TOURISM DEVELOPMENT ACT

CHAPTER 87:22

Act
9 of 2000
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TOURISM DEVELOPMENT ACT

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CHAPTER 87:22

TOURISM DEVELOPMENT ACT

9 of 2000.

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

Commencement. [237/2000].

[16TH OCTOBER 2000]

Short title.

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

Interpretation. [2 of 2005 20 of 2005 2 of 2006].

2. (1) In this Act—

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

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

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

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

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

Schedule 1.

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

Schedule 3.

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

"Assembly" means the Tobago House of Assembly established by section 141A of the Constitution;

Ch. 1:01.

"Board" means the Board of Inland Revenue established by section 3 of the Income Tax Act;

Ch. 75:01.

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

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

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

"capital allowance" means the tax relief granted under this Act in respect of items of approved capital expenditure that are not items of depreciable equipment;

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

"company" means a company limited by shares and registered under the Companies Act and includes a corporation incorporated by a special Act of Parliament; Ch. 81:01.

"Comptroller" means the Comptroller of Customs and Excise;

"construction" means the erection of a structure to form a tourism project or the expansion or alteration and renovation of an existing structure to form a tourism project;

"Corporation" means the State Authority to which responsibility for tourism in Trinidad and Tobago is assigned;

"cultural centre" means a specially prepared space for the preservation, display or performance of items of culture;

"depreciable equipment" means any equipment, machinery, furnishings, furniture, or articles used in a tourism project and depreciable for tax purposes under the Income Tax Act; Ch. 75:01.

"destination management company" means a company that provides services, including contracts with hotels, transportation companies, or other suppliers, to create tour packages for resale or directly to consumers or travel agents;

"dive lodge" means a tourism accommodation facility that offers a tourism product that includes scuba diving and other recreational water sports;

"dive operation" means a company, partnership or individual that provides recreational dive facilities, or offers for sale or rental a guided exploration of the underwater environment, using scuba diving or snorkelling equipment;

"eco-lodge" means a nature dependent tourist accommodation facility that meets the principles and philosophies of eco-tourism in that it is developed and managed in an environmentally sensitive manner, affords protection of its operating environment and offers an educational and participatory experience to visitors;

"existing tourism project" means a tourism project on which construction, expansion or alteration commenced on or after 3rd August, 1995;

"golf course" means a course with a minimum of 9 holes or a full miniature golf course open to tourists and the public;

"ground tour operation" means a company, partnership or individual that provides a range of tour services for the foreign or domestic tourism market;

"guest house" means a building having a minimum of eight separate rooms each offering accommodation;

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

(a) the supplying, under any arrangements of rooms, and of laundry, dry-cleaning and valet services to registered guests of the hotel;

(b) the supplying of food and restaurant services, alcoholic and non-alcoholic beverages, cigarettes, cigars and tobacco by the hotel operator to customers of the hotel whether registered guests or not;

(c) the supplying of any of the hotel's facilities for meetings, conventions, conferences, sales promotions, parties and other entertainment to customers of the hotel whether registered guests or not;

(d) the supplying of car-parking services, checkroom 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 barbershop, hair-dressing parlour, travel agency, transportation services, banking services, merchandise shops or for any other purpose as the Minister may in writing approve; or

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

"IRD" means Integrated Resort Development referred to in Schedule 5;

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

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

"Member State" has the meaning assigned to it in the Revised Treaty of Chaguaramas;

"Minister" means the Minister to whom responsibility for tourism is assigned;

"national" means a person who—

(a) is a citizen of Trinidad and Tobago or of another Member State;

(b) has a connection with—

(i) Trinidad and Tobago of a kind which entitles the person to be regarded as a resident of Trinidad and Tobago, within the meaning of the Immigration Act; or Ch. 18.01.

(ii) another Member State of a kind which entitles the person to be regarded as belonging to it for the purposes of the laws

of that State relating to immigration or if it be so expressed in those laws, as being a native or resident of that Member State;

(c) is a company or other legal entity—

(i) incorporated or constituted in Trinidad and Tobago in conformity with its laws;

(ii) incorporated or constituted in another Member State in conformity with its laws which that Member State regards as belonging to it;

(iii) formed for gainful purposes;

(iv) has its registered office and central administration and carries on substantial activity within the Community; and

(v) which is substantially owned and effectively controlled by persons mentioned in paragraphs *(a)* and *(b)*;

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

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

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

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

"permit" means a permit granted by the Minister under Part 3;

"recreational space" means space utilised primarily for recreation and entertainment of tourists;

"Revised Treaty of Chaguaramas" means the Treaty establishing the Caribbean Community (CARICOM), including the CARICOM Single Market and Economy, signed at Nassau, The Bahamas, on 5th July, 2001;

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

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

(a) exercises or is entitled to exercise control directly or indirectly over the affairs of the enterprise;

(b) is entitled to appoint a majority of the directors of the Board of Directors of the Enterprise; or

(c) holds at least fifty per cent of the ordinary share capital of the enterprise;

"tax" means income or corporation tax;

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

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

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

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

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

"tourist accommodation project" means a tourism project specified in Schedule 5; Schedule 5.

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

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

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

(2) For the purposes of the definition of "national", a company or other legal entity is—

(a) substantially owned if more than fifty per cent of the equity interest therein, is beneficially owned by nationals mentioned in subsection (1)*(a)* or *(b)*;

(b) effectively controlled if the nationals mentioned in subsection (1)*(a)* or *(b)* have the power to name a majority of its directors or otherwise legally, to direct its actions.

PART 1

DEVELOPMENT INCENTIVES

Tax benefit. [20 of 2005 2 of 2006 16 of 2006].

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

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

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

(a) a tax exemption not exceeding seven years in respect of the gains or profits from the approved tourism project;

(b) a tax exemption in respect of the gains or profits derived from the initial sale of a villa or condominium or the site for a villa or condominium that forms part of an IRD which is an approved tourism project;

(c) an accelerated depreciation of depreciable equipment owned by the owner or operator and used in an approved tourism project; and

(d) a capital allowance in respect of approved capital expenditure incurred by the owner or operator in the creation of a new tourism project or in the expansion of an existing tourism project.

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

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

(b) ***(Repealed by Act No. 2 of 2006).***

(5) The owner or operator of an approved tourism project who receives a tax exemption under subsection (3) shall keep a separate account of all gains or profits that are tax exempt.

(6) Where the owner or operator referred to in subsection (5) is a company and pays a dividend out of the gains or profits, the dividend so paid shall be exempt from tax where the recipient is—

(a) a non-resident shareholder who is a national; or

(b) a non-resident shareholder who is not a national and who is not liable to tax in respect of that dividend in the country in which he is a resident.

Additional benefits. [20 of 2005].

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

Schedule 7.

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

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

(b) Value Added Tax.

(3) Where a licence is granted under subsection (1), the importer shall be exempt from the payment of motor vehicles tax.

(4) In this section "importer" means the owner or operator of a vehicle imported for use in an approved tourism project in accordance with this Act.

Requirements for projects to access benefits under Schedule 7. [20 of 2005].

4A. In conferring any of the benefits referred to in this Act on the owner or operator of a vehicle that is used in an approved tourism project as required by Schedule 7, the Corporation or the Assembly, as the case may be, shall—

(a) verify that the owner or operator belongs to a *bona fide* tourism industry association;

(b) ensure that the vehicle is owned or operated by a going concern within the tourism sector;

(c) ensure that, where applicable, the vehicle is registered as a hired vehicle, as required by the laws of Trinidad and Tobago governing the registration of motor vehicles; and

(d) ensure that the vehicle is used in accordance with Schedule 7, failing which the owner or operator shall be required to repay an amount equivalent to the benefits granted under section 4, subsections (2)*(a)* and (3).

Limitations on Tax benefits.

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

Tourism Transfer Tax. [50 of 2000].

6. (1) Where a tourism project or any part thereof, which enjoyed benefits under the Act is sold or used other than in a manner stated in the Order, a tourism project transfer tax

calculated on the market value of the tourism project or any part thereof shall be paid by the vendor to the Board at the appropriate rate as set out in Schedule 8.

Schedule 8.

(2) The transfer tax referred to in subsection (1) shall be in lieu of the stamp duty normally payable by the purchaser in respect of a conveyance on sale under the Stamp Duty Act.

Ch. 76:01.

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

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

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

Requirements for facilities to access benefits. [2 of 2005].

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

(a) must be registered with the Corporation or the Assembly;

(b) are subject to annual inspection by the Corporation in respect of matters concerning Trinidad, and the Assembly in matters concerning Tobago;

(c) must provide relevant statistics/economic data at intervals as required by the Corporation or the Assembly;

(d) must as far as possible, engage the human resources of Trinidad and Tobago or a Member State;

(e) must show linkages to the agricultural, construction and furniture industries and

other manufactured goods and services of Trinidad and Tobago.

Non-conferral of benefits.

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

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

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

PART 2

APPROVED TOURISM PROJECTS

Investment criteria. [20 of 2005].

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

(a) in relation to international investors, have a minimum capital expenditure as outlined in Schedule 9;

Schedule 9.

(b) be constructed or undertaken primarily for use in the tourism industry; and

(c) be available on a continuing basis for use in the promotion of Trinidad and Tobago as a tourist destination.

Mandatory ownership by nationals of Trinidad and Tobago and other Member States. [2 of 2005].

9. Tourism projects the incentives for which will be reserved solely for nationals of Trinidad and Tobago and other Member States are—

(a) accommodation facilities under twenty-one rooms;

(b) transportation services;

(c) ground tour operations or destination management companies; and

(d) dive operations.

Application for approval of project. [20 of 2005].

10. (1) Where a project is contemplated, any person who owns or operates or intends to own or operate the tourism project or proposed tourism project in respect of which the project is

contemplated, may apply to the Corporation in the form prescribed to have the tourism project approved for the purposes of this Act.

Further information to be furnished by applicant.

(2) Upon receipt of an application under subsection (1), the Corporation may require the applicant to submit such information and plans as required, and the Corporation may require that satisfactory evidence be submitted to it with respect to any matter relevant to the application, proposed project, ownership of the tourism project or proposed tourism project or lands to be used in connection therewith, or to the estimated expenditure on the project, or the source of the funds thereof.

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

Application for approval of project in Tobago. [20 of 2005].

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

Further information to be furnished by applicant.

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

(3) The Assembly, upon receipt of the information, plans, evidence or estimate requested in accordance with subsection (2) shall examine the application and upon

consideration of the approved criteria and guidelines in accordance with this Act, shall make the necessary recommendations to the Minister no later than thirty days after the receipt of the application.

Information to be furnished by applicant. [20 of 2005]. Schedules 7 and 9.

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

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

Interim approval of project.

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

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

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

(b) shall specify the tax benefits that will be granted to the owner or operator on completion of the project; and

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

Revocation of interim approval.

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

(a) any of the information given on the application thereof was false or misleading in any material respect;

(b) the person to whom the interim approval was granted has become unable to carry out or complete the project approved by the interim approval; or

(c) the person to whom the interim approval was granted has failed to comply with any term or condition stated therein as required by the regulations,

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

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

(3) The Minister may revive an interim approval revoked under subsection (1) if in his opinion it is in the public interest to do so, or he may grant a new interim approval in respect of the proposed or incomplete project.

Determining capital expenditure.

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

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

(a) the construction of a new tourism project or a building to be made into a tourism project;

(b) the expansion or addition to an approved tourism project;

(c) the furnishing and equipping of the tourism project, referred to in paragraph *(a)* or *(b)*; and

(d) subject to subsection (3), the advertising and promotion of the tourism project to which the approved tourism project relates, if the expenditure is made before the interim approval is revoked under section 14(1) and 14(2).

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

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

Final approval of tourism project.

16. (1) When any tourism project has been completed substantially in accordance with the conditions of the interim approval granted in respect thereof, the Minister shall, by Order (in this Act referred to as "an approved tourism project Order"), declare the tourism project in respect of which the project was carried out to be an approved tourism project for the purposes of this Act.

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

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

(b) shall specify the tax benefits granted to the owner or to the operator;

(c) may impose continuing conditions to be observed by the owner or the operator in default of the observation of which the approved tourism project Order shall become inoperative with effect from such date as may be fixed by the Minister by Notification.

Effective dates of approved tourism project Orders.

17. (1) An approved tourism project Order shall fix—

(a) the effective date of the Order in respect of the operator; and

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

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

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

Certificate of approval of capital expenditure. [20 of 2005].

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

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

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

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

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

Additional interim approval.

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

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

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

Restriction on grant of additional interim approval.

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

(a) that the nature and purpose of the project warrants fiscal benefits under this Act; and

(b) that the project is likely to be completed within the tax exemption period or within six months after the tax exemption period of that approved tourism project.

Extension of tax exemption period.

21. (1) Where an additional interim approval has been granted under section 19 for a project and the period during which the approved tourism project is exempt from tax is less than seven years, if the Minister is satisfied that an additional capital expenditure made in respect of that approved tourism

project warrants it, the Minister, upon completion of that project, in accordance with the additional interim approval therefor, may, by Notification, extend the period of tax exemption to any period not extending beyond seven years from the effective date of the Order made in respect of the approved tourism project.

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

PART 3

CUSTOMS AND EXCISE DUTY EXEMPTIONS

Permit. [20 of 2005].

22. (1) Where a person has been granted an interim approval or an additional interim approval under Part 2, the Minister may, upon application, grant to that person a permit—

(a) for the importation or entry into Trinidad and Tobago free of Customs duty; and

(b) for the purchase in Trinidad and Tobago with the privilege of a drawback of Customs duties or Excise duties,

of such building materials which are not already duty free and of such articles of tourism equipment.

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

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

Form of permit.

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

Exemption from Customs duty.

24. (1) The holder of a permit may, upon the production of the permit to the Comptroller, import into Trinidad and Tobago subject to the terms of the permit such building materials and articles of tourism equipment as are specified in the permit at the approved rate of duty or free from duty.

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

Drawback privileges.

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

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

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

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

(b) of the amount of the Customs duties or Excise duty so paid,

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

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

Drawback when duty not known.

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

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

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

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

(2) No payment under this section shall—

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

(b) in the case of any building materials or articles of tourism equipment liable under any Act for the time being in force in relation to Customs duties or Excise duties exceed an amount equal to an *ad valorem* duty of nine per cent of the purchase price of the materials or articles, if the lowest preferential *ad valorem* rate in force for that description of goods for a period of two

years before the date of supply was fifteen per cent or an amount equal to a *pro rata* sum, when other *ad valorem* rates have been in force during such periods.

Prohibited uses of materials.

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

(a) be sold, exchanged, given away or exported from Trinidad and Tobago; or

(b) be applied for any purpose other than use in connection with the construction or equipping of the tourism project to which the permit to which the building materials or articles were specified relates.

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

Authorised disposal of materials and articles.

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

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

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

Exempt articles.

29. (1) Where any articles of tourism equipment have been imported into or purchased in Trinidad and Tobago under a permit, the holder shall make an inventory of all such articles, and the inventory shall be kept by the holder of the permit while the permit subsists and thereafter it shall be kept by the manager or person in charge of the tourism project.

(2) An inventory required under subsection (1) shall be in such form as may be prescribed.

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

Revocation of permit.

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

(a) has obtained the permit by any false statement;

(b) has abused or misused the permit;

(c) has broken or failed to comply with any condition of the permit; or

(d) has failed to pay any sum payable by him under this Part,

the Minister may by written notice to the holder of the permit either suspend the operation of the permit for such time and subject to such conditions as may be specified in the notice or revoke the permit.

(2) In addition to suspending or revoking a permit, the Minister may, in a case described in subsection (1), order the holder of the permit to pay any relevant duties or to repay any sums paid under section 25 or 26 in respect of any building materials or articles of tourism equipment obtained under the permit, and any sum so ordered to be paid are recoverable as a civil debt.

Termination of permit.

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

(2) Where the construction of the tourism project in respect of which a permit has been granted is completed for the purposes of Part 2 but in the opinion of the Minister not complete so far as the acquisition of building materials or articles of tourism equipment is facilitated, the Minister may extend the permit for such further period not exceeding twelve months as the Minister may consider adequate in the circumstances.

Transfer of permit.

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

(2) A person who—

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

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

Ch. 11:02.

is liable to prosecution under the Summary Offences Act.

(3) The Minister may, in his discretion, revoke or suspend for such period as he thinks proper, a permit where the holder thereof has been convicted of an offence under subsection (2)*(a)* or where in the opinion of the Minister the holder of a permit that was involved in an offence under subsection (2)*(b)* facilitated the commission of that offence in any way.

Amendment of Schedules.

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

PART 4

TAX BENEFITS

Application of Part 2. [20 of 2005].

34. Subject to section 38, the provisions of this Part apply to a new or existing tourism project that has been declared by Order to be an approved tourism project under Part 2 of this Act.

New or existing tourism project exemption. [20 of 2005].

35. Subject to section 37, where an approved capital expenditure was made in respect of a tourism project or an altered existing project, and a tax exemption period has been granted in

respect of that tourism project, then, as the case may be, gains or profits accruing to the owner or operator from the approved tourism project are exempt from tax for such period and from such effective date as is fixed in the approved tourism project Order made in respect of that tourism project.

Capital allowance and accelerated depreciation. [20 of 2005].

35A. (1) Where capital allowance or accelerated depreciation is granted in an approved tourism project Order—

(a) the capital allowance may be set off against the gains or profits accruing to the owner or operator from the rental or operation of the approved tourism project 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; and

(b) the accelerated depreciation on depreciable equipment may be set off against the gains or profits accruing to the owner or operator from the rental or operation of the approved tourism project at the rates prescribed in subsection (2) in each of any five accounting periods during the eight accounting periods after the accounting period in which the tax exemption expired.

(2) Where an owner or operator is permitted accelerated depreciation on depreciable equipment, the following rates shall apply:

(a) for the first accounting period selected in respect of the set off of the depreciation against the gains or profits, twenty per cent of the capital value of the depreciable equipment, being equipment then in use in the approved tourism project and owned by the owner or operator as the case may be; and

(b) thereafter, for each successive accounting period selected in respect of the set off, twenty

per cent of the capital value of the item as depreciated at the end of the preceding selected accounting period; but in lieu of an accelerated depreciation of any item of depreciable equipment the Board may, in its discretion and having regard to the nature of the item, grant a replacement allowance in respect of that item.

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

Determination of gains or profits.

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

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

Ch. 75:01.
Ch. 75:02.

Determination of losses.

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

Carry forward of losses.

(4) A loss incurred for an accounting period by the owner or operator of an approved tourism project, arising out of the rental or operation of such approved tourism project during the tax exempt period, shall be held over and carried forward by

such owner or operator and shall be set off against any gains or profits of such tourism project accruing to such owner or operator after the expiration of the tax exempt period in accordance with section 16 of the Income Tax Act. Ch. 75:01.

Returns and assessments.

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

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

(a) a return is made to the Board in respect of the accounting period in which the loss was made; and

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

(3) Where a return is made in respect of gains or profits in accordance with this section, the Board shall, if it is satisfied with the return so made, certify the amount of the gains or profits shown in the return or if it is not so satisfied, certify such amount as may appear to it to be the correct amount and the amount of gains or profits so certified is the amount that is eligible for tax exemption under this Act.

(4) The appeal provisions of section 3 of the Tax Appeal Board Act apply *mutatis mutandis* in respect of an owner or an operator who makes a return under subsection (1) and is not satisfied with the amount certified by the Board under subsection (2). Ch. 4:50.

38. ***(Repealed and replaced by Act No. 20 of 2005 and was subsequently repealed by Act No. 2 of 2006).***

Saving of tax benefit under repealed section 38. [2 of 2006].

38A. Notwithstanding the repeal of section 38, where, on or before 31st December, 2005, a person would have been eligible to enjoy tax benefits in relation to an approved loan under the repealed section 38 as specified in an interim approval granted under section 13, the provisions of that repealed section together with other ancillary provisions of this Act shall continue to have effect as if section 38 had not been repealed.

PART 5

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

Pending applications under repealed Act.

39. (1) Where on the commencement of this Act an application for interim approval of a hotel under the former Hotel Development Act (hereinafter referred to as "the repealed Act") is pending, that application shall be deemed to be an application for an interim approval of a tourism project under Part 2 and shall be dealt with in accordance with that Part.

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

Saving of tax benefits under repealed Act. [20 of 2005].

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

Retrospective effect. [20 of 2005 2 of 2006].

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

Owners and operators may apply for benefits. [20 of 2005].

41A. For the avoidance of doubt, it is declared that, where applicable, both the owner and operator of an approved tourism project may apply for benefits under this Act and both the owner

and operator may be granted benefits under this Act, provided that it is the intention of the owner or operator to own or operate, respectively, a tourism project.

Penalties. [20 of 2005].

42. The Corporation or the Assembly, as applicable, shall conduct annual inspections of tourism projects and failure to meet the requirements set out by the Corporation or the Assembly will result in a withdrawal of the interim approval or additional interim approval or certificate of estimated capital expenditure, as the case may be.

Regulations.

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

(a) prescribe the form of applications to be made for interim approvals, the manner of preparing site plans of proposed tourism project or buildings to be used as a tourism project, the other plans and the form thereof and specifications that are to accompany applications for approval of projects relating to a tourism project;

(b) prescribe the form and contents of interim approvals and the conditions and terms to be contained in interim approvals either generally or in particular cases, and prescribe those conditions, the breach of which will result in the revocation or suspension of an interim approval;

(c) prescribe the manner and extent of itemising capital expenditures or additional capital expenditures to be approved for the purposes of this Act;

(d) prescribe the form and contents of approved tourism project Orders and provide for the giving of security in the case of an approved tourism project Order made in advance of completion of an approved project;

(e) prescribe the form of permits and the terms and conditions under which permits are to be granted;

(f) prescribe the type of mark to be affixed to any article of tourism equipment imported or purchased under a permit and the manner in which the mark so prescribed is to be affixed to any article;

(g) prescribe the form of inventory required by section 29 to be kept in respect of articles of tourism equipment imported or purchased under a permit;

(h) provide for the determination for tax purposes of the rent chargeable as a revenue expense by an operator and as gains or profits accruing to an owner in respect of any accounting period where the Board is of the opinion that any rent actually charged is unreasonable having regard to the circumstances of the lease;

(i) provide for the making up of the accounts of operators or owners at the beginning and end of any tax exemption period, and the manner in which the accounts are to be made up;

(j) prohibit, limit and control the making of loans by a company operating or owning an approved tourism project whether the loans are made to a shareholder of the company or otherwise;

(k) make provision for any matter or thing incidental or ancillary to any of the matters or things mentioned in any of the foregoing paragraphs, or for any matter or thing not being so incidental or ancillary that is deemed to be necessary or advisable in the administration of this Act; and

(l) provide penalties by way of fine or imprisonment or both for contraventions of the Regulations, but any Regulation made under this provision shall have no effect until approved by resolution of the Senate and the House of Representatives.

Applications of Acts. [20 of 2005] Ch. 48:50. Ch. 75:01. Ch. 75:02.

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

Chapter 85:02 repealed. [50 of 2000].

45. (1) The Hotel Development Act is hereby repealed.

(2) Notwithstanding subsection (1), every reference to "Hotel Development Act" in any other written law shall be deemed to be a reference to the Tourism Development Act.

SCHEDULE 1

(Section 2).

ARTICLES OF EQUIPMENT FOR TOURISM ACCOMMODATION FACILITIES

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

(a) Room furnishings and fixtures.

(b) Entertainment equipment including musical instruments, electronic items and game apparatus.

(c) Cutlery, crockery, glassware and utensils.

(d) Mats, rugs, carpets and other floor coverings.

(e) Office equipment and furnishings.

(f) Kitchen equipment and appliances including stoves, refrigerators, and exhaust fans.

(g) Air-conditioning apparatus and appliances, electric lamps and fittings, electric fans and vacuum cleaners.

(h) Sewer systems.

(i) Environmentally-friendly and/or energy-saving devices such as solar panels, heating equipment.

(j) Any other article or equipment for exclusive use in or in connection with the operation of tourism accommodation facility except foreign works of art, paintings, sculptures of historical foreign significance which will be excluded from duty-free exemption.

(Section 2).

SCHEDULE 2

AREAS OF ACTIVITY TO BE UNDERTAKEN BY TOURISM ANCILLARY FACILITIES

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

SCHEDULE 3

ARTICLES OF EQUIPMENT FOR TOURISM ANCILLARY FACILITIES AND SERVICES

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

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

(Section 2).

SCHEDULE 4

ACTIVITIES UNDERTAKEN BY A TOURISM PROJECT

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

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

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

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

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

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

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

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

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

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

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

SCHEDULE 5

(Section 2).

TOURIST ACCOMMODATION PROJECT

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

(i) Integrated Resort Development (IRD):

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

It includes a hotel of at least 200 rooms.

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

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

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

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

The cost of construction of these villas and condominiums.

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

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

The cost of infrastructural works that the developer undertakes.

(ii) Hotel

(iii) Camp Site, Dive and Eco-Lodge

(iv) Guest house

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

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

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

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

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

SCHEDULE 6

(Section 2).

TOURISM INFRASTRUCTURE

Dive Re-Compression/Hyperbaric Chamber

Heliport

Sea Ports and Airports

Communications

Public Utilities—water, electricity, sewage treatment plant

Roads

Irrigation

Ecological and Environmental Maintenance

Land clearance and cleaning

(Section 4).
[20 of 2005].

SCHEDULE 7

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

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

SCHEDULE 8

(Section 6).

RATES FOR TOURISM TRANSFER TAX

1—7 YEAR TAX HOLIDAY	
Period	Tourism Transfer Tax
Up to Year 1	12%
Year 2	12%
Year 3	10%
Year 4	10%
Year 5	10%
Year 6	8%
Year 7	8%
Year 8	Nil

(Section 8).
[20 of 2005].

SCHEDULE 9

MINIMUM CAPITAL EXPENDITURE (TT$)

TYPE OF TOURISM PROJECT	MINIMUM CAPITAL EXPENDITURE International Investor
Accommodation facility	18,600,000
Marina, Boatyard	18,600,000
Eco-Lodges	6,200,000
Watersports	1,550,000
Destination Management Companies, Ground Tour Operations	n/a
Recreational Space	1,550,000
Transportation Service	n/a
Tourism Infrastructure	3,100,000
Convention Centres, Shopping Facilities	6,200,000
Historical Landmarks, Heritage Sites	6,200,000
Film/Special Events	6,200,000
Theme Parks/Cultural Centres	31,000,000
Golf Courses	31,000,000

SCHEDULE 10

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

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

(a) Ownership of the facility or proposed facility or lands to be used in connection therewith;

(b) A plan or drawing of the project showing the site and elevation of the construction of the project and any external construction which would expand an existing project;

(c) An Outline Planning Permission obtained from the Town and Country Planning Division of the Ministry of Housing and Settlements;

(d) A time frame within which the construction of the project will begin, when the project will be completed and when the project will be opened for business;

(e) The estimated capital expenditure of the project or the source of the funds thereof;

(f) The cost of the project itemising those costs for which refunds would be claimed.

SUBSIDIARY LEGISLATION

258/2000.
[201/2001].

TOURISM DEVELOPMENT (PRESCRIBED FORMS) REGULATIONS

made under section 43

Citation.

1. These Regulations may be cited as the Tourism Development (Prescribed Forms) Regulations.

Commencement.
Ch. 87:22.

***2.** These Regulations shall come into force on the date of commencement of the Tourism Development Act.

Prescribed Forms.

3. The prescribed forms to be used for the several matters specified in Column I of the Schedule are those specified in Column II:

SCHEDULE

	Column I	Column II
(a)	application for a tourism project … … …	Form A
(b)	certificate of approval… … … … …	Form B
(ba)	approved Tourism Project Order … … …	Form BA
(c)	application for a permit under section 22 … …	Form C
(d)	permit for Customs and excise duty exemption under sections 23–26 … … … … …	Form D
(e)	certificate of approval of capital expenditure/additional capital expenditure under sections 18 and 19 … … …	Form E
(f)	inventory under section 29 … … … …	Form F

*16th October, 2000 (LN 237/2000).

FORM A

APPLICATION FOR APPROVAL OF A TOURISM PROJECT

To: PRESIDENT AND CHIEF EXECUTIVE OFFICER
TOURISM AND INDUSTRIAL DEVELOPMENT COMPANY OF TRINIDAD AND TOBAGO LIMITED

DECLARATION

The information contained herein is submitted in support of an application made by:

(Applicant Enterprise)

APPROVALS REQUIRED

☐ Benefits under the Tourism Development Act

TOURISM ACTIVITY

.....

.....

I/We attach the following documents:

Application form duly completed.

☐ Technical feasibility report/Business proposal.

☐ Copy of Outline Planning Permission from the Town and Country Planning Division.

☐ Certificate of Incorporation/Registration Certificate.

☐ Registered Certificate of Particulars of Directors.

☐ Financial projections for five (5) years.

☐ Other (specify) .....

I/We certify that ALL information provided in this application is true and correct and that no false or deliberately misleading information has been supplied.

I/We understand that any false information supplied in the completion of this application will result in the withdrawal of any approvals granted and the right to seek legal redress for any benefits received.

.....	.....
Signature	*Signature*
.....	.....
(BLOCK LETTERS)	*(BLOCK LETTERS)*
.....	.....
Position in Enterprise	*Position in Enterprise*
.....	.....
Date	*Date*

L.R.O. 1/2009

SECTION A

GENERAL PARTICULARS
(To be completed by all Applicants)

1. Name of enterprise: .....

2. Incorporation date/date of commencement of business: .....

3. Type of Company: ☐ Public Company ☐ Private Company ☐ Other (specify) .....
.....

4. Address of Registered Office/Mailing Address: .....
.....

5. Telephone No.: ..... Fax No.: ..... E-Mail: .....

6. Proposed Shareholding: (Where shareholder is a company please append Certificate of Incorporation, names and addresses of directors and controlling shareholder(s) and any other countries where investments are held.)

Name	Country	Type of Shares	% Shareholding

Share Capital: Authorised (Par Value) $ .....

Issued $ .....

7. Present business activity: .....
.....

8. Proposed business activity: .....
.....

9. Proposed location of Project: .....
.....

10. Total Investment in the Project: .....

11. Source of financing (TT$): Equity ..... Loan ..... Other .....

12. Construction: Proposed start up date: .....

Proposed completion date: .....

Proposed employment during construction: .....

13. Proposed start up date for production/operations: .....

14. Employment:

Occupation (indicate major category)	Proposed/Existing for Year 1 of Operations: 20			Proposed/additional for Year 3 of Operations: 20		
	Nationals	Non-Nationals	Total Annual Wages TT$	Nationals	Non-Nationals	Total Annual Wages TT$
Total Number of Employees						
Total Annual Wages TT$						

Describe the expertise of any non-national(s) to be employed and indicate proposals to train nationals: .....

.....

.....

15. Foreign Exchange Usage and Earnings

Please indicate all foreign exchange Usage and Earnings of the project for the first five (5) years, including construction phase.

Outflows/Usage	Year				
	1	2	3	4	5
Machinery and Equipment Purchase					
Machinery and Equipment Lease					
Hotel Equipment					
Building Materials					
Raw Materials					
Royalties					
Loan Instalment					
Distribution Charges					
Advertising					
Dividends					
Repatriation of Profits					
Repatriation of Capital					
Other (specify):					
Total Outflows/Usage					
Inflows/Earnings					
Revenue					
Loan					
Equity					
Other (specify):					
Total Inflows/Earnings					
Net Usage Earnings					
Net Usage Earnings B/F					
Net Cumulative Foreign Exchange Cash Flow					

16. State briefly the experience of the promoters in the business
.....
.....

17. Particulars of the Operator (if they were different from the applicant):

(a) Name .....

(b) Address .....

(c) Telephone No.: ..... Fax No.: ..... E-mail: .....

(d) Nationality: .....

(e) State briefly experience in the hotel/tourism business: .....
.....
.....
.....
.....

18. Particulars of the Owner *(if different from Applicant or Operator):*

(a) Name .....

(b) Address .....

(c) Telephone No.: ..... Fax No.: ..... E-mail: .....

(d) Nationality: .....

(e) State briefly experience in the hotel/tourism business: .....
.....
.....
.....
.....

19. For the proposed operation, have you obtained Outline Planning Permission from the Town and Country Planning Division?

☐ Yes, date approved.....
(please attach a copy of Approval)

☐ No

20. Name or proposed name of project .....
.....

21. Location (address) .....
.....
.....

***Please attach a plan/drawing of the project showing the site and elevation of the construction of the project and any external construction which would expand an existing project.**

22. Area (sq. metres or hectares): .....

23. Proprietary interest of the Applicant and any other person in the project; quote particulars of title documents which confirm the information .....
.....
.....

24. State any special features in the manner of operation that are not usual in Trinidad and Tobago: .....
.....
.....

25. Append a list of construction materials, equipment, furniture and fixtures that you will be required to import for the project.
(Please note that concessions will not be granted for items that are manufactured locally): .....
.....
.....

26. Indicate any direct local linkages that will be generated by your project in the Agro-processing, Manufacturing and Services Industries: .....
.....
.....

27. **Marketing**
Major market(s) (specify marketing plans, countries, client, type and details of contracts or agreements): .....
.....
.....

28. **Environmental Effects**

(i) State any environmental impacts of the project: .....
.....
.....
.....
.....

(ii) Description of waste products indicating volume of air pollution, solid waste and liquid waste/effluents: .....
.....
.....
.....
.....

(iii) Proposals for disposal/treatment of waste products: .....
.....
.....
.....

SECTION B

TOURISM ACCOMMODATION PROJECTS

1. Please indicate accordingly:

☐ Construction or ☐Renovation/Extension/Refurbishment Projector or ☐ Operation of:

☐ Integrated Resort Development Project (IRD)
☐ Dive-Lodge Project
☐ Hotel Project
☐ Eco-Lodge Project
☐ Camp-site Project
☐ Guest House Project

2. Project Details

(i) Capital Expenditure:

	Existing (Value) TT$	Proposed TT$
Construction		
Expansion		
Furnishings, Fixtures and Equipment		
Advertising and Promotion		
Physical Structure:	Existing	Proposed
Floor Area (sq. metres)		
Number of Floors		
Number of Bedrooms		
Number of Common Rooms		
*IRD	Proposed	Selling Price/Cost of Rental/Lease/Cost
Number of Villas		
Number of Condominiums		
Infrastructural Works (List)		

Facilities/Amenities (list):

Existing	Value TT$	Proposed	Cost TT$

SECTION C

TOURISM ANCILLARY FACILITIES AND SERVICES PROJECTS

1. Please indicate accordingly:

☐ New project or ☐ Renovation/Extension/Refurbishment Projector or ☐ Operation of:

- ☐ Water Sports
- ☐ Charter Boat
- ☐ Dive Operation
- ☐ Marina
- ☐ Boat Yard
- ☐ Tour Operations
- ☐ Recreational Space Use
- ☐ Theme Park
- ☐ Cultural Centre
- ☐ Special Events
- ☐ Film Making
- ☐ Golf Course
- ☐ Transportation Services
- ☐ Other (specify) .....

2. Project Details

(i) Vehicles:

No. of Vehicles	Existing	Value TT$	Proposed	Cost TT$

(ii) Capital Expenditure:

Activity/Item	Existing Value TT$	Proposed TT$
Construction		
Expansion		
Furnishings, Fixtures and Equipment		
Advertising and Promotion		

(iii) Facilities:

Existing	Value TT$	Proposed	Cost TT$

(iv) Services:

Existing	Value TT$	Proposed	Cost TT$

SECTION D

TOURISM INFRASTRUCTURE PROJECTS

1. Please indicate the type of proposed tourism infrastructure project:

☐ Dive Re-Compression/ Hyperbaric Chamber

☐ Heliport

☐ Sea Port

☐ Air Port

☐ Communications

☐ Public Utilities (specify)

☐ Irrigation

☐ Ecological and Environmental Maintenance

☐ Land Clearance and Cleaning

☐ Other (specify)

.....

2. Project Details List Infrastructural Works:

Existing	Value TT$	Proposed	Cost TT$

FORM B

TOURISM DEVELOPMENT ACT (CH. 87:22)

INTERIM APPROVAL/ADDITIONAL INTERIM APPROVAL AND CERTIFICATE OF ESTIMATED CAPITAL EXPENDITURE OF A TOURISM PROJECT PURSUANT TO SECTIONS 13, 15 AND 19

Whereas .....
(Insert Name and Address)

.....

has made an application dated the ..... day of ..... 20.....

to the Minister for an Interim Approval/Additional Interim Approval in respect of a tourism project, certain particulars of which are contained in the said application.

And whereas in respect of a tourism project in Tobago the Corporation has submitted an application to the Tobago House of Assembly for its recommendations and the Tobago House of Assembly has/has not submitted their recommendations to the Minister.

And whereas the Minister is satisfied that the said .....
(State Specific Tourism Activity)

is practical and that it would assist the development of the tourism industry in Trinidad and Tobago and that it is otherwise in the public interest.

1. Terms and Conditions

Now, therefore, the Minister pursuant to section 13/19 of the Tourism Development Act, hereby grants unto the said .....

.....

(hereinafter called "the Applicant") an Interim Approval/Additional Interim approval in respect of the said ..... to be undertaken at
(State Specific Tourism Activity)

.....

.....

on the following terms and conditions:

Insert appropriate conditions here. Details of Estimated Capital Expenditure are included in this Section if required.

2. Benefits in respect of an approved tourism project:

(a) Customs Exemption under section 22.

(b) Tax Exemption under section 3(3).

The Minister on declaring ..... to be
(State Specific Tourism Activity)

an approved tourism project may confer pursuant to section 3 of the Act, the following tax benefits on the tourism owner/operator:

- A tax exemption for a period of ..... years in respect of gains or profits accruing from the approved tourism project.

3. Additional Tax benefits under section 3(4) as follows:

- Subject to Part 4 of the Act a carry-over from a tax exemption period, if any, of any loss arising out of the operation or renting of an approved tourism project;
- A tax exemption in respect of the gains or profits derived from the initial sale of a villa or condominium or the site for the villa or condominium that forms part of an IRD which is an approved tourism project.
- A tax exemption granted during the period that a tourism project is an approved tourism project by the Minister with responsibility for Finance in respect of interest on an approved loan used for an approved project.

.....
Minister of Tourism

FORM BA

TOURISM DEVELOPMENT ACT, CH. 87:22

201/2001. **TOURISM DEVELOPMENT (APPROVED TOURISM PROJECT) ORDER**

made under sections 16 and 17

Citation. 1. This Order may be cited as the Tourism Development (Approved Tourism Project) Order.

Approved Tourism Project. 2. ..... (hereinafter referred to as "the approved tourism project" located at ..... is hereby declared to be an approved tourism project for the purposes of the Tourism Development Act (hereinafter referred to as "the Act").

Ch. 87:22.

Owner or operator. 3. For the purpose of this Order—

(a) the owner of the approved tourism project is ....., whose registered office is .....;

(b) the operator of the approved tourism project is ....., whose registered office is .....

Effective date. 4. (1) This Order comes into effect/is deemed to have come into effect in respect of—

(a) the owner on ....., 20.....; and

(b) the operator on ..... 20.....

(2) This Order ceases to have effect on ....., 20.....

Tax benefits. 5. (1) The owner of the approved tourism project is entitled to the following tax benefits under the Act:

(a) .....

(b) .....

(c) .....

(2) The operator of the approved tourism project is entitled to the following tax benefits under the Act:

(a) .....

(b) .....

(c) .....

(3) Subject to Part IV of the Act, the following tax benefits are granted:

(a) .....

(b) .....

(c) .....

6. This Order is subject to the following conditions: Conditions.

(a) .....

(b) .....

(c) .....

(Note: Where the owner and operator are the same, a form completed only in respect of the owner, will be read as a completion in respect of both owner and operator).

Made this ..... day of ....., 20.....

Minister of Tourism and Tobago Affairs.

FORM C

TOURISM DEVELOPMENT ACT, (CH. 87:22)

APPLICATION FOR A PERMIT UNDER SECTION 22

Whereas I have been granted an Interim Approval/Additional Interim Approval particulars of which are hereinafter mentioned, I hereby apply to the Minister under section 22 of the Tourism Development Act for a Permit to import or enter into Trinidad and Tobago free of Customs duty items the description and quantity of which are specified in Appendix "A" to this application and to purchase in Trinidad and Tobago with the privilege of a drawback of Customs duties or Excise duties the items specified in Appendix "B" to this application.

I submit the following particulars with regard to the Interim Approval/Additional Interim Approval referred to above:

Name of Grantee of Interim Approval/
Additional Interim Approval: .....
.....

Date of Grant of Interim Approval/
Additional Interim Approval: .....
.....

Name or proposed name of the tourism project: .....
.....

Site and locality of the tourism project: .....
.....

I hereby certify that the items specified in the Appendices "A" and "B" to this application shall be used exclusively in connection with the construction and equipping of the tourism project for which the Interim Approval/Additional Interim Approval referred to hereinbefore has been granted and that the items are not manufactured locally or are not readily available locally. I further certify that none of the items in the appendices aforesaid shall be used to replace any item that has been imported, entered or purchased under any permit granted under the Tourism Development Act, or any licence granted under the former Hotel Development Act, Ch. 85:02, the Hotel (Development Encouragement) Ordinance, Ch. 32. No. 15 or under section 49A of the Customs Act, Ch. 78:01.

Dated this ..... day of ..... 20.....

.....
Signature of Applicant

FORM D

TOURISM DEVELOPMENT ACT, (CH. 87:22)

PERMIT FOR CUSTOMS AND EXCISE DUTY EXEMPTION

PURSUANT TO SECTIONS 23—26

Permit No. ..... of 20.....

Whereas due application has been made to the Minister by ...., the Grantee of an Interim Approval/Additional Interim Approval under the Tourism Development Act (hereinafter called "the Grantee").

1. Now, therefore, the Minister under and by virtue of the power conferred on him by section 22 of the Tourism Development Act, hereby grants a permit to the Grantee to import or enter into Trinidad and Tobago free of Customs duty items specified in the First Schedule hereto and to purchase in Trinidad and Tobago with the privilege of a drawback of Customs duty or Excise duty the items specified in the Second Schedule hereto.

2. This Permit is subject to the provisions of the Tourism Development Act, and in particular, but without limiting the generality of the foregoing, the following conditions:

(a) The items specified in the First and Second Schedules hereto shall be used exclusively in connection with the construction and equipping of the .....
(State Specific Tourism Activity)
being undertaken by the Grantee at .....
and in accordance with the Interim Approval/Additional Interim Approval dated the ..... day of ....., 20 ..... granted to him by the Minister under the Tourism Development Act.

(b) The items specified in the First and Second Schedules hereto shall not be used to replace any item that has been imported, entered or purchased under:

(i) any permit granted pursuant to the Tourism Development Act; or

(ii) any licence granted pursuant to the former Hotel Development Act, Ch. 85:02 or Hotel (Development Encouragement) Ordinance. Ch. 32. No. 15; or

(iii) any licence granted pursuant to section 49A of the Customs Act, Ch. 78:01.

3. This permit shall have effect from the date hereof and shall expire on the ..... day of ..... 20.....

Dated this ..... day of ..... 20.....

.....
Minister of Tourism

L.R.O. 1/2009

FORM E

TOURISM DEVELOPMENT ACT, (CH. 87:22)

Certificate of Approval of Capital Expenditure/Additional Capital Expenditure Actually and *bona fide* incurred in respect of an Approved Tourism Project pursuant to sections 18 and 19.

To: .....
(insert name and address)

Whereas the Minister has approved the .....
(insert name and location of approved tourism project)

.....
(insert name and location of approved tourism project)

to be an approved tourism project and is satisfied that the items of capital expenditure/additional capital expenditure appearing hereinafter had previously been included in the estimated capital expenditure/additional estimated capital expenditure approved by the Minister for the tourism project in respect of the said ..... or are capital expenditure otherwise acceptable to the Minister.
(State Specific Tourism Activity)

Now, therefore, the Minister pursuant to sections 18 and 19 of the Tourism Development Act, hereby certifies and approves the items of capital expenditure hereinafter listed to be capital expenditures/additional capital expenditures actually and *bona fide* incurred by the Approved Tourism Project Operator (or Owner) on the tourism project in respect of the said .....
(State Specific Tourism Activity)

(a) Actual cost of building materials and fixtures (excluding items of depreciable equipment) : $ .....

(b) Actual cost of construction of .....
(State Specific Tourism Activity)
(labour, supervision and overhead) : $ .....

(c) Actual cost of advertising and promotion of the .....
(State Specific Tourism Activity)
before Interim Approval is revoked pursuant to section 15(3) of the Act (not to exceed 10% of other approved actual capital expenditure) or section 19(3): $ .....

Total actual capital expenditure/additional capital expenditure : $ .....

Dated this ..... day of ..... 20.....

.....
Minister of Tourism

Copy to .....
Board of Inland Revenue

FORM F

TOURISM DEVELOPMENT ACT, (CH. 87:22)

FORM OF INVENTORY PURSUANT TO SECTION 29

Name of Approved Tourism Project: .....

Location: .....

Name of Holder of Permit: .....

Name of Approved Tourism Project Operator: .....

Name of Manager of Approved Tourism Project: .....

Mark Approved by Comptroller: .....

No. of Permit	Date of issue of Permit	Date of Importation Entry or Local Purchase	Articles	
			Unit Quantity	Description

I certify that the foregoing is a true inventory of items imported or entered into Trinidad and Tobago or purchased in Trinidad and Tobago under a Permit pursuant to section 22 of the Tourism Development Act.

.....
Signature of Manager of Approved Tourism Project