



MONTSERRAT

## CHAPTER 17.13

# HOTELS TAX ACT

### Revised Edition

showing the law as at 1 January 2019

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

This edition contains a consolidation of the following laws—

### HOTELS TAX ACT

Act 26 of 1965 .. in force 1 January 1966 (S.R.O. 22/1965)

Amended by Acts: 7 of 1966

6 of 1977

14 of 1979

4 of 2003

9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

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**CHAPTER 17.13**

**HOTELS TAX ACT**

**ARRANGEMENT OF SECTIONS**

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## CHAPTER 17.13

### HOTELS TAX ACT

*(Acts 26 of 1965, 7 of 1966, 6 of 1977, 14 of 1979, 4 of 2003, 9 of 2011, 9 of 2017 and S.R.O.s 19/1977, 33/1979 and 52/1993)*

#### Commencement

*[1 January 1966]*

#### Short title

1. This Act may be cited as the Hotels Tax Act.

#### Interpretation

2. In this Act unless the context otherwise requires—

“**Comptroller**” means a person appointed as Comptroller of Inland Revenue under section 84 of the Constitution of Montserrat and section 41 of the Income and Corporation Tax Act; *(Inserted by Act 9 of 2017)*

“**guest**” means any person over fourteen years of age residing in a hotel or guest-house in consideration of the payment of the sum of money for such residence, but shall not include a guest who is a permanent resident;

“**guest house**” means a hotel containing more than three but less than six bedrooms, and includes any dwelling house or other similar establishment owned by a person not domiciled or ordinarily resident in Montserrat or any other establishment used or operated as a guest-house or boarding-house where guests receive lodging or boarding for reward; *(Substituted by Act 6 of 1977)*

“**hotel**” means any building or group of buildings within Montserrat (including all structures within the curtilage thereof) which are occupied together for the purpose of accommodating guests therein, and which contains, or is intended to contain when completed, not less than six bedrooms;

“**Inspector**” means an Inspector of Hotels appointed under section 7;

“**Montserrat Customs and Revenue Services**” means the division of the Ministry of Finance established under the Montserrat Customs and Revenue Services (Enabling) Act; *(Inserted by Act 9 of 2017)*

“**night**” means the interval between 8 p.m. of any day and 5 a.m. of the next succeeding day; *(Inserted by Act 14 of 1979)*

“**other rented accommodation**” means a residential property which in whole or in part is leased or let to a tenant or which a licensee is licensed to occupy for reward; and for the purposes of section 5(4) of this Act a person shall be deemed to begin to use premises as other rented

accommodation when he takes any step which is intended to lead to the leasing or letting or the licensing of occupation thereof; (*Inserted by Act 14 of 1979*)

**“permanent resident”** means—

- (a) a person who during the period of twelve months immediately preceding the date of coming into operation of this Act, has been a guest in a hotel or guest-house or partly in a hotel and partly in a guest-house for a period of at least sixty consecutive days;
- (b) a person who, during any period of twelve months commencing on the first day of January in any year after the date of coming into operation of this Act, has been a guest in a hotel or guest-house, or partly in a hotel and partly in a guest-house for at least sixty consecutive days during such period of twelve months;

**“proprietor”** means the owner of a hotel or guest-house or any person on whose behalf guests are admitted to a hotel or guest-house; and where a proprietor is absent from Montserrat, or is a body corporate, includes the person for the time being responsible for the management of the hotel or guest-house, as the case may be;

**“tenant”** includes a licensee licensed to occupy other rented accommodation, and **“tenancy”** and **“renting”** shall be construed accordingly. (*Inserted by Act 14 of 1979*)

### Imposition of tax

**3. (1)** A tax to be called hotel tax shall be charged and collected, subject to and in accordance with the provisions of this Act, in respect of each guest accommodated in a hotel or guest house and each tenant renting other rented accommodation. (*Substituted by Act 14 of 1979*)

**(2)** The proprietor of every hotel or guest-house shall account for the tax charged by this Act in such manner as the Comptroller may from time to time direct. Such tax shall be payable by the proprietor accountable for the same, and shall be paid into the general revenue on such day in each month as the Comptroller may from time to time direct.

**(3)** Directions given by the Comptroller in accordance with the provisions of subsection (2) shall be in writing under his hand, and shall be served on the proprietor of every hotel or guest-house, as the case may be.

**(4)** Any proprietor who wilfully omits or neglects to account for the tax in the manner directed by the Comptroller, or any person who makes any false entry in accounting for the tax imposed by this Act with intent to evade payment by himself, or by any other person, of the said tax, shall be liable on summary conviction to a fine of \$1,000 or to imprisonment for a term of one year. (*Amended by Acts 14 of 1979, 4 of 2003 and 9 of 2017*)



### Rate of tax

4. (1) The amount of tax to be charged and collected under the provisions of this Act shall be in accordance with the rates set out in the First Schedule hereto.

(2) The Governor acting on the advice of Cabinet may by Order vary the rates set out in the First Schedule. (*Amended by Act 9 of 2011*)

(3) An Order varying the First Schedule shall lapse and cease to have effect on the expiry of ninety days beginning with the day on which it is made, unless before such expiry it has been approved by Resolution of the Legislative Assembly, without prejudice however to the validity of anything done under such Order or to the making of a new Order. (*Amended by Act 9 of 2011*)

(4) In reckoning the period of ninety days for the purposes of subsection (3) no account shall be taken of any time during which the Legislative Assembly is dissolved. (*Amended by Act 9 of 2011*)

(5) Unless it is therein otherwise provided any Order made under this section shall take effect on the date when such Order is made.

(*Substituted by Act 14 of 1979*)

### Proprietors to supply certain information

5. (1) The Comptroller may at any time by notice published in the *Gazette* require all or any proprietors in Montserrat to furnish him, in writing, by a date to be specified in such notice (which date shall not be less than seven days after the date of publication of such notice), with the following information in relation to their hotels and guest-houses—

(a) the name and address thereof;

(b) the maximum number of guests that may be accommodated therein during the night; and

(c) the name of the person responsible for the management thereof.

(2) Every notice published in accordance with subsection (1) shall also be published in a newspaper (if any) published in Montserrat.

(3) Every proprietor shall without delay furnish to the Comptroller in writing such information with respect to the ownership and management of his hotel or guest-house as the Comptroller may from time to time require.

(4) Any person who begins to use, or ceases to use, any premises for the purposes of conducting a hotel or guest-house therein shall forthwith notify the Comptroller in writing of the fact; and where any person begins to use any premises aforesaid he shall forthwith furnish the Comptroller with the information required to be furnished under the provisions of subsection (1).

(5) The proprietor of every hotel or guest-house shall forthwith notify the Comptroller in writing of—

(a) any change which occurs in the name or address thereof;

- (b) any change in the maximum number of guests that can be accommodated therein during the night; and
- (c) any other change in the management or ownership thereof which would affect the accuracy of any information already supplied in accordance with the foregoing provisions of this section.

(6) Any person who fails to furnish the Comptroller with any information required to be supplied in accordance with the foregoing provisions of this section, or otherwise fails to comply with the foregoing provisions of this section, shall be liable on summary conviction to a fine of \$250 or to imprisonment for a term of three months. *(Amended by Act 9 of 2017)*

### Register of guests

6. (1) Every proprietor shall keep, or cause to be kept, a register of guests (hereinafter referred to as “**the register**”) which shall be made of such durable material and shall be in such form as the Comptroller may from time to time approve; the approval of the Comptroller shall be signified by writing under his hand and affixed to the register.

(2) The register shall contain—

- (a) the names, permanent address, and qualification (or occupation) of each guest;
- (b) the date and time of admission of each guest;
- (c) the date and time when any person ceases to be a guest; and
- (d) such other particulars as the Comptroller may from time to time require.

(3) Every proprietor, or the person for the time being appointed by the proprietor for the purpose of keeping the register, shall require each guest to sign the register in the appropriate column—

- (a) at the time of his admission as a guest; and
- (b) immediately before he ceases to be a guest.

(4) Every guest shall sign the register in accordance with the provisions of subsection (3) unless he is unable to sign his name, in which event the proprietor shall make an entry to that effect in the register.

(5) Any person who fails to comply with the foregoing provisions of this section, or wilfully makes any false entry in a register, with intent to evade payment by himself or by any other person of the tax imposed by this Act, shall be liable on summary conviction to a fine of \$750 or to imprisonment for a term of three months.

*(Amended by Acts 4 of 2003 and 9 of 2017)*

### **Appointment and duty of inspectors of hotels**

7. (1) The Comptroller may, in his discretion, appoint one or more officers of the Montserrat Customs and Revenue Services to inspect hotels and guest-houses in Montserrat and every such officer shall be known as an Inspector of Hotels.

(2) It shall be the duty of every Inspector to visit such hotels and guest-houses in Montserrat as the Comptroller may direct, for the purpose of examining the registers thereof and ascertaining the number of guests from time to time resident therein.

(3) Every Inspector shall at least once in each month, and at such other times as the Comptroller may direct, make a report to the Comptroller on all hotels and guest-houses visited by him, and such reports shall be in such form and contain such particulars as the Comptroller may require.

*(Amended by Act 9 of 2017)*

### **Powers of the inspectors and Comptroller**

8. (1) An Inspector may at any reasonable time of the day or night enter upon the premises of any hotel or guest-house for the purpose of examining the register thereof, and may require the proprietor to produce the register for his examination. An Inspector may remain on such premises as long as may be necessary for the purpose of ascertaining the number of guests residing therein.

(2) An Inspector, upon the production of his certificate of appointment to any person in a hotel or guest-house whom he has reasonable cause to suspect to be a guest therein, may require such person to give him his name and address; and any such person who wilfully omits or refuses to give the Inspector his correct name and address shall be liable on summary conviction to a fine of \$500 or to imprisonment for a term of six months. *(Amended by Act 4 of 2003)*

(3) If an Inspector, when requested by a proprietor to produce his certificate of appointment in accordance with the provisions of section 7 fails to do so, the proprietor may refuse to permit him to remain on his premises, or to examine his register.

(4) Subject to the provisions of subsection (3), any proprietor who fails to produce his register for examination when required to do so by an Inspector shall be liable on summary conviction to a fine of \$100, and any person who wilfully hinders or obstructs an inspector in the performance of his duties shall be liable on summary conviction to a fine of \$750 or to imprisonment for a term of three months. *(Amended by Act 4 of 2003)*

(5) The Comptroller may at all reasonable hours in the daytime enter upon the premises of any hotel or guest-house for the purpose of examining the register thereof, and may require the proprietor thereof to produce the register for his examination; and any proprietor who fails to produce his register to the Comptroller for examination, or any person who wilfully hinders or obstructs the Comptroller in the performance of his duty shall be liable on summary

conviction to a fine of \$900 or to imprisonment for a term of four months.  
(Amended by Act 9 of 2017)

### **Additional charge on overdue tax**

9. When any tax imposed by this Act, or any part thereof, remains unpaid, at the expiration of the fifth day after the date on which it should have been paid into general revenue, the proprietor liable to pay the same, shall be charged an additional sum equivalent to ten per centum of the amount of the tax so remaining unpaid, and such sum shall be collectable in the same manner as if it were part of the said tax then due and owing.

### **Charge and collection of tax**

10. (1) Any such tax due and owing under the provisions of this Act shall be a first charge on the goods and chattels of the proprietor accountable for the same, and shall take priority over any other charge or debt due by speciality or otherwise, except debts due to the Crown; and such tax shall be levied and collected by the seizure and sale of the goods and chattels of the proprietor accountable for the same.

(2) The Comptroller may at any time prepare, date and sign a list (hereinafter called a defaulters list) which shall be in the form set out in the Second Schedule to this Act and shall contain—

- (a) the name and address of the proprietors by whom such tax is due and owing; and the name of the hotels and guest-houses of such proprietors;
- (b) the amount of tax due and owing by each proprietor, together with any additional amount that may have been charged thereon, and shall deliver the same to the Bailiff for collection of the respective amounts specified therein.

*(Amended by Act 9 of 2017)*

(3) As soon as may be after the Bailiff has received a defaulters list he shall proceed to levy and collect the several amounts shown therein in the manner prescribed in subsection (1).

### **Sale of goods and chattels seized**

11. (1) Where any goods and chattels have been seized as aforesaid, they shall be marked, and deposited in some place, or left in the possession of some fit person as the Bailiff shall direct.

(2) If the tax in respect of which the levy was made and all expenses incidental to such levy are not sooner paid, all goods and chattels seized as aforesaid shall be sold at public auction, at such place and during such hours as the Bailiff shall determine:

Provided that, no such sale shall take place within five days of the seizure of such goods and chattels, unless the same are in the opinion of the

Bailiff of a perishable nature, or the owner of such goods and chattels has requested their earlier sale.

(3) The date, time and place of sale of all goods and chattels seized under the provisions of this Act shall be advertised prior to the date of sale thereof in at least one issue of the *Gazette* and in a newspaper (if any) published in Montserrat, unless such goods and chattels are being sold by the Bailiff before the expiry of the period of five days referred to in subsection (2).

(4) The proceeds of sale of such goods and chattels shall be applied first towards the payment of the expenses incidental to their seizure and sale and the payment of the tax in respect of which they were seized, and the balance, if any, of the proceeds of such sale shall be paid to the proprietor from whom the said goods and chattels were seized, upon application being made for the same.

(5) The Bailiff shall forward to the Comptroller at least once in every three months a return of all taxes collected by him under the provisions of this Act, and shall pay all such taxes into the general revenue as soon as may be after the collection thereof. (*Amended by Act 9 of 2017*)

### Proof of entries in registers

12. A copy of, or extract from, entries in a register, upon which is endorsed a certificate purporting to be signed by the Comptroller, stating that such copy or extract is a true copy or extract from a particular register shall in all legal proceedings be admitted as *prima facie* evidence of the entries in the said register until the contrary is proved. (*Amended by Act 9 of 2017*)

### Governor may refund or remit tax

13. The Governor, if satisfied that it is just and equitable to do so, may refund or remit, as the case may be, the whole or any part of the tax paid or payable under the provisions of this Act, together with any additional charge imposed thereon and any expenses of levy incurred in connection with the collection of such tax.

### Application to other rented accommodation

14. (1) This Act shall apply to other rented accommodation as it applies to guest houses, but subject to the modifications contained in this section.

(2) Except in sections 2, 5(1)(b) and 5(5)(b) every reference to a guest shall include a reference to a tenant of other rented accommodation. In sections 5(1)(b) and 5(5)(b) every reference to “**a guest**” shall include a reference to “**a person**” who can be accommodated in other rented accommodation. The definitions of “**guest**” and “**guest house**” in section 2, and the provision of sections 7 and 8, shall not apply in relation to other rented accommodation. Except in section 2 every reference to a guest house shall include a reference to other rented accommodation.

(3) Every reference to a proprietor shall include a reference to a landlord or lessor or licensor of other rented accommodation.

(4) In sections 6(2)(b), 6(2)(c), 6(3)(a) and 6(3)(b) references to the date and time of admission or cessation of being a guest shall include references to the beginning and end of a tenancy, and in addition to the requirements of the above mentioned paragraphs the proprietor shall enter in the register and require the tenant to complete a registration card stating the rent payable under the tenancy. (*Inserted by Act 14 of 1979*)

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**FIRST SCHEDULE**

*(Section 4)*

**RATE OF TAX**

For each guest residing in a hotel	10% on the charge for accommodation
For each guest residing in villas and guest houses	7% on the total gross rent payable in respect of each tenancy
For each tenant renting other rented accommodation	7% of the total gross rent payable in respect of each tenancy.

**SECOND SCHEDULE**

*(Section 10(2))*

**DEFAULTERS LIST**

No. .... of 20.....

Date: .....

Name and address of Proprietor in default	Hotels and Guest-houses operated by proprietor	Amount of tax due and owing	Accounting period in respect of which tax is due and owing	Additional charge of 10% (if any)	Total amount to be levied

.....  
COMPTROLLER

*(Amended by Act 9 of 2017)*

