

Laws and Rules Pertaining to Hospitality Industry

With opening up of the Indian economy after 1991 and the adoption of globalization, there has been a steep rise in the operational activities of various sectors that were earlier very dormant. One of the best examples of this is the hospitality industry. One of the major parts of this sector is the hotel industry.

The expanding activities of the hotel industry have turned it into a multimillion-dollar industry. Hotel industry consists of restaurants, lodging places, theme parks, event planning, etc. and includes activities such as facility maintenance and direct operations including servers, porters, housekeepers, bartenders, kitchen keepers, etc. Such services that are provided by the hotels constitute to be the subject matter of laws that regulate the hotel industry.

Until recently, there were not many stringent requirements of compliance attached to these laws. Due to the rise in the number of cases of food poisoning, rising concerns, and public conscience, these laws now demand stringent compliance. Apart from regulating the areas mentioned above, hotels are also obliged to protect their customers from harms that are criminal in nature such as thefts, bodily harms, and even potential harms from terrorist groups.

Associations governing hotel industry

Apart from certain laws, there are certain industry associations that govern the working of hotels in India:

- The Federation of Hotels and Restaurants Association of India (FHRAI)
- The Hotel and Restaurant Association of Eastern India
- The Hotel and Restaurant Association of Northern India
- The Southern India Hotel and Restaurant Association
- The Hotels and Restaurant Association (Western India)
- Hotel Association of India

Licenses required for opening a hotel

To open a hotel, there are various licenses that are required to be obtained. Such licenses include:

- Police License / Registration.
- A license under Shops & Establishments Act.
- A license under Prevention of Food Adulteration Act.
- Registration under the Luxury Tax Act.
- Registration under the Sales Tax Act.
- Registration under the Contract Labour Act.
- Registration under the Pollution Control Act.
- Registration under the Apprentices Act.
- Registration under the Provident Fund Act.
- Registration under the ESI Act.
- Entertainment License on Festival Occasions.
- License for Chimney under the Smoke Nuisance Act.
- Registration under the Weights & Measures Act.
- Factory License for Laundry.
- Central Excise License for Bakery Products.
- Registration & Permits under the Motor Vehicle Act for Tourist Coaches / Taxies.
- Eating House License.
- Municipal Beer Bar License.
- License for storage of Diesel Oil.
- License for storage of Kerosene & Compressed Gas (LPG).
- Sign Board Directions, Neon Signs.
- License to deal in Foreign Exchange under FEMA.
- Cold Storage License, (if over 25 cubic ft.).
- License for Boiler & Generators and Mixers and Grinders.
- Bar License (Foreign Liquor).
- Dance License
- Mild Liquor License.
- Temporary License for Awnings & covering of Terrace during monsoon.
- Building Completion Certificate.

- Copy Right License for Playing of Music.
- Lodging House License
- Approval from the Department of Tourism, Government of India.
- Registration from GTDC for new projects under the Package Scheme of Incentives.

However, some of the major ones are explained below:

- **Fire Security Certificate:** It is as of the date the most important of all the license. Without Fire NOC it is very difficult to get any other permission. It is mandatory to follow all fire safety guidelines and have proper fire security arrangements. A No Objection Certificate (NOC) has to be obtained from the Fire Department. Post your application, the inspection would be carried out and the decision will be taken by the officials of the Fire Department for the grant of the NOC.
- **Food Safety License:** This is given by the Food Safety and Standards Association of India administrated by the Ministry of Health & Family Welfare, Government of India. This act was established in 2006 and lays downs standards for articles of food and to regulate their manufacture, storage, distribution, sale, and import to ensure availability of safe and wholesome food for human consumption. The FSSAI is a single point contact for all matters relating to food safety and standards. Please refer to the FSSAI Act to view the details of this act.
- **Health Trade License:** This is issued by the Municipal Corporation or Health Department of the concerned state. The license gives permission to perform trade and business in items that have a direct effect on public health. By issuing this license the Municipal corporation certifies that your establishment complies with the hygiene and security standards essential for public health.

- **Eating House License:** Eating House refers to any place to which the public are admitted, and where any kind of food or drink is supplied for consumption in the premises. This is provided by Licensing Police Commissioner of that city. You will have to refer to the Licensing Police Commissioner of that city to get specific details.
- **Liquor or Bar License:** If you are planning to serve liquor then you must have this license. This can be obtained from the local Excise Commissioner of your city or region.
- **Lift Clearance:** If your hotel is multi-storeyed and you will be operating a lift, you will have to get clearance for operating the elevator. Sometimes the permission has to be from the electrical inspector or the office of the Labour Commissioner of the city, to ensure that the lift operations comply with the safety norms.
- **Music License:** If your outlet will be playing any recorded music or video, you will have to obtain a license in compliance to the Copyright Act of 1957 issued from Phonographic Performance Limited or Indian performing Right Society. Both PPL and IPRS are separate organizations who license different sets of rights in the use of music. You may need a license from both organizations. PPL works for the use of recorded music on behalf of record companies and performers, whilst IPRS works towards musical composition and lyrics on behalf of authors, songwriters, composers, and publishers. Please refer to PPL India and IPRS for further details.
- **Signage License:** This license will be issued by the local civic body like the Municipal Corporation of your city.
- **Pollution Certificate:** Pollution Control Committee of your city or region will be responsible for providing this license or NOC to ensuring that the establishment does not violate pollution norms. These rules have become very stringent and are very tough to get if your site is not

following the standards as laid down in the guidebook. Make sure to integrate the recommendations at a design stage itself.

- **Certificate of Environmental Clearance (CEC):** This is a permit required as a part of the Environmental Management Act under the Ministry of Environment and Forests for certain type of projects. An assessment is done to rule out any negative impact on the environment by the CEC authority post filling a questionnaire.
- **Shop and Establishment Act:** The Shop and Establishment Act is regulated by the Department of Labour and regulates premises wherein any trade, business or profession is carried out. This act regulates areas such as working hours, rest interval for employees, opening and closing hours, closed days, national and religious holidays, overtime work, rules for employment of children, annual leave, maternity leave, sickness, and casual leave, etc. Shop & Establishment License can be obtained by applying to the State Chief Inspector of the Department of Labour.
- **Approval from the Weights & Measures Department:** As per the Legal Metrology Act, 2009, you have to get models of weighing & measuring instruments approved from the Weights & Measures Department.
- **GST registration:** The recent amendment to the GST has made it compulsory to apply for GST registration and to follow the process laid down to collect the tax. Registration is simple and online and there are many firms specializing in helping you to register for the same.
- **Trademark Registration:** If you are planning to open a chain and are going to be investing a large amount of time and money into branding, it is advisable to obtain a trademark registration. Trademark registration provides ownership over the intellectual property created and helps in avoiding anybody copying the branding.

- **Classification of Hotel:** The last registration you might look at is the classification of the hotel. It is not mandatory however helps you to brand and market the hotel. It is done by the Ministry of tourism and in order to be classified, you need to begin from the project stage itself and fill out the form online on the tourism website.

Laws governing Hotel Industry

The laws that govern the Hotel Industry can be classified into the following broad categories.

- **Establishment and Commissioning of Hotels**

The first head of laws that govern the hotel industry include the laws regarding commissioning and construction of hotels, restaurants, guest houses and other establishments of such kind. These laws also include laws such as Foreign Exchange Management Act, Industrial Licensing Policies, and land laws, etc. Hotel insurance policies, especially the customized ones can fulfil the growing needs of the hotel industry. It can cover all its establishments ranging from spa to guest houses and apartments, bed and breakfasts, etc. Other insurance policies such as the standard insurance policy would cover risks and damages arising from accidents, fire, natural calamity, etc.

- **The operation, management, and maintenance of Hotel Industry**

The second head of laws that govern the working of hotel industry is related to matters such as management, maintenance and the operational activities of hotels. Such laws include insurance laws, laws regarding safety and security of workers, food and hygiene standards, obtaining licenses, Food and Drug Administration Act, Shops and Establishment Act, etc. For example, Acts such as the Food Adulteration Act would prohibit the sale of substandard food items thereby protecting the customers from the potential harm caused by poisonous food and protecting their interest by eliminating the fraudulent practices. The Food Safety and Standards Act would set up criteria for manufacture, storage, distribution and sale and trade of food substances so that they remain fit for human consumption for a considerable period. The Legal Metrology Act would regulate the use of standards of weights and measures. The Copyright Act

would protect the rights relating to expression in the form of literature, drama, music, art or architectural works. In fact, hotels are required to take such copyright licenses before they organize any event such as plays or musical shows, etc.

- **Taxation, Employment, and Contracts in the Hotel Industry**

The third set of laws that govern the working of a hotel are related to the contracts that it enters into with other enterprises or employment contracts, for example, the Apprentice Act, Employees State Insurance Act, etc. These laws also include the manner in which such entities are taxed. Taxes may include income tax, service tax, expenditure tax, excise duty, luxury tax, entertainment tax, value-added tax, etc. Legislations such as the Shops and Establishment Act or the Employees State Insurance Act would aim at regulating the relationship between employers and employees in the hotel. The former would lay certain statutory obligations on the employers in matters related to wages, work hours, holidays, paid leaves, provision for payment for overtime work, etc. The latter is a social security scheme that would mandate the employers to protect the interest of the workers in times of contingencies such as sickness, maternity leaves, physical impairment or injuries occurring from the workplace, subsequent medical care. The Provident Fund Act mandates the creation of provident fund schemes for the employees. The Apprentices Act shall govern the working of apprentices in the Hotel Industry.

- **Other laws governing Hotel Industry**

Other laws that may govern the working of hotels may include local law norms or other local land norms or guidelines issued by the tourism industry such as approval of hotels at project stage and classification & reclassification of hotels, guidelines for classification of heritage hotels, Time Share Resorts (TSR), Stand-Alone Restaurants, guidelines for apartment hotels, guidelines for approval of guest houses, Hospitality Development and Promotion Board, implementing a transparent system for the effective monitoring of hotel projects, ensuring timely accrual of approvals / clearances / NOCs by the multiple agencies and facilitating the implementation of hotel projects, expeditious clearances, etc. will enable completion of hotel projects in time leading to enhancement of room availability for the tourists.

Hospitality Organization

Hotel & Restaurant Approval & Classification Committee (HRACC)

The Hotel and Restaurant Approval & Classification Committee inspects and assesses the hotels based on the kind of facilities that they provide. The two categories of hotels that they inspect are first, hotel projects that are approved at the implementation stage and secondly, the operational hotels which are classified into various categories. About the former, the Ministry of Tourism after certain documentation provides project approvals that shall remain valid for five years. Once the hotel reaches its operative stage, the approval ceases to exist within three months. The respective hotel must apply for the classification during these three months. Once the classification is obtained, it becomes valid for 5 years.

Federation of Hotel and Restaurant Association of India (FHRAI)

The Federation of Hotel and Restaurant Associations of India (FHRAI) formed in 1954, was incorporated as a company under the Indian companies act on 7th December, 1955. The federation was formed by the four regional associations functioning in the country viz. Hotel and Restaurant Association of Eastern India, Calcutta Hotel and Restaurant Association of Northern India, New Delhi; Hotel and Restaurant Association Western, Bombay and the South India Hotel & Restaurant Association, Madras. secure redressal of grievances of the industry. The business of the federation is managed by an executive committee comprising 24 members, 6 from each region. The federation secretariat is functioning from New Delhi with Secretary General, Joint Secretary, Deputy Secretary and other staff.

Principal Objective of FHRAI

- Unite the four Regional Association in a representative national organization,
- Create a national fraternity of the hotel and restaurant establishment located all over India a consider and take decisions on all questions of interest to the hotel and restaurant industry,
- Act as an information centre and disseminate statistical and other information concerning the hotel and restaurant industry and advise its members on matters of importance to them,
- Promote and market the hospitality industry of India, especially hotels and restaurants, in the national and international market,
- Coordinate and liaise with the ministry/department of tourism and other concerned departments/agencies of the central and state government to achieve accelerated growth of the hotel and restaurant industry by securing suitable incentives for this industry and consider all questions connected with the hotel and restaurant industry and, as far as possible,
- The federation is a member of the International Hotel Association. The federation has emerged in a new role of a far more active and dynamic participant in the all out efforts of Govt., both central and state, to accelerate the development of tourism in the country in general and the hotel and restaurant industry in particular so as to fully exploit its increasing foreign exchange earning and employment generating potential.
- It is well known that hotels and restaurants constitute the major segment of tourism industry in the country and the success of any tourism promotion programme and plans depend on the availability of this basic infrastructure. According to an old adage “if there is no hotel, there

cannot be any tourism. “Though this may be disputed by some, but no doubt tourists do need a place to stay.

International Hotel and Restaurant Association (IH&RA)

Founded in 1859 in Koblenz (Germany), the IH&RA is the only business organisation representing the hospitality industry worldwide. Its members are national hotel and restaurant associations throughout the world, and international and national hotel and restaurant chains representing some 50 brands. Officially recognised by the United Nations, IH&RA monitors and lobbies all international agencies on behalf of this industry, estimated to comprise 300,000 hotels and 8 million restaurants, employ 60 million people and contribute 950 billion USD annually to the global economy.

It's Members:

- International, National and Regional Hotel and/or Restaurant Associations
- International and National Hotel and/or Restaurant Chains
- Owners, Developers and Investors
- Individual Hotels and Restaurants
- Institutions of the Industry (hotel schools, educational centres, universities)
- Students / Independent Hoteliers and Restaurateurs.

Main Functions of IH&RA:

- Monitor issues that are raised by major international organizations involved in tourism.
- Represent the collective industry interests before policy makers.
- Lobby for better recognition of the hospitality industry worldwide.
- Lobby against damaging or costly attempts to regulate the industry.

- Create Global Councils around industry issues to debate positions & create solutions.
- Listen to its members to ensure that all issues are addressed.
- Plan a series of informative Council and Board meetings and an annual Congress.
- Provide support where requested to lend weight to local and regional issue.