

## **Module 2**

### **Laws Relating to Hotel Operations**

For establishing a hotel or restaurant, certain licenses have been made mandatory by the nodal authority at the Centre that is the Ministry of Tourism and Development and by various other acts- Temporary License for Awnings & covering of Terrace during monsoon, Building Completion Certificate, Copyright License for Playing of Music, Lodging House License, Approval from the Department of Tourism, Government of India, 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, etc.

#### **Apart from the above- mentioned committee, there are various other legislation required for Hotel Operations**

- Prevention of Food Adulteration Act, to protect customers from intake of poisonous or harmful food.
- The Air (Prevention and Control of Pollution) Act, 1981 to curb measures which lead to air pollution.
- The Water (Prevention and Control of Pollution) Act, 1974, for prevention and control of water pollution by hotels.
- GST
- Income Tax Act, 1961, which makes the hotels and restaurants liable to pay VAT, Service Tax, Entertainment Tax, CENVAT, Expenditure Tax, Luxury Tax etc.
- Hotel Insurance Policies and other local laws.

The leading brands of hotels in India, that are indigenous include The Taj Group, Mahindra Group, Oberoi Hotels, The Leela Group, ITC Hotels, etc. The foreign leaders are- JW Marriott Chain of Hotels, Ritz Carlton, The Hyatt Regency, Hilton Group, Radisson Group etc.

**Rights & Responsibilities of Hotel Guest with regard to Provision of Accommodation, Food & Beverage Service and their Security**

1. Federal law prohibiting discrimination on the basis of race, religion, ethnicity, etc. apply to hotels that are available to the general public and most states have enacted similar laws as a matter of course.
2. Generally, an innkeeper (Hotel Staff) is under a duty to receive all persons who offer themselves as guests. The relation of innkeeper and guest is a mutual contractual one, and the existence of intention by both parties is an essential element.
3. A guest is a transient person who resorts to and is received at an inn for the purpose of obtaining the accommodation which it proposes to afford. But it is essential that a party must be a transient and if s/he is transient s/he may become a guest. It is laid down as one of the distinctive features of the relation that a guest is received under an implied contract.
4. If one holds himself/herself out to the public as an innkeeper, and is accustomed to receive all who apply and a transient goes to the house to procure accommodation and receives entertainment, the relationship is created. A guest may be accepted at a hotel, without registration, by the mere delivery to him/her of the key to a room by the clerk. It is not mandatory that a guest must sign a hotel register as the evidence of the contract between the parties. Such contracts are mere matters of oral consent, and are legal without further formality.
5. It is to be noted that, if a person is wrongfully ejected from a restaurant, then s/he is entitled to recover damages for injury to his/her feelings as a result of the humiliation. However, provided that the laws against discrimination are not violated, an innkeeper is not under obligation to receive as a guest everyone who applies. S/he has the right to reject or expel persons whom s/he reasonably deems objectionable. A person becomes a guest only if s/he is received to be treated as a guest and the intention to become such must be communicated to the innkeeper or his/her agent.
6. a mere guest of the registered occupant of a room at a hotel, who shares such room with its occupant without the knowledge or consent of the hotel management, will not be treated as a guest of the hotel. It is to be noted that the rights of hotel guests are not assignable or transferable. Therefore, if a registered guest, without permission from anyone representing the hotel, transferred a room to another person, that person will not have any right to its possession.

7. an innkeeper, under the common law doctrine of *infra hospitium*, is strictly liable for loss or damage to a guest's property unless the property is lost or destroyed by an act of God, public enemy, or by the fault of the guest, or from some irresistible force other than the act of God or from an inevitable accident without fault by the innkeeper.
8. Some jurisdictions allow the innkeeper to exonerate by showing that the loss or injury was not attributable to any fault of the innkeeper or an employee or agent. Innkeepers shall also be liable for the injury caused by the defective condition of the inn premises.
9. Public policy requires an innkeeper to be insurer of the property of his or her guests. An illegal act of the guest during the loss of or injury to his/her property shall not relieve the innkeeper of liability when the conduct is not the proximate cause of the loss. However, a person going to a hotel for an unlawful purpose shall not become a guest and therefore not entitled to a protection.
10. An innkeeper owes a duty of providing security for the innkeeper's guests and their baggage, and is liable if that duty is breached by the negligence of the innkeeper or the innkeeper's employees.

### **Innkeeper (Hotel Staff) rights to lien**

1. At common law, an innkeeper entitled to a lien was one who held out his/her place as one for the entertainment of all respectable transient persons who chose to come to him. However, the statutory lien is not confined to transients, although the word hotel is substantially restricted to the common-law definition of an inn.
2. A hotel keeper has a lien upon the baggage of any guest which may be in his/her hotel. But, to entitle a person to assert an innkeeper's lien, s/he must receive property as the goods of a guest.
3. Baggage includes all property which is in any hotel belonging to or under the control of any guest. The lien is upon baggage of any guest which may be in the hotel. It is the property of the guest, or under his/her control in the hotel, and not other property of the guest not located on the premises.
4. The hotel keeper may take and retain possession of all baggage and may enforce his/her claim by an ordinary legal action. The baggage is subject to attachment and execution for the

reasonable charges of the hotel keeper against the guest, and for the costs of enforcing the lien thereon.

5. If the hotel keeper does not proceed by an ordinary legal action s/he can retain the baggage upon which s/he has a lien for a specified period, at the expiration of which time, if such lien is not satisfied, s/he may sell such baggage.
6. The lien of an innkeeper extends to all the property brought by the guest to the inn and received by the innkeeper. The lien extends to all baggage and wearing apparel, furniture, and other personal property brought within the protection of the innkeeper.
7. Under some jurisdictions lien rights on baggage and effects kept at a lodging house arise only when a special agreement has been made between the keeper of any lodging house and any person lodging at such house, regarding the price of such lodging. And here it must be stressed that there is a substantial difference between a lodger and a tenant. The distinction between a lodger and a tenant is that the goods of the lodger are subject to a lien for unpaid rent, while those of a tenant are not.
8. The courts determined that this prejudgment taking is valid under Constitutional law. The enforcement of lien rights is not contrary to public policy. A statute providing for a lien to secure payment for services rendered does not violate substantive due process.
9. The lien in favor of a boarding-house keeper consists in his/her right to retain possession of the chattels in opposition to the title of the guest until the charge respecting them is paid. The detention of the property of the guest by the boarding-house keeper is necessary to hold the lien, and if the latter parts with his/her possession of it, the lien is lost, and s/he cannot afterwards retake the property.
10. The law gives to any innkeeper a lien whether the goods are the property of the traveler or the property of third parties from whom it has been hired or even fraudulently taken or stolen, if the innkeeper is bona fide, e.g. has no notice of the wrong and acts honestly.