
1st Session First Parliament Trinidad and Tobago
11 Elizabeth II



TRINIDAD AND TOBAGO

Act No. 3 of 1963

[L.S.]

AN ACT to encourage the development of the hotel industry by providing relief from income tax and customs and excise duties and to make provision for matters incidental thereto.

[Assented to 2nd February, 1963]

BE IT ENACTED by the Queen's Most Excellent Majesty, by ^{Enactment.} and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same, as follows:—

PRELIMINARY

1. This Act may be cited as the Hotel Development Act, ^{Short title.} 1962.

Interpretation.

2. In this Act—

- (a) “accounting period” means each financial year of the hotel owner or the hotel operator during the tax benefit period when accounts are required to be kept as prescribed;
- (b) “additional capital expenditure” means a capital expenditure incurred in respect of an approved hotel by way of an hotel project proposed for that hotel;
- (c) “approved capital expenditure” means any capital expenditure or additional capital expenditure approved by the Minister under Part II;
- (d) “approved hotel” means an hotel declared so to be by the Minister under Part II;
- (e) “approved loan” means a loan—
 - (i) that is not one guaranteed by the Governor-General or otherwise by the Government or any representative thereof;
 - (ii) the interest on which does not exceed the bank rate current at the time of the making of the loan;
 - (iii) that is made upon the security of a debenture, mortgage or other similar instrument;
 - (iv) that is for a longer period than five years; and
 - (v) that is approved by the Minister;
- (f) “articles of hotel equipment” means any of the articles set out in the Schedule;
- (g) “capital allowance” means the tax relief granted under this Act in respect of items of approved capital expenditure that are not items of depreciable equipment;
- (h) “capital expenditure” means an expenditure that the Minister may approve under subsection (2) of section 10 for an hotel project;
- (i) “Commissioner” means the Commissioner within the meaning of the Income Tax Ordinance;

- (j) "company" means, except where otherwise defined in Part IV, a company limited by shares and incorporated under the Companies Ordinance and includes a corporation incorporated by a special Act of Trinidad and Tobago; Ch. 31. No. 1.
- (k) "Comptroller" means the Comptroller of Customs and Excise;
- (l) "construction" includes erection, alteration, renovation, remodelling, reconstruction and extension;
- (m) "depreciable equipment" means any equipment, machinery, furnishings, furniture, or articles used in the hotel and depreciable for tax purposes under the Income Tax Ordinance;
- (n) "former hotel Ordinance" means the Hotels (Development Encouragement) Ordinance; Ch. 32. No. 15.
- (o) "former tax provision" means section 12A of the Income Tax Ordinance; Ch. 33. No. 1.
- (p) "hotel" means a building or group of buildings, occupied together, and used to provide hotel services to guests for reward, and includes the curtilage thereof and all structures within the curtilage;
- (q) "hotel operator" means an individual, a partnership or a company operating an approved hotel owned by or leased to such individual, partnership or company and includes their respective successors in title;
- (r) "hotel order" means an order of the Minister made under Part II declaring any hotel to be an approved hotel;
- (s) "hotel owner" means an individual, a partnership or a company that owns an approved hotel but that is not an hotel operator in respect of that hotel and includes their respective successors in title;
- (t) "hotel project" means an hotel project described in subsection (2) of section 5;
- (u) "hotel services" means hotel services described in paragraphs (a) to (f) of section 39;

- (v) "interim approval" means the approval of an hotel project granted by the Minister under section 8;
- (w) "Minister" means the Minister to whom responsibility for industry has been assigned;
- (x) "new hotel" means an hotel that has been constructed otherwise than by the reconstruction, alteration, renovation, or extension of an existing hotel or building;
- (y) "permit" means a permit granted by the Minister under subsection (1) of section 17;
- (z) "person" includes any body of persons corporate or incorporate;
- (aa) "tax" means income tax;
- (bb) "tax benefit" means any tax exemption or tax relief granted pursuant to this Act;
- (cc) "tax exemption" means any exemption from tax in respect of gains or profits;

PART I

DEVELOPMENT INCENTIVES

Tax benefit
incentives

3. (1) For the purpose of encouraging the development of the hotel industry in Trinidad and Tobago the Minister may confer any or all of the tax benefits described in subsections (3) and (4) on hotel operators or hotel owners, 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 hotel operator or hotel owner and the consequent financial risk as well as the measure of contribution that such hotel operator or hotel owner has made or is likely to make to the development of the hotel industry in Trinidad and Tobago.

(3) The tax benefits which, subject to subsection (2), the Minister may confer on an hotel operator are as follows :—

- (a) when an approved hotel project results in the creation of a new hotel, any or all of the following:
 - (i) a tax exemption for a period of not less than five years nor more than ten years

- in respect of the gains or profits accruing to the hotel operator from the new hotel;
- (ii) an accelerated depreciation of depreciable equipment owned by the hotel operator and used in the new hotel;
 - (iii) a capital allowance in respect of approved capital expenditure incurred by the operator in the creation of the new hotel;
- (b) when an approved hotel project results in an hotel that is not a new hotel, any or all of the following :
- (i) a tax exemption for a period of not more than ten years in respect of the gains or profits accruing to the hotel operator from that hotel; or in respect of a percentage of the gains and profits accruing to the hotel operator from that hotel fixed by the Minister in the hotel order relating to such hotel;
 - (ii) an accelerated depreciation of depreciable equipment owned by the hotel operator and used in that hotel;
 - (iii) a capital allowance in respect of approved capital expenditure incurred by the hotel operator in improving that hotel.
- (4) The tax benefits which the Minister may confer on an hotel owner are as follows—
- (a) when an approved hotel project results in the creation of a new hotel, any or all of the following—
- (i) a tax exemption for a period not less than five nor more than ten years in respect of gains or profits accruing to the hotel owner from the rental of the new hotel;
 - (ii) an accelerated depreciation of depreciable equipment owned by the hotel owner and used in the new hotel;

- (iii) a capital allowance in respect of approved capital expenditure incurred by the hotel owner in the creation of the new hotel;
- (b) when an approved hotel project results in an hotel that is not a new hotel, any or all of the following—
 - (i) a tax exemption for a period of not more than ten years in respect of the gains or profits accruing to the hotel owner from the rental of that hotel; or in respect of a percentage of the gains or profits accruing to the hotel owner from the rental of that hotel fixed by the Minister in the hotel order relating to that hotel;
 - (ii) an accelerated depreciation of depreciable equipment owned by the hotel owner and used in that hotel;
 - (iii) a capital allowance in respect of approved capital expenditure incurred by the hotel owner in improving that hotel.
- (5) In addition to the tax relief mentioned in subsections (3) and (4), the following tax benefits may, subject to Part IV, be granted in respect of an approved hotel—
 - (a) a carry-over from a tax exemption period, if any, of any loss arising out of the operation or renting of an approved hotel;
 - (b) a tax exemption, in cases where a company is the hotel operator or owner, in respect of dividends to be distributed by such hotel operator or hotel owner;
 - (c) a tax exemption in respect of interest on an approved loan used for an approved hotel project, and a tax exemption in respect of any such interest that is distributed to the shareholders of the lending company, if any.

**Limitations on
tax benefits.**

4. (1) No interim approvals shall be granted under this Act, except for an additional capital expenditure under Part II, after the 31st day of December, 1967, or such date not being later than the 31st day of December, 1972, as may be fixed by order of the Governor-General.

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

5. (1) Where an hotel project is contemplated in respect of an hotel or proposed hotel in Trinidad and Tobago that contains, or that when the proposed hotel project is completed will contain, Application for approval of hotel project.

- (a) not less than fifteen bedrooms for paying guests, if the hotel is or is to be situated within the City of Port-of-Spain or a borough in Trinidad and Tobago; or
- (b) not less than ten bedrooms for paying guests, if the hotel is not or is not to be situated within the City of Port-of-Spain or a borough in Trinidad and Tobago,

any person who operates or owns or intends to operate or own the hotel or proposed hotel in respect of which the hotel project is contemplated may apply within the time limited by section 4 to the Minister to have the hotel project approved.

- (2) For the purposes of this Act an hotel project is
- (a) the construction of a new hotel,
 - (b) the alteration or renovation of an hotel,
 - (c) the conversion of an existing building or buildings into an hotel by reconstruction, extension, alteration, renovation or remodelling, or
 - (d) the furnishing and equipping of a new hotel or of a building to be converted into an hotel or of an extension to an hotel or proposed hotel or of a part of an hotel or proposed hotel that is reconstructed,

and in respect of an additional capital expenditure, the addition to an approved hotel of any facilities intended to increase the amenities provided or to be provided in the approved hotel.

PART II

APPROVED HOTEL PROJECTS

Application for approval of hotel project.

6. A person who contemplates an hotel project may apply to the Minister in the form prescribed to have that hotel project approved for the purposes of this Act.

Further information to be furnished by applicant.

7. Upon receipt of an application under section 6 the Minister may require the applicant to submit to him such information and plans as the Minister may require, and without limiting the generality of the foregoing, the Minister may require that evidence satisfactory to him be submitted with respect to any matter relevant to the application, proposed hotel project, ownership of the hotel or proposed hotel or lands to be used in connection therewith, or to the estimated expenditure on the hotel project, or the source of the funds therefor.

Interim approval of project.

8. (1) Where the Minister is satisfied that the hotel project is practical and that it would assist the development of the hotel industry in Trinidad and Tobago and is otherwise in the public interest, the Minister may grant to the applicant an interim approval of the hotel project.

(2) The interim approval granted under subsection (1)—

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

Revocation of interim approval.

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

- (a) any of the information given on the application therefor was false or misleading in any material respect, or
- (b) the person to whom the interim approval was granted has become unable to carry out or complete the hotel project approved by the interim approval, or
- (c) the person to whom the interim approval was granted has failed to comply with any condition or term of the interim approval that is by

the regulations stated to be one that shall be complied with upon penalty of revocation, 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 hotel project thereby approved, the Minister makes an hotel order in respect of the hotel for which the hotel 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 incompleting hotel project.

10. (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 hotel project that he will approve for tax benefits under Part IV. Determining capital expenditure.

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

- (a) the construction of a new hotel or the reconstruction, renovation, remodelling or extension of or addition to any hotel or building to be made into an hotel;
- (b) the building materials used in the carrying out of the approved hotel project;
- (c) the furnishing and equipping of the new hotel, or an hotel;
- (d) subject to subsection (3), the advertising and promotion of the hotel to which the approved hotel project relates, if the expenditure is made before the interim approval is revoked under subsection (2) of section 9.

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

(4) The capital expenditure that is approved by the Minister in respect of an hotel project shall be certified by the Minister to the holder of the interim approval granted in respect of that hotel project, and the Minister may after a request by the holder of the interim approval therefor, 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 hotel.

11. (1) When any hotel 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 hotel order") declare the hotel in respect of which the hotel project was carried out to be an approved hotel for the purposes of this Act.

- (2) An hotel 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 hotel owner or to the hotel operator;
 - (c) may impose continuing conditions to be observed by the hotel owner or the hotel operator in default of the observation of which the hotel order shall become inoperative with effect from such date as may be fixed by the Minister by notice published in the *Gazette*; and
 - (d) shall be published in the *Gazette*.

Effective dates
of hotel orders.

12. (1) An hotel order shall fix—
- (a) the effective date of the order in respect of the hotel operator; and
 - (b) if there is an hotel owner of the approved hotel who is entitled to any tax benefit, the effective date of the order in respect of that hotel owner.

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

(3) The dates or date fixed in and by any hotel order in respect of an hotel operator and an hotel 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 hotel operator or hotel owner.

13. (1) After an hotel order is made, the hotel owner or hotel operator, as the case may be, who has incurred an approved capital expenditure in respect of that hotel project is entitled to receive from the Minister a certificate of approval of capital expenditure. approval of capital expenditure. of approval of the capital expenditures actually and *bona fide* made in respect of the hotel 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 hotel 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 Commissioner.

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

14. (1) Where it is made to appear to the Minister that an approved hotel would be better able to contribute to the development of the economy of Trinidad and Tobago if the hotel were extended, remodelled, added to or if the hotel 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 15, grant an additional interim approval in respect of the hotel project proposed for such hotel. Additional capital expenditure.

(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 8, but no additional hotel order need be made in respect of the approved hotel 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 hotel 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 13.

Restriction on approval of additional capital expenditure.

15. An additional interim approval shall not be granted under section 14 in respect of an hotel project unless the Minister is satisfied by such evidence as he may require—

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

Extension of tax exemption period.

16. (1) Where an additional interim approval has been granted under section 14 for an hotel project and the period during which the approved hotel concerned is exempt from tax is less than ten years, if the Minister is of the opinion that an additional capital expenditure made in respect of that approved hotel warrants it, the Minister upon completion of that hotel project in accordance with the additional interim approval therefor may, by notice published in the *Gazette*, extend the period of tax exemption to any period not extending beyond ten years from the effective date of the hotel order made in respect of the approved hotel.

(2) Where a notice is published in accordance with subsection (1) the relevant hotel order shall be deemed to be amended accordingly.

PART III

CUSTOMS AND EXCISE DUTY EXEMPTIONS

Permits.

17. (1) Where a person has been granted an interim approval or an additional interim approval under Part II, the Minister may grant to that person upon his application therefor 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 and articles of hotel equipment as may be specified in such permit.

(2) A permit is subject to the conditions that the building materials and articles of hotel equipment therein specified shall be used exclusively in connection with the construction and equipment of the hotel project for which the interim approval or the additional interim approval has been granted.

(3) No permit shall be used for the importation, entry or purchase of an article of hotel equipment to replace an article of hotel equipment that has been imported, entered or purchased under that or any other earlier permit, or any licence granted under the former hotel Ordinance.

18. A permit shall be in such form and shall be subject to such terms as may be prescribed. Form of permit.

19. The holder of a permit may, upon the production of the permit to the Comptroller, import or enter into Trinidad and Tobago free of all customs duty but subject to the terms of the permit such building materials and articles of hotel equipment as are specified in the permit. Exemption from customs duty.

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

(a) that any building materials or articles of hotel 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 hotel 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.

21. (1) Where the holder of a permit satisfies the Comptroller that any building materials and articles of hotel 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 hotel 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 may think fit.

(2) No payment under this section shall,

(a) in the case of building materials or articles of hotel 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 hotel 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 material or articles if the lowest preferential *ad valorem* rate has been 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.

22. (1) Notwithstanding any law to the contrary, where any building materials or articles of hotel equipment have been imported into Trinidad and Tobago under a permit or where any sum has been paid under section 20 or 21 in respect of any building materials or articles of hotel equipment, the building materials or articles shall not, except as authorised by the Minister under section 23,

Prohibited uses
of materials
and articles.

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

(2) A person who contravenes any provision of subsection (1) is liable on summary conviction to a fine of five hundred dollars or to imprisonment for twelve months or to both that fine and that imprisonment, and in addition to pay the relevant duties or to repay the sums paid under section 20 or 21 in respect of the building materials or articles of hotel equipment of which improper disposal was made.

23. (1) Where the Minister is satisfied that any building materials or articles of hotel equipment imported into Trinidad and Tobago under a permit are no longer required for the purposes of the hotel project in respect of which the permit was granted, 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.

Authorised
disposal of
materials and
articles.

(2) No authority shall be granted pursuant to subsection (1) until after three years from the purchase of the building materials or articles of hotel equipment concerned unless the holder of the permit has

- (a) paid to the Comptroller, or
- (b) given security to the satisfaction of the Comptroller that he will pay to the Comptroller

all sums that would have been payable by way of customs duty upon the importation of the building materials or articles of hotel equipment or a sum equivalent to the amount of drawback paid to the holder of the permit under section 20 or 21 in respect of the building materials or articles.

Marking
of exempt
articles.

24. The Comptroller may require that any articles of hotel equipment imported into Trinidad and Tobago or purchased in Trinidad and Tobago under a permit be marked with such mark and in such manner as may be prescribed, and the holder of that permit shall mark any articles so required to be marked with the mark and in the manner prescribed.

Inventory
of exempt
articles.

25. (1) Where any articles of hotel equipment have been imported into or purchased in Trinidad and Tobago under a permit, the holder of the permit 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 hotel.

(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 hotel at the time of his inspection.

Revocation
of permit.

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

- (a) has obtained the permit by any false statement, or
- (b) has abused or misused the permit, or
- (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 20 or 21 in respect of any building materials or articles of hotel equipment

obtained under the permit, and any sums so ordered to be paid are recoverable in the manner provided by the Summary Courts Ordinance. Ch. 3. No. 4.

27. (1) Subject to subsection (2) a permit expires upon the revocation of the interim approval or the additional interim approval of the hotel project in respect of which the permit was granted. Termination of permit.

(2) Where the construction of the hotel in respect of which a permit has been granted is completed for the purposes of Part II but in the opinion of the Minister not complete so far as the acquisition of building materials or articles of hotel 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.

28. (1) A permit is transferable with the written consent of the Minister and not otherwise. Transfer of permits.

(2) A person is guilty of an offence 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,

and liable on summary conviction to a fine of five hundred dollars.

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

29. The Governor-General may from time to time amend the Schedule by adding any article thereto or removing any article therefrom. Amendment of Schedule.

PART IV

TAX BENEFITS

Application
of Part.

Ch. 33. No. 1.

30. Where in an hotel order under Part II any hotel, whether a new hotel or otherwise, has been declared to be an approved hotel the provisions of this Part apply with respect to that hotel notwithstanding the Income Tax Ordinance or any other law.

New hotel
exemption.

31. Subject to section 34, where an approved capital expenditure was made in respect of a new hotel, the gains or profits arising to the hotel owner or the hotel operator, as the case may be, from the approved hotel are exempt from tax from the effective date fixed in the hotel order made in respect of that hotel for the period therein specified.

Hotel
exemption.

32. Subject to section 34, where an approved capital expenditure was made in respect of an hotel other than a new hotel, and a tax exemption period has been granted in respect of that hotel, then, as the case may be,

- (a) the gains or profits arising to the hotel owner or the hotel operator from the approved hotel are exempt from tax for such period and from such effective date as is fixed in the hotel order made in respect of that hotel or,
- (b) such percentage of the gains or profits arising to the hotel owner or the hotel operator from the approved hotel as is specified in the hotel order made in respect thereof is exempt from tax for such period and from such effective date as is fixed in that hotel order.

Capital
allowance and
accelerated
depreciation.

33. (1) Where tax exemption or capital allowance or accelerated depreciation is granted in an hotel order made in respect of an approved hotel,

- (a) the capital allowance may be set off against the gains or profits accruing to the hotel owner from the rental of the hotel or against the gains or profits accruing to the hotel operator from the approved hotel, as the case may be, at the rate of one-fifth of the approved capital expenditures in each of any five accounting periods during

the eight accounting periods after the accounting period in which the tax exemption period expired and not thereafter;

- (b) the accelerated depreciation on depreciable equipment may be set off against the gains or profits accruing to the hotel owner from the rental of the hotel or to the hotel operator from the approved hotel, as the case may be, at the prescribed rate in each of any five accounting periods during the eight accounting periods after the accounting period in which the tax exemption period expired.

(2) Where no tax exemption period has been granted in an hotel order made in respect of an approved hotel that is not a new hotel, the capital allowance or accelerated depreciation may be set off against gains or profits accruing to the hotel owner or to the hotel operator as in paragraphs (a) and (b) of subsection (1), but during the eight accounting periods immediately following the accounting period in which the hotel order was made in respect of that hotel.

34. (1) No gains or profits accruing to an hotel owner from the rental of an approved hotel or accruing to an hotel operator from an approved hotel are eligible for tax benefits under sections 31, 32 or 33 unless a return in respect of such gains or profits is submitted to the Commissioner in respect of the accounting period in which the tax benefit is claimed. Returns and assessment.

(2) Where a return is made in respect of gains or profits in accordance with this section, the Commissioner shall, if he is satisfied with the return so made, certify the amount of the gains or profits shown in the return or if he is not so satisfied, certify such amount as may appear to him 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.

(3) The appeal provisions of section 43 of the Income Tax Ordinance apply *mutatis mutandis* in respect of an hotel owner or an hotel operator who makes a return under subsection (1) and is not satisfied with the amount certified by the Commissioner under subsection (2). Ch. 33. No. 1.

Carry-over
of losses.

Ch. 33. No. 1.

35. (1) A loss incurred by an hotel owner arising out of the rental of an approved hotel or by an hotel operator arising out of the operation of an approved hotel in any accounting period during the tax exemption period relating to that hotel may be held over and carried forward by the hotel owner or that hotel operator, and shall be set off against any gains or profits accruing to that hotel owner or hotel operator, as the case may be, after the expiration of the tax exemption period in relation to the approved hotel and any such loss that is so set off shall be set off without the limitations imposed by paragraphs (2) and (2A) of the proviso to section 13 of the Income Tax Ordinance.

(2) No loss incurred by an hotel owner arising out of the rental of an hotel or by an hotel operator arising out of the operation of an approved hotel in any accounting period during the tax exemption period in relation to that hotel, or during any of the eight accounting periods immediately following the accounting period in which the tax exemption period expired, shall be set off against any income arising to the hotel owner or hotel operator, as the case may be, from any other trade, business or vocation carried on by the hotel owner or the hotel operator or against any other income accruing to the hotel or the hotel operator.

(3) No loss may be held over and carried forward under subsection (1) unless a return is made to the Commissioner in respect of the accounting period in which the loss occurred as well as the accounting periods between that accounting period and the accounting period or the year of assessment, as the case may be, in respect of which the loss is carried forward.

Dividend
account.

36. (1) During the tax exemption period the hotel owner or the hotel operator shall place in a separate account all gains or profits accruing to that hotel owner or that hotel operator from the tax exemption granted pursuant to section 3, and if the hotel owner or hotel operator is a company and intends to pay a dividend to its respective shareholders out of those gains or profits, such dividend shall be paid out of such account.

Dividend
exempt from
income tax.

(2) A shareholder to whom a dividend is paid pursuant to subsection (1) is exempt from income tax in

respect thereof if he is resident in Trinidad and Tobago, and if he is not so resident he is exempt—

- (a) from income tax in respect thereof if he is not liable to income tax as respects that dividend in the country in which he is resident; or
- (b) if he is so liable, from so much of the income tax as respects that dividend as the Commissioner is satisfied exceeds his liability in respect thereof in the country in which he is resident.
- (3) In this section—
“dividend” includes interest paid to a debenture holder;
“shareholder” includes a debenture holder.

37. (1) Subject to subsection (2), the interest on an approved loan is exempt from tax for a period of ten years or the period of the loan, whichever is the lesser period.

Interest from approved loan exempt from tax.

(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 Commissioner,
- (b) make an annual income tax return in respect of that interest to the Commissioner, and
- (c) shall forward with that return the certificate furnished to him pursuant to subsection (2) of section 23 of the Income Tax Ordinance,

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

38. (1) In this section “company” includes a company which though incorporated outside Trinidad and Tobago is registered and carries on business or has an office or place of business therein.

Distribution of loan interest by a company.

(2) Where a company has received or is entitled to receive any interest that is exempt from tax by section 38, the company may at any time distribute that interest or a sum equal to that interest, as the case may be, as dividends to its shareholders and the provisions of subsection (2) of section 36 apply to the shareholder.

Hotel services for purposes of determining gains or profits.

39. For the purposes of determining the gains or profits arising to an hotel operator in respect of an approved hotel, the scope and extent of the hotel business shall be deemed to be limited to the following services:—

- (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 hotels facilities for meetings, conventions, conferences, sales promotions, parties and other entertainments 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.

PART V

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

Pending applications under repealed Ordinance.

40. 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 deemed to be an application for an interim approval of an hotel project under Part II and shall be dealt with in accordance with the provisions of that Part.

Licence under repealed Ordinance.

41. (1) Where on the commencement of this Act any person is licensed under the former hotel Ordinance, the Minister may in his discretion grant to that person, a

permit under Part III subject to such terms and conditions as may be prescribed, and thereupon the licence under the former hotel Ordinance expires.

(2) Where no permit is granted under subsection (1), the licence granted under the former hotel Ordinance continues valid and the privileges thereunder may continue to be exercised by the licensee subject to and in accordance with the provisions of the former hotel Ordinance, notwithstanding the repeal of that Ordinance by this Part.

42. (1) Where on the commencement of this Act any person is entitled under the former tax provision to income tax relief in respect of any hotel, if the Minister is satisfied by such evidence in writing as he may require that the hotel enterprise is one that should be granted tax benefit under this Act, the Minister may by order declare the operation of the hotel in respect of which the income tax relief was granted to be an approved hotel for the purposes of this Act with effect from the date when the income tax relief under the former tax provision first became operative in respect of that hotel.

Approval of
existing tax
relief benefits

(2) Before making an order under subsection (1) the Minister shall determine with the assistance of the Commissioner the items on which capital expenditure has been made in respect of the hotel and by whom that expenditure was made, and the Minister may approve so much of that capital expenditure as he thinks proper to be approved capital expenditure for the purposes of this Ordinance.

- (3) An order under subsection (1) shall set out—
- (a) the tax benefits under this Act that will apply in respect of that hotel and the items of capital expenditure approved in respect thereof; and
 - (b) the names and addresses of the persons who shall be entitled to tax benefits in respect of that approved hotel.

43. (1) Where on the commencement of this Act any person is entitled under the former tax provision to income tax relief in respect of an hotel, if the Minister is not satisfied that the hotel is one that should be granted tax benefit under this Act and so declares by written notice to the Commissioner, the former tax provision applies,

Non-approval
of existing
tax relief
benefits

subject to subsection (2), in respect of that hotel notwithstanding the repeal of the former tax provision by this Part.

(2) In a case under subsection (1), the former tax provision applies in respect of that hotel so far only as is necessary to preserve the effect of an approval of the Governor-General under the former tax provision in respect of the erection or extension of an hotel commenced after the 1st day of July, 1954 and before the commencement of this Act.

(3) For the purpose of removing doubt in the application of the former tax provision to a case coming within the purview of this section, it is hereby declared that a proprietor of any hotel includes and has always included the owner of the hotel business carried on upon hotel premises.

Regulations.

44. The Governor-General 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—

- (a) prescribe the form of applications to be made for interim approvals, the manner of preparing site plans of proposed hotels or buildings to be used as an hotel building, the other plans and the form thereof and specifications that are to accompany applications for approval of hotel projects or particular types of hotel projects;
- (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 or additional capital expenditures to be approved for the purposes of this Act;
- (d) prescribe the form and contents of hotel orders and provide for the giving of security in the case of an hotel order made in advance of completion of an approved hotel 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 hotel 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 25 to be kept in respect of articles of hotel 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 hotel operator and as gains or profits accruing to an hotel owner in respect of any accounting period where the Commissioner 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 hotel operators or hotel owners at the beginning and end of any tax exemption period, and the manner in which the accounts are to be made up;
- (j) provide for the manner of accounting by an hotel operator and hotel owner of gains or profits exempt from tax and any accelerated depreciation or capital allowance;
- (k) provide rates of accelerated depreciation, which shall not be less than twenty per cent. in respect of any item, to be applied to depreciable equipment of an approved hotel, either by reference to existing rates of depreciation or formula in respect thereof under the Income Tax Ordinance or by prescribing rules whereby rates may be obtained for accelerated depreciation under this Act;
- (l) prohibit, limit and control the making of loans by a company operating or owning an approved hotel whether the loans are made to a shareholder of the company or otherwise;
- (m) provide for the distribution of dividends from any account provided for under any regulation

made under paragraph (j) and for the debiting of any such account;

- (n) 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;
- (o) 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.

Repeal
provisions.
Ch. 32. No. 15.

45. Subject to this Part,

(a) the Hotels (Development Encouragement) Ordinance is hereby repealed;

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(b) section 12A of the Income Tax Ordinance is hereby repealed.

Commencement.

46. This Act shall come into force on a day to be fixed by the Proclamation of the Governor-General published in the *Gazette*.

SCHEDULE

Articles of Hotel Equipment

(a) Beds, bedsprings, pillows, mattresses, chairs, tables, washhand stands, sofas, dressing tables, chests of drawers, desks, wardrobes, presses, mirrors, room luggage racks.

(b) Billiard tables and their appliances, pianos, organs, radios, television sets.

(c) Crockery, silver and plated tableware, table glassware, cutlery, kitchen equipment and utensils, including stoves and iceboxes.

(d) Dynamos, air-conditioning apparatus and appliances, refrigerating apparatus and appliances, electric lamps and fittings.

(e) Mats, rugs, carpets, linoleum and similar floor coverings, textile furnishings, including bedspreads, curtains and upholstery.

(f) Electric fans, exhaust fans, vacuum cleaners, office equipment, hand trolleys, bathroom scales, wall clocks, beauty salon equipment.

(g) Any other article or equipment for exclusive use in or in connection with the operation of an hotel.

Passed in the House of Representatives this 14th day of December, 1962.

G. R. LATOUR
Clerk, House of Representatives

Passed in the Senate this 4th day of January, 1963.

J. P. OTTLEY
Clerk of the Senate