

CHAPTER 341

TOURISM DEVELOPMENT

2002-7

This Act came into operation on 31st August, 2002 by Proclamation (S.I. 2002 No. 102).

Amended by:

This Act has not been amended

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

2002

CHAPTER 341

TOURISM DEVELOPMENT 2002-7

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**BARBADOS****TOURISM DEVELOPMENT
2002-7**

An Act to encourage the sustainable development of the tourism industry by providing duty-free concessions and income tax concessions for approved tourism projects and certain tourism entities and for other related matters.

[Commencement: 31st August, 2002]

PART I**PRELIMINARY****Short title**

1. This Act may be cited as the *Tourism Development Act*.

Interpretation

2. In this Act,
“approved tourism product” means a tourism product that has been declared to be an approved tourism product under section 9;

“attraction” means a site that locals and overseas visitors visit that has an identifiable operation and management structure and can be characterised as natural, historical, cultural or manmade;

“Comptroller” means the Comptroller of Customs;

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

“customs duty” includes import duty, environmental levy, excise tax and value-added tax;

“facility” includes buildings, swimming pools, game areas, playing fields, spas, equipment and furniture provided for the recreation of guests for reward;

“guest” means a person who pays for the use of any service or accommodation in a hotel or any other approved tourism product;

“hotel” means

- (a) any building containing not less than 10 bedrooms each of which is valued at not less than \$175 000; or
- (b) any group of buildings, whether cottages, bungalows or otherwise, situate within the same precincts, served by a common maid service and together containing not less than 10 bedrooms each of which is valued at not less than \$175 000,

for the accommodation of guests for reward and available for letting for at least 9 months in each year;

“inland” has the description assigned in the *First Schedule*;

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

“licence” means the licence issued by the Registrar of Tourism Services under section 10 for an approved tourism product to commence operation as a business;

“operator”

- (a) means an individual, partnership or company operating an approved tourism product or an approved tourism project owned by or leased to the individual, partnership or company; and
- (b) includes any person not being an owner or lessee who for the time being has immediate control over the management of a tourism product or a tourism project;

“owner” means

- (a) an individual, partnership or company that has the right of enjoying and disposing of a tourism product or a tourism project in fee simple;
- (b) the person entitled to the rights and interests in a case where the tourism product or tourism project is held by virtue of a lease;

“recreational facilities” includes waterparks, theme parks and golf courses but does not include any project that does not accord with public policy;

“Registrar” means the Registrar of Tourism Services provided for under section 10(4);

“restaurant” means an establishment registered with the Barbados Tourism Authority that offers for sale

- (a) an à la carte or table d’ hôte food menu;
- (b) a wine and bar menu that includes a selection of at least 6 wines of both red and white; and
- (c) table service provided by uniformed staff;

“supplies” means

- (a) goods that are imported, purchased from a bonded warehouse or that are locally manufactured for the construction, development and operation of a tourism project; and

(b) the provision of services that directly relate to the construction of the project;

“timeshare property” means a complex of at least 10 rooms that offers advanced purchase of vacation time for a particular period or interval, thereby affording the purchaser the right to enjoy a variety of services and facilities, subject only to a further payment of an annual contribution towards the maintenance of the property, where the property is registered with the Barbados Tourism Authority;

“tourism product” means an entity

(a) in respect of which a licence is issued under section 10; or

(b) which is registered with the Barbados Tourism Authority;

“tourism project” means a project described in section 3 which has been approved under section 5;

“villa” means a house that

(a) has at least 3 bedrooms and is valued at not less than \$525 000;

(b) is managed by a company or real estate agent, and employs no less than 3 persons;

(c) is registered with the Barbados Tourism Authority; and

(d) is available for the accommodation of guests for reward for at least 9 months in every year;

“year of assessment” means the year for which income tax is payable pursuant to the provisions of the *Income Tax Act*, Cap. 73.

PART II

APPROVED TOURISM PROJECT AND APPROVED TOURISM PRODUCT

Application for approval of tourism project

3.(1) A person who wishes to own or operate a tourism product may apply to the Minister to have the tourism project necessary to develop such product approved for the purposes of this Act.

- (2) For the purposes of this Act, a tourism project includes
- (a) the construction of a new hotel;
 - (b) the alteration or renovation of an existing hotel;
 - (c) the conversion of an existing building or buildings into an hotel by reconstruction, extension, alteration, renovation or remodelling;
 - (d) the furnishing and equipping of a building to be utilised as an hotel;
 - (e) the provision of tourist recreational facilities and tourism related services;
 - (f) the construction and equipping of a new restaurant;
 - (g) the alteration or renovation of an existing restaurant;
 - (h) the construction of a new attraction or the alteration or renovation of an existing attraction;
 - (i) the restoration, preservation and conservation of natural sites;
 - (j) the establishment, restoration, preservation and conservation of monuments, museums and other historical structures and sites;
 - (k) the construction and furnishing of villas;
 - (l) the construction and furnishing of timeshare properties; and
 - (m) the addition to a tourism product of any facilities or services intended to increase or improve the amenities that the tourism product provides.

(3) The Minister may, with the approval of the Cabinet, declare by order any service or facility to be a tourism project for the purposes of this Act.

Further information to be furnished by applicant

4. Upon receipt of an application under section 3, the Minister may require that further information be submitted to him with respect to any matter relevant to the application including

- (a) the ownership of the tourism project, and of the completed tourism product;
- (b) the location and the area of land to be used in the development of the tourism project;
- (c) the estimated expenditure on the tourism project and the source of funds to be used;
- (d) a project feasibility study forecasting the economic, social and environmental impact of the tourism product on Barbados;
- (e) an environmental impact assessment study approved by the Chief Town Planner;
- (f) the proposed marketing plan relevant to the completed tourism product; or
- (g) any other information including comments from the public that may be required by the Minister at the time.

Interim approval of a tourism project

5.(1) Where the Minister is satisfied that the tourism project is practical and that it would assist the development of tourism, the Minister may with the approval of the Cabinet grant to the applicant an interim approval of the tourism

project as the first stage in a three-stage authorisation procedure which would include

- (a) an interim approval of the tourism project based on the information submitted under section 4;
- (b) a final approval based on the completed product that incorporates any changes that may have taken place during the construction of the project; and
- (c) a licence issued to the applicant under section 10 when the Registrar is satisfied that all relevant procedures, requisitions and statutes have been complied with, and that the tourism product is in a suitable form and is of a standard to commence operation.

(2) Where the Minister grants an interim approval in accordance with subsection (1) a notice to that effect shall be published in the *Official Gazette*.

Notification

6. Where the Minister receives an application under section 3 the Minister shall, within 90 days of the date of its receipt,

- (a) notify the applicant in writing of the approval or refusal of the application; or
- (b) request that additional information be submitted in accordance with section 4.

Form of interim approval

7. An interim approval shall

- (a) be in such form and contain such particulars as may be prescribed; and
- (b) specify the benefits that may be granted to either the operator or owner of the tourism project,

subject to such conditions or terms as the Minister may attach.

Suspension or revocation of interim approval

8.(1) An interim approval may be revoked or suspended by the Minister at any time where

- (a) any information submitted with respect to the application is false or misleading; or
- (b) the person to whom the interim approval was granted has failed to comply with any condition or term of the interim approval.

(2) Where the Minister revokes or suspends an interim approval, the Minister shall in writing inform the person to whom the approval was granted of the revocation or suspension.

(3) Where an approval has been revoked under subsection (1), the Minister may, where in his opinion it is in the public interest to do so, grant a new interim approval in respect of the proposed or incomplete tourism project.

Order declaring approved tourism product

9.(1) Where any tourism project developed in accordance with the conditions of an interim approval has been completed, the Minister shall by order declare the resulting tourism product to be an approved tourism product for the purposes of this Act.

(2) An order made under subsection (1)

- (a) shall be in such form and contain such particulars as may be prescribed by the Minister;
- (b) shall specify the benefits to be granted to the owner or operator of the tourism product; and
- (c) may impose conditions or terms to be observed by the owner or the operator of the tourism product.

(3) Where an order is made pursuant to subsection (1) and the owner or operator of the tourism product fails to comply with the conditions or terms

imposed in the order, the Minister shall revoke the order by a notice published in the *Official Gazette*.

Licensing of tourism product

10.(1) Where a tourism product has been subjected to the scrutiny of all of the relevant authorities and has met the standards and requirements of all the authorities, the Registrar shall issue to the owner or operator of the tourism product a licence to operate the approved tourism product.

(2) A licence issued under subsection (1)

(a) shall be in such form and contain such particulars as may be prescribed; and

(b) may impose conditions of operation to be observed by the owner or operator of the tourism product.

(3) Where conditions are imposed in a licence issued under subsection (1) and those conditions are not observed by the owner or operator of the tourism product, the Registrar shall revoke the licence by a notice published in the *Official Gazette*.

(4) The Minister shall appoint a Registrar of Tourism Services who shall perform

(a) the functions conferred on that officer under this Act; and

(b) such other functions as are conferred by the Minister.

Effective date of licensing

11.(1) Where a licence is issued under section 10, the licence shall specify the effective date from which the owner or operator of a tourism product will receive a tax benefit where the owner or operator of the tourism product is entitled to such tax benefit.

(2) The date specified in the licence under subsection (1) shall mark the beginning of the initial year of assessment for the purpose of computing tax benefits.

PART III

CUSTOMS DUTY CONCESSIONS

Permit

12.(1) Where an owner or operator of an approved tourism project has been granted an interim approval, the Minister may grant to that owner or operator a permit for the importation of building materials and supplies without payment of customs duty as specified in the permit.

(2) A permit is subject to the condition that the building materials and supplies shall be used exclusively for the construction and development of the tourism project for which the interim approval is given.

(3) Where the owner or operator of the approved tourism project referred to in subsection (1) wishes to obtain goods under customs concessions, those goods shall be imported, purchased out of a bonded warehouse, or locally manufactured or produced.

Form of permit

13. A permit granted under section 12 shall be in such form and subject to such terms and conditions as the Minister may prescribe.

Revocation of permit

14. Where the Minister is satisfied that the holder of a permit granted under section 12 has

- (a) obtained the permit by any false statement;
- (b) abused or misused the permit; or

(c) broken or failed to comply with any conditions stipulated in the permit, the Minister may by written notice to the holder of the permit either suspend the operation of the permit or revoke the permit.

Exemption

15.(1) The owner or operator of a tourism project for which an interim approval has been granted shall be exempt from the payment of customs duty on the supplies listed in the *Second Schedule* when they are either purchased out of a bonded warehouse or are imported.

(2) The exemption referred to in subsection (1) shall be for a period of 15 years from the date of removal from the warehouse or from the date of importation as the case may be.

(3) For the purposes of refurbishing a tourism product, the owner or operator of the tourism product who

(a) has a valid licence issued pursuant to section 10; or

(b) is registered with the Barbados Tourism Authority,

shall be exempt from the payment of customs duty with respect to the items listed in the *Second Schedule* when they are purchased either out of a bonded warehouse or are imported.

Refund of customs duty

16. The Comptroller shall grant a refund of customs duty paid by the holder of a permit where the holder satisfies the Comptroller that

(a) the building materials and supplies purchased for the tourism project have been purchased in Barbados in accordance with the terms of the permit; or

(b) upon the importation of building materials and supplies for the tourism project the customs duty was paid by the holder of the permit.

Prohibited uses

17. Every operator or owner of a tourism project who imports or purchases building materials and supplies without paying customs duty and who without authorisation from the Minister disposes of the building materials and supplies otherwise than as provided for in the permit is guilty of an offence and is liable on conviction on indictment to

- (a) a fine of 3 times the value of the building materials and supplies in respect of the disposal; or
- (b) repayment of the customs duty refunded on the building material and supplies.

Restriction upon disposition of building materials and supplies

18.(1) No building materials or supplies imported without payment of customs duty or in respect of which a refund of customs duty has been made, shall be sold, exchanged, rented, given away, exported or applied to any purpose other than that for which they were imported except

- (a) in the case of an assignment of the tourism project in respect of which they were so imported as a going concern, to the assignee of the tourism project;
- (b) upon the owner or operator of the tourism project in respect of which they were so imported paying or giving security to the Comptroller for the payment of an amount equivalent to the amount of customs duty that would have been payable upon the importation of the building materials and supplies, but which had been refunded under section 16;
- (c) after the expiration of 5 years from the date of the importation of the building materials or supplies; or
- (d) upon the Cabinet, on being satisfied that the building materials and supplies so imported are no longer required for the purposes for which

they were imported, granting a permit to the owner or operator of the tourism project to dispose of the building materials and supplies in such manner and subject to such terms and conditions as the Cabinet thinks fit.

- (2) Every owner or operator of a tourism project, in respect of which any building materials or supplies have been imported without payment of customs duty or in respect of which any refund of customs duty has been made under this Act, who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment to a fine of 5 times the value of the building materials and supplies in respect of the disposal.
- (3) In addition to the fine referred to in subsection (2) the building materials and supplies in question shall be forfeited to the Crown.

Keeping of records of building materials and supplies

19.(1) The Comptroller shall require every owner or operator of a tourism project who imports building materials and supplies or purchases building materials and supplies locally to

- (a) keep records in such form and containing such particulars as may be specified by the Comptroller in respect of the use or disposal of the building materials and supplies; and
- (b) permit the Comptroller or any person authorised by him in writing, at all reasonable times, to inspect the records and to have access to any premises for the purposes of examining any building materials and supplies which the Comptroller may believe to be therein, and of satisfying himself in respect of the accuracy of the particulars in relation to the building materials and supplies contained in the records.
- (2) The conditions imposed under paragraphs (a) and (b) of subsection (1) shall apply for a period of 5 years
- (a) from the date of the importation of the building materials and supplies without payment of customs duty; or

(b) from the date of payment of the customs duty.

(3) A person who wilfully delays, hinders or obstructs the Comptroller or any person authorised by him in writing from inspecting the building materials and supplies or any records relating to the building materials and supplies is guilty of an offence and is liable on conviction on indictment to a fine of \$50 000 or 5 times the value of the building materials and supplies, whichever is greater.

PART IV

INCOME TAX CONCESSIONS

Definitions

20. For the purposes of this Part,

- (a) “investor” means a person other than a commercial bank who by means of a loan or otherwise provides funding for the development of a tourism project;
- (b) “private sector lending institution” includes commercial banks, trust companies, insurance companies, credit unions and finance companies.

Refurbishment and upgrading of hotel or restaurant

21.(1) Where an owner or operator of a tourism product

- (a) secures a loan from a private sector lending institution for the purposes of refurbishing and upgrading of an hotel or restaurant; and
- (b) has in an income year incurred expenditure in relation to that refurbishing and upgrading,

then in calculating the assessable income of the owner or operator for an income year there shall be deducted an amount equal to 150 per cent of the interest paid on the loan in the income year.

(2) The tourism product referred to in subsection (1) shall not have a value that is less than \$1.75 million, and the portion of the loan on which the concession at subsection (1) is granted shall be no more than \$7.5 million in respect of each hotel or restaurant to be refurbished or upgraded.

Marketing

22. Where an owner or operator of a tourism project or a tourism product has in an income year incurred expenditure for a purpose specified in Part I of the *Third Schedule*, then in calculating the assessable income of that owner or operator for an income year, there shall be deducted an amount equal to 150 per cent of the expenditure incurred.

Training

23.(1) Where an owner or operator of a tourism project or a tourism product has in an income year incurred, for the purpose of training persons employed by the owner or operator, expenditure for the purposes specified in Part II of the *Third Schedule*, then in calculating the assessable income of that owner or operator for an income year, there shall be deducted an amount equal to 150 per cent of the expenditure incurred.

(2) The owner or operator referred to in subsection (1) may claim an additional 50 per cent of the expenditure where the tourism project or the tourism product has an employee share ownership scheme that meets the criteria prescribed by the Minister.

Loans for construction of new hotels

24.(1) Where an investor in a tourism project or a tourism product secures a loan from a private sector lending institution for the purpose of constructing a new hotel which is designed to have

- (a) not less than 250 rooms for the accommodation of guests for reward;
and
- (b) conference facilities that can seat 500 persons

that investor shall be eligible for the concession set out in subsection (2) in relation to the loan up to and not exceeding \$40 million.

(2) Where the investor referred to in subsection (1) has in an income year incurred expenditure for the purpose set out in subsection (1), then in calculating the assessable income of that investor for an income year, there shall be deducted an amount equal to 150 per cent of the interest paid on the loan in the income year.

Inland hotels

25. Where an owner or operator of a new hotel that is constructed or being constructed in an inland area secures a loan from a private sector lending institution and that owner or operator has in an income year incurred expenditure for the purpose of the construction of the hotel, then in calculating the assessable income of the owner or operator for an income year, there shall be deducted an amount equal to 150 per cent of the interest paid on an amount of the loan not exceeding \$20 million.

Consolidation of small hotels

26. Where an investor secures a loan from a private sector lending institution that is used for the consolidation of 2 or more hotels each of which has 50 rooms or less, for the purpose of owning, managing and marketing the hotels as a group, and that investor has in an income year incurred expenditure for the purpose of purchasing the hotels, then in calculating the assessable income of the investor for an income year, there shall be deducted an amount equal to 150 per cent of the interest paid on an amount of the loan not exceeding \$15 million.

Facilities and attractions based on natural or cultural heritage

27. Where an investor secures a loan for the purpose of refurbishing, upgrading or constructing an attraction and that investor has in an income year incurred expenditure for the purpose of refurbishing, upgrading or constructing the attraction, then in calculating the assessable income of the investor for an

income year there shall be deducted an amount equal to 150 per cent of the interest paid on an amount of the loan not exceeding \$3 million.

Investment tax credits

28.(1) In calculating the tax payable by the investor referred to in section 27 for an income year, in addition to the benefit conferred on the investor under that section, the investor shall also be eligible for an investment tax credit that is equal to 30 per cent of the initial capital expenditure incurred in respect of any plant and equipment purchased which will be used in the refurbishing, upgrading and construction of an attraction, where the cost of the plant and equipment exceeds \$100 000.

(2) The investment tax credit referred to in subsection (1) and section 29 shall be available for set off against tax payable and, where the excess exceeds the tax payable, the excess shall be carried forward for a period of 15 years.

Concession for wastewater disposal system

29. Where an operator of a tourism product has in an income year incurred expenditure for the purpose of improving the wastewater disposal system connected with the tourism product, and these improvements meet the required environmental standards as set by the Ministry of the Environment, then in calculating the tax payable of that operator for an income year the operator shall receive an investment tax credit that is equal to 20 per cent of the capital cost of the fittings, pipes and pumps used in the construction of the waste-water disposal system.

Product development, apprenticeship and tourism research

30. Where an owner or operator of a tourism project has in an income year incurred expenditure for the purpose of

- (a) tourism product development;
- (b) tourism research;

- (c) the provision of an apprenticeship scheme; or
- (d) the organisation and hosting of tourism exhibitions and trade fairs,

that are approved by the Minister, then in calculating the assessable income of the owner or operator for an income year there shall be deducted an amount equal to 150 per cent of the expenditure incurred.

Development of nature trails and community tourism

31. Where an owner or operator of a tourism project or a tourism product has in an income year incurred expenditure for the purpose of

- (a) developing and operating nature trails throughout rural areas of Barbados to be used as tourist attractions;
- (b) acquiring Green Globe or similar certification;
- (c) developing linkages between the tourism sector and other economic sectors;
- (d) developing community tourism programmes;
- (e) developing visitor exchange programmes between Barbados and other Caribbean countries;
- (f) developing computer software that can be used to measure the performance of the tourism industry,

and these projects are approved by the Minister, then in calculating the assessable income of that owner or operator for an income year there shall be deducted an amount equal to 150 per cent of the expenditure incurred.

Incurred approved capital expenditure

32.(1) Where an owner of a tourism project has in an income year incurred expenditure for the purpose of providing accommodation or a facility for guests for reward, and incurs approved capital expenditure of up to \$200 million, then in calculating the assessable income of the owner for an income year, there shall be deducted or set off against income arising or accruing to the owner the

approved capital expenditure over a period of 15 years commencing in the income year in which the expenditure is incurred.

(2) Where an owner of an hotel has in an income year incurred expenditure in the amount of over \$200 million for the purpose of providing accommodation and facilities for tourists, then in calculating the assessable income of that owner for an income year, the owner shall be allowed an extra income year to set off approved capital expenditure up to the maximum of 20 years for every additional \$20 million of approved capital expenditure incurred.

(3) For the purposes of this section, “approved capital expenditure” means capital expenditure incurred in respect of a tourism project or a tourism product.

Refinancing of loans

33.(1) No more than 50 per cent of any loans for which interest rate subsidies have been provided shall be used to refinance existing loans.

(2) The properties in respect of which the loans referred to in subsection (1) are made must be of a standard approved by the Registrar as a pre-condition for the interest rate subsidy.

Dividends

34. Dividends paid to a shareholder by the owner of a tourism product shall not be subject to withholding tax and the provisions of sections 65(4) and 65(4A) of the *Income Tax Act*, Cap. 73 shall not apply.

Certificate

35. The benefits described in sections 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33 may only be granted on a certificate of the Registrar to the effect that the person claiming the benefit is engaged in the tourist industry.

PART V

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Tribunal

36.(1) Where

- (a) an application made under section 3 is not approved;
- (b) an interim approval is suspended or revoked under section 8;
- (c) an order made under section 9(2) is revoked; or
- (d) a licence issued under section 10 is revoked,

the applicant or owner or operator of the tourism project or a tourism product shall have a right of appeal to the Tribunal appointed and constituted in accordance with the *Fourth Schedule*.

(2) A decision of the Tribunal is final.

Minister to make order

37. The Minister may by order published in the *Official Gazette* amend

- (a) the definition of an hotel or a villa; or
- (b) the *First Schedule*, *Second Schedule* or *Third Schedule*.

Payment of land tax, income tax, value added tax and national insurance

38.(1) No application for concessions made by the owner or operator of any tourism project or a tourism product will be granted unless the applicant provides certificates from the Commissioner of Inland Revenue, the Commissioner of Land Tax, the Director of Value Added Tax and the Director of National

Insurance stating that as at 31st December in the previous year all the liabilities for the payment of taxes and national insurance contributions in respect of

- (a) an hotel or other tourism project or tourism product to which the application relates; or
- (b) other premises owned by the applicant,

have been discharged or the applicant has made satisfactory arrangements with the authorities to pay any outstanding taxes and national insurance contributions; and that the payments are being made as agreed.

(2) Where an applicant has made arrangements to repay outstanding taxes and national insurance contributions in accordance with subsection (1), that applicant shall not receive any subsequent certificates from the Commissioner of Inland Revenue, Commissioner of Land Tax, Director of Value Added Tax and the Director of National Insurance until all the outstanding taxes and contributions have been repaid and the applicant has

- (a) filed returns of income in accordance with the *Income Tax Act*, Cap. 73;
- (b) paid contributions in accordance with the *National Insurance and Social Security Act*, Cap. 47, and the *National Insurance and Social Security (Collection of Contribution) Regulations, 1967*; [1967/48]
- (c) paid land taxes in accordance with the *Land Tax Act*, Cap. 78A; and
- (d) paid value added tax in accordance with the *Value Added Tax Act*, Cap. 87.

Pending applications

39. Where on 31st August, 2002 an application for approval under the *Hotel Aids Act*, Cap. 72 is pending, that application shall be construed to be an application for an interim approval of a tourism project under Part II of this Act, and shall be dealt with in accordance with that Part.

Licence under *Hotel Aids Act*

40. A person who was issued with a licence under the *Hotel Aids Act*, Cap. 72 prior to 31st August, 2002 shall continue to receive the concessions granted under that Act, in addition to the concessions granted in accordance with this Act.

No concessions under Cap. 90A or Cap. 237A

41. An owner or occupier of an hotel or any other tourism project or tourism product who is granted concessions under this Act shall not be eligible for concessions under the *Shipping Incentives Act* or the *Special Development Areas Act*.

Regulations

42.(1) The Minister may make regulations

(a) prescribing

- (i) the form of application for a tourism project;
- (ii) financial forecasts and specifications that are to accompany an application for the approval of a tourism project;
- (iii) the form and content of interim approvals and the conditions to be contained in them;
- (iv) the form and content of the licence to be issued to the owner or operator to operate an approved tourism product;

(b) generally for the purpose of giving effect to this Act.

(2) Regulations made under this Act may fix any penalty not exceeding a fine of \$2 500 or imprisonment for a term not exceeding 2 years or both where the regulations are contravened.

Repeal and savings

43.(1) *[The Hotel Aids Act, Cap. 72 is repealed.]*

(2) Notwithstanding the repeal of the *Hotel Aids Act*, any benefits or declarations made or issued under that Act shall continue in force unless revoked by or under this Act.

FIRST SCHEDULE*(Sections 2, 37)*

“inland” means that area of Barbados bounded by Highway 2A on the west from the roundabout at Warrens in St. Michael to Mile and a Quarter in St. Peter, then proceeding along a public road through Rose Hill in St. Peter to St. Lucy’s Church continuing along a public road to Bourbon and Babbs and thence along to Bromefield and Content and continuing along to Greenidge, Flatfield and Hope and thence along a public road called Bishop’s Road to its junction with St. Clement’s Vicarage and thence along to Rockfield, Cave Hill and Diamond Corner and along the parish boundary of St. Peter and St. Andrew to Apes Hill, along to Farmers, Mount Misery and Bloomsbury in St. Thomas and thence to Sugar Hill, Castle Grant, Coffee Gully and Blackmans in St. Joseph and thence to Easy Hall, Malvern and Clifton Hall in St. John and along to Gall Hill, Cliff Cottage, Coach Hill, and Sealy Hall and continuing to Supers and thence to Blades Hill in St. Philip, continuing along to Bayfield, Marley Vale, Merricks and Six Cross Roads thence proceeding to Four Cross Roads, Mangrove and Rock Hall in St. Philip and thence to Charnocks in Christ Church, along the Tom Adams Highway to the roundabout at Newton and thence continuing along the Tom Adams Highway to Rouen and thence along the Errol Barrow Highway to the commencement point at the roundabout at Warrens in St. Michael.

SECOND SCHEDULE*(Sections 15, 37)**ITEMS WHICH MAY BE IMPORTED WITHOUT PAYMENT OF CUSTOMS
DUTY**Hotels*

1. All kitchen, food beverage equipment, including all appliances.
2. Stoves or ovens.
3. Salamanders.
4. Grills.
5. Steam kettles.
6. Microwave ovens.
7. Pastry ovens.
8. Convection ovens.
9. Proovers.
10. Deep fat fryers.
11. Commercial refrigerators.
12. Commercial freezers.
13. Extractor fans.
14. Buffet counter hot or cold.

15. Bain maries.
16. Dishwashers.
17. Stainless steel landing tables.
18. Stainless steel work tables.
19. Dishwasher racks.
20. Blenders.
21. Mixers.
22. Ice machines.
23. Kitchen tools.
24. Commercial pots.
25. Commercial pans.
26. Table cloths.
27. Napkins.
28. Cutlery silverware.
29. Cutlery stainless steel.
30. Glassware.
31. Crystal.
32. Crockery.

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33. Chafing dishes.
34. Table lamps.
35. Trays.
36. Candelabra.
37. Silverware or stainless steel of the following:
- (a) Platters
 - (b) Vegetable dishes
 - (c) Tea pots
 - (d) Coffee pots
 - (e) Creamers
 - (f) Sugar bowls
 - (g) Finger bowls
 - (h) Wine buckets
 - (i) Cruets
 - (j) Water pitchers
 - (k) Cocktail shakers
 - (l) Room service heated compartments
 - (m) Beverage coolers
 - (n) Automatic liquor pourers (Optica)
 - (o) Stainless steel sinks
 - (p) Glass washers
 - (q) Ice crushers

- (r) Refrigerated trays
38. Locks and keys.
 39. Drapery fabric.
 40. Upholstery fabric.
 41. Carpets.
 42. Rugs.
 43. Mats.
 44. Electric scrubbing machines.
 45. Shampoo machines.
 46. Wet/dry vacuum cleaners.
 47. Vacuum cleaners.
 48. Polishing machines.
 49. Sheets.
 50. Pillow cases.
 51. Mattress pads.
 52. Blankets.
 53. Bed sheets.
 54. Air conditioners (central control).

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55. Air conditioners (console type).
 56. Air conditioners (window units).
 57. Fans (ceiling, standing and extractor).
 58. Ice buckets.
 59. Toilets complete.
 60. Bath tubs.
 61. Wash basins.
 62. Plumbing fittings.
 63. Towel rails.
 64. Soap dishes.
 65. Toilet paper holders.
 66. Mini bars.
 67. Television sets.
 68. Mirrors.
 69. Tiles (acoustic, vinyl or marble).
 70. Marble.
 71. Light fittings.
 72. Lamps or shades.

- 73. Towels (locally and regionally manufactured).
- 74. Bath mats.
- 75. Water heaters.
- 76. Dryers.
- 77. Washers.
- 78. Computers.
- 79. Towelling material.
- 80. Shampoo machines (floor).
- 81. Cast iron furniture.
- 82. Wicker furniture.
- 83. Cast aluminium furniture.
- 84. Fire extinguishers and fire-fighting apparatus.
- 85. Water pumps.
- 86. Electric light, telephone and bell equipment, and appliances including energy-saving light bulbs and fittings.
- 87. Water-heating equipment, boilers and tanks.
- 88. Kitchen sinks and kitchen fixtures generally.
- 89. Bath tubs, basins, shower-bath equipment, toilet and sanitary fixtures and fittings generally.

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90. Elevators.
 91. Tread mills.
 92. Stair climbers.
 93. Ellipse machines.
 94. Static bicycles.
 95. Spin bikes.
 96. Loose weights up to 50 kilograms.
 97. Lat machines.
 98. Quad machines.
 99. Biceps and triceps machines.
 100. Leg curl machines.
 101. Any other gym equipment.
 102. Massage tables.
 103. Hydro tables.
 104. Sauna.
 105. Hot tubs (jacuzzi types).
 106. Lawn mowers (sit down type).
 107. Swimming pool - filters, pumps, light fittings, chemicals.

- 108. Computer-controlled systems to regulate energy use and save energy.
- 109. Electronic equipment to increase the safety, security and energy conservation of the rooms and the entire hotel property.
- 110. Spare parts for all approved equipment.
- 111. Urinals.
- 112. Wastewater disposal systems, sewerage systems.

Restaurants

A. The following items may be imported without payment of customs duty once every 5 years:

- 1. All kitchen and beverage equipment, including all appliances.
- 2. Stoves or ovens.
- 3. Salamanders.
- 4. Grills.
- 5. Steam kettles.
- 6. Microwave ovens.
- 7. Pastry ovens.
- 8. Convection ovens.
- 9. Proovers.
- 10. Deep fat fryers.

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11. Commercial refrigerators.
 12. Commercial freezers.
 13. Extractor fans.
 14. Buffet counter hot or cold.
 15. Bain maries.
 16. Dishwashers.
 17. Stainless steel landing tables.
 18. Stainless steel work tables.
 19. Dishwasher racks, mixers.
 20. Ice machines.
 21. Kitchen tools.
 22. Commercial pots.
 23. Commercial pans.
 24. Napkins.
 25. Cutlery silverware.
 26. Cutlery stainless steel.
 27. Chafing dishes.
 28. Table lamps.

- 29.** Trays.
- 30.** Candelabra.
- 31.** Silverware or stainless steel of the following:
- (a) Platters.
 - (b) Vegetables dishes.
 - (c) Cruets.
 - (d) Cocktail shakers.
 - (e) Room service heated compartments.
 - (f) Beverage coolers.
 - (g) Automatic liquor pourers (Optica).
 - (h) Stainless steel sinks.
 - (i) Glass washers.
 - (j) Ice crushers.
 - (k) Refrigerated trays.
- 32.** Locks and keys.
- 33.** Drapery fabric.
- 34.** Upholstery fabric.
- 35.** Carpets.
- 36.** Rugs.
- 37.** Mats.
- 38.** Electric scrubbing machines.

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39. Shampoo machines.
 40. Wet or dry vacuum cleaners.
 41. Vacuum cleaners.
 42. Polishing machines.
 43. Air conditioners (central control).
 44. Air conditioners (console type).
 45. Air conditioners.
 46. Ceiling fans.
 47. Fans.
 48. Ice buckets.
 49. Toilets complete.
 50. Wash basins.
 51. Plumbing fittings.
 52. Towel rails.
 53. Soap dishes.
 54. Toilet paper holders.
 55. Television sets.
 56. Mirrors.

- 57. Tiles (acoustic, vinyl or marble).
 - 58. Marble.
 - 59. Light fittings.
 - 60. Lamps or shades.
 - 61. Water heaters (natural gas).
 - 62. Computers.
 - 63. Shampoo machines (floor).
 - 64. Cast iron furniture.
 - 65. Wicker furniture.
 - 66. Cast aluminium furniture.
 - 67. Fire extinguishers and fire-fighting apparatus.
 - 68. Water pumps.
 - 69. Kitchen sinks and kitchen fixtures generally.
 - 70. Basins, shower-bath equipment and toilet and sanitary fixtures and fittings generally.
 - 71. Electronic equipment to increase the safety, security and energy conservation of the rooms and the entire restaurant property.
 - 72. Spare parts for all approved equipment.
- B.** The following items may be imported without payment of customs duty once every year:

1. Blenders.
2. Table cloths.
3. Napkins.
4. Glassware.
5. Crystal.
6. Crockery.
7. Teapots.
8. Coffee pots.
9. Creamers.
10. Sugar bowls.
11. Finger bowls.
12. Wine buckets.
13. Water pitchers.

Villas

A. The following items may be imported without payment of customs duty once every 5 years:

1. Stoves or ovens.
2. Dish washers.
3. Washer (clothes).

4. Dryer.
 5. Locks and keys.
 6. Vacuum cleaners.
 7. Air conditioners.
 8. Television sets.
 9. Fire extinguishers and fire-fighting apparatus.
 10. Lawn mowers.
 11. Electronic equipment to increase the safety and security of the villa.
 12. Safe (small).
 13. Table cloths.
 14. Cutlery silverware.
 15. Cutlery stainless steel.
 16. Bed spreads.
 17. Cast iron furniture.
 18. Wicker furniture.
 19. Cast aluminium furniture.
- B.** The following items may be imported without payment of customs duty once every year:
1. Glassware.

2. Crystal.
3. Crockery.
4. Sheets.
5. Blankets.

Sports or Recreation

The following items required for refurbishment may be imported:

1. Tennis courts, bowling greens, golf courses, club houses, squash courts, gyms and spas.
2. Sporting or recreation facilities for visitors to tourist attractions.
3. Sail boats, hobie cats and kayaks (subject to the approval of the Harbour Master).

Attractions

The following items required for refurbishment may be imported:

1. Furniture - cast iron, wicker, cast aluminum.
2. Plumbing and bathroom fixtures.
3. Computers.
4. Security equipment.
5. Lighting fixtures including energy saving lights and energy saving bulbs.
6. Equipment for indoor sports and games.

7. Equipment for outdoor sports and games.
8. Gym equipment.
9. Spa equipment.

THIRD SCHEDULE*(Sections 22, 37)***PART I****EXPENDITURE INCURRED IN TOURIST INDUSTRY MARKETING**

1. Fares, accommodation and subsistence of the taxpayer or his employee travelling from Barbados overseas on tourist promotion, exclusive of the cost of a holiday trip.
2. Salaries and wages paid to employees during their travel overseas to promote tourism, calculated proportionately in accordance with the duration of the trip.
3. Payments to an agent in Barbados engaged in tourist promotion, to undertake promotion work overseas on behalf of the taxpayer. Commissions on sales are not allowable.
4. Costs (other than capital costs) of establishing and maintaining a permanent overseas sales representative as an employee to engage primarily and principally in tourist promotion for the benefit of the taxpayer.
5. Costs of advertising or other means of soliciting business or publicity outside Barbados.
6. Costs of supplying brochures or pamphlets for distribution abroad.
7. Expenditure incurred at fairs, exhibitions and travel marts, for tourist promotion.
8. Expenditure on overseas market research or on the obtaining of overseas market information.

9. Contributions to joint tourist promotion arrangements to be carried out abroad.
10. Costs of bringing to Barbados tour operators for briefing where the promotion of tourist services is the sole objective.
11. Cost of electronic marketing of a tourism product via a website.
12. Cost of linking websites for tourism marketing.
13. Cost of establishing electronic commerce tourism systems.
14. Cost of establishing a tourism website.
15. Cost of hiring short-term marketing consultancy services.

PART II

(Sections 23(1), 37)

TRAINING

1. Fees paid to a training institution approved by the Minister.
2. Cost of accommodation and subsistence for a student studying a tourism course approved by the Minister.
3. Cost of books and equipment for a tourism-related course approved by the Minister.
4. Cost of one return airfare per trainee to an institution offering a tourism-related course approved by the Minister.

5. Salary or wages paid to the employee during the period of training where a substitute is hired.

FOURTH SCHEDULE*(Section 36(1))**Constitution and Procedure of Tribunal***Constitution of Tribunal**

- 1.(1)** The Tribunal shall comprise the following persons:
- (a) 2 representatives from the Ministry of Tourism;
 - (b) one representative from the Ministry of Finance;
 - (c) one representative from the Barbados Hotel and Tourism Association;
and
 - (d) an independent person with qualifications and experience in physical planning.
- (2) The members of the Tribunal shall be appointed by the Minister.
- (3) The Minister shall appoint the Chairman and Deputy Chairman from among the members comprising the Tribunal.
- (4) The Chairman and Deputy Chairman shall be persons who have qualifications, skills and experience related to the travel or tourism industry.
- (5) The names of the Chairman, Deputy Chairman and other members of the Tribunal as first constituted and every change in the membership of the Tribunal shall be published in the *Official Gazette*.

Tenure

- 2.(1)** Subject to sub-paragraph (2), a member of the Tribunal shall hold office for such period of time as the Minister determines, but such period shall not exceed 3 years.
- (2) The members appointed under sub-paragraph (1) are eligible for re-appointment.

(3) The Chairman may at any time resign his office by instrument in writing addressed to the Minister, and from the date of the receipt of the instrument by the Minister, the Chairman ceases to be a member of the Tribunal.

(4) A member of the Tribunal other than the Chairman may at any time resign his office by instrument in writing addressed to the Minister, and transmit the resignation through the Chairman; and from the date of the receipt by the Minister of the instrument the member ceases to be a member of the Tribunal.

Temporary membership

3. The Minister may in respect of the appointments made under paragraph 1 appoint any person to act temporarily in the place of any member who is absent or is unable to act.

Termination of appointment

4. The Minister shall terminate the appointment of a member of the Tribunal where that member

- (a) fails to disclose his interest in a tourism product;
- (b) is incapacitated by physical or mental illness; or
- (c) is otherwise unfit to discharge the functions of a member of the Tribunal.

Vacancy

5.(1) A vacancy arises in the membership of the Tribunal on the death or resignation of a member.

(2) The Minister may in accordance with sub-paragraph (3) appoint a person to fill a vacancy.

(3) A person appointed to fill a vacancy in the membership of the Tribunal

- (a) shall be from the same category of persons as the former member or be similarly qualified; and

- (b) holds office only for the unexpired portion of the former member's term.

Experts

6. The Tribunal may engage persons having special or technical knowledge to assist the tribunal in its deliberations.

Remuneration

- 7.(1) The Chairman, Deputy Chairman, other members of the Tribunal and any person engaged to assist the Tribunal are entitled to such remuneration as is determined by the Minister with the approval of the Minister of Finance.
- (2) Remuneration paid in accordance with sub-paragraph (1) shall be paid from moneys voted for the purpose by Parliament.

Procedure

- 8.(1) A panel of at least 3 members of the Tribunal shall sit to hear and determine an appeal and the Chairman of the panel shall be either the Chairman or Deputy Chairman of the Tribunal.
- (2) Where the members of the Tribunal referred to in sub-paragraph (1) are equally divided on any question that arises during the proceedings of the Tribunal, the Chairman of the Tribunal shall have and exercise a casting vote.
- (3) At any meeting of the Tribunal, in the case of the absence or inability to act of both the Chairman and Deputy Chairman, the members of the Tribunal present, shall elect one of the other members present to preside at that meeting.
- (4) Where a member of the Tribunal has a personal or pecuniary interest in a matter being considered or about to be considered by the Tribunal, that member shall, as soon as possible after that matter has come to his knowledge, disclose the nature and extent of his interest to the Tribunal.
- (5) A disclosure of interest shall be recorded in the minutes of the meeting of the Tribunal.

- (6) A member who has disclosed an interest in a matter before the Tribunal shall not
- (a) be present at or take part in any deliberations on or determination of the matter before the Tribunal; or
 - (b) influence any member or other person in their deliberations on or determination of the matter.
- (7) The validity of any proceedings of the Tribunal shall not be affected by any vacancy amongst the members or by any defect in the appointment of a member.
- (8) The Tribunal may regulate its own procedure and may make rules for this purpose.
- (9) The Tribunal shall meet as often as is necessary to enable the Tribunal to deal with any matter referred to it under this Act.

Powers of Tribunal

- 9.(1) The powers, rights and privileges of a Tribunal shall be the same as those conferred on a Commission appointed under the *Commissions of Enquiry Act*, Cap. 112, and that Act shall, *mutatis mutandis*, apply in relation to the proceedings of the Tribunal and to any person summoned to give evidence before the Tribunal.
- (2) Any power exercisable by the Cabinet under the *Commissions of Enquiry Act*, Cap. 112 shall, in the application of that Act to the Tribunal, be exercisable by the Minister.

Appointment of Secretary

10. The Minister shall appoint a person to perform the functions of Secretary to the Tribunal.