

TOURISM INCENTIVES ACT

SAINT LUCIA

No. 7 of 1996

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1Assent

STANISLAUS JAMES
Governor-general

7th May, 1997

SAINT LUCIA

No. 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.

[11th May, 1996]

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:

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**PART I
Preliminary**

- Short Title:** 1. This Act may be cited as the Tourism Incentives Act, 1996
- Interpretation** 2. 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 II;
- “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, 1990;
- “construction”** includes erection, alternation, renovation, refurbishment, reconstruction, extension, conversation and upgrading of a tourism products;
- “customs Duty”** means duty of Customs chargeable under any law on goods
- “former Hotel Ordinance”** means the Hotel Aids Ordinance, 1959 repealed by this Act;
- “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 six (6) bedrooms
 - (b) one or more kitchens in which meals may be prepared by employees of the hotel owner or hotel operator for the guest; 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 section5;

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“licence” means the authorization 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 not being an owner or lessee, who for the time being 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; or
- (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 fifteen 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, 1989;

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“**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 pursuant to the provisions of the Income Tax Act 1989.

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PART II

APPROVED TOURISM PROJECT

**Application for
Approval of tourism
Project**

3.-(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 utilized 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 St. 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 centers;
- (j) the establishment restoration and preservation of monuments, museums and things of outstanding historical and architectural merit;

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

(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 or the purpose of this Act.

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4. Upon receipt of an application under section 3 the Minister may require that evidence satisfactory to him be submitted with respect to any matter relevant to the application. Including-

Further information to be furnished by the applicant.

- (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 St. 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. 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 three stage authorization procedure to include-

Interim approval of a project.

- (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 license 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. 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.

Form of interim Approval.

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

Revocation of interim approval.

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- (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 opinion it is in the public interest to do so, or he may grant a new interim approval in respect of the proposed or incomplete tourism project.

Final approval of
Tourism product.

8.-(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.

Licensing of tourism
Product.

9-(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 operator, a license to commence operation as a business.

- (2) A license 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 license shall become null and void with effect from such date as may be fixed by the Minister by Notification published in the Gazette.

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- 10.-(1) Issuance of a licence under section 9 shall fix ---- Effective date of
(a) the effective date at which the tourism product was licensing
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 will accrue.
- (2) The date fixed by issuance of licence to an owner or operator shall be taken to be the initial year of income for the purpose of computing tax benefits.

**PART III
Income Tax benefits**

- 11.- Notwithstanding anything contained in the Income Tax Act, 1989 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. Application of this Part to an approved tourism product
- 12.-(1) Subject to this section, the income accruing from any approved tourism product shall be 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. Exemption from income tax for an approved tourism product
- (2.) No exemption under subsection (1) shall 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 fifteen 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 ten 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 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 two years 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 IV CUSTOMS DUTY EXEMPTIONS

13.-(1) Where a person has been granted an interim approval under Part II, 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. 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.

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

Form of permit

16. 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

Exemption from customs entry

17. Where the holder of a permit satisfies the Comptroller of Customs-----

Refund

- (a) that any building materials, articles or equipment have been purchased by the holder of the permits in St. 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----(1) Where the holder of a permit satisfies the Comptroller of Customs that-----

Refund when duty not known

- (a) any building materials, articles or equipment been purchased by the holder of the permit in Saint Lucia in accordance with the terms of the permit; and-----
 - (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 permits is entitled, subject to subsection (2), to be paid such sum as the Comptroller of Customs may think fit.
- (2) No payment under this section shall 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. 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 authorization, 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----

Prohibited uses.

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- (a) three times the value of the building materials, articles or equipment disposed of; or
- (b) repayment of money refunded on such goods under section 17 and 18; or
- (c) imprisonment for a term not exceeding twelve months in default of payment under paragraph (a) or (b).

Authorized disposal
of materials and
articles

20.----(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 authorize 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) No materials, articles or equipment shall be disposed of under subsection (1) within three 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 will pay,

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

Marking of exempt
Articles

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

Inventory of exempt
articles.

22.—(1) Notwithstanding 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 two thousand five hundred dollars.

Revocation of permit

23.----(1) If the Minister is satisfied that the holder of the a permit has----

- (a) obtained the permit by any false statement:
- (b) abuse or misused the permit

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- (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 equipment obtained under the permit, and any sums so ordered to be paid are recoverable in the manner provided by the Code of Civil Procedure.

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24.—(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. Termination of permit.

(2) Where the construction of the tourism project in respect of which a permit has been granted is completed for the purpose of Part II 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 twelve months as the Minister may consider adequate in the circumstances.

25---(1) A permit is transferable only with the written consent of the Minister. Transfer of permit

(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 without the consent of the Minister commits an offence and is liable on summary conviction to a fine of five thousand dollars.

(3) The Minister may in his discretion, revoke or suspend for such period as he 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).

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Remission or refund
of customs duty.

26---(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 three years from the date of importation of any such articles or equipment; or
- (b) until the disposition of such goods in accordance with subsection (1) of section 20, 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 articles or equipment; and
 - (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 authorized by him at all reasonable times to inspect and take extracts of such records and to have access to any premises under his 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 willfully delays, hinders or obstructs the Comptroller of Customs or any person authorized by him in writing, in the exercise of his powers under this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

PART V

Transitional and Miscellaneous Provisions

Exercise by judge
discretion conferred
on Comptroller of
Inland Revenue No. of
1989

27. 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, 1989 by a Judge.

28. 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 think fits, compound any offence under this Act.

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Regulations

29. 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 from 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 the completion of an approved tourism project;
 - (d) prescribe the form and content licenses 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 permit 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.

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

31. (1) Where on the commencement of this Act a person is licensed to import building materials and other items under the former Hotel Ordinance, the Minister may in his discretion grant to that person, a permit under Part IV of this Act subject to such terms and conditions as may be prescribed, and thereupon the licence under the former Hotel Ordinance shall be deemed to have expired.

(2) Where no permit is granted under subsection (1), the licence granted under the former Hotel Ordinance 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 former Hotel Ordinance notwithstanding the repeal of the Ordinance by this Act.

Repeals and Savings. 32— (1) The Hotel Aids Ordinance, 1959 is repealed.

(2) Notwithstanding the repeal of the Hotel Aids Ordinance, 1959 by this Act, benefits, Orders and Declarations made or issued under that Ordinance shall continue in force as far as is necessary to give effect to the provisions of this Act, unless revoked by or under this Act.

Passed in the House of Assembly this 19th day of March, 1996.

W. ST. CLAIR DANIEL,
Speaker of the House of Assembly.

Passed in the Senate this 26th day of March, 1996.

NEVILLE CENAC,
President of the Senate