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Third Session Eighth Parliament Republic of  
Trinidad and Tobago

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REPUBLIC OF TRINIDAD AND TOBAGO

**Act No. 20 of 2005**

[L.S.]

AN ACT to amend the Tourism Development Act, 2000

*[Assented to 10th August, 2005]*

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

**1.** This Act may be cited as the Short title  
Tourism Development (Amendment) Act, 2005.

**2.** In this Act, “the Act” means the Interpretation  
Tourism Development Act, 2000. Act No. 9 of 2000

Section 2 amended

**3.** Section 2 of the Act is amended by inserting in the appropriate alphabetical sequence the following definitions:

“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;

“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;

Chap. 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 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;

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

Section 3 amended

**4.** Section 3 of the Act is amended in subsection (3)—

(a) in paragraph (b), by deleting the full stop occurring at the end of the paragraph and substituting a semicolon; and

(b) by inserting immediately after paragraph (b) the following paragraphs:

“(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.”.

**5. Section 4 of the Act is amended—**

Section 4 amended

- (a) in subsection (1) by deleting the word “the” before the word “vehicles”; and
- (b) by inserting immediately after subsection (2) the following subsections:

“ (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.”.

**6. The Act is amended by inserting immediately after section 4 the following new section:**

New section 4A inserted

“Requirements for projects to access benefits under Schedule 7

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;

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- (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).”.
- Section 8 amended      **7.** Section 8 of the Act is amended in paragraph (a)—
- (a) by inserting immediately before the word “have” the words “in relation to international investors”; and
- (b) by inserting in the left margin the words “Schedule 9”.
- Section 9 amended      **8.** Section 9 of the Act is amended by—
- (a) deleting the full stop at the end of paragraph (c) and substituting a semicolon; and
- (b) inserting immediately after paragraph (c) the following paragraph:
- “(d) dive operations.”.
- Section 10 amended      **9.** Section 10, subsection (1) of the Act is amended by deleting the words “having the minimum capital expenditure prescribed in Schedule 9”.
- Section 11 amended      **10.** Section 11, subsection (1) of the Act is amended by deleting the words “having the minimum capital expenditure prescribed in Schedule 9”.
- Section 12 amended      **11.** Section 12, subsection (1) of the Act is amended by inserting immediately after the word “information” the words “, where applicable,”.

**12.** Section 18, subsection (1) of the Act is amended— Section 18 amended

- (a) by deleting the word “After” at the beginning of the subsection and substituting the word “Before”; and
- (b) by deleting the words “an interim Order” and substituting the words “interim approval”.

**13.** Section 22 of the Act is amended by deleting subsection (1) and substituting the following: Section 22 amended

- “Permit
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.”.

Section 34 amended **14.** Section 34 of the Act is amended by deleting the word “The” at the beginning of the section and substituting the words “Subject to section 38 the”.

Section 35 amended **15.** Section 35 of the Act is amended by deleting the word “arising” in line five and substituting the word “accruing”.

New Section 35A inserted **16.** The Act is amended by inserting immediately after section 35 the following new section:

- “Capital allowance and accelerated depreciation
- 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.”.

**17.** Section 38 of the Act is repealed and replaced by Section 38 repealed and replaced the following:

“Exemption from tax of interest on an approved loan 38. (1) Subject to subsections (3), (4), (5) and (6) the Minister to whom responsibility for finance is assigned may, by Order, exempt from tax the interest received on an approved loan, not being a loan used for bridging finance, for a period not exceeding seven years or the period of the loan whichever is the lesser period.

(2) Subject to subsections (3), (4), (5) and (6) where a tourism project has been declared an approved tourism project the Minister to whom responsibility for finance is assigned may, by Order, exempt from tax the interest received on a loan used for

bridging finance, for a period not exceeding seven years or the period of the loan whichever is the lesser period, notwithstanding that the interest may have been received before the tourism project had been declared an approved tourism project.

(3) Notwithstanding the Income Tax Act and the Corporation Tax Act, a person in receipt of any interest from an approved loan exempted from tax under this section shall—

- (a) keep a separate account of such interest to the satisfaction of the Board; and
- (b) for each year of exemption, make a separate annual income tax return in respect of such interest to the Board with effect from the year in which the exemption takes effect and for each year of exemption thereafter,

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

(4) Where an exemption is granted under both subsections (1) and (2) the tax-exempt period shall not in the aggregate exceed seven years.

(5) An Order made under this section may be made retrospective to a date not being earlier than six years from the date on which the Order is signed by the Minister, but in any event not earlier than the date of Proclamation of this Act.



(6) No benefit under this section shall apply to a loan made to the purchaser or lessee of a villa or condominium unit or site for a villa or condominium unit in an IRD.”.

**18.** Section 40 of the Act is amended—

Section 40 amended

- (a) by deleting the word “engaged” in line two and substituting the word “entitled”; and
- (b) by deleting the words “the Order” in the penultimate line and substituting the words “any interim approval, additional interim approval or Order”.

**19.** Section 41 of the Act is amended—

Section 41 amended

- (a) in subsection (1), by deleting the words “August 3rd, 1995” and substituting the words “3rd August, 1995”;
- (b) by deleting subsection (2) and renumbering subsection (3) as (2); and
- (c) in subsection (2) as renumbered, by deleting the words “subsection (2)” and substituting the words “subsection (1)”.

**20.** The Act is amended by inserting immediately after section 41 the following new section:

New section 41A inserted

“Owners and operators may apply for benefits

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.”.

- Section 42 amended **21.** Section 42 is amended by deleting the words “certificate of benefits” and substituting the words “interim approval or additional interim approval or certificate of estimated capital expenditure, as the case may be”.
- Section 44 amended **22.** Section 44 of the Act is amended by inserting immediately before the words “the Income Tax Act” the words “the Motor Vehicles and Road Traffic Act” and a comma.
- Schedule 7 amended **23.** Schedule 7 to the Act is amended—
- (a) by inserting immediately under the words “SCHEDULE 7” and in the right corner, the words “Section 4”; and
  - (b) in the columns headed “Taxi Co-operatives” and “Other Taxis” and in the row headed “Conditions” by deleting, wherever they occur, the words “should not be more than five (5) years old and” and substituting in each case the word “shall”.
- Schedule 9 amended **24.** Schedule 9 to the Act is amended—
- (a) by deleting the entire column headed “Local Investor”; and
  - (b) by deleting the entire row headed “Charter Boats”.

Passed in the House of Representatives this 21st day of January, 2005.

J. SAMPSON-JACENT

*Clerk of the House*

Passed in the Senate this 8th day of March, 2005.

N. JAGASSAR

*Acting Clerk of the Senate*

Senate amendment agreed to by the House of Representatives this 8th day of July, 2005.

J. SAMPSON-JACENT

*Clerk of the House*