

Fourth Session Fifth Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 35 of 1998

[L.S.]

AN ACT to provide for the imposition or variation of certain taxes and duties and to introduce other provisions of a fiscal nature and for related matters.

[Assented to 31st December, 1998]

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

PART I

PRELIMINARY

1. This Act may be cited as the Finance Act, 1998. Short title

PART II

OLD AGE PENSIONS

Chap. 32:02
amended

2. The Old Age Pensions Act is amended in section 3 by:

- (a) substituting in subsection (1), for the words “three hundred and forty-nine dollars and eighty-five cents” the words “four hundred and forty-nine dollars and eighty-five cents”;
- (b) by inserting after subsection (1) the following subsection:
 - “ (1A) The rate of pension referred to in subsection (1) has effect from 1st January, 1998 to 31st January, 1999”;
- (c) deleting subsections (1) and (1A) and substituting the following:
 - “ (1) A person whose total income does not exceed the sum of six hundred and twenty dollars a month or such other sum as may be specified by Order of the Minister shall, if he satisfies the statutory conditions specified in section 4, be paid a pension at the monthly rate of six hundred and twenty dollars”; and
- (d) by deleting subsection (4).

PART III

PUBLIC ASSISTANCE

Chap. 32:03
amended

3. The Public Assistance Act is amended in section 11A(1) by deleting paragraph (d) and substituting the following:

- “(d) he is in the opinion of the Local Board so disabled that he is unable to earn a livelihood.”.

PART IV

STUDENTS REVOLVING LOAN FUND

4. The Students Revolving Loan Fund Act is ^{Chap. 39:05} amended by: _{amended}

(a) repealing section 10 and substituting the following:

^{"Duties and functions of the Board}

10. The duties and functions of the Board shall be—

(a) to recommend to the Minister with responsibility for education the various courses of study with respect to which a loan may be guaranteed and interest subsidised;

(b) to receive, administer and invest the resources of the Fund; and

(c) to negotiate with financial institutions to facilitate the granting of loans to students and generally to do all that is expedient or necessary for the proper exercise of its duties and functions.”;

(b) inserting in section 18 after the words “subsection (1)(a)” the words “and section 18A(1)”;

(c) inserting after section 18 the following new section:

^{"Government guarantee on students loans}

18A. (1) Subject to subsection (2) the Government of Trinidad and Tobago shall:

(a) guarantee in such manner and on such terms and conditions as it thinks fit

Act No. 18 of
1993

loans up to one hundred thousand dollars granted by financial institutions within the meaning of the Financial Institutions Act for the benefit of students pursuing courses of studies approved by the Minister with responsibility for education; and

(b) pay over to the relevant financial institutions interest on such loans not exceeding ten per cent.

(2) The guarantee given by the Government on loans and subsidy or interest on such loans shall be subject to the condition that the loans are for a period not exceeding five years.”.

PART V

MOTOR VEHICLES

Chap. 48:50
amended

5. The Motor Vehicles and Road Traffic Act is amended in the First Schedule by deleting paragraphs (a) and (b) of item 25 and substituting as follows:

“(a) motor vehicle with engine size not exceeding 1599 cc—\$20,000;

(b) motor vehicle with engine size exceeding 1599 cc but not exceeding 1999 cc—\$30,000.00;

(c) Motor vehicle with engine size exceeding 1999 cc but not exceeding 2499 cc—\$50,000 00;

- (d) Motor vehicle with engine size exceeding 2499 cc but not exceeding 2999 cc—\$70,000;
- (e) Motor vehicle with engine size exceeding 2999 cc \$90,000.”.

PART VI

INCOME TAX

6. The Income Tax Act is amended as follows:

Chap. 75:01
amended

(a) in section 5A by—

- (i) deleting in subsection (1) the word “0.33” and substituting the word “0.25”;
- (ii) deleting in subsection (2)(b) the word “and”;
- (iii) deleting in subsection (2)(c) the words “one hundred and fifty thousand dollars” and substituting the words “two hundred thousand dollars” and by deleting the words “exceed that sum.” and substituting the words “exceed that sum; and”;
- (iv) inserting after subsection (2)(c) the following:

“(d) the gross sales or receipts of the business of a person who had not been in that business for three years from the date his business was registered.”;

(b) in section 8(1) by—

- (i) inserting after paragraph (f) the following:
“(fa) with effect from 1st January, 1999, the

interest income on loans made by financial institutions to fund projects within the small business sector under the Small Business Development Company Limited.”;

- (ii) inserting after paragraph (la) the following:

“(lb) with effect from 1st October, 1998, interest payable to resident individuals on bonds issued by the Trinidad and Tobago Mortgage Finance Company Limited for the purpose of providing loans to first time home owners.”;

- (iii) inserting after paragraph (w), the following paragraph:

“(x) on the death of a person, a lump sum death benefit paid under his employer’s pension plan.”;

(c) in section 10 by—

- (i) deleting subsection (4) and substituting the following:

“(4) Where a person and his spouse occupy as a residence land and improvements owned by both spouses jointly, or where that person or his spouse or a child or children of both

spouses are receiving tertiary education at institutions approved by the Ministry of Education, a deduction under subsection (3)(a) in respect of that residence or reasonable expenses incurred in respect of the tertiary education shall be allowed accordingly save that the aggregate deduction is limited to eighteen thousand dollars in respect of each spouse.”;

(ii) deleting in subsection (4A), the word “property,” and substituting the words “property or for tertiary education”;

(iii) deleting in subsection (5A), the words “have been paid in that year of income” and substituting the words “have been paid for the year of income to which the claim relates”; and

(iv) deleting subsection (9);

(d) by inserting after section 10A the following new section:

“Human
resource
development

10B. For the purpose of ascertaining the chargeable income of a person for a year of income from a trade or business, there shall be allowed, expenses reasonably incurred in the training and retraining of his employees up to one hundred and fifty per cent of such expenditure.”;

(e) in section 11, by inserting after subsection (2), the following subsection:

“ (2A) Notwithstanding subsection (2), where a person ceases to have an interest in respect of assets to which section 11A relates—

(a) a balancing allowance shall not be made until there are no assets left in the pool;

(b) a balancing charge shall not be made until the value in the pool results in a credit balance”;

(f) in section 11A, by inserting after subsection (2) the following subsections:

“ (2A) In computing the allowance applicable to the items in a class specified in the Seventh Schedule—

(a) the value of the plant or machinery acquired in a year of income shall be added to the written down value of the plant or machinery;

(b) the value of the plant or machinery disposed of in a year of income shall be deducted from the written down value of the plant or machinery so however, that in the case of—

(i) a sale of plant or machinery, the amount deducted shall be the proceeds of sale of the plant or machinery; and

- (ii) loss or destruction of plant or machinery, the amount deducted shall be the money received by way of insurance or compensation;
- (c) where the plant or machinery is used both for business and private purposes, the pool shall be debited with the proportionate cost of the asset equivalent to its business use and where the asset is disposed of, the pool shall be credited with the same percentage applied to the proceeds of disposal up to the original cost of the asset;
- (d) the value of plant or machinery brought into the business from private use shall be the market value of the plant or machinery;
- (e) where plant or machinery used for business purposes is appropriated for private use, the pool shall be credited with the market value of the plant or machinery so appropriated;
- (f) in the case of any other event resulting in the cessation of interest in any plant or machinery the amount deducted from the pool shall be the market value of such plant or machinery;

(g) where plant or machinery is sold and the buyer and the seller are associates, the disposal value of the said plant or machinery shall be its market value;

(h) in no event shall the amount credited to the pool exceed the original cost of the said plant or machinery.

(2B) For the purpose of subsection (2A), “associates” has the same meaning assigned to it in the Companies Act, 1995”;

(g) in section 27(1) by—

- (i) deleting all the words commencing with the word “save”; and
- (ii) inserting after the word “allowed”, the words “subject to section 28(15)”;

(h) in section 28, by—

- (i) deleting in subsection (14), all the words commencing with the word “save”; and
- (ii) inserting after subsection (14), the following subsection:

“ (15) Where a person claims a deduction under section 27(1)(c) or (d) and under this section, the deduction shall be limited to an aggregate amount of twelve thousand dollars.”;

(i) in section 31(1), by deleting the words “Subject to section 10(9), an” and by substituting the word “An”;

(j) in section 35(12), by inserting after the definition of the word “approved employees”, the following definition:

“company” means any body corporate, whether public or private, or unincorporated association but does not include a partnership;”;

(k) in section 70, by repealing subsections (1)(b), (1)(c) and (2);

(l) in section 71, by repealing subsection (2);

(m) in section 74, by repealing subsections (1) and (4);

(n) in section 76(4)(a) by deleting the words “twelve thousand dollars” and substituting the words “fifty thousand dollars”;

(o) in section 82 by—

(a) deleting from subsection (2), the words “executor and other like person, other than a trustee in bankruptcy” and substituting the words “executor, trustee in bankruptcy and other like person”;

(b) inserting after subsection (2) the following subsection:

“ (2A) Every assignee, liquidator, administrator, executor, trustee in bankruptcy and other like person shall submit to the Board full details of the assets and property distributed within three months of such distribution.”;

- (p) in section 83, by deleting from subsection (4), the words “within six years after the expiration thereof,” and substituting the words, “within six years after the expiration of the year of income or three years from the date the tax return is filed whichever is later,”;
- (q) in section 86, by renumbering subsection (5A) as (5A)(1) and inserting the following after that subsection:
- “ (2) Where new information arises in reconsidering an assessment the Board may raise any new issue at that stage and may increase such assessment”;
- (r) in section 89, by deleting from subsection (1) the words, “within six years after the expiration thereof” and substituting the words “within six years after the expiration of the year of income or three years from the date the tax return is filed whichever is later”;
- (s) in section 98, by deleting from subsection (2)(ii) the words “six hundred” and substituting the words “three thousand”;
- (t) in section 99, by—
- (a) inserting in subsection (5) after the words “Trinidad and Tobago” the words, “whether or not they have in fact been kept separate and apart from such person’s own monies”;
- (b) deleting in subsection (7), the words “forty dollars” and substituting the words, “seventy-five dollars”;

- (u) in section 116, by inserting in subsection (3) after the words, "year of income" the words "or three years from the date the tax return is filed whichever is later";
- (v) in section 118, by deleting from subsections (6) and (7) the words "five thousand" and substituting the words "fifteen thousand";
- (w) in section 119, by deleting from subsection (1), the words "eight thousand" and substituting the words "fifty thousand";
- (x) in section 121, by deleting from subsection (1), the words "fifteen thousand" and substituting the words "thirty thousand";
- (y) in section 125, by deleting from subsection (3) the words "two thousand" and substituting the words "five thousand";
- (z) in section 130, by deleting from subsection (1D) the words "five thousand" and substituting the words "fifteen thousand";
- (aa) in the Seventh Schedule, by deleting from Class B and inserting in Class C, the item "computers";
- (bb) in Rule 2 of the Eighth Schedule, by inserting after subrule (1), the following subrule:
 - " (1A) For the removal of doubt it is hereby declared that a person to whom an employment allowance is granted shall not be entitled to a deduction under section 10 in respect of salary or wages referred to in subrule (1)."

PART VII

CORPORATION TAX

Chap. 75:02
amended

7. The Corporation Tax Act is amended as follows:

(a) in section 3A—

- (i) by deleting from subsection (1) the word “0.33” and substituting the word “0.25”;
- (ii) by deleting from subsection (2)(f) the words “one hundred and fifty thousand dollars” and substituting the words “two hundred thousand dollars”; and
- (iii) by inserting after subsection (10) the following:

“ (11) notwithstanding anything in subsection (1), from 1st January, 1999 the business levy shall not be levied earlier than the date of expiry of three years from the date of registration of a Corporation which is registered after the aforesaid date.;

(b) in section 6(1), by—

- (i) inserting the following paragraph after paragraph (k):

“(ka) with effect from 1st January, 1999 interest income on loans made by financial institutions to fund projects within the small business sector under the Small Business Development Company Limited.”;

(ii) inserting after paragraph (q) the following:

“(qa) with effect from 1st October, 1998, interest payable on bonds issued by the Trinidad and Tobago Mortgage Finance Company Limited for the purpose of providing loans to first time home owners.”;

(c) in section 6(1)(sa), by deleting the words “by lending institutions listed in the Schedule to the Act” and substituting the words “by financial institutions”;

(d) in section 7(8), by deleting the words “have been paid in that year of income by the company” and substituting the words “have been paid for the year of income to which the claim relates”;

(e) by deleting section 7(9);

(f) by inserting the following section after section 10D:

“Deductions
for training of
employees 10E. In computing for the purposes of corporation tax the profits of a company for a year of income, there shall be allowed expenses reasonably incurred in the training and retraining of the employees of the company up to one hundred and fifty per cent of such expenditure.”;

(g) in section 19, by—

(i) renumbering the section as subsection (1); and

(ii) inserting after the renumbered subsection, the following subsection:

“ (2) Notwithstanding the repeal of sections 70(1)(b), 70(1)(c), 70(2), 71(2), 74(1) and 74(4) of the Income Tax Act, the said sections shall form part of the table below.”

PART VIII

STAMP DUTY

Chap. 76:01
amended

8. The Stamp Duty Act is amended as follows:

(a) by inserting after section 47A, the following new section:

“How duty is chargeable when residential property is used as commercial property 47B. (1) Notwithstanding anything in this Act, where residential properties are converted to commercial use the tax chargeable shall be—

(a) if the conversion took place within one year the rate applicable for commercial properties; and

(b) if the conversion took place after one year but within two years one half of the rate payable for commercial properties.

(2) It shall be the duty of the purchaser to inform the Board of any alteration in the use of any residential property for commercial purpose and if he fails to do so he shall be liable to a fine of fifteen thousand dollars.”;

- (b) in section 78, by deleting the words, “to imprisonment for two years” and substituting the words “to a fine of fifteen thousand dollars or to imprisonment for two years”;
- (c) in section 80(1), by deleting the words “one thousand dollars” and substituting the words “fifteen thousand dollars”;
- (d) in section 81, by deleting the words “one hundred dollars” and substituting the words “three thousand dollars”;
- (e) in section 82, by deleting the words “one thousand dollars” and substituting the words “fifteen thousand dollars”;
- (f) in section 85, by deleting the words “one thousand dollars” and substituting the words “fifteen thousand dollars”;
- (g) in section 87, by deleting the words “two thousand five hundred dollars” wherever these words occur and substituting the words “fifteen thousand dollars.”.

PART IX

MISCELLANEOUS TAXES

9. The Miscellaneous Taxes Act is amended—

Chap. 77:01
amended

- (a) by inserting after section 40, the following new section:

“Board may
inspect books
and records

40A. (1) The Board may inspect only those books and records maintained by the financial institutions necessary to ensure that the financial institutions pay the correct tax.

(2) Where the Board in such inspection discovers that the correct tax in respect of financial services income has not been paid it shall raise assessments to recover the tax unpaid.

(3) For the purpose of exercising its powers under subsection (1) the Board shall have the same power as under sections 117 and 118 of the Income Tax Act except that the words "except a person engaged in confidential professional relationship with such person" in subsection (1) of section 117 shall have no application under this subsection."

(b) in section 45(1), by inserting after the words "may identify" the words "and local roads in Trinidad and Tobago which the Minister responsible for local government may identify";

(c) in section 45(2) —

(i) by inserting after the words "For the purposes of subsection (1), the Minister responsible for highways and main roads" the words "and the Minister responsible for local government";

(ii) by inserting after the words "planning," the words "local government,";

(d) by inserting after section 46, the following section:

"Allocation
from fund

46A. Out of monies in the fund up to the limit of fifty per cent shall be allocated to the Ministry

with responsibility for highways and main roads and the remaining portion to the Ministry with responsibility for local government for the purpose of repair and maintenance of roads under their purview.”;

(e) in section 47, by inserting after the words “main roads” the words “or the Minister responsible for local government”;

(f) in section 49, by deleting the word “shall” and substituting the words “and the Minister responsible for local government shall jointly”;

(g) by inserting after section 58, the following section:

“President ^{may remit or refund taxes} 58A. (1) The President may remit or refund taxes and penalties, as the case may be, if he is satisfied that it would be just and equitable to do so.

(2) Subsection (1) shall be deemed to have come into operation from 1st January, 1994.”.

PART X

CUSTOMS ACT

10. The Customs Act is amended—

Chap. 78:01
amended

(a) in section 23(4), by deleting the words “were imported into Trinidad and Tobago” and substituting the words “were placed on board the first aircraft or ship for export to Trinidad and Tobago”;

(b) in section 45(4), by deleting paragraph (ba) and substituting the following paragraph:

“(ba) vehicles specially constructed for use by disabled persons and acquired for such use through purchase or gift;”;

(c) in the First Schedule as follows:

- (i) under Tariff Subheading No. 2203.001 in the column entitled “Rate of Duty”, by deleting the words “\$4.75 per litre” and substituting the words “\$4.00 per litre”;
- (ii) under Tariff Subheading No. 8523.201, in the column entitled “Rate of Duty”, by deleting the word “5%” and substituting the word “Free”;
- (iii) under Tariff Subheading No. 8524.993, in the column entitled “Rate of Duty”, by deleting the word “5%” and substituting the word “Free”;
- (iv) under Tariff Subheading Nos. 8703.219, 8703.229 and 8703.232 in the column entitled “Rate of Duty”, by deleting the word “20%” and substituting the word “25%”;
- (v) under Tariff Subheading Nos. Ex 8703.232 and 8703.233 in the column entitled “Rate of Duty”, by deleting the word “25%” and substituting the word “35%”;

- (vi) under Tariff Subheading No. 8703.234, in the column entitled "Rate of Duty", by deleting the word "30%" and substituting the word "40%";
 - (vii) under Tariff Subheading No. 8703.249, in the column entitled "Rate of Duty", by deleting the word "30%" and substituting the word "45%";
 - (viii) under Tariff Subheading No. 8703.319, in the column entitled "Rate of Duty", by deleting the word "30%" and substituting the word "35%";
 - (ix) under Tariff Subheading No. 8703.322, in the column entitled "Rate of Duty", by deleting the word "30%" and substituting the word "40%";
 - (x) under Tariff Subheading No. 8703.324, in the column entitled "Rate of Duty", by deleting the word "30%" and substituting the word "40%";
 - (xi) under the Tariff Subheading No. 8703.339, in the column entitled "Rate of Duty", by deleting the word "30%" and substituting the word "45%";
- (d) in the Third Schedule, List "I—FOR APPROVED INDUSTRY" by inserting after item 83, the following item:
- " 84. Machinery, equipment and materials used for the manufacture or generation of electricity."

PART XI

INSURANCE

Chap. 84:01
amended

11. The Insurance Act is amended as follows:

(a) in section 2, by inserting after subsection (2), the following subsection:

“ (3) Notwithstanding anything in any other written law for the purpose of this Act an insurance business may be carried on in any currency.”;

(b) in section 3, by inserting in the definition of “insurance business” after the word “event” the words “in the currency in which the premium had been paid”;

(c) in section 47(1) by deleting the word “eighty” and substituting the word “forty”;

(d) in section 195, by deleting subsection (1) and substituting the following new section:

“ (1) Where a policy is issued after 1st January, 1999 and the premiums in respect of that policy are payable or paid in Trinidad and Tobago—

(a) such premiums shall be payable or paid in any currency; and

(b) any sums payable or paid upon the maturity of such policy shall be payable or paid in the currency in which the premiums had been paid.”.

PART XII

VALUE ADDED TAX

Act No. 37 of 1989
amended

12. The Value Added Tax Act is amended as follows:

(a) in section 16(5) by deleting the words “if the travel or package tour is paid for in

Trinidad and Tobago” and substituting the words “if the journey also originates in Trinidad and Tobago or Trinidad and Tobago is the place of the issue of the ticket for travel”;

(b) in section 21—

(i) in subsection (1), by deleting the words “one hundred and fifty thousand dollars” in each place where they occur and substituting the words “two hundred thousand dollars”;

(ii) in subsection (2) by deleting the words “twelve thousand five hundred dollars” the words “sixteen thousand six hundred dollars”;

(c) in section 22, by deleting the words “one hundred and fifty thousand dollars” in both places where they occur and substituting the words “two hundred thousand dollars”;

(d) in section 34(3)(b)(iii), by inserting after the word “represents” the words “and to which the input tax relates”;

(e) in Schedule 2, by inserting after item 27 the following items:

“ 28. The items contained in the First Schedule to the Customs Act under Tariff Heading No. 90.21, being orthopaedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried or implanted in the

body, to compensate for a defect or disability, other than items in Tariff Subheading Nos. 9021.21 and 9021.29, being artificial teeth and dental fittings.

29. The items contained in the First Schedule to the Customs Act—

- (a) under Tariff Heading No 84.71, being automatic data processing machines and units thereof, magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included;
- (b) being parts and accessories listed in Tariff Subheading No. 8473.30 in respect of machines under paragraph (a); and
- (c) being diskettes as contained in Tariff Subheading Nos. 8523.201 and 8524.993.”.

PART XIII

UNIVERSITY STUDENTS (GUARANTEE FUND)

Act No. 12 of 1994
amended

13. The University Students (Guarantee Fund) Act is amended as follows:

- (a) in section 2, by inserting after the definition of “agreement” the following:

“financial institution” means a financial institution within the meaning of the Financial Institutions Act;

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1993

(b) in section 6 by inserting after the words “lending bank” wherever these words occur in that section the words “or a financial institution”.

PART XIV

COMMENCEMENT

14. The date of the commencement of the several ^{Commencement} sections of this Act are set out in the Schedule:

SCHEDULE

COLUMN I	COLUMN II
<i>Sections</i>	<i>Date of Commencement</i>
1	Date of enactment
2(a)	1st January, 1998
2(b) and (c)	1st February, 1999
3	1st February, 1999
4	1st January, 1999
5	5th October, 1998
6(c)(iii)	1st January, 1994
(iii), (c)(iv), (e), (f), (g), (h), (i), (j), (aa), (bb)	1st January, 1998
(k), (l), (m)	1st January, 1997
(a), (b)(i), (c)(i) and (ii), (d), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z)	1st January, 1999
7(a), (b)(i), (c), (f)	1st January, 1999
(b)(ii)	1st October, 1998
(d) and (e)	1st January, 1994
(g)	1st January, 1997
8	1st January, 1999

SCHEDULE—CONTINUED

COLUMN I	COLUMN II
<i>Sections</i>	<i>Date of Commencement</i>
9(a)	1st January, 1999
(b), (c), (f)	1st January, 1998
(d)	1st January, 1998
(e)	1st January, 1998
10(a)	1st January, 1999
(b), (d)	1st January, 1998
(c)(i)	1st January, 1999
(c)(ii) to (c)(xi)	5th October, 1998
11	1st January, 1999
12(a), (b), (c), (d)	1st January, 1999
(e)	5th October, 1998
13	1st January, 1999

Passed in the House of Representatives this 4th day of December, 1998.

J. SAMPSON
Clerk of the House

Passed in the Senate this 8th day of December, 1998.

N. COX
Clerk of the Senate

Senate amendments agreed to by the House of Representatives this 11th day of December, 1998.

J. SAMPSON
Clerk of the House