

Version
as at 28 October 2021



Hotel Association of New Zealand Act 1969

Public Act 1969 No 139
Date of assent 24 October 1969
Commencement see section 1(2)

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Justice.

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An Act to constitute the Hotel Association of New Zealand and to provide for the assistance and control of its members

1 Short Title and commencement

- (1) This Act may be cited as the Hotel Association of New Zealand Act 1969.
- (2) This Act shall come into force on 1 January 1970.

2 Interpretation

In this Act, unless the context otherwise requires,—

alcohol has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012

association means the Hotel Association of New Zealand established by this Act

disciplinary committee means the Disciplinary Committee of the Association

hotel means any premises used or intended to be used in the course of business principally for the provision to the public of—

- (a) lodging; and
- (b) alcohol, meals, and refreshments for consumption on the premises

hotel industry includes the business of operating hotels, taverns, and tourist-houses; and includes any other business or activity that may lawfully be conducted in conjunction therewith

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

tavern means any premises used or intended to be used in the course of business principally for the provision to the public of alcohol and other refreshments; but does not include an airport bar

tourist-house means a hotel in which liquor is sold to members of the public only if they are lodging on the premises, or are on the premises for the purpose of having a meal.

Section 2: substituted, on 1 July 1994, by section 2 of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 2 **alcohol**: inserted, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 2 **hotel** paragraph (b): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 2 **Minister**: substituted, on 1 October 1995, by section 10(3) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

Section 2 **tavern**: amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Hotel Association of New Zealand

3 Constitution of Hotel Association of New Zealand

- (1) There shall be an association to be called the Hotel Association of New Zealand.
- (2) Every person (including a body corporate, but excluding a licensing trust and an employee of a licensing trust) who is the holder of—
 - (a) an on-licence; or
 - (b) an off-licence; or
 - (c) a manager’s certificate—granted under the Sale and Supply of Alcohol Act 2012 in respect of a hotel, a tavern, or a tourist-house, is eligible to be a member of the association.
- (3) Every member of the association who ceases to hold such a licence or manager’s certificate shall cease to be a member of the association, unless he retains his membership in accordance with its rules.
- (4) The association shall be a body corporate with perpetual succession and a common seal, and with power to sue and be sued and to hold real and personal property and to do and suffer all that bodies corporate may do and suffer.
- (5) The purposes of the association shall be—
 - (a) to promote in any manner which the association thinks fit the general advancement of the hotel industry and the interests of those engaged therein in New Zealand:
 - (b) to encourage, promote, or assist in any manner which the association thinks fit improvements and developments in the hotel industry and in the provision of facilities and services for the public and overseas visitors in licensed hotels, tourist houses, and taverns in New Zealand:
 - (c) to establish and enforce a code of ethics for regulating the business conduct of its members:

- (d) to make representations to any authorities concerned directly or indirectly with the hotel industry:
- (e) to procure or assist in the dissemination, by a journal or otherwise, of information relating to the hotel industry:
- (f) to grant pecuniary or other assistance to or to collaborate with any other person or body of persons (whether incorporated or not) in matters which the association considers to affect in any way the interests of the association or any of its members as such:
- (g) to establish branches of the association in such parts of New Zealand as it thinks fit and to provide for the constitution and powers of such branches.

Section 3(2): substituted, on 1 July 1994, by section 3(1) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 3(2): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 3(2)(c): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 3(3): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

4 Right to elect against membership

[Repealed]

Section 4: repealed, on 1 July 1994, by section 5 of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

5 Administration of the association

- (1) The association shall be administered by a board of management which shall be constituted as the association's rules may from time to time provide.
- (2) Notwithstanding anything in subsection (1), the association's rules may provide for delegation to a committee or to the chief executive, either generally or on specified occasions, of all or any of the powers of the board of management.
- (3) Subject to the provisions of this Act and to the association's rules, the board of management of the association shall have the sole and entire management and superintendence of the affairs and property of the association, and may exercise on its behalf all its powers and functions.
- (4) The constitution or acts of the board of management or of any other committee of the association shall not be invalidated or questioned on the ground that the number of members is incomplete, or because of any error or irregularity in the election or appointment of any member.
- (5) *[Repealed]*

Section 5(1): amended, on 1 July 1994, by section 6(1) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 5(2): substituted, on 1 July 1994, by section 6(2) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 5(3): amended, on 1 July 1994, by section 6(3) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 5(4): amended, on 1 July 1994, by section 6(3) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 5(5): repealed, on 1 July 1994, by section 6(4) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

6 Powers of the association

It shall be lawful for the association—

- (a) to acquire and hold any freehold or leasehold land or other property reasonably required for offices or otherwise for the use of the association or of any of its committees, officers, or servants in any place or places in New Zealand:
- (b) to sell, lease, exchange, or mortgage any real or personal property vested in it:
- (c) to borrow money, whether by way of bank overdraft or otherwise, for such of the purposes of the association as the board of management of the association may from time to time consider desirable:
- (d) to employ or engage, on such terms and conditions in all respects as the board of management of the association thinks fit, officers (including a chief executive), servants, and agents:
- (e) to enter into contracts of insurance, on such terms as the association thinks fit, for the purpose of providing insurance for members of the committees of the association, officers and employees of the association and other persons engaged in the association's affairs, or the dependants of any such members, officers, employees, or other persons, in the event of their sustaining accidental injury or death arising out of the performance of functions on behalf of the association; and to pay the premiums payable in respect of such contracts:
- (f) to do all things which are reasonably necessary or expedient to carry out the purposes of the association.

Section 6(c): amended, on 1 July 1994, by section 7 of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 6(d): amended, on 1 July 1994, by section 7 of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

7 Form of contracts

- (1) Contracts on behalf of the association may be made as follows:

- (a) a contract which if made by private persons would by law be required to be by deed may be made on behalf of the association in writing under its common seal attested in such manner as may be provided in its rules:
 - (b) a contract which if made between private persons would by law be required to be in writing signed by the parties to be charged therewith may be made on behalf of the association in writing signed by any person acting under its authority, express or implied:
 - (c) a contract which if made by private persons would by law be valid although made orally, and not reduced into writing, may be made orally on behalf of the association by any person acting under its authority, express or implied.
- (2) A contract made according to this section shall be effectual, and shall bind the association and its successors and all other parties thereto.

8 Rules of the association

- (1) The association in general meeting may from time to time make rules, not inconsistent with this Act, prescribing or providing for all or any of the following matters:
- (a) the regulation and good government of the association and of its members and affairs:
 - (b) the constitution of the board of management and any committees of the association:
 - (c) the election, appointment, resignation, or removal of the president, vice-presidents, and any other officers, servants or agents of the association, and their respective powers, duties, and functions:
 - (d) the filling of extraordinary vacancies in any office in the association:
 - (e) the holding of meetings of the association and of any committees thereof and the procedure and manner of voting at such meetings:
 - (f) the use and custody of the common seal of the association:
 - (g) life memberships, honorary memberships, and other special classes of membership of the association, or other distinctions:
 - (h) the fees or other payments, annual or otherwise, which shall be payable to the association by the several classes of members:
 - (i) the custody, investment, and expenditure of the funds and property of the association:
 - (j) the formation of branches of the association in New Zealand, the powers of such branches, and the manner in which their constitutions or rules shall be established, made, or amended:

- (k) the admission of persons to membership of the association and the retention of membership by persons who would otherwise cease to be members under section 3(3):
 - (l) a code of ethics for regulating the business conduct of members of the association:
 - (m) the procedure whereby rules may be made or amended:
 - (n) generally for carrying into full effect the purposes of the association.
- (2) The association must not make rules under subsection (1)(h) or (l) unless the proposed rules have been approved by the Minister.
 - (3) All sums payable pursuant to rules made under paragraph (h) of subsection (1) shall be debts due from the member to the association, and shall be recoverable accordingly.
 - (4) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 8(1)(b): substituted, on 1 July 1994, by section 8(1) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 8(1)(k): substituted, on 1 July 1994, by section 8(2) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 8(2): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 8(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Disciplinary provisions

9 Constitution of disciplinary committee

- (1) There shall be a committee to be known as the Disciplinary Committee of the Hotel Association of New Zealand, to be appointed in accordance with this section and to exercise the powers and functions conferred on it by this Act.
- (2) The disciplinary committee shall consist of—
 - (a) a barrister or solicitor of the High Court, who shall be appointed by the board of management and shall be chairman:
 - (b) the president for the time being of the association:

- (c) 4 members of the association to be appointed by the board of management, of whom 2 shall be resident in the North Island and 2 shall be resident in the South Island.
- (3) The board of management may from time to time, on the request of the member concerned or on the recommendation of the association or of its own motion, remove from office any member of the disciplinary committee, or fill any vacancy in its membership, or appoint any duly qualified person to act temporarily in the place of any member appointed under paragraph (a) or paragraph (c) of subsection (2).
- (4) At all meetings or sittings of the disciplinary committee, 4 members, including the chairman, shall constitute a quorum. The decisions of the committee shall be in accordance with the votes of a majority of the members present; but in the case of an equality of votes the chairman shall have a casting vote as well as his deliberative vote.
- (5) The association shall provide the disciplinary committee with such secretarial and other assistance as may be necessary.
- (6) Except as otherwise provided by this Act, the disciplinary committee shall regulate its own procedure.

Section 9(2)(a): amended, on 1 July 1994, by section 9(1) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 9(2)(a): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 9(2)(c): amended, on 1 July 1994, by section 9(1) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 9(3): amended, on 1 July 1994, by section 9(2)(a) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 9(3): amended, on 1 July 1994, by section 9(2)(b) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

10 Charges before disciplinary committee

- (1) Where a charge has been made to the disciplinary committee by any person that any person has, while a member of the association, failed to fulfil that member's responsibilities under any of the provisions of the Sale and Supply of Alcohol Act 2012, or has committed any breach of the code of ethics or of any other rules in force under this Act, the disciplinary committee may, whether or not that person is still a member of the association, inquire into the charge.
- (2) If, after inquiring into the charge, the disciplinary committee is satisfied that it is established, it may if it thinks fit do any 1 or more of the following things:
- (a) order the person charged to pay such sum by way of penalty, not exceeding \$100, as the disciplinary committee thinks fit;
- (b) censure him;
- (c) order him to pay such sum for costs or expenses as it thinks fit.
- (d) *[Repealed]*

- (3) If the disciplinary committee makes any finding or order against which any person is entitled to appeal under section 12, it shall state its reasons for the finding or order which shall, if so requested by that person, be delivered in writing.
- (4) Any sum payable as a penalty or as costs or expenses pursuant to an order of the disciplinary committee under this section shall be a debt due to the association from the person charged, and shall be recoverable accordingly.
- (5) The association may in its discretion use the whole or part of any sum recovered as a penalty under this section to reimburse or compensate any member of the public for expenditure, loss, or inconvenience occasioned to him as a result of the conduct of the person charged in the matter giving rise to the charge.

Section 10(1): substituted, on 1 July 1994, by section 10(1) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 10(1): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 10(2)(d): repealed, on 1 July 1994, by section 10(2) of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

11 Right of person affected to be heard

The disciplinary committee shall not make any finding or order adverse to a person charged under section 10 without giving him a reasonable opportunity of being heard.

12 Appeal from decision of disciplinary committee

- (1) A person against whom the disciplinary committee makes an order or who is censured by the disciplinary committee under section 10 may appeal to the District Court against any finding made by the disciplinary committee or the order or censure.
- (2) Every appeal shall be brought within 28 days after the date on which the appellant received notification of the finding or order or censure appealed against, or within such further period as the District Court may allow.
- (3) Notice of the appeal shall be served on the association and on the person who made the charge to which the finding or order or censure that is appealed against relates.
- (4) On any appeal to the District Court against a decision of the disciplinary committee, the District Court may confirm, modify, or reverse the decision of the disciplinary committee.
- (5) No decision of the disciplinary committee shall take effect while the person to whom the decision relates remains entitled to appeal against it under this section or while any such appeal by that person awaits determination by the District Court.

Section 12: substituted, on 1 July 1994, by section 11 of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

13 Publication of decisions in disciplinary proceedings

- (1) Unless otherwise directed under subsection (2), the association shall cause particulars of any decision of the District Court or of the disciplinary committee which has taken effect under this Act, and of the reasons for the decision, to be published in the *New Zealand Licensee* or such other publication concerned with the hotel industry as the association considers appropriate.
- (2) The District Court or the disciplinary committee, as the case may be, may direct, if in the circumstances it considers such publication unnecessary or undesirable, that there be no such publication in respect of a decision given by it or that the particulars to be so published be limited to any specified extent.
- (3) This section shall not affect any rights of publication otherwise existing.

Section 13(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 13(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

14 Witnesses may be required to attend and give evidence

- (1) The disciplinary committee may, by notice in writing signed by its chairman, require any person to attend and give evidence before it at the hearing of any inquiry by it under this Act and to produce all books and documents in that person's custody or under his control relating to the subject matter of any such inquiry.
- (2) The disciplinary committee may require evidence to be given on oath, and either orally or in writing, and for that purpose the chairman of the committee may administer an oath.
- (3) Every person who without lawful justification refuses or fails to attend and give evidence when required to do so by the disciplinary committee, or to answer truly and fully any question put to him by a member of the disciplinary committee, or to produce to the disciplinary committee any book or document required of him, commits an offence against this Act and shall be liable on conviction to a fine not exceeding \$100.

Section 14(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

15 Immunity of witnesses and counsel

Witnesses and counsel shall have the same privileges and immunities in relation to inquiries conducted by the disciplinary committee under this Act as if they were proceedings in a court of law.

16 Witnesses' expenses

- (1) Every witness giving evidence or attending to give evidence at any inquiry by the disciplinary committee under this Act shall be entitled to such sum for his

expenses and loss of time as he would be entitled to if he were a witness in criminal proceedings in the District Court.

- (2) Subject to any order made by the disciplinary committee as to the payment of costs or expenses, all such witnesses' expenses shall be paid by the association.

Section 16(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

17 Fees, travelling expenses, and costs of proceedings

- (1) The chairman of the disciplinary committee shall be entitled to reasonable fees and travelling expenses, and the other members of the committee shall be entitled to reasonable travelling expenses, in connection with the performance of his or their functions under this Act.
- (2) Subject to the provisions of this Act, all such fees and expenses and all other costs of proceedings of the disciplinary committee shall be defrayed by the association.

General provisions

18 Association may apply for cancellation or suspension of certain licences or certificates

[Repealed]

Section 18: repealed, on 1 July 1994, by section 13 of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

19 Protection of association and other bodies and persons

Subject to section 15, neither the association nor any branch thereof nor any member, officer, or servant of the association or of any branch thereof or of the disciplinary committee shall be under any criminal or civil liability whatsoever in respect of anything done or omitted to be done, or in respect of any words spoken or written, at or for the purposes of any inquiry or other proceedings under this Act, unless it is proved to the satisfaction of the court before which any proceedings are taken that the defendant in those proceedings has acted in bad faith.

20 Jurisdiction of other authorities not to be limited

Except as expressly provided in this Act, nothing in this Act shall be construed to limit the jurisdiction of any court or of the Licensing Authority or any licensing committee, or to limit the liability of any person to be prosecuted for any offence against the Sale of Liquor Act 1989 or any other enactment.

Section 20: substituted, on 1 July 1994, by section 14 of the Hotel Association of New Zealand Amendment Act 1994 (1994 No 38).

Section 20: amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

21 Consequential amendments and saving

- (1) The Sale of Liquor Act 1962 is hereby amended by omitting from—
- (a) subsection (3) of section 103; and
 - (b) paragraph (b) of subsection (1) of section 104; and
 - (c) subsection (5A) of section 126 (as inserted by section 17 of the Sale of Liquor Amendment Act 1964); and
 - (d) *[Repealed]*
- the word “Incorporated”, and substituting in each case the words “established under the Hotel Association of New Zealand Act 1969”.
- (2) Subject to subsection (1), nothing in this Act shall affect the property, rights, powers, functions, or obligations of the Hotel Association of New Zealand Industrial Association of Employers.

Section 21(1)(d): repealed, on 16 December 1977, by section 6(4)(b) of the Sale of Liquor Amendment Act 1977 (1977 No 88).

Hotel Association of New Zealand Amendment Act 1994

Public Act	1994 No 38
Date of assent	1 July 1994
Commencement	1 July 1994

1 Short Title

This Act may be cited as the Hotel Association of New Zealand Amendment Act 1994, and shall be read together with and deemed part of the Hotel Association of New Zealand Act 1969 (hereinafter referred to as “the principal Act”).

4 Transitional provision as to membership

Notwithstanding the provisions of section 3(2) of the principal Act (as substituted by section 3 of this Act), any person who was a member of the association immediately before the commencement of this Act shall, subject to this Act, be deemed to continue to be a member after the commencement of this Act.

Notes

1 *General*

This is a consolidation of the Hotel Association of New Zealand Act 1969 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3

District Court Act 2016 (2016 No 49): section 261

Sale and Supply of Alcohol Act 2012 (2012 No 120): section 417(1)

Criminal Procedure Act 2011 (2011 No 81): section 413

Department of Justice (Restructuring) Act 1995 (1995 No 39): section 10(3)

Hotel Association of New Zealand Amendment Act 1994 (1994 No 38)

Judicature Amendment Act 1979 (1979 No 124): section 12

Sale of Liquor Amendment Act 1977 (1977 No 88): section 6(4)(b)