

THE TOURISM DEVELOPMENT ACT, 2000

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REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 9 of 2000

[L.S.]

AN ACT to facilitate the development of the Tourism Industry by providing to investors incentives and concessions and to make provision for matters incidental thereto.

[Assented to 1st June, 2000]

WHEREAS it is desired to develop the tourism industry in Preamble
keeping with national tourism objectives:

BE IT ENACTED by the Parliament of Trinidad and Tobago Enactment
as follows:—

Short title and
commencement

1. (1) This Act may be cited as the Tourism Development Act, 2000.

(2) This Act shall come into operation on such date as the President may appoint by Proclamation.

Interpretation

2. In this Act—

“accounting period” means each financial year of the owner or the operator during the tax benefit period when accounts are required to be kept as prescribed;

“additional capital expenditure” means capital expenditure incurred in respect of an approved tourism project by way of any additional project proposed for that tourism project;

“approved capital expenditure” means capital expenditure or additional capital expenditure approved by the Minister under Part 2;

“approved loan” means a loan—

(a) that is—

- (i) not guaranteed by the President or otherwise by the Government or any representative thereof;
- (ii) made upon the security of a debenture, mortgage or other similar instrument;
- (iii) approved by the Minister of Finance after taking into account the source of the loan, the period of the loan, the general market conditions in the country where the loan is obtained and any other relevant consideration; or

(b) used for bridging finance;

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

“articles of equipment for tourism accommodation facilities” means any of the articles set out in Schedule 1; Schedule 1

“articles of equipment for tourism ancillary facilities and services” means any of the articles set out in Schedule 3; Schedule 3

“articles of tourism equipment” means any of the articles set out in Schedules 1 and 3;

“Assembly” means the Tobago House of Assembly established by section 141A of the Constitution; Chap. 3:01

“Board” means the Board of Inland Revenue established by section 3 of the Income Tax Act; Chap. 75:01

“boatyard” means a facility that provides services to marine craft, including but not limited to repair and maintenance services;

“bridging finance” means proceeds of a bridging loan used for the purposes of financing the construction of an approved tourism project;

“camp site” means an area designated for the development of eco-tourism, equipped with sanitary toilets, potable water, and first-aid supplies;

“capital expenditure” means expenditure which may be approved for a project by the Minister under section 15(2);

“company” means a company limited by shares and registered under the Companies Act and includes a corporation incorporated by a special Act of Parliament;

- “Comptroller” means the Comptroller of Customs and Excise;
- “construction” means the erection of a structure to form a tourism project or the expansion or alteration and renovation of an existing structure to form a tourism project;
- “Corporation” means the State Authority to which responsibility for tourism in Trinidad and Tobago is assigned;
- “cultural centre” means a specially prepared space for the preservation, display or performance of items of culture;
- “dive lodge” means a tourism accommodation facility that offers a tourism product that includes scuba diving and other recreational watersports;
- “eco-lodge” means a nature dependent tourist accommodation facility that meets the principles and philosophies of eco-tourism in that it is developed and managed in an environmentally sensitive manner, affords protection of its operating environment and offers an educational and participatory experience to visitors;
- “existing tourism project” means a tourism project on which construction, expansion or alteration commenced on or after 3rd August, 1995;
- “golf course” means a course with a minimum of 9 holes or a full miniature golf course open to tourists and the public;
- “guest house” means a building having a minimum of eight separate rooms each offering accommodation;

“hotel” means a building or group of buildings, including the curtilage thereof and all buildings within the curtilage, occupied together and used to provide the following services to guests for reward:

- (a) the supplying, under any arrangements of rooms, and of laundry, dry-cleaning and valet services to registered guests of the hotel;
- (b) the supplying of food and restaurant services, alcoholic and non-alcoholic beverages, cigarettes, cigars and tobacco by the hotel operator to customers of the hotel whether registered guests or not;
- (c) the supplying, of any of the hotel’s facilities for meetings, conventions, conferences, sales promotions, parties and other entertainment to customers of the hotel whether registered guests or not;
- (d) the supplying of car-parking services, check room facilities and telephone services to customers of the hotel whether registered guests or not;
- (e) the rental of areas of the hotel premises to be used as a barber shop, hair-dressing parlour, travel agency, transportation services, banking services, merchandise shops or for any other purpose as the Minister may in writing approve; or

(f) the supplying of such service or the carrying on of such activity, as the Minister may declare by Order, relating to a specific hotel or generally, to be an hotel service;

“IRD” means Integrated Resort Development referred to in Schedule 5;

“interim approval” means the approval of a tourism project recommended by the Corporation or the Assembly and approved by the Minister under section 13;

“marina” means a non-residential establishment providing berthing facilities for a minimum of ten marine craft or such other number as approved by the Minister, showers and change facilities and a receptacle for the disposal or treatment of sewage or waste from visiting vessels; yard space for maintenance activities, and a receptacle for recycling oil, glass and batteries;

“Minister” means the minister to whom responsibility for tourism is assigned;

“new tourism project” means a tourism project that has been constructed otherwise than by the reconstruction, alteration, renovation, or extension of an existing tourism project;

“operator” means an individual, a partnership or a company that operates an approved tourism project owned by or leased to the individual, partnership or company and includes their respective successors in title;

“Order” means an Order of the Minister made under Part 2 declaring any tourism project to be an approved tourism project;

“owner” means an individual, partnership or a company that owns or owns and develops an approved tourism project but that is not an operator in respect of that tourism project and includes their respective successors in title;

“permit” means a permit granted by the Minister under Part 3;

“recreational space” means space utilized primarily for recreation and entertainment of tourists;

“room” means the sleeping room of a tourism accommodation facility which is of a specified minimum size, is furnished, includes bathroom and toilet facilities and for which daily housekeeping services are provided;

“State Authority” means an enterprise owned or controlled by or on behalf of the State so, however, that an enterprise shall be taken to be controlled by the State if the Government or any body controlled by the Government—

- (a) exercises or is entitled to exercise control directly or indirectly over the affairs of the enterprise;
- (b) is entitled to appoint a majority of the directors of the Board of Directors of the Enterprise; or
- (c) holds at least fifty per cent of the ordinary share capital of the enterprise;

“tax” means income or corporation tax;

“tax benefit” means any tax exemption or tax relief granted pursuant to this Act;

“tax exemption” means any exemption from tax in respect of gains or profits;

“theme parks” means recreational space having a definable theme where such a theme ranges from history to fantasy, providing a range of activities for entertainment;

“tourism project” means a project as set out in Schedules 2, 5 and 6, and involves activities listed in Schedule 4;

“tourist” means one who travels to Trinidad and Tobago for business or pleasure or one who travels within Trinidad and Tobago for pleasure;

Schedule 5

“tourist accommodation project” means a tourism project specified in Schedule 5;

Schedule 2

“tourism ancillary facilities and services” means a project providing support for tourism and exists for the sole purpose of providing entertainment and attractions for use by tourists as listed in Schedule 2;

Schedule 6

“tourism infrastructure” means any public goods provided primarily in support of tourism development, including but not limited to items set out in Schedule 6; and

“transportation service” means but is not limited to ferry services, charter boats, VIP limousines, motor cars, tour buses, taxis or any other resources as may be recommended by the Corporation or the Assembly where applicable and approved by the Minister.

PART 1

DEVELOPMENT INCENTIVES

3. (1) For the purpose of encouraging the ^{Tax benefit} development of the tourism industry in Trinidad and Tobago the Minister may confer any of the tax benefits described in subsections (3), (4) and (5) on owners or operators, as the case may require.

(2) In conferring the tax benefits referred to in subsection (1) the Minister shall have regard to the amount of capital invested by an owner or operator and the consequent financial risk as well as the measure of contribution that the owner or operator has made or is likely to make to the sustainable development of the tourism industry in Trinidad and Tobago and the achievement of national tourism objectives.

(3) The tax benefits which the Minister may confer on an owner or operator when an approved tourism project results in the creation of a new tourism project or the expansion of an existing tourism project, shall be—

- (a) a tax exemption not exceeding seven years in respect of the gains or profits from the approved tourism project;
- (b) a tax exemption in respect of the gains or profits derived from the initial sale of a villa or condominium or the site for a villa or condominium that forms part of an IRD which is an approved tourism project.

(4) In addition to the tax relief mentioned in subsection (3) the following tax benefits may, subject to Part 4, be granted during the period that a tourism project is an approved tourism project:

- (a) a carry-over from a tax exemption period, if any, of any loss arising out of the operation or renting of an approved tourism project; and

(b) a tax exemption in respect of interest received on an approved loan used for an approved tourism project.

(5) The owner or operator of an approved tourism project who receives a tax exemption under subsection (3) shall place in a separate account all gains or profits that are tax exempt and if the owner or operator is a company and pays a dividend to a non-resident shareholder out of the aforementioned gains or profits, the dividend so paid shall be exempt from tax if the recipient is not liable to tax in respect of that dividend in the country in which he is a resident.

Additional
benefits

4. (1) On application by an importer, the Minister may recommend to the Minister to whom the responsibility for Trade and Industry is assigned, that a licence to import the vehicles under the requirements outlined in Schedule 7 be granted.

Schedule 7

(2) Where a licence is granted under subsection (1) the importer shall pay—

(a) customs duty at the rate of ten per cent;
and

(b) value added tax.

Limitations on Tax
benefits

5. Except in the case of an additional capital expenditure under Part 2, no person who has been granted an interim approval shall apply for or receive an additional interim approval in respect of the same tourism project.

Tourism Transfer
Tax

6. (1) Where a tourism project or any part thereof, which enjoyed benefits under the Act is sold or used other than stated in the Order, a tourism project transfer tax calculated on the market value of the tourism project or any part thereof shall be paid by the vendor to the Board at the appropriate rate as set out in Schedule 8.

(2) This section shall not apply to the sale or lease of a villa or condominium or the site for a villa or condominium which forms part of an IRD which is an approved tourism project.

(3) The Minister may in certain cases, approve of the sale or changed use of the project in circumstances where he considers it equitable to do so and in giving such approval will state what portion of the transfer tax as set out in Schedule 8 shall be exempted.

(4) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of one million, five hundred thousand dollars and to imprisonment for two years.

7. Tourism projects seeking to access benefits under this Act— Requirements for facilities to access benefits

- (a) must be registered with the Corporation or the Assembly;
- (b) are subject to annual inspection by the Corporation in respect of matters concerning Trinidad, and the Assembly in matters concerning Tobago;
- (c) must provide relevant statistics/economic data at intervals as required by the Corporation or the Assembly;
- (d) must as far as possible, engage the human resources of Trinidad and Tobago;
- (e) must show linkages to the agricultural, construction and furniture industries and other manufactured goods and services of Trinidad and Tobago.

7A. No benefits under this Act shall be conferred on— Non conferral of benefits

- (a) the purchaser or lessee of a villa or condominium or the site for a villa or condominium unit in an IRD which is an approved tourism project; or

- (b) an owner or operator who has not obtained an order in accordance with this Act.

PART 2

APPROVED TOURISM PROJECTS

Investment criteria **8.** In order to obtain benefits under this Part, a tourism project shall—

- (a) have a minimum capital expenditure as outlined in Schedule 9;
- (b) be constructed or undertaken primarily for use in the tourism industry; and
- (c) be available on a continuing basis for use in the promotion of Trinidad and Tobago as a tourist destination.

Mandatory local ownership **9.** Tourism projects, the incentives for which, will be reserved solely for nationals of Trinidad and Tobago are:

- (a) accommodation facilities under twenty-one rooms;
- (b) transportation services;
- (c) ground tour operations or destination management companies.

Application for approval of project Schedule 9 **10.** (1) Where a project is contemplated having the minimum capital expenditure prescribed in Schedule 9, any person who owns or operates or intends to own or operate the tourism project or proposed tourism project in respect of which the project is contemplated, may apply to the Corporation in the form prescribed to have the tourism project approved for the purposes of this Act.

Further information to be furnished by applicant (2) Upon receipt of an application under subsection (1), the Corporation may require the applicant to submit such information and plans as

required, and the Corporation may require that satisfactory evidence be submitted to it with respect to any matter relevant to the application, proposed project, ownership of the tourism project or proposed tourism project or lands to be used in connection therewith, or to the estimated expenditure on the project, or the source of the funds thereof.

(3) The Corporation upon receipt of the information, plans, evidence or estimate requested in accordance with subsection (1) shall examine the application and upon consideration of the approved criteria and guidelines in accordance with this Act make the necessary recommendations to the Minister no later than thirty days after receipt of the application.

11. (1) Where a project is contemplated in Tobago having the minimum capital expenditure prescribed in Schedule 9 any person who owns or operates projects in Tobago, or intends to own or operate the tourism project contemplated may apply to the Corporation in the form prescribed, to have the tourism project approved for the purposes of this Act.

Application for
approval of project in
Tobago

(2) Upon receipt of an application under subsection (1) the Corporation may require the applicant to submit such information and plans as required, and without limiting the generality of the foregoing, the Corporation shall submit the application to the Assembly for recommendations. The Assembly may require that satisfactory evidence be submitted to it with respect to any matter relevant to the application, proposed project, ownership of the tourism project or proposed tourism project or lands to be used in connection therewith, or to the estimated expenditure on the project, or the source of the funds thereof.

Further information
to be furnished by
applicant

(3) The Assembly, upon receipt of the information, plans, evidence or estimate requested in accordance with subsection (2) shall examine the application and upon consideration of the approved criteria and guidelines in accordance with this Act, shall make the necessary recommendations to the Minister no later than thirty days after the receipt of the application.

Information to be
furnished by
applicant

12. (1) Every application under sections 10 and 11 shall be accompanied by a proposal for the tourism project containing such information set out in Schedules 7 and 9.

(2) Notwithstanding subsection (1), the Corporation, or the Assembly, may require the applicant to submit such other information with respect to any matter relevant to the application or the proposed project.

Interim approval of
project

13. (1) Where the Minister is satisfied that the tourism project is practical and that it would assist the development of the tourism industry in Trinidad and Tobago and is otherwise in the public interest and has received the recommendations of the Assembly for the project in Tobago, the Minister may grant to the applicant an Interim Certificate of Approval, within forty-five days after receipt of the completed application under sections 10 and 11 or within such further time as he may think fit.

(2) The Interim Certificate of Approval granted under subsection (1)—

- (a) shall be in such form and contain such particulars as may be prescribed;
- (b) shall specify the tax benefits that will be granted to the owner or operator on completion of the project; and

- (c) may impose such terms and conditions to be observed by the owner or operator.

14. (1) An interim approval may be revoked by the Minister at any time if— Revocation of interim approval

- (a) any of the information given on the application thereof was false or misleading in any material respect;
- (b) the person to whom the interim approval was granted has become unable to carry out or complete the project approved by the interim approval; or
- (c) the person to whom the interim approval was granted has failed to comply with any term or condition stated therein as required by the regulations,

and the Minister shall cause written notice of the revocation of an interim approval to be given to the person to whom the interim approval was granted.

(2) Unless sooner revoked under subsection (1), an interim approval is revoked when, upon completion of the project thereby approved, the Minister makes an Order under section 16 in respect of the tourism project for which the project was carried out.

(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 project.

15. (1) After the receipt of such plans and specifications and other details as may be required to enable him to do so, the Minister shall, as soon as practicable, determine for the purposes of this Act the estimated amount of capital expenditure on items for the project. Determining capital expenditure

(2) For the purposes of this Act, capital expenditure which may be approved for a project is expenditure in respect of—

- (a) the construction of a new tourism project or a building to be made into a tourism project;
- (b) the expansion or addition to an approved tourism project;
- (c) the furnishing and equipping of the tourism project, referred to in paragraph (a) or (b); and
- (d) subject to subsection (3), the advertising and promotion of the tourism project to which the approved tourism project relates, if the expenditure, is made before the interim approval is revoked under sections 14(1) and 14(2).

(3) So much of an expenditure for advertising or promotion of any project that exceeds ten per cent of the aggregate of the other approved capital expenditures in respect of that project shall not be approved as a capital expenditure.

(4) The capital expenditure that is approved by the Minister in respect of a project shall be certified by the Minister to the holder of the interim approval granted in respect of that project, and the Minister may, after a request by the holder of the interim approval, add to, delete from or otherwise vary the items of capital expenditure that will be approved by him, where it is fit and proper to do so in the circumstances of the case; and any such addition, deletion or variation shall be notified by a further certificate from the Minister to the person to whom the interim approval is granted.

Final approval of
tourism project

16. (1) When any tourism project has been completed substantially in accordance with the conditions of the interim approval granted in respect thereof, the

Minister shall, by Order (in this Act referred to as “an approved tourism project Order”), declare the tourism project in respect of which the project was carried out to be an approved tourism project for the purposes of this Act.

(2) An approved tourism project Order made under subsection (1)—

- (a) shall be in such form and contain such particulars as may be prescribed;
- (b) shall specify the tax benefits granted to the owner or to the operator;
- (c) may impose continuing conditions to be observed by the owner or the operator in default of the observation of which the approved tourism project Order shall become inoperative with effect from such date as may be fixed by the Minister by Notification.

17. (1) An approved tourism project Order shall fix— Effective dates of approved tourism project Orders

- (a) the effective date of the Order in respect of the operator; and
- (b) if there is an owner of the approved tourism project who is entitled to any tax benefit, the effective date of the Order in respect of that owner.

(2) The date fixed in respect of an owner may be an earlier date than that fixed in respect of an operator but both dates or either of them may antedate the date of the making of the approved tourism project Order.

(3) The date or dates fixed in and by any approved tourism project Order in respect of an operator and an owner, as the case may be, shall be taken, for the purpose of computing tax benefits, to be the beginning of the accounting period of that owner or operator.

Certificate of
approval of capital
expenditure

18. (1) After an approved tourism project Order is made, the owner or operator as the case may be, who has incurred an approved capital expenditure in respect of the project is entitled to receive from the Minister a certificate of approval of the capital expenditures actually and *bona fide* made in respect of the project for which an interim Order had been granted, if the items of capital expenditure—

(a) are verified in such manner as the Minister may require; and

(b) are capital expenditure previously included in the estimated capital expenditures approved for the project or, if not such an expenditure, are capital expenditures acceptable to the Minister.

(2) A copy of any certificate of approval given by the Minister under this section shall be deposited with the Board.

(3) A certificate of approval of capital expenditures shall be in such form as may be prescribed.

Additional interim
approval

19. (1) Where the Minister is satisfied that an approved tourism project would be better able to contribute to the development of the economy of Trinidad and Tobago if the tourism project were extended, remodelled, added to or if the tourism project were to be further equipped or furnished or were to add to its services by any of these means during the tax exemption period, the Minister may, subject to section 18, grant an additional interim approval in respect of the project proposed for the tourism project.

(2) An additional interim approval granted under this section shall be dealt with in all respects so far as practicable as an interim approval granted under section 14, but no additional approved tourism project Order need be made in respect of the approved tourism project for which the additional interim approval is granted.

(3) An additional interim approval under this section is revoked upon the certificate of the Minister that the project is completed, and the Minister shall approve the items of additional capital expenditure after verification thereof, in the same manner and upon the same conditions, *mutatis mutandis*, as a certificate of approval of capital expenditure under section 18.

20. An additional interim approval shall not be granted under section 19 in respect of a project unless the Minister is satisfied by such evidence as he may require—

Restriction on grant of additional interim approval

- (a) that the nature and purpose of the project warrants fiscal benefits under this Act; and
- (b) that the project is likely to be completed within the tax exemption period or within six months after the tax exemption period of that approved tourism project.

21. (1) Where an additional interim approval has been granted under section 19 for a project and the period during which the approved tourism project is exempt from tax is less than seven years, if the Minister is satisfied that an additional capital expenditure made in respect of that approved tourism project warrants it, the Minister, upon completion of that project, in accordance with the additional interim approval therefor, may, by Notification, extend the period of tax exemption to any period not extending beyond seven years from the effective date of the Order made in respect of the approved tourism project.

Extension of tax exemption period

(2) Where a Notification is published in accordance with subsection (1) the relevant approved tourism project Order shall be deemed to be amended accordingly.

PART 3

CUSTOMS AND EXCISE DUTY EXEMPTIONS

Permit

22. (1) Where a person has been granted an interim approval or an additional interim approval under Part 2, the Minister may grant to that person upon his application thereof a permit for the importation or entry into Trinidad and Tobago free of customs duty and for the purchase in Trinidad and Tobago with the privilege of a drawback of customs duties or excise duties such building materials which are not already duty free and articles of equipment for tourism accommodation.

(2) A permit is subject to the conditions that the building materials and articles of tourism equipment therein specified shall be used exclusively in connection with the construction and equipment of the project for which the interim approval or the additional interim approval has been granted and that such building materials and articles of tourism equipment are not manufactured locally or not readily available locally.

(3) No permit shall, without the written permission of the Minister, be used for the importation, entry or purchase of an article of tourism equipment to replace an article of tourism equipment that has been imported, entered or purchased under that or any other earlier permit or any licence granted under the former Hotel Development Act.

Form of permit

23. A permit shall be in such form and shall be subject to such terms as may be prescribed but must include the type of materials and a description of every article of tourism equipment as well as their quantities.

Exemption from
customs duty

24. (1) The holder of a permit may, upon the production of the permit to the Comptroller, import into Trinidad and Tobago subject to the terms of the permit such building materials and articles of tourism

equipment as are specified in the permit at the approved rate of duty or free from duty.

(2) Where the goods are exempted from full customs duty for the avoidance of doubt Value Added Tax will still be payable.

25. (1) Where the holder of a permit satisfies the Drawback privileges Comptroller—

(a) that any building materials or articles of tourism equipment have been purchased by the holder of the permit in Trinidad and Tobago in accordance with the terms of his permit and that either—

(i) customs duties were paid upon the importation into Trinidad and Tobago of the building materials or articles; or

(ii) excise duty was paid upon the manufacture in Trinidad and Tobago of the building materials or articles; and

(b) of the amount of the customs duties or excise duty so paid,

the holder of the permit is entitled to be paid an amount equivalent to the amount of drawback that would have been payable under any Regulations for the time being in force in relation to the granting of drawback of customs duties or excise duties if the building materials or articles of tourism equipment had been exported from Trinidad and Tobago.

(2) No provision of any Regulations relating to the grant of a drawback that restricts the payment of drawback to cases where the goods in respect of which the payment is claimed are exported within the specified period applies to any payment under subsection (1).

Drawback when duty
not known

26. (1) Where the holder of a permit satisfies the Comptroller that any building materials and articles of tourism equipment have been purchased by the holder of the permit in Trinidad and Tobago in accordance with the terms of his permit and—

(a) that customs duties were paid upon the importation into Trinidad and Tobago of the building materials or articles of tourism equipment or that excise duty was paid upon the manufacture in Trinidad and Tobago of the building materials or articles; and

(b) that he is unable to ascertain the amount of the customs duties or excise duty so paid,

the holder of the permit is entitled, subject to subsection (2), to be paid such sum as the Comptroller thinks fit, and the Comptroller's calculation of Customs or Excise Duty in such circumstances shall be final, unless an appeal is made to the Tax Appeal Board within three months of the date of the Comptroller's calculation.

(2) No payment under this section shall—

(a) in the case of building materials or articles of tourism equipment that are rated goods within the meaning of any Act or Regulations for the time being in force in relation to customs or excise duties, exceed the lowest preferential rate that has been in force for that description of goods at any time during the two years next preceding the date of purchase by the holder of the permit; or

(b) in the case of any building materials or articles of tourism equipment liable under any Act for the time being in force in relation to customs duties or excise duties exceed an amount equal to an *ad valorem*

duty of nine per cent of the purchase price of the materials or articles, if the lowest preferential *ad valorem* rate in force for that description of goods for a period of two years before the date of supply was fifteen per cent or an amount equal to a *pro rata* sum, when other *ad valorem* rates have been in force during such periods.

27. (1) Notwithstanding any law to the contrary, where any building materials or articles of tourism equipment have been imported into Trinidad and Tobago under a permit or where any sum has been paid under section 25 or 26 in respect of any building materials or articles of tourism equipment, the building materials or articles shall not, except as authorised by the Minister under section 22—

Prohibited uses of materials

- (a) be sold, exchanged, given away or exported from Trinidad and Tobago; or
- (b) be applied for any purpose other than use in connection with the construction or equipping of the tourism project to which the permit to which the building materials or articles were specified relates.

(2) A person who contravenes subsection (1) shall be liable on summary conviction to a fine of one hundred thousand dollars or shall pay the relevant duties or to repay the sums paid under section 25 or 26 in respect of the building materials or articles of tourism equipment of which improper disposal was made.

28. A holder of a permit who has imported into Trinidad and Tobago building materials or articles of tourism equipment under a permit may not dispose of them where they were imported—

Authorised disposal of materials and articles

- (a) free of duty for a tourism project, during the period of the tax holiday granted to that tourism project;

- (b) for a tourism project that was not granted a tax holiday, during a period of five years after the importation of the materials or articles into Trinidad and Tobago.

Exempt articles

29. (1) Where any articles of tourism equipment have been imported into or purchased in Trinidad and Tobago under a permit, the holder shall make an inventory 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) An inventory required under subsection (1) shall be in such form as may be prescribed.

(3) An inventory required under subsection (1) shall be open to inspection at all reasonable times by any person authorised in writing by the Comptroller for that purpose, and the person so authorised may do all acts or things necessary to satisfy himself that the articles enumerated in the inventory are upon the premises of the tourism project at the time of his inspection.

Revocation of permit

30. (1) If the Minister is satisfied that any holder of a permit—

- (a) has obtained the permit by any false statement;
- (b) has abused or misused the permit;
- (c) has broken or failed to comply with any condition of the permit; or
- (d) has failed to pay any sum payable by him 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 25 or 26 in respect of any building materials or articles of tourism equipment obtained under the permit, and any sum so ordered to be paid are recoverable as a civil debt.

31. (1) Subject to subsection (2) a permit expires ^{Termination of permit} upon the revocation of the interim approval or the additional interim approval of the 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 purposes of Part 2 but in the opinion of the Minister not complete so far as the acquisition of building materials or articles of tourism equipment is facilitated, the Minister may extend the permit for such further period not exceeding twelve months as the Minister may consider adequate in the circumstances.

32. (1) A permit is transferable only with the written ^{Transfer of permit} consent of the Minister.

(2) A person who—

(a) attempts to transfer a permit without the consent of the Minister; or

(b) uses or attempts to make use of a permit that he acquired by a purported transfer thereof to him,

is liable to prosecution under the Summary Offences Act.

(3) The Minister may, in his discretion, revoke or suspend for such period as he thinks proper, a permit where the holder thereof has been convicted of an offence under subsection (2)(a) or where in the opinion

of the Minister the holder of a permit that was involved in an offence under subsection (2)(b) facilitated the commission of that offence in any way.

Amendment of
Schedules

33. The President may, by order, amend the Schedules.

PART 4

TAX BENEFITS

Application of
Part 2

34. The provisions of this Part apply to a new or existing tourism project that has been declared by Order to be an approved tourism project under Part 2 of this Act.

New or existing
tourism project
exemption

35. Subject to section 37, where an approved capital expenditure was made in respect of a tourism project or an altered existing project, and a tax exemption period has been granted in respect of that tourism project, then, as the case may be, gains or profits arising to the owner or operator from the approved tourism project are exempt from tax for such period and from such effective date as is fixed in the approved tourism project Order made in respect of that tourism project.

Determination of
gains or profits

36. (1) The gains or profits that are eligible for exemption from tax in any accounting period shall be the gains or profits derived by the owner or operator from the rental or operation of the approved tourism project or the initial sale or lease of a villa or condominium or the site for a villa or condominium which forms part of an IRD which is an approved tourism project.

(2) The gains or profits for an accounting period, accruing to the owner or operator of an approved tourism project, shall be determined by deducting from the gross revenue derived in that accounting period all allowances and deductions as are applicable under the Income Tax Act or Corporation Tax Act.

(3) The losses incurred by the owner or operator of an approved tourism project for an accounting period shall be computed by deducting from the gross revenue derived in that accounting period all allowances and deductions as are applicable under the Income Tax Act or Corporation Tax Act. ^{Determination of losses}

(4) A loss incurred for an accounting period by the owner or operator of an approved tourism project, arising out of the rental or operation of such approved tourism project during the tax exempt period, shall be held over and carried forward by such owner or operator and shall be set off against any gains or profits of such tourism project accruing to such owner or operator after the expiration of the tax exempt period in accordance with section 16 of the Income Tax Act. ^{Carry forward of losses}

37. (1) No gains or profits accruing to an owner or operator from the operation of an approved tourism project are eligible for tax benefits under section 35 or 36, unless separate books and records are kept for each tourism project to the satisfaction of the Board, and unless a return in respect of the gains or profits is submitted to the Board in respect of the accounting period for which the tax benefit is claimed. ^{Returns and assessments}

(2) A loss may be held over and carried forward where—

- (a) a return is made to the Board in respect of the accounting period in which the loss was made; and
- (b) a return is made to the Board for each accounting period between the accounting period in which the loss was made and the accounting period or year of income, as the case may be, in respect of which the loss is carried forward.

(3) Where a return is made in respect of gains or profits in accordance with this section, the Board shall, if it is satisfied with the return so made, certify the

amount of the gains or profits shown in the return or if it is not so satisfied, certify such amount as may appear to it to be the correct amount and the amount of gains or profits so certified is the amount that is eligible for tax exemption under this Act.

Chap. 4:50

(4) The appeal provisions of section 3 of the Tax Appeal Board Act apply *mutatis mutandis* in respect of an owner or an operator who makes a return under subsection (1) and is not satisfied with the amount certified by the Board under subsection (2).

Exemption from tax
of interest on an
approved loan
Chap. 75:01

38. (1) Subject to subsection (2), the Minister to whom responsibility for Finance is assigned, may by Order exempt from tax, interest received on an approved loan for a period not exceeding seven years or the period of the loan, whichever is the lesser period.

(2) A person in receipt of any interest from an approved loan exempted from tax under this section shall—

(a) keep a separate account of that interest to the satisfaction of the Board; and

(b) make an annual income tax return in respect of that interest to the Board,

and no claim for exemption in respect of such interest shall be allowed by the Board if paragraphs (a) and (b) are not complied with.

(3) No benefit under this section shall apply to a loan made to the purchaser or lessee of a villa or condominium unit or site for a villa or condominium unit in an integrated resort development.

PART 5

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

Pending applications
under repealed Act

39. (1) Where on the commencement of this Act an application for interim approval of a hotel under the former Hotel Development Act (hereinafter referred to

as “the repealed Act”) is pending, that application shall be deemed 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.

(2) Any other application made on or after 3rd August, 1995 and pending under the repealed Act shall be deemed to be an application for any similar benefit available under this act.

40. Where on the commencement of this Act any person is engaged under the former Hotel Development Act to tax benefits in respect of any hotel project, the provisions of that former Act shall continue to have effect so as to preserve the benefits conferred on that person as specified in the Order granted under that Act. Saving of tax benefits under repealed Act

41. (1) Where on the commencement of this Act any person is engaged in the tourism project which commenced on, or after 3rd August, 1995, in respect of which he may be eligible to enjoy tax benefits under this Act, such person may submit an application under this Act for the tax benefits that he would be entitled to, had this Act been in force from August 3rd, 1995. Retrospective effect

(2) Subsection (1) shall have effect from the date of the proclamation of this Act.

(3) Subsection (2) shall not apply to section 38.

42. The Corporation or the Assembly, as applicable, shall conduct annual inspections of tourism projects and failure to meet the requirements set out by the Corporation or the Assembly will result in a withdrawal of the certificate for benefits. Penalties

43. The President may make Regulations for the purpose of carrying out the intent and purpose of this Act and in particular, but without limiting the generality of the foregoing, may make Regulations to— Regulations

- (a) prescribe the form of applications to be made for interim approvals, the manner of preparing site plans of proposed tourism project or buildings to be used as a tourism project, the other plans and the form thereof and specifications that are to accompany applications for approval of projects relating to a tourism project;
- (b) prescribe the form and contents of interim approvals and the conditions and terms to be contained in interim approvals either generally or in particular cases, and prescribe those conditions, the breach of which will result in the revocation or suspension of an interim approval;
- (c) prescribe the manner and extent of itemizing capital expenditures or additional capital expenditures to be approved for the purposes of this Act;
- (d) prescribe the form and contents of approved tourism project Orders and provide for the giving of security in the case of an approved tourism project Order made in advance of completion of an approved project;
- (e) prescribe the form of permits and the terms and conditions under which permits are to be granted;
- (f) prescribe the type of mark to be affixed to any article of tourism equipment imported or purchased under a permit and the manner in which the mark so prescribed is to be affixed to any article;
- (g) prescribe the form of inventory required by section 29 to be kept in respect of articles of

tourism equipment imported or purchased under a permit;

- (h) provide for the determination for tax purposes of the rent chargeable as a revenue expense by an operator and as gains or profits accruing to an owner in respect of any accounting period where the Board is of the opinion that any rent actually charged is unreasonable having regard to the circumstances of the lease;
- (i) provide for the making up of the accounts of operators or owners at the beginning and end of any tax exemption period, and the manner in which the accounts are to be made up;
- (j) prohibit, limit and control the making of loans by a company operating or owning an approved tourism project whether the loans are made to a share-holder of the company or otherwise;
- (k) make provision for any matter or thing incidental or ancillary to any of the matters or things mentioned in any of the foregoing paragraphs, or for any matter or thing not being so incidental or ancillary that is deemed to be necessary or advisable in the administration of this Act; and
- (l) provide penalties by way of fine or imprisonment or both for contraventions of the Regulations, but any regulation made under this provision shall have no effect until approved by resolution of the Senate and the House of Representatives.

Applications of the
Income Tax Act and
the Corporation Tax
Act

44. The provisions of the Income Tax Act and the Corporation Tax Act shall apply to owners and operators under this Act with such modifications as are necessary or expedient but subject always to this Act.

Chap. 85:02 repealed

45. The Hotel Development Act is hereby repealed.

SCHEDULE 1

(Section 2)

ARTICLES OF EQUIPMENT FOR TOURISM ACCOMMODATION FACILITIES

In keeping with national tourism objectives, the fostering of strong linkages with other sectors such as agriculture, manufacturing and services is considered priority. The following items will be allowed for importation free of customs and excise duties as long as they are not manufactured in the desired quantities and quality in Trinidad and Tobago:

- (a) Room furnishings and fixtures.
- (b) Entertainment equipment including musical instruments, electronic items and game apparatus.
- (c) Cutlery, crockery, glassware and utensils.
- (d) Mats, rugs, carpets and other floor coverings.
- (e) Office equipment and furnishings.
- (f) Kitchen equipment and appliances including stoves, refrigerators, and exhaust fans.
- (g) Air-conditioning apparatus and appliances, electric lamps and fittings, electric fans and vacuum cleaners.
- (h) Sewer systems.
- (i) Environmentally-friendly and/or energy-saving devices such as solar panels, heating equipment.
- (j) Any other article or equipment for exclusive use in or in connection with the operation of tourism accommodation facility except foreign works of art, paintings, sculptures of historical foreign significance which will be excluded from duty free exemption.

SCHEDULE 2

(Section 2)

AREAS OF ACTIVITY TO BE UNDERTAKEN BY TOURISM
ANCILLARY FACILITIES

1. Marinas.
2. Boatyards.
3. Dive operations.
4. Water sports.
5. Charter boats.
6. Cruise activities.
7. Tour Operations (land, sea and air).
8. Recreational Space Use.
9. Theme Parks.
10. Cultural centres.
11. Film making.
12. Special events.
13. Golf Courses (attached to tourism accommodation projects or stand alone courses—all must be open for public use though).

SCHEDULE 3

ARTICLES OF EQUIPMENT FOR TOURISM ANCILLARY FACILITIES AND SERVICES

MARINAS/ BOATYARDS*	DIVE* OPERATORS	WATER* SPORTS	CHARTER* BOAT/ CRUISES	TOUR* OPERATIONS (LAND AND AIR)	GOLF* COURSE
Marine Hoist Spare Parts	Mask Fins and Snorkel	Sailing	Catamaran	Tour Buses	Grass (Turf)
Pressure Washers and Spare Parts	Weight Belt	Optimist (fibre glass mini boat)	Flat-Bottom Boats	Mountain Bikes	Golf carts
Chocks/Stands and Yacht Props	Regulators With submersible Pressure gauge	Lasers (fibre glass boat)	Engine Parts (fixed no. as per a period)		Trolleys
Dehumidifiers	Buoyancy Compensation Device (BCD)	Marker Buoys	Water Taxis	Limousines	Golf clubs, bags and balls
Air-Conditioners	Air Cylinder and Back Pack	Dinghies and Parts	Life Jackets	All Terrain vehicles	Maintenance and irrigation systems
Marine electrical and water fitting	Alternative Air Source	Outboard Motor Engine 15-30 hp	Radio Equipment (Two Way Radios)	Light Aircraft	
Hydraulic Trailer	Depth Gauge Submersible Bottom Timer Submersible Compass Dive Tables or Dive Computer Dive Boats	Game Fishing Sport fishing boats Fishing tackle Water Polo Nets and Balls Surfing Surfboard Life Jackets		Helicopters	

* Plus any other articles or equipment deemed fit by the Minister for inclusive use in or in connection with the operations of these Ancillary Tourism Facilities.

SCHEDULE 4

(Section 2)

ACTIVITIES UNDERTAKEN BY A TOURISM PROJECT

The construction, expansion, furnishing, renovation, refurbishment and operation of tourist accommodation facilities, which includes Integrated Resort Developments (IRD's), Camp Sites, Guest Houses, Hotels, Resorts, Dive and Eco Lodges, that are destined entirely for public tourist lodging. These facilities must have a minimum of eight guest rooms, incur and pay the relevant Hotel Accommodation Tax to the Board of Inland Revenue, in order to access benefits under the proposed legislation.

[N.B. Part XI (Hotel Accommodation Tax) of the Finance Act of 1995 will therefore have to be appropriately amended]

Establishment and provision of land and marine transportation services that are destined mainly for public tourist use.

Construction, furnishing, equipping and operation of ancillary tourism facilities/services.

Construction, furnishing, renovation, refurbishment, and expansion of access infrastructures and operations of infrastructure for the specific purpose of tourist use, including marinas, ports and airports.

Construction, furnishing, renovation, refurbishment, expansion and operation of convention centres, shopping facilities for local craft having tourist interest and recreational space.

Construction, furnishing, renovation, restoration, remodelling, expansion, operation and maintenance of any real property for use as a historical museum or for commercial public use at historical landmarks and heritage sites, in such a manner as to showcase such a landmark/site and to preserve the integrity of such a landmark/site in the history of Trinidad and Tobago.

The operation of an agency handling incoming air, land and sea tours and/or destination management services devoted entirely to such an activity.

Any project producing feature films and international artistic or sports events to be broadcast internationally, that includes spots promoting tourism in Trinidad and Tobago.

Construction, furnishing, renovation, refurbishment, expansion and operation of theme parks, cultural centres or other like facility which will create an attraction with international tourism appeal and which will showcase the culture, heritage, history and artistic product of Trinidad and Tobago.

Owing to the dynamic nature of the tourism industry, it is not possible to complete a comprehensive list of "tourism projects". The national tourism development agency will determine the validity of proposals for tourism projects that are not defined by Schedules 1 and 2.

SCHEDULE 5

(Section 2)

TOURIST ACCOMMODATION PROJECT

For the purposes of this legislation the following types of tourism accommodation establishments will be eligible for incentives under this Act:

(i) Integrated Resort Development (IRD):

An IRD will be treated as an approved tourism project and be eligible for incentives referred to where the IRD meets all of the following basic criteria:

It includes a hotel of at least 200 rooms.

It includes any major amenity/amenities such as a golf course or marina and such other sporting, cultural or eco-tourism facilities.

It has a minimum capital expenditure of at least TT\$350 million.

Additionally, where villas and condominiums form part of an IRD, they will only be considered as tourist accommodation facilities where it is clearly shown by the developer, that the construction of these villas and condominiums are critical to the viability and success of the entire project. In this regard, the full project proposal for an IRD submitted by a developer, should include certain key pieces of information that the Minister responsible for Tourism will consider in assessing whether the inclusion of villas and condominiums is critical to the economic viability and the success of the IRD, and if so, to what extent. The key pieces of information referred to include the following:

The number of the villas and condominiums to be constructed as part of an IRD.

The cost of construction of these villas and condominiums.

The selling prices and/or the cost of rental/lease of such units.

The cost of construction of amenities such as golf course and marina.

The cost of infrastructural works that the developer undertakes.

(ii) Hotel

(iii) Camp Site, Dive and Eco-Lodge

(iv) Guest house

The tourism accommodation projects outlined must also meet the following criteria as applicable in order to be eligible for incentives under this Act:

Establishments providing not less than 20 rooms should contain public facilities, with an appropriate number of public rooms (dining, bar, lounge) for the entertainment and accommodation of guests, having regard to the size, type and location of the proposed establishment. The facility must provide dining space for at least one half of the total number of guests, and seating space in lounges and bars should provide for at least one quarter of the total number of guests.

Development of a tourist accommodation facility must not, in general, contain more than 50% of its bedroom accommodation in the form of self-contained apartments and not more than a further 10% provided with not larger than two-ring stoves and 3.0 cubic feet refrigerator kitchenettes.

The letting of a room or apartment for the exclusive occupation of any person or company for a period exceeding one month would be regarded as inconsistent with the use of the accommodation facility.

Any accommodation facility having more than 250 bedrooms should include a convention hall in its public amenities capable of accommodating at least 75% of the maximum guest capacity, as well as one or two smaller rooms suitable for small meetings, receptions, etc.

SCHEDULE 6

(Section 2)

TOURISM INFRASTRUCTURE**Dive Re-Compression/Hyperbaric Chamber****Heliport****Sea Ports and Airports****Communications****Public Utilities—water, electricity, sewage treatment plant****Roads****Irrigation****Ecological and Environmental Maintenance****Land clearance and cleaning**

SCHEDULE 7
REQUIREMENTS OF OWNERS AND/OR OPERATORS WITH RESPECT TO VEHICLES IN APPROVED TOURISM PROJECTS

	Limousine/All Terrain	Tour Buses	Taxi Co-operatives	Other Taxis	Boats (Dive Boats, Tour Boats, Water Taxis, Sport Fishing)	Helicopters
New/Used	New/Used	New/Used	New/Used	New/Used	New/Used	New/Used
Purposed/Use	Solely for transportation of guests/visitors	Solely for transportation of guests/visitors	Solely for transportation of guests/visitors	Solely for transportation of guests/visitors	Solely for transportation of bona fide clients	Solely for transportation of guests/visitors and assist in emergency and evacuation activity
Resale/Transfer of Title	After a minimum of five (5) Years	After a minimum of three (3) Years	After a minimum of three (3) Years	After a minimum of three (3) Years	After a minimum of five (5) Years	After a minimum of five (5) Years
Statutory Requirements	Must be a registered company or organisation Must meet all required government approvals	Must not have any outstanding civil or criminal offences Must be a registered company or organisation Must meet all required government approvals	Must not have any outstanding civil or criminal offences Must meet all required government approvals	Must not have any outstanding civil or criminal offences Must be a registered company or organisation Must meet all required government approvals	Must not have any outstanding civil or criminal offences Must be a registered company or organisation Must meet all required government approvals	Must not have any outstanding civil or criminal offences Must be a registered company or organisation Must meet all required government approvals Must meet all required standards set by civil aviation authorities
Conditions		Must submit a business plan	No person shall benefit from this concession more than once in five (5) years Used vehicles should not be more than five (5) years old and be subject to inspection and certification by the Licensing Department as to its road worthiness and suitability for use as a taxi in accordance with the Used Car Importation Policy	No person shall benefit from this concession more than once in five (5) years Used vehicles should not be more than five (5) years old and be subject to inspection and certification by the Licensing Department as to its road worthiness and suitability for use as a taxi in accordance with the Used Car Importation Policy Must submit a business plan	Dive operators must have PADI and NAUI certification Must submit a business plan Must have been trained in boat handling with appropriate certification	Must submit a business plan Must have a pilot's licence

SCHEDULE 10

[Sections 10(2) and 11(2)]

INFORMATION REQUIRED TO BE SUBMITTED UNDER SECTIONS 10(2)
AND 11(2)

- (a) Ownership of the facility or proposed facility or lands to be used in connection therewith;
- (b) A plan or drawing of the project showing the site and elevation of the construction of the project and any external construction which would expand an existing project;
- (c) An Outline Planning Permission obtained from the Town and Country Planning Division of the Ministry of Housing and Settlements;
- (d) A time frame within which the construction of the project will begin, when the project will be completed and when the project will be opened for business;
- (e) The estimated capital expenditure of the project or the source of the funds thereof;
- (f) The cost of the project itemizing those costs for which refunds would be claimed.

Passed in the Senate this 15th day of December,
1999.

N. COX
Clerk of the Senate

Passed in the House of Representatives this 17th day
of March, 2000.

J. SAMPSON-JACENT
Clerk of the House

House of Representatives amendments agreed to by
the Senate this 28th day of March, 2000.

N. COX
Clerk of the Senate