BERMUDA

# BERMUDA IMMIGRATION AND PROTECTION (TOURIST ACCOMMODATION AND HOTEL RESIDENCES) REGULATIONS 2010

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The Minister responsible for Immigration, in exercise of the powers conferred by section 102C(1)(a) and (ba) of the Bermuda Immigration and Protection Act 1956, makes the following regulations:

Citation

1 These regulations may be cited as the Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations 2010.

Conveyance of tourist accommodation or hotel residences

2 (1) An individual may only acquire tourist accommodation or a hotel residence by a conveyance that transfers ownership of the entire legal estate in the property (or fraction of the property in the case of a fractionally owned tourist accommodation) to the individual or to a person who acquires or holds the property on his behalf.

(2) A corporation may only acquire tourist accommodation or a hotel residence by a conveyance that transfers ownership of the entire leasehold interest in the property (or

fraction of the property in the case of a fractionally owned tourist accommodation) to the corporation or a person who acquires or holds the property on its behalf.

(3) The vendor of tourist accommodation or a hotel residence must submit the proposed form of the conveyance to the Minister for approval before it is offered for sale.

(4) No conveyance of tourist accommodation or a hotel residence shall be approved unless—

(a) the hotel at which the accommodation or residence is located is fully serviced and has ancillary buildings and uses typical of a traditional hotel, such as a restaurant, a reception office and housekeeping buildings; and

(b) in the case of fractionally owned tourist accommodation, the requirements of regulation 6(1) and (2) are met.

Right to occupy tourist accommodation

3 (1) An individual who holds a licence for tourist accommodation shall not permit anyone to occupy it except—

(a) himself, his family and guests who are staying with him or his family; or

(b) paying transient guests, if the tourist accommodation is being managed by a property management company.

(2) An exempted company that holds a licence for tourist accommodation shall not permit anyone to occupy it except—

(a) a tenant, who occupies the accommodation under a rental agreement entered into pursuant to a permit issued by the Minister;

(b) a paying transient guest if the tourist accommodation is being managed by a property management company; or

(c) a transient guest, with the permission of the exempted company.

(3) Subject to paragraph (4), an individual who holds a licence for tourist accommodation may occupy it for a maximum of 90 days in any calendar year.

(4) An individual who holds a licence for more than one room, suite, unit or fraction of a unit of tourist accommodation, may reserve all of the tourist accommodation for which he holds a licence for use by himself, his family and guests for a total of up to 120 days per calendar year, provided that the total period of such occupancy does not exceed 6 months in any 12 month period.

Right to occupy hotel residences

4 (1) An individual or exempted company that holds a licence for a hotel residence may reserve that residence for their own use for a period not exceeding the term of their licence.

(2) An individual or exempted company that holds a licence for a hotel residence may allow that residence to be occupied for a period not exceeding the term of their licence by—

(a) tenants who have Bermudian status or the Minister's permission to reside in Bermuda; or

(b) paying transient guests not ordinarily resident in Bermuda.

Hotel management of tourist accommodation and hotel residences

5 (1) A person who holds a licence for tourist accommodation or a hotel residence may require the hotel at which it is located to place it on an inventory to be managed by a property management company.

(2) Before tourist accommodation or a hotel residence may be placed on the hotel inventory, the person who holds the licence for it must enter into an agreement with a property management company designated by the hotel—

(a) to engage the company as sole agent to market, promote, advertise and manage the accommodation or residence for occupation by transient guests;

(b) to share the revenue and maintenance costs arising from the use of the accommodation or residence;

(c) to provide for the times when the person who holds the licence may occupy the accommodation or residence.

(3) A property management company that manages tourist accommodation or hotel residences on the hotel inventory may only let the accommodation or residences to paying transient guests who are non-residents.

(4) Tourist accommodation on the hotel inventory may not be sold or let as residential accommodation.

Fractionally owned units

6 (1) The vendor of a fractionally owned unit of tourist accommodation must sell it in fractions by dividing the ownership of the unit into a minimum of four equal fractions.

(2) No person may hold or acquire an interest in more than two fractions of the fractionally owned tourist accommodation located at a hotel.

(3) The holders of licences for a fractionally owned unit must agree on a defined reservation schedule for use of the unit during the year.

Land-holding charges

7 (1) Every applicant for a licence to acquire or hold tourist accommodation or a hotel residence shall include in his application—

(a) an election as to whether the applicant will—

(i) place the accommodation or residence in the hotel inventory; or

(ii) keep the accommodation or residence for his private use, including, in the case of a hotel residence, to rent it out privately; and

(b) the prescribed land-holding charge, according to his election.

(2) If the Minister approves an application that contains an election to place tourist accommodation or a hotel residence in the hotel inventory, the person who holds the licence for the accommodation or residence is eligible for any applicable relief under a hotels concession order or private Act.

(3) If the Minister approves an application that contains an election under regulation 7(1)(a)(ii) to keep tourist accommodation or a hotel residence for private use, the person who holds the licence for the residence is not eligible for relief under any hotels concession order or private Act.

(4) A person who holds a licence for tourist accommodation or a hotel residence may at any time apply to the Minister to change his election, and on approval of the application and payment of any reimbursement due to the Government under paragraph (5), the Minister shall issue an amended licence.

(5) If the Minister approves a change in an election from an election to place tourist accommodation or a hotel residence in the hotel inventory to an election to keep it for private use, the person who holds the licence for the accommodation or residence shall reimburse to the Government—

(a) the amount of relief received under any hotels concession order or private Act as a result of the previous election; and

(b) the difference between the land-holding charge for the tourist accommodation or hotel residence that was paid when the previous licence was issued and the charge payable in relation to the new election, based on the value of the accommodation or residence on the date of the application.

(6) If the Minister approves a change in an election from an election to keep tourist accommodation or a hotel residence for private use to an election to place it on the hotel inventory, the person who holds the licence for the accommodation or residence is not entitled to relief under any hotels concession order or private Act or for any partial rebate of the landholding charge paid for the previous licence.

Made this 27th day of August, 2010

Minister of Labour, Home Affairs and Housing