

# SAINT LUCIA

No. 11 of 2020

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I Assent

[L.S.]

NEVILLE CENAC,  
*Governor-General.*

*November 19, 2020.*

## SAINT LUCIA

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**No. 11 of 2020**

**AN ACT** to provide for the imposition, collection and remittance of a tourism levy and for related matters.

[ 30th November, 2020 ]

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows:

**PRELIMINARY****Short title and commencement**

1.—(1) This Act may be cited as the Tourism Levy Act, 2020.

(2) This Act shall enter into force on the 1<sup>st</sup> day of December, 2020.

**Interpretation**

2. In this Act —

“accommodation period” means the period of stay between arrival in and departure from Saint Lucia at a registered tourism accommodation service provider;

“average daily rate” means the average income earned per occupied room divided by the number of rooms sold in a given time period;

“Board” means the Board of Directors under section 7 of the Saint Lucia Tourism Authority Act, No. 8 of 2017;

“business day” means a day other than Saturday, Sunday or a Bank Holiday;

“class” means the class of a collector as specified under Schedule 2;

“collector” means a registered tourism accommodation service provider that is deemed a collector of a tourism levy under section 8;

“collector’s certificate” means a certificate issued under section 9;

“complimentary room” means a sleeping accommodation offered to a person for no consideration;

“consideration”, in relation to the supply of a tourism accommodation service —

(a) means the total amount of money paid or payable at the end of the accommodation period and includes a deposit for that tourism accommodation service;

(b) includes duties, levies, value added tax, fees and charges added to the cost for a tourism accommodation service;

“cost of tourism accommodation service” —

(a) means the amount of money paid or payable by a guest to a registered tourism accommodation service provider at the end of an accommodation period;

(b) does not include —

(i) the cost of food and beverage, transfers and other expenses relating to the stay of a guest,

(ii) any duties, levies, value added tax, fees and charges;

“guest” means a person who has made a booking and paid, partially or fully, for a tourism accommodation service at a registered tourism accommodation service provider;

“Minister” means the Minister responsible for tourism, unless otherwise specified;

“registered tourism accommodation service provider” has the meaning assigned to it under the Saint Lucia Tourism Authority Act, No. 8 of 2017;

“Saint Lucia Tourism Authority” means the Saint Lucia Tourism Authority established under section 4 of the Saint Lucia Tourism Authority Act, No. 8 of 2017;

“sleeping accommodation” includes a room, hut, tent or other place used primarily for sleeping;

“tourism accommodation service” means the supply of a service for sleeping accommodation in the tourism sector with or without related facilities for consideration;

“tourism levy” means the levy imposed under section 6;

“tourism levy revenue” means monies received by the Saint Lucia Tourism Authority from a collector.

**PART I  
ADMINISTRATION**

**Administration of this Act**

**3.—(1)** For the purposes of this Act, the Saint Lucia Tourism Authority shall administer this Act.

(2) Notwithstanding subsection (1), the Minister may, by Order published in the *Gazette*, if the Saint Lucia Tourism Authority no longer exists, designate a body to administer this Act.

(3) Where the Minister designates a body under subsection (2), the functions and powers assigned to the Saint Lucia Tourism Authority under this Act are transferred to that body.

**Functions of the Board**

**4.** Without prejudice to the Saint Lucia Tourism Authority Act, No. 8 of 2017, the Board is responsible for —

- (a) issuing a collector's certificate;
- (b) assigning a collector to a class;
- (c) reviewing the class to which a collector is assigned under section 11;
- (d) receiving the tourism levy remitted under section 20.

**Powers of the Board**

**5.** Without prejudice to the Saint Lucia Tourism Authority Act, No. 8 of 2017, the Board may —

- (a) request books, records and other information to verify a record submitted under section 19;
- (b) recover an unpaid tourism levy under section 21;
- (c) refund the excess amount of an overpaid tourism levy under section 25;
- (d) do all things necessary or convenient in connection with the performance of its functions under this Act.

**PART II**  
**IMPOSITION AND RATE OF TOURISM LEVY**

**Imposition of tourism levy**

6.—(1) Notwithstanding the Value Added Tax Act, Cap. 15.42 and subject to this Act, a tourism levy shall be charged and paid on the supply of a tourism accommodation service under this Act.

(2) A tourism levy under subsection (1) shall be paid by a guest on the cost of the tourism accommodation service provided by a registered tourism accommodation service provider.

**Rate of tourism levy**

7. The rate of a tourism levy to be collected by a class of collector is specified in Schedule 1.

**PART III**  
**COLLECTOR OF TOURISM LEVY**

**Collector of tourism levy**

8.—(1) For the purposes of this Act, a registered tourism accommodation service provider is deemed to be a collector of a tourism levy.

(2) The Saint Lucia Tourism Authority shall, with regard to a registered tourism accommodation service provider that is deemed a collector under subsection (1) —

- (a) issue a collector's certificate; and
- (b) assign a collector to a class.

**Issue of collector's certificate**

9. The Saint Lucia Tourism Authority shall issue a collector's certificate to a collector which includes the following information —

- (a) the name and address of the collector;
- (b) the class assigned under section 8(2)(b);
- (c) the date of issuing the collector's certificate.

**Notice of change of circumstances**

**10.** A collector shall notify the Saint Lucia Tourism Authority, in writing, within twenty-one business days of —

- (a) a change in the name, address, place of business, constitution or tourism accommodation service supplied;
- (b) a change of address from which, or name in which, tourism accommodation service is being carried on; or
- (c) a change in circumstances, if the person ceases to operate or closes on a temporary basis.

**Review of class**

**11.—(1)** The Saint Lucia Tourism Authority shall review, on an annual basis, the class to which a collector is assigned under section 8(2)(b).

(2) The Saint Lucia Tourism Authority may —

- (a) on being notified under section 10; or
- (b) after carrying out a review under subsection (1),

assign a collector to a different class for the collection of a tourism levy.

(3) If the Saint Lucia Tourism Authority determines that a collector must be reassigned to a different class, the Saint Lucia Tourism Authority shall —

- (a) cancel the collector's certificate;
- (b) assign the collector to a different class for the collection of a tourism levy; and
- (c) issue a new collector's certificate.

(4) A collector shall compensate the Saint Lucia Tourism Authority for the cost incurred for reassignment to a class under subsections (2) and (3).

**Validity of collector's certificate**

**12.** A collector's certificate remains valid until —

- (a) suspended under section 14; or



(b) cancelled under section 15.

**Display of collector's certificate**

**13.—**(1) A collector shall display the collector's certificate in a conspicuous place at each business location.

(2) A collector that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars per day or each day or part of the day that the failure continues.

**Suspension of collector's certificate**

**14.** The Saint Lucia Tourism Authority may suspend a collector's certificate if a collector fails to comply with the requirements under sections 19 and 20.

**Cancellation of collector's certificate**

**15.—**(1) The Saint Lucia Tourism Authority may cancel a collector's certificate if a collector —

- (a) no longer exists;
- (b) fails to comply with the requirements specified under sections 19 and 20.

(2) Where a certificate is cancelled under subsection (1), the collector shall submit the collector's certificate to the Saint Lucia Tourism Authority for cancellation.

**Register of collectors**

**16.—**(1) The Saint Lucia Tourism Authority shall keep and maintain a register of all collectors.

(2) The Saint Lucia Tourism Authority shall record in the register, in relation to a collector, the following information —

- (a) the name;
- (b) the personal address and business address;
- (c) the class assigned under section 8(2)(b);
- (d) the class reassigned under section 11(2);
- (e) other details relating to the collector as the Saint Lucia Tourism Authority considers necessary.

**Publication of list of collectors**

17. The Saint Lucia Tourism Authority shall, before the 1<sup>st</sup> day of January of each year, publish in the *Gazette* a list of all collectors.

**PART IV****COLLECTION AND RECOVERY OF TOURISM LEVY****Online notice of tourism levy**

18.—(1) A registered tourism accommodation service provider that advertises, offers or supplies a tourism accommodation service online shall ensure that the advertisement notifies a person, who intends to book and purchase a tourism accommodation service in Saint Lucia, of the tourism levy, where the tourism levy is —

- (a) included in the purchase amount, that the tourism levy will be collected when online payment is made;
- (b) not included in the purchase amount, that the tourism levy will be collected, on arrival of the guest by the registered tourism accommodation service provider.

(2) A registered tourism accommodation service provider that contravenes subsection (1) commits an offence and is liable to a fine not exceeding ten thousand dollars.

**Collection of tourism levy**

19.—(1) A collector shall collect a tourism levy at the rate under section 7 for the accommodation period.

(2) A collector shall —

- (a) establish and maintain an accounts payable system to handle the tourism levy collected;
- (b) account for the tourism levy collected separately and the tourism levy collected must not be commingled with the other sources of revenue;
- (c) segregate the tourism levy collected in a designated separate account;
- (d) remit to the Saint Lucia Tourism Authority the tourism levy collected and recorded in its accounting system;

- (e) submit a weekly report at the beginning of the subsequent week to the Saint Lucia Tourism Authority specifying —
    - (i) the name and registration number of the registered tourism accommodation service provider,
    - (ii) the arrival date of a guest,
    - (iii) the room number assigned to a guest,
    - (iv) the name and age of a guest who occupies a room,
    - (v) the total number of rooms occupied per night,
    - (vi) the total number of guests;
  - (f) submit a monthly report to the Saint Lucia Tourism Authority, unless otherwise agreed by the collector and the Saint Lucia Tourism Authority —
    - (a) that provides an account of monies collected and remitted;
    - (b) together with the remittance of the monies collected for each month.
- (3) A report under subsection (2)(f) includes —
- (a) the information specified under subsection (2)(e);
  - (b) the name of the collector;
  - (c) the payment period;
  - (d) the number of guests charged the rate of a tourism levy under section 7;
  - (e) the number of guests charged fifty per cent of a tourism levy under section 7;
  - (f) the number of guests exempted from payment of a tourism levy under section 26;
  - (g) the total tourism levy collected;
  - (h) the total tourism levy refunded;
  - (i) the total tourism levy remitted.

(4) For the purposes of verifying the information provided in a report submitted under subsections (2) and (3), the Saint Lucia Tourism Authority may request and the collector shall provide the Saint Lucia Tourism Authority access to books, records and other documents for verifying the information in a report.

(5) The tourism levy collected is held by a collector after collection in trust for the beneficial interest of the Saint Lucia Tourism Authority and the collector does not have a legal or equitable interest in the tourism levy collected.

(6) A collector that collects the tourism levy under subsection (1) but fails to remit the sums collected to the Saint Lucia Tourism Authority is liable —

- (a) in the case of an individual, to a fine not exceeding ten thousand dollars;
- (b) in the case of a company, to a fine not exceeding one hundred thousand dollars.

#### **Remittance of tourism levy**

**20.**—(1) A collector shall remit to the Saint Lucia Tourism Authority the tourism levy collected and recorded in its accounting system no later than the twenty-first day of the following calendar month.

(2) The Saint Lucia Tourism Authority shall cause the tourism levy received to be paid into and placed in an account at a financial institution approved by the Minister responsible for finance.

#### **Recovery of unpaid tourism levy**

**21.** A collector that fails to comply with sections 19 and 20 or causes the Saint Lucia Tourism Authority to spend funds to recover or retain payment of the tourism levy collected shall compensate the Saint Lucia Tourism Authority for the cost incurred to recover the amount of the tourism levy owed.

#### **Application of tourism levy revenue**

**22.**—(1) The Saint Lucia Tourism Authority shall apply the tourism levy revenue in the payment of its obligations or in the discharge of its functions under the Saint Lucia Tourism Authority Act, No. 8 of 2017.

(2) Any balance of the tourism levy revenue at the end of the financial year of the Saint Lucia Tourism Authority which is available after making full allowance for the budget of the Saint Lucia Tourism Authority shall be paid to the credit of the Consolidated Fund.

## **PART V REFUND OF TOURISM LEVY**

### **Notice of overpaid tourism levy**

**23.** Where a guest has overpaid a tourism levy, he or she may give written notice to the collector of the overpaid amount of the tourism levy.

### **Claim for refund**

**24.** A collector shall, on being notified under section 23 and if the tourism levy collected has been remitted to the Saint Lucia Tourism Authority, submit to the Saint Lucia Tourism Authority a claim on behalf of a guest for a refund of an overpaid tourism levy, accompanied by documentary proof of payment of the excess amount of an overpaid tourism levy.

### **Refund of overpaid tourism levy**

**25.** The Saint Lucia Tourism Authority shall, on receipt of a claim for a refund under section 24 and if it determines that an excess amount of a tourism levy was paid, refund the excess amount of the overpaid tourism levy.

## **PART VI MISCELLANEOUS**

### **Exemptions**

**26.—(1)** A guest who occupies —

- (a) a complimentary room;
- (b) a room and is below the age of twelve years at the end of the accommodation period;
- (c) a room and is a member of a diplomatic or consulate service,

is exempted from paying the tourism levy under this Act.

(2) The Minister may, after consultation with the Saint Lucia Tourism Authority, by Order published in the *Gazette*, exempt a person or category of persons from this Act.

(3) An exemption under subsection (2) may be subject to conditions.

#### **Amendment of Schedule 1 or Schedule 2**

**27.**—(1) The Minister may, after consultation with the Saint Lucia Tourism Authority, by Order published in the *Gazette*, amend Schedule 1 or Schedule 2.

(2) An Order made under subsection (1) to amend Schedule 1 is subject to an affirmative resolution of Parliament.

#### **Regulations**

**28.** The Minister may, after consultation with the Saint Lucia Tourism Authority, make Regulations to give effect to this Act.

**SCHEDULE 1**

(Section 7)

**RATE OF TOURISM LEVY**

<b>Class of Collector</b>	<b>Rate of Tourism Levy</b>
(a) <b>Class 1 or Class 3</b>	US\$3 per person each night
(b) <b>Class 2 or Class 4</b>	US\$6 per person each night

In the case of a guest who, at the end of the accommodation period, is twelve years or older but less than eighteen years, the rate of tourism levy is 50% of the rate specified under paragraphs (a) and (b).

**SCHEDULE 2**

(Section 8(2)(b))

**CLASS OF A COLLECTOR**

- (a) **Class 1** — a registered tourism accommodation service provider that charges an average daily rate of US\$120 or less;
- (b) **Class 2** — a registered tourism accommodation service provider that charges an average daily rate of US\$121 or more;
- (c) **Class 3** — a registered tourism accommodation service provider that charges a nightly rate of US\$120 or less;
- (d) **Class 4** — a registered tourism accommodation service provider that charges a nightly rate of US\$121 or more.

Passed in the House of Assembly this 11<sup>th</sup> day of November, 2020.

ANDY G. DANIEL,  
*Speaker of the House of Assembly.*

Passed in the Senate this 12<sup>th</sup> day of November, 2020.

JEANNINE GIRAUDY-MCINTYRE,  
*President of the Senate.*