

No. 2]

Special Development Areas Act

[1998

I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

20th January, 1998.

SAINT LUCIA

No. 2 of 1998

AN ACT to rectify the uneven development in Saint Lucia by designating certain areas as special development areas, providing relief to persons carrying out specified activities in these areas and to persons financing such activities.

[24th January, 1998]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same as follows:

Short title

1. This Act may be cited as the Special Development Areas Act, 1998.

Interpretation

2.—(1) In this Act

“approved developer” means any person approved by the Minister to carry out work in a special development area in accordance with section 4;

“development period” means a period of not more than ten years prescribed by the Minister under section 3 (3);

“improvement works” means the construction or improvement of a building or structure in a special development area but does not include the relocation of an existing business to a special development area;

“investor” means any person other than a commercial bank who by means of a loan or otherwise provides funding for the carrying out of improvement works in a special development area;

“Minister” means Minister of Finance;

“special development area” means an area specified in the *First Schedule*.

(2) For the purposes of this Act,

“industrial building” or “structure” is a building or structure in use or purchased, constructed, re-constructed, altered, or adapted to be used for the purposes of

- (a) the operation of a dock;
- (b) an undertaking for the generation, transformation, conversion, transmission or distribution of electrical energy or;
- (c) a trade carried on in a mill, factory or other similar premises or;
- (d) a trade which consists in the manufacture of goods or materials or the subjection of goods or materials to any process or;
- (e) a trade which consists in the storage of goods or materials
 - (i) which are to be used in the manufacture of other goods or materials; or
 - (ii) which are to be subjected in the course of trade to any process; or
 - (iii) which, having been manufactured or produced or subjected in the course of trade to any process, have not been delivered to a purchaser; or

- (f) a trade which consists in the working of any mine, or other source of natural deposits capable of being lifted or extracted from the earth; or
- (g) scientific research exclusively;
- (h) computer software industries, data processing industries or agro-processing industries;
- (i) the catching or taking of fish including shell fish; or
- (j) a business of agriculture, including horticulture and the use of land for the purposes of husbandry including the keeping or breeding of livestock and poultry or the growing of crops of fruits or vegetables;

whether or not such building or structure is provided by the person carrying on such trade or undertaking for the welfare of workers employed in that trade or undertaking and in use for that purpose.

(3) For the purpose of subsection (2), an industrial building or structure does not include any building or structure in use as a dwelling-house or part of a dwelling-house, retail shop, premises used for making repairs, showroom, hotel or office, or for any purpose ancillary or the purposes for which a dwelling-house, retail shop, premises used for making repairs, showroom hotel or office is used.

(4) Where part only of a building is used for the purposes of a qualifying business, and the capital expenditure on that part of the building which is not so used —

- (a) does not exceed eleven per cent of the total capital expenditure the whole of the building shall be deemed to be used for the purposes of a qualifying business;
- (b) exceeds eleven per cent but does not exceed seventy-five per cent of the total capital expenditure, then the portion of such expenditure qualifying for deduction under this Part shall be such proportion of such expenditure as the part of the building so used for the purposes of a qualifying business bears to the entire building;
- (c) exceeds seventy-five percent, then the entire building shall be deemed not to be used for the purposes of a qualifying business.

Special Development Areas

3.—(1) For the purposes of this Act, the areas specified in the *First Schedule* are special development areas.

(2) The activities listed in the *Second Schedule* may be carried on in special development areas.

(3) The Minister may by Order

- (a) prescribe a development period in respect of any special development area;
- (b) amend the *First Schedule* by increasing or decreasing the number of special development areas;
- (c) prescribe the boundaries of any special development area; and
- (d) amend the *Second Schedule* by adding thereto or deleting therefrom, specified activities;
- (e) prescribe that within a special development area only a specified activity will qualify for incentives and exemptions.

Approved developer

4.—(1) A person who wishes to be an approved developer may make an application to the Minister for the purpose.

(2) The Minister may approve the application referred to in subsection (1), either unconditionally or subject to such conditions as he thinks fit; or may refuse the application.

(3) The Minister may, in approving an application under subsection (2), grant further incentives under section 140 of the Income Tax Act, 1989.

(4) The approval of a person as an approved developer shall be published in the Official Gazette.

Compliance

5. An approved developer shall comply with any law in force in respect of land development.

Exemption from income tax

6. Where an investor makes a loan to an approved developer of any sum of money raised for the purpose of financing any improvement works during the development period, the amount of interest received by the investor in respect of that loan shall be exempt from income tax.

Exemption from other taxes

7. An approved developer shall, during the development period, be exempt from the payment of the taxes and duties specified in the Third Schedule.

Incentives

8. Notwithstanding the *Income Tax Act 1989*, an approved developer

- (a) shall pay corporation tax at the rate of 20 per cent; and
- (b) is entitled to an allowance in accordance with sections 9 and 10, as the case may be.

Industrial building allowances

9.—(1) Notwithstanding the *Income Tax Act 1989*, where an approved developer carrying on a business in an income year has made a capital expenditure in that year on an industrial building or structure used or to be used in that business for some purpose other than resale, then in calculating the assessable income of that person for that income year there shall be deducted as an initial allowance in respect of that income year an amount equal to 40 per cent of the capital expenditure on an industrial building or structure.

(2) Notwithstanding the *Income Tax Act 1989*, where an approved developer carrying on a business has made a capital expenditure on an industrial building or structure used or to be used in that business for some purpose other than resale, referred to as depreciable property, then in calculating the assessable income of the approved developer for an income year, an amount may, at the option of the approved developer be deducted as an annual allowance equal to 5 per cent of that capital expenditure.

Commercial building allowances

10.—(1) For the purposes of this section “commercial building” means a building other than a building described in section 2 of the *Tourism Incentives Act, 1996* that is in use or is purchased, constructed, reconstructed, altered or adapted to be used for commercial purposes including use as offices or a warehouse or for any trade, but does not include a building let out as a dwelling-house.

(2) Notwithstanding the *Income Tax Act 1989*, where an approved developer has in an income year made a capital expenditure on a commercial building then in calculating the assessable income of that person for that income year

- (a) an amount may, at the option of that person be deducted as an initial allowance, equal to 20 per cent of such capital expenditure; and

- (b) there shall be deducted at the option of that person for that income year and any subsequent income year an annual allowance equal to 4 per cent of such capital expenditure.

No annual allowance to approved developer

11. Notwithstanding section 9 (2) and section 10 (2) (b) no annual allowance shall be made to an approved developer for an income year in respect of the property referred to in sections 9 and 10 if the total amount of the initial and annual allowances made to that person in the preceding years exceeds the capital expenditure made by that person.

Rules in respect of allowances

12. The Second Schedule of the *Income Tax Act* 1989, shall apply, *mutatis mutandis*, to annual allowances referred to in sections 9 and 10 in the calculation of assessable income; and any reference in the Second Schedule to "a person" shall be construed as a reference to "an approved developer".

Non- entitlement to claim

13. Notwithstanding any provisions of this Act, an approved developer is not entitled to claim an allowance under the *Income Tax Act* 1989, where a claim is made under this Act in respect of the same property.

Regulations

14. The Minister may make regulations generally for giving effect to the provisions of this Act.

FIRST SCHEDULE

(Section 3)

Special Development Areas

Areas falling within the boundaries of the Constituencies of :

1. Vieux-Fort North and Vieux-Fort South
2. Soufriere/Fond St. Jacques
3. Anse-la-Raye/Canaries

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SECOND SCHEDULE

(Section 3)

ACTIVITIES

1. Conference centres.
2. Residential complexes.
3. Commercial or industrial buildings including office complexes.
4. Other facilities directed towards the improvement or expansion of services to the tourism sector.
5. Water-based activities.
6. Tourism projects highlighting the heritage and natural environment of Saint Lucia.
7. Arts and cultural investments.
8. Agricultural-based activities.
9. Fisheries based activities

THIRD SCHEDULE

(Section 7)

EXEMPTED TAXES AND DUTIES

1. Import duty, stamp duty, and consumption tax on inputs for the construction of new buildings and the renovation or refurbishment of existing buildings.
2. Land and house tax.
3. Stamp duty payable by vendors and purchasers on the initial purchase of property, whether by nationals or non-nationals.
4. Aliens Landholding Licence fee.

Passed in the House of Assembly this 2nd day of December, 1997.

MATTHEW ROBERTS,
Speaker of the House of Assembly.

Passed in the Senate this 19th day of December, 1997.

HILFORD DETERVILLE,
President of the Senate.