS

CHAPTER 161

HOTEL AND RESTAURANT (TAXATION) ORDINANCE

Revised Edition
showing the law as at 15 May 1998

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

HOTEL AND RESTAURANT (TAXATION) ORDINANCE

- Ordinance 7 of 1985 .. in force 1 August 1985 (L.N. 25/1985)
- Amended by Ordinance 2 of 1988 .. in force 1 August 1988
- Amended by Ordinance 12 of 1988 .. in force 1 October 1988
- Amended by Statutory Instrument 14/1988 .. in force 1 October 1988
- Amended by Legal Notice 34/1994 .. in force 6 June 1994
- Amended by Legal Notice 6/1998 .. in force 1 November 1998

No Subsidiary Legislation has been made under this Ordinance

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CHAPTER 161

**HOTEL AND RESTAURANT
(TAXATION) ORDINANCE**

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CHAPTER 161

HOTEL AND RESTAURANT (TAXATION) ORDINANCE

*(Ordinances 7 of 1985, 2 of 1988, 12 of 1988, Statutory
Instrument 14 of 1988, Legal Notices 34 of 1994 and 6 of 1998)*

AN ORDINANCE TO PROVIDE FOR A TAX ON HOTELS AND
RESTAURANTS AND FOR RELATED PURPOSES.

[1 August 1985] Commencement

1. This Ordinance may be cited as the Hotel and Restaurant
(Taxation) Ordinance.

Short title

2. (1) In this Ordinance—

Interpretation

“bedroom” includes cabin;

“guest” means any person of or over the age of twelve years who
is accommodated for reward in premises to which this
Ordinance applies;

“meal” means a meal eaten by a person whether seated at a table
or not and includes a meal purchased at premises to which
this Ordinance applies, but eaten elsewhere;

“proprietor”, in relation to premises to which this Ordinance
applies, means the person who carries on, or intends to
carry on, at those premises any business of providing for
reward board and lodging or lodging only, whether on his
own behalf or on behalf of another as manager or other-
wise;

“service”, in relation to the accommodation of a guest in premises
to which this Ordinance applies, means—

(a) the provision of any service mentioned in section
6(1);

(b) any privilege, amenity or facility for the employ-
ment of any cultural or recreational activity or
pursuit;

(c) any other privilege, amenity or facility in connec-
tion with the accommodation of the guest in those
premises;

“tax”, except in section 26 and the Schedule means the tax
imposed by section 6(1) of this Ordinance;

“vessel” includes any ship, boat, hovercraft or other type of floating structure or vessel, whether used in navigation or permanently moored, for the operation of which a business licence is required or is in force permitting its use for reward for board, lodging or meals or any combination thereof.

(2) Any reference in this Ordinance to the premises of a proprietor shall be taken to be a reference to the premises to which this Ordinance applies of which he is the proprietor.

(3) For the purposes of this Ordinance a person shall be treated as being accommodated for reward in any premises to which this Ordinance applies notwithstanding that he occupies sleeping accommodation in a separate building outside those premises, if—

- (a) he is provided with that accommodation in the course of the business of providing for reward board and lodging, or lodging only, at those premises and;
- (b) the building is habitually used for the purpose by way of an annexe or overflow in connection with those premises and is occupied and managed with those premises.

Premises to which this Ordinance applies

3. (1) Subject to subsections (2) and (3), this Ordinance shall apply to premises comprising one or more buildings containing, or containing in the aggregate, four or more bedrooms used, or intended to be used, for the purpose of habitually providing for reward board and lodging or lodging only.

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(2) This Ordinance shall not apply to any premises referred to in subsection (1) (not being a hotel or guest house within the meaning of the Business Licensing Ordinance) or to any part of those premises, as long as those premises or that part of those premises, as the case may be, are being wholly used for the accommodation of a person of any of the following descriptions, either alone or together with his family—

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- (a) a person who belongs to the Islands within the meaning of the Immigration Ordinance;
- (b) a person who is the holder of a permanent residence certificate under the Immigration Ordinance;
- (c) a person who is lawfully engaged in any gainful occupation in the Islands.

(3) This Ordinance shall not apply to any premises referred to in subsection (1) or any part of those premises for so

long as those premises or that part of those premises, as the case may be, are let unfurnished to any person for his own accommodation, either alone or together with his family.

4. (1) A proprietor shall, within one month of the commencement of this Ordinance or, where his premises have not commenced to be used for the accommodation of guests, at least one month before the date on which his premises are proposed to be so used, apply to the Permanent Secretary, Finance in writing, in such form as the Permanent Secretary, Finance shall determine, for the registration of the premises as premises to which this Ordinance applies, stating the number of bedrooms contained in the premises, the maximum number of guests which may be accommodated in the premises, the services provided, or intended to be provided, in the Islands, for guests accommodated in the premises, whether within or outside the premises, and such other particulars as the Permanent Secretary, Finance may require.

Registration of
premises to
which this
Ordinance
applies

(2) On receipt of an application for the registration of any premises under subsection (1), the Permanent Secretary, Finance, if he is satisfied that the premises are premises to which this Ordinance applies, shall register the premises in a register kept solely for the purpose to be called "The Register of Premises for the Accommodation of Guests" (in this section referred to as "the register").

(3) An entry in the register relating to any premises shall state the name and address of the proprietor, the number of bedrooms contained in the premises for the use of guests, the maximum number of guests which may be accommodated in the premises, the services provided, or intended to be provided, in the Islands for guests accommodated in the premises, whether within or outside the premises, and such other particulars as the Permanent Secretary, Finance thinks fit or the Governor may direct to be included in the entry.

(4) Where there has been any change as respects any of the particulars contained in an entry in the register with respect to any premises, the proprietor or, in the event of his death, his personal representative, shall serve on the Permanent Secretary, Finance a notice in writing giving particulars of the change, and the Permanent Secretary, Finance shall make such appropriate amendments to the entry as may be required.

(5) If the Permanent Secretary, Finance is satisfied that any premises have ceased to be premises to which this Ordinance applies, he shall cancel the entry in the register relating to the premises and shall serve on the person who was the proprietor of the premises at the time of the cancellation of the entry a notice in writing stating that the entry has been cancelled.

Registration of
guests

5. (1) A proprietor shall keep a register in such form as shall be approved by the Permanent Secretary, Finance, which shall be kept solely for the purposes of this section and which shall be called “The Register of Guests” (in this Ordinance referred to as “the Guests’ Register”).

(2) Subject to subsection (3), every guest who is accommodated in premises to which this Ordinance applies shall, on arriving at the premises—

(a) inform the proprietor of his full name and nationality and of the address of his ordinary place of residence; and

(b) sign the Guests’ Register kept at the premises.

(3) The obligation under subsection (2) to sign a Guests’ Register shall be taken to have been complied with—

(a) in the case of guests who are husband and wife, if the register is signed by either of them on behalf of them both;

(b) in the case of a guest who is a child under the age of seventeen years and who is accompanied by a person of or over that age, if the register is signed by that person on behalf of that child; and

(c) in the case of a guest who is unable to sign his name by reason of any physical or mental disability, if the proprietor records in the entry in the register relating to that guest that the guest is unable to sign his name for the reason specified in that entry.

(4) A proprietor shall—

(a) require all guests to comply with their obligations under subsection (2);

(b) enter in the Guests’ Register kept at his premises—

(i) the names, nationality and address of the ordinary place of residence of each guest;

(ii) the date and time of the reception at the premises of each guest at the commencement of the period for which the guest is being accommodated in the premises;

(iii) the date and time of the departure of each guest from the premises on the expiration of that period; and

- (iv) in the case where a child who is, or appears to the proprietor to be, under the age of twelve years is being accommodated for reward in the premises, a record of the fact of the accommodation of the child in the premises and of the period for which he is being accommodated; and
- (c) keep that register in safe custody at his premises and preserve any entry in that register for not less than twelve months following the date on which the entry was made.

6. (1) Subject to the provisions of this Ordinance, there shall be paid by each guest accommodated in any premises to which this Ordinance applies a tax at the rate of nine *per centum* of the total amount of the charges paid or payable by or in respect of the guest in respect of all or any of the following services, that is to say—

Imposition and
rate of tax in
respect of board
and lodging

- (a) sleeping accommodation;
- (b) meals, including any intoxicating liquor or other beverage whether supplied with, as an ancillary to, separately from or accompanied by, a meal;
- (c) the provision of lighting, fuel, water, furniture, domestic appliances or equipment;
- (d) laundering;
- (e) any other service as may be prescribed,

being services provided in the Islands for the guest, whether within or outside the premises, in the course of the business of providing for reward board and lodging, or lodging only, carried on at the premises. (*Amended by Ord. 12 of 1988, S.I. 14/1988, L.Ns. 34/1994 and 6/1998*)

(2) Tax shall be payable in respect of the actual amount of the charges referred to in subsection (1) or, where those charges have been assessed by the Permanent Secretary, Finance under and in accordance with this Ordinance, in respect of those charges as so assessed.

7. The Governor may by regulations vary the rate of tax, and may so vary the rate of tax as to provide for the imposition of tax at different rates in respect of premises of different classes or descriptions or in respect of different services.

Variation of rate
of tax

8. The Governor may by regulations provide—

- (a) that tax shall not be payable by or in respect of any

Exemption from
liability to pay
tax

guest of any class or description;

- (b) that tax shall not be payable in respect of all or any services provided at, or in connection with, any premises of any prescribed class or description.

Collection of tax
by proprietor

9. (1) Tax payable by a guest accommodated in premises to which this Ordinance applies shall be accounted for and paid by the proprietor in accordance with section 12.

(2) Where a proprietor is not resident in the Islands, any agent of his who is resident in the Islands and who has acted on his behalf in connection with the business carried on by him of providing for reward at his premises board and lodging, or lodging only, shall be accountable for, and liable to pay, tax in substitution for the proprietor for so long as the proprietor is not resident in the Islands.

(3) Subject to subsection (4), section 10 and any regulations under section 20, a proprietor shall before the departure of a guest from his premises on the expiration of the period for which the guest has been accommodated in the premises, deliver or cause to be delivered to the guest a statement giving—

- (a) the particulars of each service provided for the guest during or in respect of that period and of the charges made in respect of that service; and
- (b) as a separate item, the amount of tax payable by the guest in respect of all those services.

(4) Where members of the same family or persons travelling as a group are accommodated in any premises to which this Ordinance applies, it shall be sufficient for the purposes of subsection (3) if one statement under that subsection is delivered to a member of the family or group showing the particulars of the services provided for all the members of the family or group, the aggregate amount of the charges made in respect of each of those services and, as a separate item, the aggregate amount of tax payable by the members of the family or group.

(5) A proprietor shall keep a copy of every statement delivered to a guest accommodated in his premises for a period of not less than twelve months from the date on which the statement was delivered.

Assessment of
proprietor's
charges in
certain cases

10. (1) Where the Permanent Secretary, Finance is satisfied that, by reason of a lump sum payment being payable in advance by the guest of a proprietor in consideration partly for the provision of services in respect of which tax is payable and partly in consideration for anything other than the provision of such services, it is not reasonably practicable for the proprietor to

deliver, or cause to be delivered, to or in respect of the guest a statement as required by section 9(3), the Permanent Secretary, Finance may, on the basis of information received by him assess, by agreement with the proprietor or, failing such agreement to the best of the Permanent Secretary, Finance's judgment, the portion of that lump sum payment which shall be taken for the purposes of this Ordinance to represent the total amount of the charges made for the provision by the proprietor of the services in respect of which tax is payable; and in that event tax shall be payable in respect of those services in all respects as if the total amount of the charges for those services as assessed under this subsection had been charged separately by the proprietor.

(2) Where an assessment is made under subsection (1) in respect of any services provided by a proprietor—

- (a) the Permanent Secretary, Finance shall serve a notice on the proprietor specifying the amount assessed as being the total amount of the charges made in respect of those services, the amount of tax due from the proprietor in respect of those charges and the date on and from which the assessment is to have effect; and
- (b) the proprietor shall be exempted from complying with section 9(3) in respect of those services for so long as the assessment continues to have effect.

(3) Subject to subsection (4), an assessment under subsection (1) shall have effect as if it had been made in respect of each guest of the proprietor on whom notice of the assessment has been served under subsection (2) if a lump sum payment as mentioned in subsection (1) is payable by or in respect of the guest in consideration, in part, for the provision by the proprietor of services of the same kind and to the same extent as those in respect of which the assessment has been made, whether or not the lump sum payment payable by the guest is of the same amount as that payable by any other such guest.

(4) Where notice of any assessment has been served on a proprietor under subsection (2), the Permanent Secretary, Finance may, if it appears to him that—

- (a) the assessment was made on the basis of inaccurate or incomplete information; or
- (b) there has been any variation in the amount of the portion of the lump sum payment assessed by virtue of that assessment, whether by reason of a variation in the amount of that lump sum payment or any variation in the extent or number of services provided by the proprietor or otherwise,

make a fresh assessment under subsection (1) so as to have effect for the purposes of this Ordinance instead of the original assessment on and from the date specified in the notice to be served on the proprietor under subsection (1), as having effect by virtue of this subsection, as the date on and from which the new assessment shall have effect, without prejudice to the power of the Permanent Secretary, Finance to make a further assessment by virtue of this subsection; and subsection (2) shall have effect in relation to an assessment by virtue of this subsection as it has effect in relation to an original assessment under subsection (1).

(5) The Permanent Secretary, Finance may, by notice served on a proprietor, cancel an assessment under this section with effect on and after the date specified in the notice.

Accounts to be
kept by
proprietor

11. (1) A proprietor shall—

- (a) keep sufficiently detailed accounts to permit the calculation of the amount of tax payable by or in respect of every guest accommodated in his premises;
- (b) keep those accounts for a period of twelve months from the date of the last entry made in the accounts.

(2) If it appears to the Permanent Secretary, Finance or any person authorised by him in writing for the purposes of section 13 that the accounts required by subsection (1) to be kept by a proprietor are inaccurate or incomplete for the purpose of enabling the Permanent Secretary, Finance or that person to calculate the amount of tax payable by or in respect of any guest accommodated in the premises of the proprietor, the proprietor shall furnish the Permanent Secretary, Finance or that person with such information and evidence as the Permanent Secretary, Finance or that person may require with a view to the correction of such inaccuracies and to those deficiencies being made good.

Returns and
payment of tax

12. (1) Subject to subsection (2), a proprietor shall, within twenty-one days of the end of each month—

- (a) furnish the Permanent Secretary, Finance with a return, in such form as the Permanent Secretary, Finance shall determine stating—
 - (i) the number of guests who have departed from his premises during that month on the expiration of the respective periods for which they were accommodated in the premises; and
 - (ii) such other particulars as the Permanent Secretary, Finance may require;

- (b) deliver or send to the Permanent Secretary, Finance, together with that return, a remittance in payment of the total amount of tax paid or payable by or in respect of each of those guests.
- (2) The Permanent Secretary, Finance may—
- (a) extend the time for the payment of tax under subsection (1) for such period as he thinks fit; or
- (b) allow the payment of any tax due and payable under that subsection to be made by instalments of such amounts and payable at such intervals as he thinks fit.
- (3) Where the Permanent Secretary, Finance has extended the time for the payment of tax for any period under subsection (2), the payment shall be made on or before the expiration of that period.
- (4) Where the Permanent Secretary, Finance has allowed the payment of tax to be made by instalments under subsection (2)—
- (a) subject to paragraph (b), each instalment shall be paid on or before the date fixed by the Permanent Secretary, Finance for the payment of that instalment;
- (b) in default of the payment of any instalment on or before that date, the whole of the amount of tax outstanding shall be payable on that date.
- (5) If no guests have been accommodated in his premises during any month, the proprietor shall, within twenty-one days of the end of that month, furnish to the Permanent Secretary, Finance a return stating that no guests have been accommodated in his premises during that month.
- (6) Tax shall be recoverable by the Permanent Secretary, Finance as a debt due to the Crown.
- (7) Where tax paid by a proprietor was excessive by reason of some error or mistake in a return made by him under this section, he may by notice in writing served on the Permanent Secretary, Finance, at any time within the six years next following the date on which the return was furnished to the Permanent Secretary, Finance, make a claim for a refund of the amount claimed to be in excess of the amount of tax properly due and payable, and the Permanent Secretary, Finance, if it appears to him that the claim is well founded, may—
- (a) refund the excess amount to the proprietor; or

(b) appropriate that amount in payment of any debt due by the proprietor to the Crown.

Powers of
Permanent
Secretary,
Finance

13. (1) The Permanent Secretary, Finance or any person authorised by him in writing in that behalf may, for the purpose of ascertaining whether or not any of the provisions of this Ordinance are being complied with and, in particular, for the purpose of ascertaining whether or not the proper amount of tax is being paid by a proprietor—

(a) on giving twenty-four hours notice in writing to the occupier of any premises of his intention to do so, enter and inspect any premises and require the occupier to furnish him with such information as he may require as to the use being, or intended to be, made of the premises;

(b) require a proprietor—

(i) to furnish the Permanent Secretary, Finance or that person with such information as may be required by the Permanent Secretary, Finance or that person for those purposes;

(ii) to produce, at such place and at such time as the Permanent Secretary, Finance or that person may specify, the Guests' Register kept by the proprietor, any copies of statements delivered in accordance with section 9(3) to guests who have been accommodated in the premises of the proprietor, any accounts kept in accordance with section 11, and any books or other documents relating to the business of providing for reward board and lodging, or lodging only, carried on at the premises of the proprietor;

(iii) to permit the Permanent Secretary, Finance or that person to take extracts from, or make copies of, any register, copies of statements, accounts, books or other documents referred to in sub-paragraph (ii) and to furnish the Permanent Secretary, Finance or that person with such extracts or copies.

(2) Any power conferred by subsection (1) to require the production of any register, copies of statements, accounts, books or other documents shall, if they are not produced, include the power to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(3) A statement made by a person in compliance with a requirement imposed by virtue of this section may be used in evidence against him.

14. (1) Where an amount is due from a proprietor on account of tax and the Permanent Secretary, Finance is unable to ascertain the amount of tax properly due from the proprietor by reason of—

Assessment of
tax in cases of
default

- (a) a failure of the proprietor to furnish the Permanent Secretary, Finance with any return under section 12 or to furnish the Permanent Secretary, Finance with a complete and correct return under that section;
- (b) a failure of the proprietor to keep or produce to the Permanent Secretary, Finance or any person authorised by the Permanent Secretary, Finance in writing for the purpose of section 13, any register, copies of statements, accounts, books or other documents required to be kept or produced by the proprietor by or under this Ordinance, or the loss or destruction of any such register, copies, accounts, books or other documents; or
- (c) such register, copies, accounts, books or other documents being materially incomplete or inaccurate,

the Permanent Secretary, Finance may, to the best of his judgment, make an assessment of the amount due on account of tax by the proprietor and shall, on making such an assessment, serve on the proprietor a notice specifying that amount and the reason for the making of the assessment.

(2) Where an assessment of the amount of tax due from a proprietor has been made under subsection (1), then, without prejudice to the recovery of the full amount due or to the making of a further assessment in that behalf, the amount assessed shall be recoverable, and payment of the same shall be enforceable, as tax properly due, unless the Magistrate has determined on a reference under section 17 that the amount of tax properly due is less than the amount assessed.

(3) Without prejudice to the power of the Permanent Secretary, Finance to make a further assessment under subsection (1), where notice of an assessment has been served on a proprietor under that subsection, the Permanent Secretary, Finance may, except pending the determination under section 17 of any question as to the tax assessed, withdraw that assessment.

Additional tax in
cases of default

15. Where any tax due and payable by a proprietor remains unpaid he shall also be liable to pay, by way of additional tax, a sum equal to twenty *per centum* of the amount of that tax; and such additional tax shall be recoverable, and the payment of the same enforceable, as tax properly due and payable.

Enforcement of
payment of tax

16. (1) Without prejudice to any other remedy, where any tax is due and payable by a proprietor, the Permanent Secretary, Finance may serve a notice on the proprietor specifying the amount of tax due and payable by the proprietor, and stating that if payment of that amount is not made to the Permanent Secretary, Finance within seven days of the date of the service of the notice, the Permanent Secretary, Finance may apply to the Magistrate under subsection (2) for the issue of a writ of execution against the proprietor.

(2) Subject to subsection (3), if payment of tax specified in a notice served under subsection (1) on a proprietor is not paid within seven days of the date of the service of the notice, the Permanent Secretary, Finance may apply to the Magistrate for the issue of a writ of execution against the proprietor, and the Magistrate may issue the writ in all respects as if the tax in respect of which the application is made were a judgment debt; and sections 128 and 129 of the Magistrate's Court Ordinance shall apply accordingly.

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(3) An application under subsection (2) shall not be made in respect of any tax pending the determination of any reference under section 17 of any question as to that tax.

Determination of
disputes as to tax

17. (1) Subject to subsections (2) and (3), any question arising as to the liability of any person to pay tax may be referred by him to the Magistrate for determination.

(2) The reference under subsection (1) of any question as to any tax shall not be made where an action for the recovery of that tax has been instituted.

(3) Where a notice has been served on any person under section 16(1) with respect to any tax, the reference under subsection (1) of any question as to that tax shall not be made later than the seven days next following the date of the service of the notice.

(4) The Permanent Secretary, Finance and the person by whom a question has been referred for determination by the Magistrate under subsection (1), or any other person representing the Permanent Secretary, Finance or that person, shall be entitled to be present and to be heard at the hearing of the reference, may call witnesses and shall be given the opportunity of putting questions directly to any witnesses called at the hearing.

(5) The Magistrate may summon any person to attend and give evidence or produce any documents at a hearing of a reference under subsection (1) and any witnesses called at the hearing may be examined on oath or affirmation.

(6) Subject to section 23, the determination of the Magistrate on a reference made under subsection (1) shall be final.

(7) Subject to the provisions of this section, the procedure in respect of a reference made under subsection (1) shall be such as the Magistrate shall determine; and the Magistrate may, with the approval of the Governor, make rules prescribing the fees to be payable in respect of such a reference.

18. (1) Where tax is in arrear, a certificate of the Permanent Secretary, Finance that tax is due and that payment of the tax has not been made to him, or to any person acting on his behalf, shall be sufficient evidence in any proceedings that the sum mentioned in the certificate is unpaid and is due to the Crown; and a document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

Evidence

(2) A copy of, or extract from—

- (a) any return furnished to the Permanent Secretary, Finance under this Ordinance;
- (b) any notice of assessment served under section 10 or section 14(1);
- (c) any register, copies of statements, accounts, books or other documents, where that copy or extract was made or taken in the exercise of the powers conferred by section 13 on the Permanent Secretary, Finance or any other person,

shall, if that copy or extract bears the certificate of the Permanent Secretary, Finance that it is such a copy or extract, be sufficient evidence in any proceedings of the contents of that copy or extract to the same extent as if this original return, notice of assessment, register, statements, accounts, books or other documents would be if they were produced in those proceedings; and a document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

19. (1) A proprietor shall have—

- (a) a lien on a property brought into his premises by a guest, whether belonging to the guest or not, in respect of tax due and payable by the guest to the proprietor; and

Proprietor's lien
and right to
recover tax from
guests

(b) the right to recover tax due and payable to the proprietor by a guest as a debt due to the proprietor by the guest for accommodation provided by the proprietor for the guest.

(2) For the purposes of subsection (1) tax due and payable by a guest who is under the age of eighteen years and who is accompanied as a guest by his parent or guardian shall be deemed to be due and payable by his parent or guardian, and any property brought into any premises by such a guest shall be deemed to have been brought into the premises by his parent or guardian.

Regulations

20. (1) The Governor may make regulations for prescribing anything which may be prescribed under this Ordinance and otherwise for the purpose of carrying this Ordinance into effect.

(2) Regulations under subsection (1) may, in particular, make provision, in relation to any case or class of case—

(a) for facilitating the calculation of the amount of any charges made for any service in respect of which tax is payable or for facilitating the calculation or collection of tax;

(b) for the purposes mentioned in paragraph (a), prescribing such modifications of this Ordinance as the Governor considers expedient.

(3) Where the Governor is satisfied as to the existence of any arrangement or practice by which the incidence of tax is avoided or reduced, he may, by regulations under subsection (1), make provision for securing that tax is payable as if that arrangement or practice were not followed.

(4) In this section “modifications” includes additions, omissions and amendments.

Restriction on disclosure of information

21. Information which is disclosed to the Permanent Secretary, Finance or any other person in connection with the operation of this Ordinance shall not be further disclosed except where—

(a) the Governor has required or authorised the information to be disclosed;

(b) the information is disclosed to any person authorised by the Permanent Secretary, Finance to carry out any duties in connection with the operation of this Ordinance; or

(c) the information is disclosed for the purpose of civil or criminal proceedings in connection with the operation of this Ordinance or for the purpose of any other criminal proceedings in the Islands.

22. (1) Any notice or other document to be served or given by or on behalf of the Permanent Secretary, Finance under this Ordinance may be served or given—

Service of
notices

- (a) on or to a body corporate or any other body by sending it by post addressed to that body at its last known place of business in the Islands;
- (b) on or to any other person, by delivering it to that person, or by leaving it, or sending it by post addressed to that person, at his usual or last known place of residence, or last known place of business, in the Islands.

(2) Notices or other documents to be furnished under this Ordinance to the Permanent Secretary, Finance, or to any other person authorised by the Permanent Secretary, Finance in writing for the purposes of section 13, may be delivered to, or sent by post addressed to, the Permanent Secretary, Finance or that person at the office of the Permanent Secretary, Finance.

23. (1) The Magistrate may refer to the Supreme Court for decision any question of law arising on a reference made to the Magistrate under section 17.

Appeals and
references

(2) An appeal on a question of law shall lie to the Supreme Court from a determination of the Magistrate on a reference made to the Magistrate under section 17, unless that question has been referred to the Supreme Court for decision under subsection (1).

(3) On an appeal under subsection (2), the Supreme Court may quash or confirm the determination against which the appeal is brought, and may make such order as to costs as the Court thinks fit.

(4) The decision of the Supreme Court on a reference or appeal under this section shall be final.

(5) The jurisdiction conferred on the Supreme Court by this section shall be exercised in accordance with such directions as the Chief Justice may give in any particular case.

24. (1) A person who—

Offences and
penalties

- (a) contravenes subsections (1) or (4) of section 4, subsections (1) or (4) of section 5, subsections (3) or (5) of section 9, section 11, subsections (1), (4) or (5) of section 12 or section 21; or
- (b) makes default in complying with a requirement imposed under paragraph (b) of subsection (1) of

section 13 or with a requirement imposed by regulations under section 20,

shall be guilty of an offence and liable on summary conviction to a fine of \$5,000 or imprisonment for a term of six months or to both.

(2) A person who is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion, by him or any other person, of tax shall be guilty of an offence and liable on conviction on indictment to a fine or imprisonment for a term of two years or to both, and on summary conviction to a fine of \$10,000 or imprisonment for a term of six months or to both.

(3) A person who—

(a) with intent to deceive, for the purposes of this Ordinance, produces, furnishes, sends or otherwise makes use of any register, return, books, accounts or other document which is false in a material particular; or

(b) in furnishing any information for those purposes, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence and liable on conviction on indictment to a fine or imprisonment for a term of two years or to both, and on summary conviction to a fine of \$10,000 or imprisonment for a term of six months or to both.

(4) A person who contravenes subsection (2) of section 5 shall be guilty of an offence and liable on summary conviction to a fine of \$1,000.

(5) A person who continues to make default in complying with any requirement imposed by or under this Ordinance after being convicted of that default shall be guilty of a further offence and liable on summary conviction to a fine of \$100 for each day on which the default continues.

(6) Where a person is charged with an offence under this section in respect of his default to make an entry in a Guests' Register in respect of any guest, it shall be a defence to prove that the guest refused to disclose the particulars required to be entered in the register in respect of the guest.

Criminal liability
of directors

25. (1) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in

any such capacity, he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(2) For the purposes of this section a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act.

26. (1) Where the Governor is satisfied—

- (a) that any premises are used for the purpose of habitually providing meals for reward; and
- (b) that those premises are not used principally for providing meals for consumption by persons who belong to the Islands within the meaning of the Immigration Ordinance,

Imposition, rate and collection of tax in respect of meals provided at designated restaurants

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he may, by order, designate those premises as a restaurant to which this section and the Schedule apply (hereafter in this section referred to as a “designated restaurant”).

(2) There shall be paid by any person liable to pay for any meal provided for reward at a designated restaurant, whether the meal is provided for consumption by him or any other person, a tax at the rate of nine *per centum* of the charge paid or payable in respect of that meal:

Provided that no tax shall be payable in respect of a meal in respect of which a guest is liable to pay tax under section 6(1).

(Amended by S.I. 14/1988 and L.Ns. 34/1994 and 6/1998)

(3) The Governor may by regulations vary the rate of tax.

(4) Tax payable in respect of any meal provided at a designated restaurant shall be accounted for and paid by the proprietor of the restaurant in accordance with subsection (7).

(5) Where the proprietor of a designated restaurant is not resident in the Islands, any agent of his who is resident in the Islands and who has acted on his behalf in connection with the business carried on at the restaurant of providing meals for reward shall be accountable for, and liable to pay, tax in substitution for the proprietor for so long as the proprietor is not resident in the Islands.

(6) The proprietor of a designated restaurant shall, as soon as may be, deliver to the person liable to pay for any meal provided for reward at the restaurant a statement giving—

- (a) particulars of the meal and of the charge made for the meal; and

- (b) as a separate item, the amount of tax payable by that person in respect of the meal,

and shall keep a copy of every statement delivered to any person in accordance with this subsection for a period of not less than twelve months from the date on which the statement was delivered.

(7) Subject to subsection (9), the proprietor of a designated restaurant shall, within twenty-one days of the end of each month—

- (a) furnish the Permanent Secretary, Finance with a return in such form as the Permanent Secretary, Finance shall determine and containing such particulars as the Permanent Secretary, Finance may require; and
- (b) deliver or send to the Permanent Secretary, Finance together with that return, a remittance in payment of the total amount of tax paid or payable in respect of all meals provided for reward at the restaurant during that month.

(8) If no meals have been provided for reward at a designated restaurant during any month, the proprietor of the restaurant shall, within twenty-one days of the end of that month, furnish to the Permanent Secretary, Finance a return stating that no such meals have been provided at the restaurant during that month.

(9) The provisions of this Ordinance specified in the first column of the Schedule shall have effect in relation to the tax imposed by subsection (2) as they have effect in relation to the tax imposed by section 6(1), subject to the modifications set out in the second column of the Schedule; and accordingly in those provisions, as having effect by virtue of this subsection, any reference to a proprietor shall include a reference to a proprietor of a designated restaurant and any reference to any tax shall include a reference to the tax imposed by subsection (2).

(10) In this section and in the Schedule—

- (a) “meal” includes any intoxicating liquor or other beverage whether supplied with, as an ancillary to, separately from or unaccompanied by, a meal;
- (b) “proprietor”, in relation to a designated restaurant, means the person who carries on at the restaurant the business of providing meals for reward, whether on his own behalf or on behalf of another as manager or otherwise;
- (c) “tax” means the tax imposed by subsection (2).

27. The provisions of this Ordinance shall also apply to vessels used for accommodating persons for reward, subject to the following modifications—

Application of
Ordinance to
vessels used for
accommodation

- (a) references to premises and buildings shall, unless the context otherwise requires, and subject to paragraph (b), be construed as references to a vessel or vessels;
- (b) in section 3(1), the reference to premises comprising one or more buildings shall be construed as a reference to a single vessel or a group of vessels operating in combination, but not necessarily in convoy.

(Inserted by Ord. 2 of 1988)

SCHEDULE*(Section 26(9))*

Provisions of this Ordinance to have effect in relation to the tax imposed by section 26(2) in respect of meals provided at designated restaurants.

Section	Modifications
11	<p>(a) In paragraph (a) of subsection (1), for the words “by or in respect of every guest accommodated in his premises” substitute “in respect of meals provided at his restaurant”.</p> <p>(b) In subsection (2), for the words “by or in respect of any guest accommodated in the premises of the proprietor” substitute “in respect of meals provided in the restaurant of the proprietor”.</p>
12(2),(3), (4),(6) and (7)	In paragraph (a) of subsection (2), for “subsection (1)” substitute “subsection (7) of section 26”.
13	<p>(a) In paragraph (b) of subsection (1), for sub-paragraph (ii) substitute the following sub-paragraph—</p> <p style="padding-left: 40px;">“(ii) to produce, at such place and at such time as the Permanent Secretary, Finance or that person may specify, any copies of statements delivered in accordance with section 26(6) in respect of meals provided for reward at the restaurant of the proprietor, any accounts kept in accordance with subsection (1) of section 11, and any books or other documents relating to the business of providing meals for reward carried on at the restaurant of the proprietor;”.</p> <p>(b) In sub-paragraph (iii) of paragraph (b) of subsection (1) and in subsection (2), delete “register” wherever it occurs.</p>
14	<p>(a) In paragraph (a) of subsection (1), for “section 12” substitute “section 26(7)” and for “under that section” substitute “under that subsection”.</p> <p>(b) In paragraphs (b) and (c) of subsection (1), delete “register” wherever it occurs.</p>
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16	
17	

18	In subsection (2), delete “register” wherever it occurs, and in paragraph (b) of that subsection, delete “section 10 or”.
20	In paragraph (a) of subsection (2), for “any service” substitute “any meal”.
21	
22	
23	
24(1),(2), (3) and (5)	(a) In subsection (1), for paragraph (a) substitute the following paragraph— “(a) contravenes section 11, section 12(4), section 21 or subsections (6), (7) or (8) of section 26;”.
	(b) In paragraph (a) of subsection (3), delete “register”.

hotel	registration	7
	tax	6
restaurant	tax	21
tax	hotel	6
	restaurant	7