

OG 99/2018 (9.11.2018), Amendments Act to the Hospitality and Catering Industry Act

CROATIAN PARLIAMENT

1917

Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION

ON THE PROVISION OF THE AMENDMENTS ACT TO THE HOSPITALITY AND CATERING INDUSTRY ACT

I hereby promulgate the Amendments Act to the Hospitality and Catering Industry Act, which was adopted by the
Croatian Parliament at its session held on October 31, 2018

Class: 011-01/18-01/131

Note: 71-06-01/1-18-2

Zagreb, November 5, 2018

The President

of the Republic of Croatia

Kolinda Grabar-Kitarović, m.p.

AMENDMENTS ACT TO THE HOSPITALITY AND CATERING INDUSTRY ACT

Article 1.

In the Hospitality and Catering Industry Act ("Official Gazette" nos. 85/15 and 121/16) Article 5, paragraph 2, subparagraph 2 shall be amended to read:

"- health facilities, healthcare companies and health workers, in accordance with special regulations regulating health care."

Subparagraph 10 shall be amended to read:

"- social care providers in their business premises and facilities for the purpose of preparing and serving drinks, beverages, pastries and similar, for the needs of their customers."

Article 2

In Article 6, paragraph 1, item 1 shall be amended to read:

"1. the provision of food and accommodation services in social care, healthcare, educational and training facilities and other similar institutions, if such services are provided by the employees of those institutions to the employees or customers of the same or employees or customers of another such institution, or to employees and users of other providers of social services, or fosterers and their customers, as well as for food and accommodation services provided by the crafts registered for providing babysitting services on the premises in which they provide these services, provided that such services are provided by the crafts' employees to their employees and to the customers of babysitting services".

At the end of item 8, the item is deleted and items 9 and 10 are added to read:

"9. the use of premises of legal and physical persons for the accommodation of their seasonal and travelling employees for the purpose of carrying out their activities

10. organizing accommodation for participants of domestic or international art programs organized by institutions of culture, associations and other cultural organizations on their own premises, with the prior opinion of the Ministry responsible for culture”.

Article 3

In Article 9, paragraph 3, subparagraph 1, the words: “from paragraph 2, subparagraphs 5 and 6” shall be replaced by the words: “from paragraph 2, subparagraphs 1, 5 and 6”.

Article 4

In Article 12, paragraph 2, the words “providing they display and comply with the displayed prices and issue legible and accurate bills for provided services.” shall be replaced by the words: “providing they display the company, i.e. the name, display and comply to displayed prices, issue legible and accurate bills for provided services and display in a visible place the label of prohibition of serving alcoholic beverages, other drinks and/or beverages containing alcohol to persons under the age of 18 and respecting that prohibition”.

Article 5

In Article 30, paragraph 3, after item 2, a new item 3 is added, which reads as follows:

“3. accommodation in a Robinson-style accommodation facility where the services are provided on the premises or in the areas, the capacity determined by the number of guests who can safely reside in them, up to the maximum of ten accommodation units or 30 guests at the same time, not including children under 12 year of age”.

Previous item 3, which becomes item 4, is amended to read:

“4. breakfast for guests to whom the lessor provides accommodation services”.

After paragraph 3, a new paragraph 4 shall be added to read as follows:

“(4) The total accommodation capacity in the facilities referred to in paragraph 3, items 2 and 3 of this Article may be up to ten accommodation units or 30 guests at the same time, not including children under 12 years of age”.

After the previous paragraph 4, which becomes paragraph 5, paragraph 6 is added, which reads as follows:

“(6) By way of derogation from paragraph 3, item 4 of this Article, if within a perimeter of 15 km by road there is no facility registered for the provision of hospitality and catering services for the preparation and serving of meals, the lessor who provides guests with accommodation services may provide the guests with half board and/or full board service”.

Article 6

The title above Article 31 shall be replaced by the following: “*Minimum requirements for the type, requirements for category and specific standard*”.

Article 31 shall be amended to read:

“(1) To provide hospitality and catering services in households, the facilities referred to in

Article 30 of this Act must meet minimum requirements for type and requirements for category.

(2) At the lessor’s request, the competent office shall determine whether the minimum requirements for type and requirements for category as well as requirements for specific standard have been met, by the decision from Articles 34 and 35 of this Act.

(3) The Minister shall proscribe the minimum requirements for type, categories, requirements for category, category designations, the manner of designating categories, types of facilities for which specific standard will be determined,

types of specific standards, requirements and elements to be met for each individual standard, specific standards designations, the manner of designating specific standards and the composition of the committee to inspect the facility, by an Ordinance”.

Article 7

In Article 32, paragraph 1, items 1 and 2, after the word: “category of facility” the words: “and the type of specific standard” are added.

Point 7 is deleted.

The previous item 8 becomes item 7.

Paragraph 2 is amended to read:

“(2) when advertising and promoting services and posting messages in promotional materials, the lessor may use only the designation of the prescribed type and the category and type of specific standard of the facility as determined by the decision of the competent office, and when advertising and promoting services with taxpayers from the European Union he must display the tax number i.e. the VAT identification number.”.

Article 8

Article 33 is amended to read:

“The sojourn of more than 15 persons who are not members of immediate family of the owners of flats, apartments and holiday houses and for whom he is obliged to pay the sojourn tax payment in the full amount for each overnight stay, pursuant to the special regulation proscribing the obligation of sojourn tax payment, in tourist towns in the period from 15 June to 15 September shall be considered as provision of hospitality and catering services in the household.”.

Article 9

In Article 34, paragraph 2, item 1 shall be replaced by the following:

“1. is the owner of the facility (facility for Robinson-style accommodation, room, apartment or holiday house) or owner of a land plot for a facility for Robinson-style accommodation, motor camp or campsite.”.

Paragraph 3 is amended to read:

“(3) By way of derogation from paragraph 2, item 1 of this Article, the lessor may also provide services in a facility (facility for Robinson-style accommodation room, apartment or holiday house and similar) or land plot (facility for Robinson-style accommodation, motor camp or campsite) owned by his/her spouse or extramarital partner, life partner pursuant to the special regulation regulating life partnership of persons of the same sex (hereinafter: life partner), direct relative or family member, with their written consent for the provision of hospitality and catering services in the household”.

Article 10

The following Article 34a and the title above it are added after Article 34 to read:

“Decision on meeting the requirements for a specific standard in the household

Article 34a

(1) A decision on meeting the conditions for a specific standard shall be issued at the request of the lessor if the facility meets the conditions set out in the Ordinance referred to in Article 31, paragraph 3 of this Act.

(2) In case of continuation of the provision of hospitality and catering services in a household in accordance with Article 35, paragraph 1 of this Act, the lessor is obliged to enclose a claim with the statement that no significant changes have occurred regarding the meeting of the prescribed requirements for furnishing and equipment for the determination of a specific standard.

(3) The decision referred to in paragraph 1 of this Article, which adopts the application, shall be entered in the Central Register.

(4) A party has the right to file a complaint with the Ministry regarding the decision of the competent office referred to in paragraph 1 of this Article.

(5) A copy of the executive decision referred to in paragraph 1 of this Article shall be submitted to the competent local authority of the Ministry's tourist inspection, the competent branch of the regional office of the Ministry of Finance, Tax Administration and the competent regional office of the Ministry of Finance, Customs Administration, the competent sanitary inspection office of the Ministry of Health and the Croatian Bureau of Statistics.”.

Article 11

In Article 36, the words: “items 1 and 2” shall be replaced by the words: “items 1 to 3”.

Article 12

In Article 38, paragraph 1, item 1, the comma and the words: “except if the heir of the lessor continues providing hospitality and catering services in accordance with Article 35, paragraph 1 of this Act” shall be deleted.

Article 13

In Article 39, paragraph 2, item 3 shall be replaced by the following:

“3. accommodation in a room, apartment, rural holiday house with the maximum capacity of ten rooms, i.e. 20 guests at the same time, not including extra beds and/or accommodation in a facility for Robinson-style accommodation and/or motor camp and/or camp site, with a maximum of 20 accommodation units, i.e. 60 guests at the same time, not including children under 12 years of age. The service of preparation and serving of food, drinks and beverages (breakfast or half board or full board) mostly of own production must be made available to guests. The services may be provided simultaneously in several types of facilities up to the total maximum number of 80 guests”.

In paragraph 3, the word: “five” is replaced by the word: “ten”.

In paragraph 8, after the words: “categories”, the following words are added: “the types of facilities for which a specific standard, types of specific standards, requirements and elements to be met for a particular standard, the marking and the way of marking specific standards shall be established”.

In paragraph 9, after the words: “Article 34, paragraphs 4, 5, 8 and 9,” the following words shall be added: “Article 34a (2)”.

Article 14

The following Article 40 and the title above it are added after Article 40 to read:

“Decision on meeting the requirements for a specific standard on family farms

Article 40a

(1) A decision on meeting the requirements for a specific standard shall be issued at the request of the holder or member of the family farm if the facility meets the conditions laid down in the Ordinance referred to in Article 39, paragraph 8 of this Act.

(2) The decision referred to in paragraph 1 of this Article that adopts the application shall be entered in the Central Register.

(3) A party has the right to file a complaint with the Ministry regarding the decision of the competent office referred to in paragraph 1 of this Article.

(5) A copy of the executive decision referred to in paragraph 1 of this Article shall be submitted to the competent local authority of the Ministry's tourist inspection, the competent branch of the regional office of the Ministry of Finance, Tax Administration and the competent regional office of the Ministry of Finance, Customs Administration, the competent sanitary inspection office of the Ministry of Health and the Croatian Bureau of Statistics.".

Article 15

In Article 42, after paragraph 3, a new paragraph 4 shall be added to read:

"(4) Municipal services monitoring officers shall also carry out the supervision of prohibition of camping outside motor and areas designated for camping outside of motor camps in accordance with paragraphs 1, 2 and 3 of Article 29 of this Act.".

After paragraph 4, which becomes paragraph 5, the following paragraph 6 is added:

"(6) In carrying out the supervision referred to in paragraph 4 of this Article, municipal services monitoring officer are authorized to file an indictment against a violator or to issue a misdemeanour warrant or to charge a fine at the place where the offense was committed.".

Article 16

The following Article 42 and the title above it are added after Article 42 to read:

"Tourist inspector's authorization

Article 42a

(1) The tourist inspector shall not file an indictment, or issue a misdemeanour warrant, or charge a fine at the place where the offense was committed if:

- the supervised legal or physical person eliminates the irregularities and deficiencies established in the inspection supervision, which will be determined by the tourist inspector in the minutes, during the inspection supervision, i.e. until the decision is issued

- a decision has been issued for the determined irregularities and the supervised person has acted on the executive decision of the inspector

- the supervised person, by signing the minutes, undertakes to remove the irregularities and deficiencies determined during the supervision for which no administrative measure has been imposed and the tourist inspector determines that a violation has been committed.

(2) For the purpose of meeting the obligations referred to in paragraph 1 subparagraph 3 of this Article, the tourist inspector shall issue a written order to the supervised person within the minutes of the performed inspection in which he will accurately determine the obligation and deadline for execution, depending on the nature of the obligation.

(3) If the supervised person does not act in the manner described in paragraph 1 subparagraphs 1 and 2 of this Article, or fails to meet the obligation within a certain time from the order referred to in paragraph 2 of this Article, the tourist inspector is obliged without delay and no later than within 15 days from the date of completion of the inspection supervision, i.e. from the day of the control of the decision enforcement by which it is established that the party did not act on the decision or from the deadline for meeting the obligation from the order, to file an indictment motion for initiating a misdemeanour procedure, or issue a misdemeanour warrant or charge a fine at the place where the offense was committed.

(4) By way of derogation from the provisions of this Article, the tourist inspector shall without delay and no later than 15 days from the date of the completion of the inspection, lodge an indictment motion for initiating the misdemeanour procedure, or issue a misdemeanour warrant or charge a fine at the place where the offense was committed in all cases when an administrative measure of prohibition was prescribed and in cases of establishing the offense referred to in Article 46, paragraph 1, items 1, 3 and 5 and paragraph 4 in the part of non-compliance with the prohibition of serving alcoholic beverages, other drinks and/or beverages containing alcohol to persons under the age of 18, in Article 47, paragraph 1, item 5, in the case of non-compliance with the displayed prices, and items 6, 7, 8, 11, 12, 14, 15 and 16, in Article 48 paragraph 1, items 1 to 6 and item 8, in Article 49, paragraph 1, item 2, in the case of non-compliance with the displayed prices, and items 4, 5, 8 and 9, in Article 50, paragraph 1, 1, 2 and 6, in Article 51, paragraph 1, item 2, in the case of non-compliance with the displayed prices, and items 4, 5, 8 and 9 and in Article 52 of this Act and in all cases of repetition of the offense in the same facility.”.

Article 17

In Article 44, paragraph 1, after the words: “and/or does not provide services established by the decision of the competent office, i.e. the Ministry,” the following words are added: “or displays the category (star) or specific standard on the facility and/or promotional materials contrary to the provisions of this Act”.

In paragraph 7, the words: “paragraph 5” shall be replaced by the words: “paragraphs 3 and 5.”.

Article 18

In Article 45, paragraphs 1 and 3, after the words: “tourist inspector”, the words: “and municipal services monitoring officers” are added.

Article 19

In Article 46, paragraphs 4 and 5 shall be amended to read:

“(4) A fine in the amount of HRK 1,000.00-2,000.00 shall be imposed on a participant of celebrations and manifestations referred to in Article 12, paragraph 2 of this Act, who is not a hospitality and catering service provider, who while providing the hospitality and catering services referred to in Article 12, paragraph 2 of this Act fails to display or comply with the displayed prices or does not issue legible and accurate bills for the services provided (Article 12, paragraph 2).

(5) In the case of repeated offense referred to in paragraph 1 of this Article in the same hospitality and catering facility, the legal person and physical person - craftsman shall be fined in the amount of HRK 10,000.00-90,000.00.”. Paragraph 6 is deleted.

In the former paragraph 7, which becomes paragraph 6, the words: “paragraphs 5 and 6” shall be replaced by the words: “paragraph 5”.

Previous paragraphs 8 and 9 become paragraphs 7 and 8.

Article 20

In Article 47, paragraph 3 shall be amended to read:

“(3) In case of repeated offence referred to in paragraph 1 of this Article in the same hospitality and catering facility, the legal and physical person – craftsman shall be fined in the amount of HRK 5,000.00-40,000.00.”.

Article 21

In Article 48, paragraphs 1 and 2, the following shall be amended to read:

“(1) A misdemeanour fine ranging from HRK 2,500.00-10,000.00 shall be imposed on the lessor:

1. for providing accommodation services in more than ten rooms, i.e. 20 beds, not including extra beds (Article 30, paragraph 3, item 1)
2. for providing accommodation in a motor camp and/or campsite in more than ten accommodation units, i.e. for more than 30 guests at a time, not including children under 12 years of age (Article 30, paragraph 3, item 2)
3. for providing accommodation in a Robinson-style accommodation facility in more than ten accommodation units, i.e. for more than 30 guests at a time, not including children under 12 years of age (Article 30, paragraph 3, item 3)
4. for providing breakfast services to persons who are not guests to whom the lessor provides accommodation services (Article 30, paragraph 3, item 3)
5. for providing accommodation services in facilities from Article 30, paragraph 3, items 2 and 3 in the accommodation capacity greater than the one prescribed in Article 30, paragraph 4 of this Act (Article 30, paragraph 4)
6. for offering and selling services directly or through other persons who are not registered for mediation in the sale of accommodation services, or for offering and selling its services referred to in Article 30, paragraph 3 of this Act outside of its facility, except in the premises, under the conditions and in the way that, by its decision shall be prescribed by the representative body (Article 30, paragraph 5)
7. if the facility in which services are provided does not meet the minimum requirements for the type and requirements for the category (Article 31, paragraph 1)
8. for providing services from Article 30, paragraph 3 of this Act in violation of the issued decision on approval of provision of hospitality and catering services in households from Article 34, paragraph 1 of this Act or in violation of the issued temporary decision on approval of provision of hospitality and catering services in households from Article 34, paragraph 4 of this Act (Article 34, paragraphs 1 and 4).
9. the facility in which services are provided does not meet the minimum requirements for the specific standard (Article 34a, paragraph 1).

(2) In case of repeated offence referred to in paragraph 1 of this Article, the lessor shall be fined in the amount of HRK 5,000.00-20,000.00.”.

Article 22

In Article 49, paragraph 1, items 1 and 2, the words: “and specific standard” are added after the word “categories”.

Item 8 is amended to read:

“8. when advertising and promoting services and posting messages in promotional materials, the lessor may use only the designation of the prescribed type and category of the facility and the type of the specific standard of the

facility not determined by the decision of the competent office, and when advertising and promoting services with taxpayers from the European Union not displaying the tax number i.e. the VAT identification number (Article 32, paragraph 2)".

Paragraph 2 is amended to read:

"(2) In case of repeated offence referred to in paragraph 1 of this Article in the same facility, the lessor shall be fined in the amount of HRK 4,000.00-10,000.00.

Article 23

In Article 50, paragraphs 1 and 2, are amended to read:

"(1) A misdemeanour fine in the amount ranging from HRK 2,500.00-10,000.00 shall be imposed on a physical person-owner or member of a family farm:

1. for providing services for more guests or in more accommodation units, than proscribed, or does not enable guests to prepare or to be served meals, drinks and beverages (breakfast or half board or full board) (Article 39, paragraph 2, items 1 to 3)
2. for providing services for more than 80 persons (excursionists) for the organization of occasional traditional festivities and manifestations maximum five times in a calendar year, with the obligation of prior notification to the locally competent tourist inspection office of the Ministry of Tourism no later than three days prior to the beginning of provision of services (Article 39, paragraph 3)
3. if the food, drinks and beverages served are not common to the area in which the family farm is situated in (Article 39, paragraph 4)
4. for providing and selling services referred to in Article 39, paragraph 2 of this Act in violation of requirements prescribed by the special food regulations (Article 39, paragraph 5)
5. if the facility in which services referred to in Article 39, paragraph 2 of this Act are Provided, does not meet the minimum requirements for type and requirements for category (Article 39, paragraph 7)
6. for providing the services referred to in Article 39, paragraph 2 of this Act, contrary to the issued decision on approval for the provision of hospitality and catering services in the family farm referred to in Article 40, paragraph 1 of this Act, or contrary to the provisional decision on the provision of hospitality and catering services to a family farm pursuant to Article 34, paragraph 4 of this Act (Article 40, paragraph 1 and Article 39, paragraph 10 in conjunction with Article 34, paragraph 4)
7. if the facility in which the service is provided does not meet the minimum requirements for the specific standard (Article 40a, paragraph 1)

(2) In case of repeated misdemeanour a fine in the amount ranging from HRK 5,000.00-20,000.00 shall be imposed on a physical person-owner or member of a family farm."

Article 24

In Article 51, paragraph 1, items 1 to 9 the words: "paragraph 9" shall be replaced by the words: "paragraph 10".

In item 8, after the words: "category", the words: "and specific standard" are added.

Paragraph 2 is amended to read:

(2) In case of repeated misdemeanour from paragraph 1 of this Article, a fine in the amount ranging from HRK 4,000.00-10,000.00 shall be imposed on a physical person-owner or member of a family farm.”.

TRANSITIONAL AND FINAL PROVISIONS

Article 25

(1) Lessors who, on the date of entry into force and effect of this Act, provide hospitality and catering services in the household, on the basis of a decision on approval issued by 1 September 2007 or prior to the entry into force and effect of the Ordinance on the Classification and Categorisation of Facilities Providing Hospitality and Catering Services in Households (“Official Gazette” no. 88/07) or based on a decision issued to the application submitted before 1 September 2007, in order to continue the provision of hospitality and catering services with the right to display the category (star) designation of the facility in which they provide hospitality catering services, are obliged to submit a formal request for issuance of a decision on the approval of provision of hospitality and catering services in the household in accordance with the provisions of this Act and the Ordinance on the Classification and Categorisation of Facilities Providing Hospitality and Catering Services in Households (“Official Gazette” nos. 9/16., 54/16., 61/16. and 69/17.), within:

- two years after the entry into force and effect of this Act, if the decision on approval was issued by 31 December 2000.

- three years after the entry into force and effect of this Act, if the decision on the approval was issued in the period from 1 January 2001 to 31 December 2004.

- four years after the entry into force and effect of this Act, if the decision on the approval was issued after 31 December 2004.

(2) At the request of the lessor, the competent office shall issue the decision referred to in paragraph 1 of this Article.

(3) In the process of issuing the decision referred to in paragraph 1 of this Article, the meeting of the requirements referred to in Article 34, paragraph 2, items 1 and 3 of the Act shall not be determined.

(4) A party has the right to file a complaint with the Ministry regarding the decision of the competent office referred to in paragraph 1 of this Article.

(5) A copy of the executive decision referred to in paragraph 1 of this Article shall be submitted to the competent local authority of the Ministry’s tourist inspection, the competent branch of the regional office of the Ministry of Finance, Tax Administration and the competent regional office of the Ministry of Finance, Customs Administration, the competent sanitary inspection office of the Ministry of Health and the Croatian Bureau of Statistics.

(6) The lessees referred to in paragraph 1 of this Article who do not submit a request for issuance of the decision referred to in paragraph 1 of this Article shall continue to provide hospitality and catering services, but shall lose the right to display the category (star) designation on the facility in which they provide hospitality and catering services and on promotional materials.

Article 26

(1) In case a lessor commits the misdemeanour of displaying the category (star) designation on the facility without the decision from Article 25, paragraph 1 of this Act (Article 25, paragraph 6), he/she shall be fined in the amount of HRK 2,000.00-5,000.00.

(2) In case of repeated misdemeanour from paragraph 1 of this Article, a fine in the amount ranging from HRK 4,000.00-10,000.00 shall be imposed on a lessor.

(3) For misdemeanours referred to in paragraph 1 of this Article, the tourist inspector may charge a fine at the place where the offense took place in the amount of 1,000.00, except in the case referred to in paragraph 2 of this Article.

Article 27

(1) Lessors or owners or members of a family farm who, until the date of entry into force and effect of this Act, have obtained a decision on approval for the provision of hospitality and catering services in the campsite - Robinson-style accommodation, in accordance with the Ordinance on the Classification and Categorisation of Facilities Providing Hospitality and Catering Services in Households ("Official Gazette" nos. 9/16., 54/16., 61/16. and 69/17.) or the Ordinance on the Classification and Categorisation of Facilities Providing Hospitality and Catering Services in a Family Farm ("Official Gazette" nos. 54/16. and 69/17) are obliged to harmonize the accommodation capacity in accordance with the provisions of this Act within three months from the date of entry into force and effect of this Act.

(2) Lessors who, up to the date of entry into force and effect of this Act, subject to the decision of the competent office referred to in Article 34, paragraphs 1, 4 and 5 of the Hospitality and Catering Industry Act (Official Gazette no. 85/15. and 121/16.) provide half-board and full board services, are obliged to harmonize their business operations with the provisions of this Act within one year from the date of entry into force and effect of this Act.

Article 28

Within 30 days from the date of entry into force and effect of this Act, the Minister shall harmonize the Ordinance on the Classification and Categorisation of Facilities Providing Hospitality and Catering Services in Households ("Official Gazette" nos.9/16., 54/16., 61/16. and 69/17) and the Ordinance on the Classification and Categorisation of Facilities Providing Hospitality and Catering Services in a Family Farm ("Official Gazette" nos. 54/16. and 69/17.).

Article 29

This Act shall enter into force and effect and effect on the eighth day from the day of its publication in the Official Gazette.

Class: 022-03/18-01/92

Zagreb, October 31, 2018

CROATIAN PARLIAMENT

The President

of the Croatian Parliament

Gordan Jandroković, m.p.