



CHAPTER 15.30

TOURISM INCENTIVES ACT

Revised Edition

Showing the law as at 31 December 2005

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

TOURISM INCENTIVES ACT

Act 7 of 1996 in force 11 May 1996

Amended by Act 36 of 2001 in force 10 November 2001

CHAPTER 15.30**TOURISM INCENTIVES ACT****ARRANGEMENT OF SECTIONS**

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CHAPTER 15.30

TOURISM INCENTIVES ACT

(Act 7 of 1996)

AN ACT to encourage the development of the tourism industry by providing relief from income tax and to provide for related matters.

Commencement [11 May 1996]

PART 1 PRELIMINARY

1. SHORT TITLE

This Act may be cited as the Tourism Incentives Act.

2. INTERPRETATION

In this Act unless the contrary intention appears—

“**approved capital expenditure**” means a capital expenditure incurred in respect of an approved tourism project;

“**approved tourism project**” means a tourism project declared so to be by the Minister under Part 2;

“**approved tourism product**” means a tourism product that has resulted from the completion of an approved tourism project;

“**Comptroller of Customs**” means the person so appointed under the Customs (Control and Management) Act;

“**construction**” includes erection, alteration, renovation, refurbishment, reconstruction, extension, conversion and upgrading of a tourism product;

“**customs duty**” means a duty of Customs chargeable under any law on goods on importation, purchase or exportation;

“**guest**” includes any person who pays for the use of any services or accommodation in an hotel or other approved tourism project;

“**hotel**” means a building or group of buildings used to provide services and accommodation to guests for reward, containing—

- (a) not less than 6 bedrooms;
- (b) one or more kitchens in which meals may be prepared by employees of the hotel owner or hotel operator for the guests; and
- (c) one or more dining rooms shared in common by all the guests in which meals may be served by employees of the hotel owner or hotel operator to such guests;

“**interim approval**” means the approval of a tourism project granted by the Minister under section 5;

“**licence**” means the authorisation granted by the Minister for an approved tourism product to commence operation as a business;

“**Minister**” means the Minister responsible for tourism;

“**operator**” in relation to a tourism project –

- (a) means an individual, a partnership or a company operating an approved tourism product owned by or leased to the individual, partnership or company and includes their respective successors in title; and
- (b) includes any person who is not an owner or lessee, who has immediate control over the management of a tourism product;

“**owner**” in relation to a tourism project means –

- (a) an individual, partnership or company that is not a tourism product operator and has the right of enjoying and of disposing of the tourism product in the most absolute manner and includes their respective successors in title;
- (b) in the case where the tourism product is held by virtue of a usufruct or lease, the person entitled to

the rights and interest of the usufructuary or lessee under the usufruct or lease as the case may be; or

- (c) such other person as the Minister may by order declare to be an owner, and includes a joint owner and body corporate;

“permit” means a permit granted by the Minister under section 13(1);

“restaurant” means any premises used to provide dining services, for customers for reward, containing—

- (a) not less than \$50,000 in capital stock valued at duty free prices;
- (b) one or more kitchens in which meals are prepared; and
- (c) one or more dining rooms to accommodate at least 15 patrons at any one time;

“tax holiday period” means any period of exemption from tax granted by Cabinet under section 12 or under the Income Tax Act;

“tourism product” means any product that has been created by a tourism project;

“tourism project” means a project described in section 3(2);

“year of income” means the year for which income tax is payable under the provisions of the Income Tax Act.

PART 2

APPROVED TOURISM PROJECT

3. APPLICATION FOR APPROVAL OF TOURISM PROJECT

- (1) A person wishing to own or operate a tourism product may apply to the Minister to have the tourism project necessary to develop such product, approved for the purpose of this Act.
- (2) For the purpose of this Act a tourism project includes—
 - (a) the construction of a new hotel;
 - (b) the alteration or renovation of an existing hotel;

- (c) the conversion of an existing building or buildings into an hotel by reconstruction, extension, alteration, renovation or remodelling;
- (d) the furnishing and equipping of a building to be utilised as an hotel;
- (e) the provision of tourist recreational facilities and equipment to provide tourist recreational services;
- (f) the provision of equipment and facilities to be used for the exclusive purpose of providing transport to tourists in Saint Lucia;
- (g) the construction and equipping of a new restaurant;
- (h) the refurbishing and re-equipping of an existing restaurant;
- (i) the establishment of visitors' booths and interpretation centres;
- (j) the establishment, restoration and preservation of monuments, museums and things of outstanding historical and architectural merit;
- (k) the provision of yachting services,

and in respect of an additional capital expenditure, the addition to a tourism product of any facilities intended to increase or improve the amenities it provides.

(Amended by Act 36 of 2001)

- (3) After the approval of Cabinet, the Minister may by order made by statutory instrument declare any service or facility to be a tourism product for the purpose of this Act.

4. FURTHER INFORMATION TO BE FURNISHED BY THE APPLICANT

Upon receipt of an application under section 3 the Minister may require that evidence satisfactory to him or her be submitted with respect to any matter relevant to the application, including—

- (a) ownership of the project and of the completed product;
- (b) land to be used in the project's development;
- (c) estimated expenditure on the project and the source of funds to be used;

- (d) a project feasibility study forecasting economic benefits to Saint Lucia;
- (e) an environmental impact assessment statement;
- (f) marketing plans relevant to the sale of the completed tourism product or services; or
- (g) any other information including comments from the public that may be required by the Minister at the time.

5. INTERIM APPROVAL OF A PROJECT

Where the Minister is satisfied that the tourism project is practical and that it would assist the development of tourism, the Minister may grant to the applicant an interim approval of a tourism project as the first stage in a 3 stage authorisation procedure to include—

- (a) an interim approval of a tourism project based on the information submitted as outlined in section 4;
- (b) a final approval based on the completed product incorporating any changes that may have taken place in the course of the project;
- (c) a licence awarded to the applicant when the Minister is satisfied that all relevant procedures, requisitions and statutes have been complied with and that the tourism product is in a suitable form and of a standard to commence operation.

6. FORM OF INTERIM APPROVAL

The interim approval granted under section 5(1) shall—

- (a) be in such form and contain such particulars as may be prescribed; and
- (b) specify the benefits that may be granted to either the operator or owner of a tourism project on its completion, subject to such conditions as the Minister may attach.

7. REVOCATION OF INTERIM APPROVAL

- (1) An interim approval may be revoked by the Minister at any time if—

- (a) any information submitted with respect to the application is false or misleading;
 - (b) the person to whom the interim approval was granted has failed to comply with any condition or term of the interim approval; or
 - (c) the project has been completed and application made for final approval.
- (2) The Minister shall provide written notice of the revocation of an interim approval to the applicant to whom the approval was granted.
- (3) The Minister may revive an interim approval revoked under subsection (1) if in his or her opinion it is in the public interest to do so, or he or she may grant a new interim approval in respect of the proposed or incompleting tourism project.

8. FINAL APPROVAL OF TOURISM PRODUCT

- (1) When any tourism project developed in accordance with the conditions of an interim approval has been completed, the Minister shall, by order, declare the resulting tourism product an approved product for the purpose of this Act.
- (2) An order made under subsection (1)—
- (a) shall be in such form and contain such particulars as may be prescribed;
 - (b) shall specify the benefits granted to the owner or to the operator;
 - (c) may impose conditions to be observed by the owner or the operator in default of which the order made under subsection (1) shall become null and void with effect from such date as may be fixed by the Minister by notification published in the Gazette.

9. LICENSING OF TOURISM PRODUCT

- (1) When a tourism product has been subjected to the scrutiny of all relevant authorities and licensing bodies and has met the standards and requirements of all such agencies the Minister shall, by order, issue to the owner or operator, a licence to commence operation as a business.

- (2) A licence issued under subsection (1)—
 - (a) shall be in such form and contain such particulars as may be prescribed; and
 - (b) may impose conditions of operation to be observed by the owner or operator of the product in default of which the licence shall become null and void with effect from such date as may be fixed by the Minister by notification published in the Gazette.

10. EFFECTIVE DATE OF LICENSING

- (1) The issue of a licence under section 9 shall fix—
 - (a) the effective date at which the tourism product is licensed to operate as a business; and
 - (b) if the owner or operator of the tourism product is entitled to any tax benefit, the effective date from which such benefit accrues.
- (2) The date fixed by issue of a licence to an owner or operator is taken to be the initial year of income for the purpose of computing tax benefits.

PART 3 INCOME TAX BENEFITS

11. APPLICATION OF THIS PART TO AN APPROVED TOURISM PRODUCT

Despite anything contained in the Income Tax Act or any other law, this Part shall apply to any product that is declared to be an approved tourism product by an order made under section 8.

12. EXEMPTION FROM INCOME TAX FOR AN APPROVED TOURISM PRODUCT

- (1) Subject to this section, the income accruing from any approved tourism product is exempt where the construction of such approved tourism product or of any extensions to the approved tourism product started on or after the appointed date.

- (2) An exemption under subsection (1) shall not apply unless approval of such exemption is given by the Cabinet following an application in writing made to the Minister.
- (3) Where a licence has been given in respect of a new hotel or any other approved tourism product under section 9, the Cabinet shall determine the period of exemption from tax on income as provided in subsection (1), to a maximum of 15 years.
- (4) Where any approved tourism product ceases to be used for the purpose for which it was specified to be used at the time it was designated an approved tourism product, during the tax holiday period, the exemption provided by this section shall cease to apply from the date of cessation of such use.
- (5) Where any approved tourism product is sold during the tax holiday period but continues to be used for the purpose for which it was specified it was going to be used at the time it was designated an approved tourism product, the exemption provided by this section shall continue to apply to the new owner or the lessee, as the case may be, for the remainder of the period.
- (6) Where a licence has been given in respect of any extensions to an existing approved tourism product under section 9, the Cabinet shall determine the period of exemption from tax on income as provided in subsection (1), but not exceeding a maximum of 10 years, that is attributable to such extensions.
- (7) Income attributable to an extension to an existing hotel under subsection (6) is defined as the same proportion of the total income accruing from the hotel as the number of additional bedrooms the extension bears to the total number of bedrooms in the hotel.
- (8) Income attributable to an extension to an approved tourism product other than an hotel shall be determined by the Comptroller of Inland Revenue.
- (9) Where an approved tourism product is managed by or on behalf of a limited liability company, the company is entitled to distribute profits to shareholders or debenture holders as capital monies free of tax during the 2 year period following the end of the granted tax holiday period.

- (10) The appointed date for the purposes of subsection (1) shall be determined by the Minister by an order published in the Gazette.

PART 4 CUSTOMS DUTY EXEMPTIONS

13. PERMITS

- (1) Where a person has been granted an interim approval under Part 2, the Minister may grant to that person a permit for importation free of customs duty and consumption tax, building materials, articles or equipment as specified in the permit.
- (2) A permit is subject to the condition that the building materials, articles or equipment as specified shall be used exclusively for the construction and equipping of the tourism product for which the interim approval has been granted.

14. PROCEDURE ON APPLICATION FOR GRANT OF PERMIT

Every application for the grant of a permit under section 13 shall be in such form and contain such information and be accompanied by such documents as may be prescribed.

15. FORM OF PERMIT

A permit granted under section 13 shall be in such form and shall be subject to such terms and conditions as may be prescribed.

16. EXEMPTION FROM CUSTOMS DUTY

The holder of a permit may, upon the production of the permit to the Comptroller of Customs, import free of all import duty and consumption tax but subject to the terms of the permit such construction materials, articles or equipment as are specified in the permit.

17. REFUND

Where the holder of a permit satisfies the Comptroller of Customs—

- (a) that any building materials, articles or equipment have been purchased by the holder of the permit in Saint Lucia in accordance with the terms of the permit;
- (b) that customs duties were paid upon the importation of the building materials, articles or equipment; and
- (c) the amount of the customs duties that have been paid, the holder of the permit is entitled to a refund of such customs duties paid.

18. REFUND WHEN DUTY NOT KNOWN

(1) Where the holder of a permit satisfies the Comptroller of Customs that—

- (a) any building materials, articles or equipment have been purchased by the holder of the permit in Saint Lucia in accordance with the terms of the permit;
- (b) customs duties were paid upon the importation into Saint Lucia of the building materials, articles or equipment; and
- (c) the amount of customs duties so paid cannot be ascertained,

the holder of the permit is entitled, subject to subsection (2), to be paid such sum as the Comptroller of Customs may think fit.

(2) Payment under this section shall not exceed the lowest rates of customs duties that have been in force at any time since the date of purchase by the holder of the permit for the goods.

19. PROHIBITED USES

Every operator or owner of a tourism project for which building materials, articles or equipment have been imported or purchased free of customs duty who, without authorisation, disposes of such goods other than as provided for in the permit, commits an offence and is liable on summary conviction to a penalty of—

- (a) three times the value of the building materials, articles or equipment disposed of;

- (b) repayment of money refunded on such goods under sections 17 and 18; or
- (c) imprisonment for a term not exceeding 12 months in default of payment under paragraph (a) or (b).

20. AUTHORISED DISPOSAL OF MATERIALS AND ARTICLES

- (1) Where the Minister is satisfied that any building materials, articles or equipment, for which a permit has been granted under this Act, are no longer required for the purpose of the tourism project on which the permit was based, the Minister may in writing authorise the holder of the permit to dispose of any such building materials or articles in such manner and upon such conditions as the Minister may think fit.
- (2) Materials, articles or equipment shall not be disposed of under subsection (1) within 3 years from their day of purchase unless the holder of the permit has—
 - (a) paid to the Comptroller of Customs; or
 - (b) given security to the satisfaction of the Comptroller of Customs that he or she will pay,

all customs duties or refunds given under sections 17 and 18 applicable to the goods to be disposed of.

21. MARKING OF EXEMPT ARTICLES

The Comptroller of Customs may require that any articles or equipments imported into or purchased in Saint Lucia under a permit, be marked in a manner prescribed.

22. INVENTORY OF EXEMPT ARTICLES

- (1) Despite section 26, where any articles or equipment have been imported into or purchased in Saint Lucia under a permit, the holder of the permit shall make an inventory, to the satisfaction of the Comptroller of Customs, of all such articles, and the inventory shall be kept by the holder of the permit while the permit subsists and thereafter it shall be kept by the manager or person in charge of the tourism project.

- (2) Any person who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a penalty of \$2,500.

23. REVOCATION OF PERMIT

- (1) If the Minister is satisfied that the holder of a permit has—
 - (a) obtained the permit by any false statement;
 - (b) abused or misused the permit;
 - (c) broken or failed to comply with any condition of the permit; or
 - (d) failed to pay any sum payable under this Part,the Minister may by written notice to the holder of the permit either suspend the operation of the permit for such time and subject to such conditions as may be specified in the notice or revoke the permit.
- (2) In addition to suspending or revoking a permit, the Minister may, in a case described in subsection (1), order the holder of the permit to pay any relevant duties or to repay any sums paid under section 17 or 18 in respect of any building materials, articles or equipments obtained under the permit, and any sums so ordered to be paid are recoverable in the manner provided by the Code of Civil Procedure.

24. TERMINATION OF PERMIT

- (1) Subject to subsection (2) a permit expires upon the revocation of the interim approval of the tourism project in respect of which the permit was granted.
- (2) Where the construction of the tourism project in respect of which a permit has been granted is completed for the purpose of Part 2 but in the opinion of the Minister not complete as far as the acquisition of building materials, articles or equipment is concerned, the Minister may extend the permit for such further period not exceeding 12 months as the Minister may consider adequate in the circumstances.

25. TRANSFER OF PERMIT

- (1) A permit is transferable only with the written consent of the Minister.
- (2) A person who—
 - (a) transfers or attempts to transfer a permit without the consent of the Minister; or
 - (b) uses or attempts to make use of a permit transferred to him or her without the consent of the Minister,commits an offence and is liable on summary conviction to a fine of \$5,000.
- (3) The Minister may, in his or her discretion, revoke or suspend for such period as he or she thinks proper, a permit where the holder of the permit is convicted of an offence under subsection (2)(a) or where in the opinion of the Minister the holder of a permit facilitated the commission of an offence under subsection (2)(b).

26. REMISSION OR REFUND OF CUSTOMS DUTY

- (1) Where under this act, any articles, or equipment have been imported free of customs duty or where customs duty paid has been refunded, the Comptroller of Customs may—
 - (a) within the period of 3 years from the date of importation of any such articles or equipment; or
 - (b) until the disposition of such goods in accordance with section 20(1),require any owner or operator of the tourism project for which such goods have been imported to—
 - (i) keep such record in a form containing such particulars as may be required by the Comptroller of Customs on any such articles or equipments,
 - (ii) cause such articles or equipment to be marked with such mark and in such manner as may be required by the Comptroller of Customs, and
 - (iii) permit the Comptroller of Customs or any person authorised by him or her at all reasonable times to inspect and take extracts of such records and to

have access to any premises under his or her control for the purpose of examining any such articles or equipment.

- (2) An owner or operator of a tourism product, who contravenes this section or wilfully delays, hinders or obstructs the Comptroller of Customs or any person authorised by him or her in writing, in the exercise of his or her powers under this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

PART 5

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

27. EXERCISE BY JUDGE OF DISCRETION CONFERRED ON COMPTROLLER OF INLAND REVENUE

Wherever in this Act a discretion is conferred on the Comptroller of Inland Revenue, such discretion may be exercised on appeal under the Income Tax Act by a judge.

28. POWER TO COMPOUND OFFENCES

Subject to the powers of the Director of Public Prosecutions under section 73 of the Constitution, the Comptroller may, with the approval of the Minister, as he or she thinks fit, compound any offence under this Act.

29. REGULATIONS

The Minister may make regulations for carrying out the intent and purpose of this Act and in particular, may make regulations to—

- (a) prescribe the form of application to be made for interim approvals, the manner of preparing site plans of proposed hotels or tourism projects, information on their environmental impact, financial forecasts and specifications that are to accompany applications for approval of tourism projects;
- (b) prescribe the form and content of interim approvals and the conditions and terms to be contained in them, along

- with those conditions which, if breached, will result in the revocation or suspension of an interim approval;
- (c) prescribe the form and content of orders and provide for the giving of security in the case of an order made in advance of completion of an approved tourism project;
 - (d) prescribe the form and content of licences to be issued on completion of a tourism project along with the standards and conditions to be met prior to their issue;
 - (e) prescribe the form of permits fees and the terms and conditions under which permits are to be granted;
 - (f) prescribe the type of mark to be affixed to any article or equipment imported or purchased under a permit and the manner in which it is to be affixed;
 - (g) prescribe the form of inventory required by section 22 to be kept in respect of articles or equipment imported or purchased under a permit;
 - (h) provide for the making up of the accounts of operators or owners of tourism products at the beginning and end of any tax exemption period, and the manner in which the accounts are to be made up; and
 - (i) provide penalties by way of fines or imprisonment or both for contravention of the regulations.

30. PENDING APPLICATIONS UNDER HOTEL AIDS ACT, 1959

Where on the commencement of this Act an application for the grant of a licence under the repealed Hotel Aids Act, 1959 is pending, that application shall be construed to be an application for an interim approval of a tourism project under Part 2 and shall be dealt with in accordance with that Part.

31. LICENCE UNDER HOTEL AIDS ACT, 1959

- (1) Where on the commencement of this Act a person is licensed to import building materials and other items under the repealed Hotel Aids Act, 1959 the Minister may in his or her discretion grant to that person, a permit under Part 4 subject to such terms and conditions as may be prescribed, and thereupon the licence

under the repealed Hotel Aids Act, 1959 is deemed to have expired.

- (2) Where no permit is granted under subsection (1), the licence granted under the repealed Hotel Aids Act, 1959 shall continue to be valid and the privileges under it may continue to be exercised by the licensee subject and in accordance with the provisions of the repealed Hotel Aids Act, 1959 despite the repeal of the Act by this Act.

32. SAVINGS

Despite the repeal of the Hotel Aids Act, 1959 by this Act, benefits, orders and declarations made or issued under that Act continue in force as far as is necessary to give effect to the provisions of this Act, unless revoked by or under this Act.