

Hotel Business Act

(Act No. 138 of July 12, 1948)

Article 1 The purpose of this Act is to achieve sound development in the hotel business and facilitate the provision of services to meet the increasingly sophisticated and diverse demands of users in the hotel industry by such means as ensuring the appropriate management of services in the hotel business, and to thereby contribute to improving public health and the lives of the people.

Article 2 (1) The term "hotel business" as used in this Act means the business of operating an inn or hotel, the business of operating a common lodging house, or the business of operating a boarding house.

(2) The term "the business of operating an inn or hotel" as used in this Act means the business of running a facility, receiving lodging fees, and allowing people to lodge there, other than the business of operating a common lodging house or the business of operating a boarding house.

(3) The term "the business of operating a common lodging house" as used in this Act means the business of running a facility mainly consisting of communal lodging spaces and equipment or furnishings shared by many people, receiving lodging fees, and allowing people to lodge there, other than the business of operating a boarding house.

(4) The term "the business of operating a boarding house" as used in this Act means the business of running a facility, receiving lodging fees in increments of at least one month, and allowing people to lodge there.

(5) The term "to lodge" as used in this Act means to make use of bedding when using a facility as referred to in one of the preceding paragraphs.

Article 3 (1) A person seeking to run a hotel business must be licensed by the prefectural governor (or by the mayor of the city, in a city with a health center; or by the mayor of the ward, in a special ward; the same applies hereinafter except for in paragraph (4)); provided, however, that this does not apply if a person licensed for the business of operating an inn or hotel or the business of operating a common lodging house seeks to be in the business of operating a boarding house within the relevant facility.

(2) When a person has applied for licensing as referred to in the preceding paragraph, it is permissible for the prefectural governor not to grant the licensing referred to in that paragraph on finding that the structure, equipment, or furnishings of the facility to which the application pertains do

not conform to the standards that Cabinet Order prescribes, on finding that the location of the facility is inappropriate from a public health standpoint, or if the applicant falls under one of the following items:

- (i) an adult ward or person under curatorship;
 - (ii) a person subject to an order commencing bankruptcy proceedings that has not been discharged from bankruptcy;
 - (iii) a person that has been sentenced to imprisonment without work or a heavier punishment, or that has been sentenced to a fine or lighter punishment for violating this Act or a disposition based on this Act, if three years have not yet passed since the day on which the person finished serving the sentence or ceased to be subject to its execution;
 - (iv) a person whose license has been rescinded pursuant to the provisions of Article 8, if three years have not yet passed since the day of the rescission;
 - (v) a member of an organized crime group as prescribed in Article 2, item (vi) of the Act on Prevention of Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991) or a person who ceased to be the member of an organized crime group as prescribed in that item on a day that is not yet five years in the past (referred to as a "current or former member of an organized crime group" in item (viii));
 - (vi) a minor who does not have the same legal capacity to act as an adult with respect to business, and whose statutory agent (if the statutory agent is a corporation, this includes any officer of the statutory agent) falls under one of the preceding items;
 - (vii) a corporation that has a person falling under one of items (i) through (v) among the officers engaged in its operations;
 - (viii) a person whose business activities are controlled by a current or former member of an organized crime group.
- (3) The preceding paragraph also applies if the facility to which a licensing application as referred to in paragraph (1) pertains would be located within roughly 100 meters of the grounds of one of the following institutions (this includes land that it has been decided will be used for such an institution; the same applies hereinafter) and the prefectural governor finds that locating the facility there would risk significantly marring the innocent institutional environment of the relevant institution:
- (i) a school as prescribed in Article 1 of the School Education Act (Act No. 26 of 1947) (other than a university; such a school is referred to as an "Article 1 school" in the following paragraph) or a certified pre-school/daycare center as prescribed in Article 2, paragraph (7) of the Act on Facilitating the Comprehensive Provision of Education and Child Care to Children Not Yet of School Age (Act No. 77 of 2006) (hereinafter referred to as a "certified pre-school/daycare center" in this Article);

- (ii) a child welfare institution as prescribed in Article 7, paragraph (1) of the Child Welfare Act (Act No. 164 of 1947) (other than a certified pre-school/daycare center; hereinafter referred to simply as a "child welfare institution");
 - (iii) an institution that is connected with the social education prescribed in Article 2 of the Social Education Act (Act No. 207 of 1949) or any other institution provided for by prefectural ordinance (or by city ordinance, in a city with a health center; or by ward ordinance, in a special ward; the same applies hereinafter) as being similar to an institution as set forth in the preceding two items.
- (4) Before granting licensing as referred to in paragraph (1) in connection with a facility that would be located within roughly 100 meters of the grounds of an institution as set forth in one of the items of the preceding paragraph, the prefectural governor (or the mayor of the city, in a city with a health center; or the mayor of the ward, in a special ward) must first seek the opinion of the relevant person as to whether locating the facility there would risk significantly marring the innocent institutional environment of the institution set forth in one of the items of the preceding paragraph; if the institution in question is a school (meaning an Article 1 school or certified pre-school/daycare center; hereinafter the same applies in this paragraph) and that school is a national school (meaning a school run by the national government (including a national university corporation as prescribed in Article 2, paragraph (1) of the National University Corporation Act (Act No. 112 of 2003); hereinafter the same applies in this paragraph)) affiliated with a university or is run by an incorporated municipal university as prescribed in Article 68, paragraph (1) of the Local Incorporated Administrative Agencies Act (Act No. 118 of 2003) (hereinafter referred to as an "incorporated municipal university" in this paragraph), this means seeking the opinion of the president of the relevant university; if the school is a college of technology, this means seeking the opinion of its principal; if the school is a public school other than a college of technology, this means seeking the opinion of the board of education of the local government running the school (or of the head of the local government, if it is a certified pre-school/daycare center); if the school is a private school other than a college of technology or certified pre-school/daycare center, this means seeking the opinion of its administering agency as provided in the School Education Act; and if the school is a certified pre-school/daycare center run by a person other than the national or local government (including by an incorporated municipal university), this means seeking the opinion of the prefectural governor (in a designated city as referred to in Article 252-19, paragraph (1) of the Local Autonomy Act (Act No. 67 of 1947) (hereinafter referred to as "designated city" in this paragraph) this means seeking the

opinion of the mayor of the designated city; and in a core city as referred to in Article 252-22, paragraph (1) of that Act (hereinafter referred to as a "core city" in this paragraph), this means seeking the opinion of the mayor of the core city); if the institution in question is a child welfare institution, this means seeking the opinion of the administrative authority prescribed in Article 46 of the Child Welfare Act; and if the institution in question is one that is provided for by prefectural ordinance pursuant to the provisions of item (iii) of the preceding paragraph, this means seeking the opinion of the person provided for in the relevant ordinance.

- (5) If not granting the licensing referred to in paragraph (1) pursuant to the provisions of paragraph (2) or (3), the prefectural governor must notify the applicant of this through a document that gives the reason therefor.
- (6) It is permissible to attach the conditions that are necessary from a public health standpoint or from the perspective of upholding public policy to the licensing referred to in paragraph (1).

Article 3-2 (1) If a corporation that constitutes a person licensed as referred to in paragraph (1) of the preceding Article to run a hotel business (hereinafter referred to as a "hotelier") undergoes a merger (other than a merger between a corporation constituting a hotelier and a corporation not constituting a hotelier which the corporation constituting a hotelier survives) or a corporate split (but only one in which it has another person succeed to its hotel business), and the merger or split has been approved by the prefectural governor, the corporation surviving the merger, the corporation incorporated in the merger, or the corporation succeeding to the hotel business in the split succeeds to the status of hotelier.

- (2) The provisions of paragraph (2) of the preceding Article (limited to parts relating to the applicant) and paragraph (3) through paragraph (6) of that Article apply mutatis mutandis to the approval referred to in the preceding paragraph. In such a case, the term "the applicant" in paragraph (2) of that Article is deemed to be replaced with "the corporation surviving the merger, the corporation incorporated in the merger, or the corporation succeeding to the hotel business in the split".

Article 3-3 (1) If a hotelier has died and the heir (or the person selected at the unanimous consent of all heirs as the heir that will succeed to the hotel business, if there are two or more heirs; the same applies hereinafter) seeks to continue to run the hotel business that the decedent ran, the heir must apply to the prefectural governor within sixty days of the decedent's death and obtain the approval of the prefectural governor.

- (2) If an heir applies for the approval referred to in the preceding paragraph, the

Article 3, paragraph (1) licensing of the decedent is deemed to be conferred on the heir from the day of the decedent's death until either the day the heir is approved or the day the heir is notified that approval will not be granted.

(3) The provisions of Article 3, paragraph (2) (limited to the part relating to the applicant) and paragraphs (3) through (6) of that Article apply *mutatis mutandis* to the approval referred to in paragraph (1).

(4) An heir who has obtained the approval referred to in paragraph (1) succeeds to the status that the decedent held as a hotelier.

Article 3-4 In view of the importance of the role of the hotel business in the lives of the people, hoteliers must endeavor to maintain and improve safety and sanitation standards in hotel business facilities and lodging-related services, as well as endeavoring to improve the condition of hotel business facilities and enhance lodging-related services so that they are able to meet the increasingly sophisticated and diverse demands of users in the hotel industry.

Article 4 (1) A hotelier must take the necessary measures for the ventilation, natural lighting, artificial lighting, dampness prevention, and cleanliness of its hotel business facilities and take other necessary measures for the health of persons lodging there.

(2) Prefectures prescribe the standards for the measures referred to in the preceding paragraph by Prefectural Ordinance.

(3) Beyond the things that are prescribed in paragraph (1), a hotelier must comply with the standards that Cabinet Order prescribes regarding allowing persons to use hotel business facilities.

Article 5 A hotelier must not deny a person lodging except in a case falling under one of the following items:

(i) it is evident that the person seeking lodging has an infectious disease;

(ii) it appears likely that the person seeking lodging would gamble or engage in other unlawful activities, or would take part in activities injurious to public morals;

(iii) a hotelier is not in a position to accommodate the person in its lodging facilities, or there are other grounds that the prefecture prescribes by ordinance.

Article 6 (1) Pursuant to Order of the Ministry of Health, Labour and Welfare, a hotelier must keep a register of lodgers in the hotel business facilities or in any other place that Order of the Ministry of Health, Labour and Welfare prescribes, giving the names, addresses, and occupations of the lodgers and other information that Order of the Ministry of Health, Labour and Welfare

prescribes, and must submit this register if required to do so by the prefectural governor.

- (2) A lodger must give the information prescribed in the preceding paragraph if requested to do so by a hotelier.

Article 7 (1) To the extent necessary for bringing this Act into effect, a prefectural governor may ask a hotelier or any other relevant person to file the necessary reports, and may have the relevant officials enter a hotel business facility to inspect its structure, equipment, furnishings, or documents concerning them, or to question the relevant persons.

- (2) On finding the need to investigate whether to issue an order under the provisions of paragraph (3) of the following Article for a facility in which a person is running a hotel business, the prefectural governor may ask the person running the hotel business (other than a hotelier) and other relevant persons to file the necessary reports, or may have the relevant officials enter a hotel business facility to inspect its structure, equipment, furnishings, or documents concerning them and to question the relevant persons.

- (3) When conducting an on-site inspection pursuant to the provisions of the preceding two paragraphs, the relevant official must carry identification and present it if requested to do so by the relevant persons.

- (4) The authority for an on-site inspection under the provisions of paragraph (1) or (2) must not be construed as being granted for criminal investigation purposes.

Article 7-2 (1) On finding that the structure, equipment, or furnishings of a hotel business facility no longer conform to the standards that Cabinet Order prescribes which are referred to in Article 3, paragraph (2), the prefectural governor may fix a reasonable period of time and order the hotelier to take the necessary measures to make the structure, equipment, or furnishings of the relevant facility conform to those standards.

- (2) On finding that it is necessary to do so in order to prevent a hotel business from causing or amplifying a public health risk or from furthering or provoking activities that contravene public policy, a prefectural governor may order the hotelier to take measures that are necessary from a public health standpoint or from the perspective of upholding public policy.

- (3) If a hotel business is being run in violation of the provisions of this Act and the prefectural governor finds that measures need to be taken urgently in order to prevent the running of that hotel business from causing or amplifying a serious public health risk or from furthering or provoking activities that seriously contravene public policy, the prefectural governor may order the person running the hotel business (other than a hotelier) to discontinue that

hotel business or to take other measures that are necessary from a public health standpoint or from the perspective of upholding public policy.

Article 8 If a hotelier has violated the provisions of this Act, the provisions of an order that is based on this Act, or a disposition that is based on this Act; or if a hotelier has come to fall under the items of Article 3, paragraph (2) (except for item (iv)), the prefectural governor may revoke the license referred to in paragraph (1) of that Article or order the discontinuation of all or some aspects of the hotel business for a specified period of one year or less. The same applies if a hotelier (or its representative, if a hotelier is a corporation) or the agent, employee, or other worker thereof commits one of the following crimes in connection with the hotel business:

- (i) a crime referred to in Articles 174, 175, or 182 of the Penal Code (Act No. 45 of 1907);
- (ii) a crime prescribed in the Act on Control and Improvement of Amusement Business, etc. (Act No. 122 of 1948) (limited to one related to operation of business entertainment-related eating and drinking services, etc. in Article 2, paragraph (4) of that Act and operation of specified amusement eating and drinking places in paragraph (11) of that Article);
- (iii) a crime prescribed in Chapter 2 of the Anti-Prostitution Act (Act No. 118 of 1956);
- (iv) a crime prescribed in Chapter 2 of the Act on Regulation and Punishment of Acts Relating to Child Prostitution and Child Pornography, and the Protection of Children (Act No. 52 of 1999).

Article 8-2 If the structure, equipment, or furnishings of a hotel business facility located within roughly 100 meters of the grounds of an institution as set forth in one of the items of Article 3, paragraph (3) have come to no longer conform to the standards that Cabinet Order prescribes which are referred to in paragraph (2) of that Article, or if a hotelier has violated the provisions of Article 4, paragraph (3) in an area within roughly 100 meters of the grounds of an institution as set forth in one of the items of paragraph (3) of that Article, and the president of a national university or other person prescribed in Article 3, paragraph (4) finds that the innocent institutional environment of the relevant institution has been significantly marred, that person may state an opinion to the prefectural governor regarding the disposition prescribed in Article 7-2 (except for paragraph (3)) or the preceding Article.

Article 9 (1) The notice referred to in Article 15, paragraph (1) or Article 30 of the Administrative Procedure Act (Act No. 88 of 1993) relating to a disposition under the provisions of Article 8 must be given no later than one week prior to

the date of a hearing or the deadline for submitting a written explanation (or at the date and time of the opportunity for oral explanation, if one will be granted).

- (2) The proceedings on the date of a hearing relating to the revocation of a license under the provisions of Article 8 must be open to the public.

Article 9-2 The national and local governments are to endeavor to secure the necessary funds for, give advice to, provide information to, and take other measures in respect of hoteliers in order to promote the sound development of the hotel business and facilitate the provision of services to meet the increasingly sophisticated and diverse demands of users in the hotel industry.

Article 10 A person falling under one of the following items is subject to imprisonment for not more than six months, a fine of not more than 1,000,000 yen, or both:

- (i) a person running a hotel business without being licensed as under the provisions of Article 3, paragraph (1), in violation of the provision of that paragraph;
- (ii) a person violating an order under the provisions of Article 8.

Article 11 A person falling under one of the following items is subject to a fine of not more than 500,000 yen:

- (i) a person violating the provisions of Article 5 or Article 6, paragraph (1);
- (ii) a person failing to file or falsely filing a report under the provisions of Article 7, paragraph (1) or (2); a person refusing, obstructing, or evading an inspection by the relevant officials under those provisions; or a person failing to answer or falsely answering questions under those provisions;
- (iii) a person violating an order under the provisions of Article 7-2, paragraphs (2) or (3).

Article 12 A person falsifying the information referred to in Article 6, paragraph (1) in violation of the provisions of paragraph (2) of that Article is subject to penal detention or a petty fine.

Article 13 If the representative of a corporation or the agent, employee, or other worker of a corporation or individual violates Article 10 or 11 in connection with the business of that corporation or individual, in addition to the offender being subject to punishment, the corporation or individual is subject to the fine referred to in the relevant Article.

Supplementary Provisions

Article 14 This Act comes into effect as of July 15, 1948.

Article 15 A person that, at the time this Act comes into effect, is running a hotel business based on a business license obtained pursuant to the provisions of a prior Order is deemed to have been licensed as under the provisions of Article 3, paragraph (1).

Article 16 (1) Notwithstanding the provisions of Article 3, paragraph (1), a person that has started to run a hotel business between January 1, 1948 and the date on which this Act comes into effect and that is running that business at the time this Act comes into effect may continue to run that business for two months after the date this Act comes into effect.

(2) A person falling under the provisions of the preceding paragraph must file a notification to that effect with the prefectural governor within two months after this Act comes into effect.

(3) A person filing a notification as referred to in the preceding paragraph is deemed to have been licensed as under Article 3, paragraph (1).