

No. 15] *Offshore Higher Education Licensing and Incentives Act* [2015

SAINT LUCIA

No. 15 of 2015

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I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

August 17, 2015.

SAINT LUCIA

No. 15 of 2015

AN ACT to provide for the licensing of offshore higher education institutions, for the grant of incentives to such institutions, for designating certain areas as higher education development areas and for granting incentives to persons carrying out specified projects in these areas and persons financing such projects, and for related matters.

[24th August, 2015]

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:

PRELIMINARY**Short title**

1. This Act may be cited as the Offshore Higher Education Licensing and Incentives Act, 2015.

Interpretation

2.—(1) In this Act –

“accredit” means the according of recognition on the basis of an informed evaluation that the programmes of study offered by an offshore higher education institution and any award it confers satisfy standards prescribed or approved by an accrediting body;

“accrediting body” means a body recognized by the Board in accordance with section 29;

“accreditation” means a determination by an accrediting body that a programme of study offered by an offshore higher education institution and any award it confers satisfy standards prescribed or approved by that accrediting body;

“approved higher education developer” means any person approved by the Minister to carry out development work in a higher education development area under section 42;

“Board” means the Offshore Higher Education Licensing Board established under section 3;

“course” means a defined body of knowledge, skills and attitudes designed to be inculcated over a specified period and to which one or more credits may be awarded;

“credit” means a unit of academic measurement for a prescribed course or set of courses for which a particular recognition is awarded;

“development period” means a period of not more than 25 years prescribed by the Minister under section 46;

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- “higher education” means the formal learning process which occurs following completion of secondary schooling or its equivalent and which leads to the award of an academic degree or professional certification;
- “higher education development area” means an area specified in Schedule 4 which may also be referred to as a University Town;
- “higher education product” means an offshore higher education institution approved for incentives by Cabinet under section 37;
- “improvement works” means the construction or improvement of a building or structure in a higher education development area but does not include the relocation of an existing offshore higher education institution to a higher education development area;
- “initial provisional accreditation” means the first provisional accreditation status requirement in the accreditation process;
- “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 higher education development area;
- “licensed higher education institution” means a higher education institution which holds a valid licence issued by the Board under section 23 or in respect of which such a licence exists;
- “licensee” means a person who holds a valid licence issued by the Board under section 23 and includes a licensed higher education institution;
- “member”, in relation to the Board, includes any person who is a member of a committee established under section 11(2) or an Evaluation Committee established under section 19;
- “Minister” means the Minister responsible for education, unless otherwise specified;

on that part of the structure which is not so used –

- (a) does not exceed twenty five per cent of the total capital expenditure, the whole of the structure is deemed to be used for the purposes of the offshore higher education institution;
- (b) exceeds twenty five per cent but does not exceed seventy five per cent of the total capital expenditure, the portion of such expenditure qualifying for deduction under this part shall be such proportion of such expenditure as the part of the structure so used for the purposes of the offshore higher education institution bears to the entire structure;
- (c) exceeds seventy five per cent, the entire structure is deemed not to be used for the purposes of the offshore higher education institution.

PART I

ESTABLISHMENT AND FUNCTIONS OF OFFSHORE HIGHER EDUCATION LICENSING BOARD

Establishment of the Board

3. There is established a body to be known as the Saint Lucia Offshore Higher Education Licensing Board consisting of eight members appointed by the Minister.

Composition of the Board

- 4.—(1)** The Board consists of –
- (a) two representatives of the Ministry responsible for Education;
 - (b) a representative of the Ministry responsible for finance;
 - (c) two representatives of the Ministry responsible for health;
 - (d) a representative of the Ministry responsible for Physical Development;

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- (e) a representative of the Medical and Dental Association;
- (f) an Attorney-at-Law with no less than five years standing.

(2) A member of the Board may be paid such remuneration as Cabinet determines.

(3) The appointment of any member of the Board and the termination of office of any person as a member whether by death, resignation, revocation, effluxion of time or otherwise, shall be published by Notice in the Gazette.

Chairperson, Deputy Chairperson and interim chairperson

5.—(1) The Minister shall designate one of the members of the Board to be Chairperson and another to be Deputy Chairperson of the Board.

(2) The Deputy Chairperson may act in place of the Chairperson if the Chairperson is absent.

(3) Where, by reason of the absence or incapacity of the Chairperson or Deputy Chairperson or a vacancy in either of those offices, the Board does not have a Chairperson, the Board may designate one of its members as an interim chairperson.

Duration and termination of membership

6.—(1) Subject to this section, a member of the Board may hold office for a period of three years from the date of his or her appointment, and is eligible for re-appointment.

(2) A member of the Board may be removed from office where –

- (a) due to physical or mental incapacity, the member is unable to perform the functions of his or her office; or
- (b) the Minister, on reasonable grounds considers it expedient to remove the member.

(3) The Chairperson may resign from his or her office by giving notice in writing addressed to the Minister and the resignation takes effect from the date of receipt of such notice by the Minister.

(4) Any member other than the Chairperson may resign from

his or her office by giving notice in writing addressed to the Minister and transmitted through the Chairperson, but the resignation does not take effect until such notice has been received by the Minister.

Temporary members and vacancies

7.—(1) Subject to subsection (3), the Minister may appoint a person to be a temporary member to act for a member whom he or she is satisfied—

- (a) is incapacitated by reason of illness;
- (b) is absent from Saint Lucia; or
- (c) has sufficient cause that prevents the member from performing the duties of his or her office.

(2) A temporary member appointed under this section shall, while he or she acts as such, be deemed for all purposes to be a member of the Board.

(3) Where any vacancy occurs in the membership of the Board, such vacancy shall be filled by appointment of another member who shall, subject to this Act, hold office for the remainder of the period for which the previous member was appointed.

Meetings of the Board

8.—(1) The Board shall meet at least once every four months and at such other times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as may be determined by the Board.

(2) The Chairperson may at any time call a special meeting of the Board to be held within seven days of a written request for that purpose addressed to the Chairperson by any other member of the Board.

(3) Subject to this Act, the Board may regulate its own proceedings.

(4) The validity of any proceedings of the Board is not affected by any vacancy amongst the members of the Board or by any defect in the appointment of a member of the Board.

Quorum

9. A meeting of the Board is duly constituted for all purposes if, at the commencement of the meeting, there is a quorum of a simple majority of the Board Members.

Voting

10.—(1) Decisions of the Board shall be taken by a majority of the votes of its members present and voting at the meeting.

(2) The Chairperson of the Board shall have the right to vote and, in cases of equal division of votes, the Chairperson has the casting vote.

Additional persons to advise Board

11.—(1) The Board may, for the purpose of assisting or advising it, co-opt any person to attend any meeting of the Board at which it is proposed to deal with a particular issue, but no such co-opted person has the right to vote.

(2) Without prejudice to subsection (1), the Board may establish committees to advise the Board and at least one member of the Board shall be appointed to each committee established.

(3) Sections 8(3), 8(4), 9 and 10 apply to a committee established under subsection (2), with the necessary amendments, *mutatis mutandis*.

Protection from liability

12. No action or other proceeding shall lie against any member or officer of the Board or any person authorized by the Board for or in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of the functions of such member, officer or authorized person under this Act.

Secretary to the Board

13.—(1) The Chief Education Officer shall be Secretary to the Board.

(2) The duties and responsibilities of the Secretary include –

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- (a) taking and keeping minutes of the Board;
- (b) keeping custody of the Seal of the Board;
- (c) receiving applications for licensing and handling correspondence; and
- (d) doing such other acts which are incidental to the office of Secretary.

(3) Where the Chief Education Officer is unable to attend a meeting, the Board shall designate one of its members as the interim Secretary for the purposes of that meeting.

Seal of the Board

14.—(1) The Board shall have and use, as occasion may require, a seal having a representation or impression with the inscription “Saint Lucia Offshore Higher Education Licensing Board”.

(2) The seal of the Board shall be kept in the custody of the Secretary to the Board.

(3) The seal of the Board shall not be affixed to any instrument except by the authority of a resolution of the Board and attested by the signature of -

- (a) the Secretary; and
- (b) the Chairperson, or in his or her absence, a member of the Board authorised to act in that behalf.

Functions of the Board

15.—(1) The functions of the Board are -

- (a) to be responsible for safeguarding the interest of the Government, the public and students in the achievement of acceptable academic standards for offshore higher education institutions;
- (b) to consider and decide on applications for licensing submitted to the Board under section 17;
- (c) to maintain a record of offshore higher education institutions that are licensed by the Board and the

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programmes of study that are accredited by an accrediting body;

- (d) to monitor the quality of higher education programmes of study offered by offshore higher education institutions and any degrees or certification they confer so as to ensure that they meet and maintain the standards prescribed or approved by an accrediting body;
- (e) to promote an ethos of quality assurance and quality improvement by supporting the process of accreditation of programmes of study in offshore higher education institutions by an accrediting body;
- (f) to advise the Minister on the standards, requirements and regulations with which an offshore higher education institution must comply in order to be licensed by the Board;
- (g) to advise the Minister on any matter relevant to compliance by an offshore higher education institution under this Act;
- (h) to revoke a licence granted to any offshore higher education institution, if after enquiry, the Board considers that there is good and sufficient cause to do so;
- (i) to do or cause to be done such other things as the Board considers expedient or necessary for the performance of its functions under this Act.

(2) Notwithstanding any other law, the Board is the principal body in Saint Lucia for conducting the licensing of offshore higher education institutions and advising on the standards to be maintained by offshore higher education institutions.

PART II**LICENSING OF OFFSHORE HIGHER EDUCATION
INSTITUTIONS AND ACCREDITATION OF
PROGRAMMES OF STUDY****Licensing requirement**

16.—(1) A person shall not operate an offshore higher education institution without a licence issued in accordance with section 23.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and, in the case of a continuing offence, to a further fine of one thousand dollars for each day or part of a day during which the offence continues.

Application for licensing

17.—(1) A person who wishes to obtain a licence to operate an offshore higher education institution under this Act shall pay the prescribed application fee to the Comptroller of Inland Revenue and submit an application to the Board in accordance with subsection (2).

(2) The application shall –

- (a) be in writing in the prescribed form as set out in Schedule 2;
- (b) include a proposal as regards the programmes of study to be offered by the offshore higher education institution.

(3) Upon receipt of the application, the Board shall consider whether the applicant satisfies the relevant requirements prescribed or provided under this Act.

(4) The Board shall not, in considering an application, be restricted to the information contained in the application.

Matters to be considered by the Board

18. In addition to the matters to be considered by the Board under section 17(3), the Board may in considering an application for licensing take into account the following matters –

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- (a) the mission of the offshore higher education institution or programme of study and any specialized programme of study which the offshore higher education institution offers or intends to offer;
- (b) the goals and objectives of the offshore higher education institution or programme of study;
- (c) the conditions under which the goals or objectives of the offshore higher education institution are to be achieved, including an operational plan;
- (d) the expected standards of the offshore higher education institution and how these standards are to be maintained;
- (e) the list of programmes of study or courses which the offshore higher education institution offers or intends to offer and its policy regarding course credits;
- (f) any links which the offshore higher education institution establishes and maintains or intends to establish and maintain with other educational entities offering higher education;
- (g) any independent accreditation process, pending or active, to review and assure the achievement and maintenance of an acceptable academic standard within any programme of study;
- (h) any arrangement, under negotiation or in place, for the accreditation of any programme of study by an accrediting body;
- (i) the availability of a students' registry and the admission policy with the related fees and charges to be levied;
- (j) the maintenance of student records;
- (k) the availability of student counseling services;
- (l) procedures for monitoring and assessing student performance;
- (m) in the case of recruitment of staff into a faculty of the offshore higher education institution –

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- (i) the recruitment procedures,
 - (ii) the *curriculum vitae* of staff,
 - (iii) the general productivity measures relating to staff performance;
- (n) examination regulations and procedures of the offshore higher education institution with particular emphasis on –
- (i) the setting and marking of written examinations,
 - (ii) the conduct and assessment of oral examinations,
 - (iii) the conduct and assessment of research proposals,
 - (iv) the conduct of appeals by students, and
 - (v) the grading systems as a basis of evaluating student performance;
- (o) the procedure for selecting external examiners and how such examiners function;
- (p) the availability of library and research facilities with particular emphasis on –
- (i) the adequacy of such facilities,
 - (ii) their linkages with other libraries or institutions, whether within or outside the Caribbean;
- (q) the physical location or, as the case may be, the proposed physical location of the offshore higher education institution with emphasis on –
- (i) projections regarding student enrolment and staff size;
 - (ii) provisions for classrooms, laboratories and offices;
- (r) proposals regarding the financing and management of the offshore higher education institution with particular emphasis on –
- (i) the charter of the offshore higher education institution,
 - (ii) the governing body of the offshore higher education institution,

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- (iii) costs and efficiency of the offshore higher education institution, and
- (iv) the reputation, character, commercial standing and financial standing of the applicant;
- (s) any benefits which may accrue to the local economy; and
- (t) any other matter which the Board considers pertinent.

Evaluation Committee

19.—(1) Without prejudice to the generality of section 11 (2), when an application for licensing is submitted to the Board in accordance with this Act, the Board shall appoint a committee to be known as an Evaluation Committee comprising –

- (a) at least one member of the Board; and
- (b) such persons having knowledge and expertise in the programmes of study offered by the offshore higher education institution whose application is under consideration.

(2) The Chairperson of an Evaluation Committee shall be a member of the Board.

(3) An Evaluation Committee appointed under subsection (1) shall –

- (a) be responsible for evaluation of any programme of study proposal accompanying an application submitted to the Board by any offshore higher education institution with reference to established regional and international academic guidelines, models of best practice and standards for accreditation of programmes of study;
- (b) request from the relevant applicant, certified evidence from an accrediting body to the effect that the programmes of study offered by the offshore higher education institution have obtained initial provisional accreditation, provisional accreditation or accredited status;

- (c) evaluate such proposal within a period specified by the Board, but, in any event, not exceeding ninety days or such further period as the Board may in writing direct and during such evaluation deal mainly with the academic and professional aspects of the proposal; and
- (d) upon completion of the evaluation, submit a report to the Board.

(4) The Board shall take the report of the Evaluation Committee into account when considering the application for licensing.

(5) Sections 8(3), 8(4), 9 and 10 apply to every Evaluation Committee, with the necessary amendments, *mutatis mutandis*.

Request for further information to support application

20.—(1) The Board may, by giving notice in writing to the applicant, require the applicant to provide to the Board within a reasonable time of at least fourteen days as stated in the notice, further information which the Board may reasonably require to consider.

(2) The applicant is taken to have withdrawn the application if, within the time stipulated in the notice or any extension of such notice, the applicant does not comply with the requirement.

Report to the Minister with respect to application

21.—(1) Upon completion of its consideration of the application for licensing, the Board shall submit to the Minister a written report on the application.

(2) The report shall contain the decision of the Board regarding the grant or refusal of the application for licensing and the reasons for the decision taken by the Board.

Decision on application

22.—(1) The Board shall, as soon as practicable, provide the Minister and the applicant with notice in writing of its decision and in the event of a refusal, the reasons for the refusal of the application for licensing.

(2) The Board may, in exercise of its functions under this Act, grant a provisional licence for up to one year subject to the fulfillment of certain conditions.

Issuance of licence

23.—(1) Where the application for licensing is approved in full or provisionally, the Board shall immediately issue to the applicant a licence in such form as may be prescribed, subject to the payment of the prescribed fee and any conditions which may be prescribed.

(2) The licence shall state the period of validity of licensing, the conditions, if any, to be fulfilled and whether licensing is full or provisional.

(3) A licence issued under subsection (1) remains the property of the Government.

Review of refusal of licensing

24.—(1) An applicant referred to in section 22 who is aggrieved by a decision of the Board under that section shall have a right to have the decision reviewed, if that applicant makes an application for that purpose to the Minister within thirty days after being given notice of the decision.

(2) The Minister shall within fourteen days of receipt of the application referred to in subsection (1), cause to be conducted, an inquiry concerning the matters raised in the application by such person or persons possessing special qualifications, substantial experience or proven capacity in one or more of the fields of education, human resource management, medicine, law or science, as the Minister appoints in writing for that purpose.

(3) An inquiry shall be conducted according to the substantial merits of the case without regard to technicalities.

(4) The person or persons conducting an inquiry under subsection (2) may obtain information as such person or persons may consider appropriate.

(5) On completing the inquiry, the person or persons conducting the inquiry shall report to the Minister stating the findings of the inquiry and recommendations.

(6) The Minister shall submit, in writing, to the aggrieved applicant referred to in subsection (1), the findings of the inquiry and invite written comments from the applicant.

(7) Upon completion of his or her consideration of any written comments made under subsection (6) and the findings of the inquiry, the Minister shall -

- (a) grant the licence, in accordance with section 23; or
- (b) provide, in writing, to the aggrieved applicant, the reasons for the refusal of the application for licensing.

Validity of licence

25. Notwithstanding section 23(2), a licence is valid for a period not exceeding five years and may be extended on the licensee giving six months notice in writing that it wishes to continue its operations save as provided for in section 26.

Grounds for variation, suspension and revocation

26.—(1) The Board may vary, suspend or revoke a licence, if the licensee -

- (a) is bankrupt or is liquidated or wound-up;
- (b) is convicted of any offence;
- (c) has made false representations in the application for the licence;
- (d) fails to rectify the matter or matters causing the suspension of the licensee's licence within a reasonable time, and in any event, in not more than 30 days; or
- (e) is carrying on, or has carried on, its business in a manner detrimental to the public interest.

(2) Where the Board believes that a ground exists to vary, suspend or revoke the licence of the licensee, the Board shall allow the licensee the opportunity to make representations, within a prescribed period, to show why the proposed action should not be taken.

(3) Subject to section 27, the Board may, by notice to a licensee, vary, suspend or revoke the licence of the licensee where the Board has reasonable grounds to believe that the licensee has breached any of the conditions stated or specified under this Act or any regulations made under this Act.

- (4) A notice issued under subsection (3) shall state the following –
- (a) an outline of the facts and circumstances forming the basis for such grounds;
 - (b) the grounds for the proposed action;
 - (c) the action which the Board proposes to take under this Part;

Representations made by licensee

27.—(1) The licensee may, on receipt of a notice under section 26(3), make representations to the Board and the Board shall consider all such representations made by that licensee.

(2) Where, after considering the grounds to vary, suspend or revoke a licence under this Act and the representations made under subsection (1) or otherwise, the Board finds that no grounds exist for varying, suspending or revoking the licence, the Board shall –

- (a) take no further action with respect to such notice; and
- (b) as soon as practicable, inform the licensee in writing that no further action will be taken pursuant to such notice.

(3) Where, after considering the grounds to vary, suspend or revoke a licence under this Act and the representations made under subsection (1), the Board finds that grounds exist for varying, suspending or revoking the licence, the Board shall –

- (a) vary, suspend or revoke the licence, as the case may be; and
- (b) as soon as practicable, provide the licensee with notice in writing of its decision and the reasons for the decision.

Review of variation, suspension and revocation

28.—(1) A licensee who is aggrieved by a decision of the Board under section 27(3) varying, suspending or revoking its licence, as the case may be, shall have a right to have the decision reviewed if the aggrieved licensee makes, in writing, an application for that

purpose to the Minister within thirty days after receipt of notice of such decision.

(2) In relation to the application and review referred to in subsection (1), section 24(2), (3), (4), (5), (6) and (7) apply, with the necessary amendment, with the necessary amendments, *mutatis mutandis*.

Accrediting body

29.—(1) The accrediting bodies specified in Schedule 1 are authorised to accredit programmes of study and qualifications offered by an offshore higher education institution in Saint Lucia and for the purposes of this Act are recognized by the Board as an accrediting body.

(2) Notwithstanding subsection (1), the Minister may by Order amend Schedule 1 by adding or deleting specified accrediting bodies.

Procedure for offshore higher education institution operating prior to the commencement of this Act

30.—(1) Subject to subsection (2), with effect from the commencement of this Act, an offshore higher education institution, shall be deemed to be a licensed higher education institution under this Act for a period of no more than one year from the date of commencement of this Act.

(2) An offshore higher education institution under subsection (1), shall, within one year from the date of the commencement of this Act, apply for a license, in accordance with section 17.

(3) A person who contravenes subsections (2) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and in the case of a continuing offence, to a further fine of one thousand dollars for each day for which the offence continues.

Duty of Board to carry out assessments and surveillance visits

31. The Board, or any person who has been authorized by the Board, shall when it believes there is due cause, carry out unscheduled assessment and surveillance visits to any licensed higher education institution at intervals other than those which may be prescribed and,

issue such directions as it considers necessary in relation to the persons comprising the management of the licensed higher education institutions.

Establishment of Recognition Mark

32.—(1) The Minister shall prescribe a Recognition Mark.

(2) A person shall not use the Recognition Mark unless the person is a licensed higher education institution which has obtained from the Board written authorization to use the Recognition Mark.

(3) A licensed higher education institution that wishes to use the Recognition Mark may make an application in this regard to the Board in the prescribed form.

(4) When the Board approves an application to use the Recognition Mark, the Board shall provide the applicant with a registration number to be inserted on the Recognition Mark.

(5) The Recognition Mark shall not be used by any person on any document unless the document relates in whole or in part to activities which have been approved by the Board.

(6) A person that contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding six months.

(6) The Board may make rules to govern the use of the Recognition Mark.

Confidentiality

33. All information obtained by the Board, its officers or any person who has been authorized by the Board, in the assessment of an offshore higher education institution shall be confidential and shall not, subject to the laws of Saint Lucia, be divulged without prior written consent of the person providing such information.

PART III**DUTIES OF A LICENSED HIGHER EDUCATION
INSTITUTION****Conditions to be met by a licensed higher education institution**

34.—(1) A licensed higher education institution shall offer all students enrolled at the licensed higher education institution a standard of education that is consistent with the standards to which its programmes of study have been accredited.

(2) It is a condition of approval that a licensed higher education institution offers the Board and any person who has been authorized by the Board such reasonable access to its premises and co-operation, as may be considered necessary, to enable the Board or any such authorized person to monitor compliance with the terms and conditions of this Act or any regulations made under this Act.

(3) Pursuant to subsection (2), the licensed higher education institution shall make available to the Board or, as the case may be, any such authorised person all information and relevant documents.

(4) A licensed higher education institution that wishes to refer to the fact that it is licensed by the Board in its documents, brochures or advertising media shall –

- (a) subject to paragraph (b), use the following phrase “Licensed higher education institution in Saint Lucia”; and
- (b) where the Board approves an application to use the Recognition Mark and a registration number has been issued by the Board, use the following phrase “Licensed higher education institution” followed by the registration number.

(5) A licensed higher education institution shall –

- (a) at all times comply with the terms and conditions of this Part and with such criteria as prescribed by the Board;
- (b) operate only in respect of those activities which are approved by the Board;

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- (c) pay promptly such fees for application, assessment and surveillance and such other services as shall from time to time be determined by the Board;
- (d) comply with the standards of the accreditation body;
- (e) not make any statement or do any act that the Board would of necessity be required to defend or to correct;
- (f) advise the Board in writing of any change in the accreditation status of a programme of study offered by the offshore higher education institution, within seven days of the occurrence of such change; and
- (g) upon termination or revocation of the term of a licence, immediately discontinue its use or reference to being licensed and withdraw all advertising matter which contains any reference to licensing.

PART IV INCENTIVES

Application for operation as a higher education product

35.—(1) For the purposes of this Part Minister and Ministry refers to the Minister and Ministry for finance, respectively.

(2) A licensee who wishes to benefit from incentives under this Act may apply in writing to the Minister.

(3) An application under subsection (2) shall—

- (a) be in the form set out in Schedule 2;
- (b) specify the tax reliefs or exemptions requested;
- (c) be accompanied by the information required under section 36; and
- (d) be submitted to the Minister.

(4) Cabinet may, by Order published in the *Gazette*, amend Schedule 2.

Supporting information

36.—(1) An application under section 35 shall be accompanied by evidence of ownership of the offshore higher education institution.

(2) The Minister may request in writing from the applicant any further information reasonably required to enable full consideration of the application, within seven days of receipt of the application and supporting information.

(3) Where the Minister makes a request for further information under subsection (2), the applicant shall submit the relevant information in writing within fourteen days of the request being made or within a further period of time granted and specified in writing by the Minister.

(4) The Minister shall not unreasonably refuse to give a further time period under subsection (3).

Determination by Cabinet

37.—(1) Upon receipt of an application, supporting information and any further information under sections 35 and 36, the Minister shall submit the application to Cabinet for its decision.

(2) Where Cabinet approves an application under this section, the decision of Cabinet shall specify-

- (a) the tax reliefs and exemptions granted as specified under Schedule 3;
- (b) the commencement and termination dates for the tax reliefs and exemptions granted;
- (c) any other conditions as it considers necessary.

(3) The Minister shall inform the applicant in writing of the decision of Cabinet and the decision takes effect as of the date of the Minister's letter.

(4) The Minister may, by Order published in the *Gazette*, amend Schedules 2 and 3.

Order by Minister

38. Where Cabinet approves an application, Cabinet shall, by Order published in the *Gazette*, -

- (a) declare the offshore higher education institution to be a higher education product;

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- (b) specify—
 - (i) the tax exemptions and reliefs granted as specified in Schedule 3,
 - (ii) the commencement and termination date of each tax exemption and relief,
 - (iii) any other conditions specified by Cabinet under section 37.

Failure to comply with conditions specified in an Order

39. Where a person fails to comply with the conditions specified in an Order made under section 37—

- (a) Cabinet may by Order published in the Gazette revoke or suspend the first mentioned Order; and
- (b) all tax reliefs or exemptions as were specified in the first mentioned Order are suspended or terminated, as the case may be, with effect from the date specified in the second mentioned Order;
- (c) the person is liable to pay to the Government the value of any tax relief or exemption already received under the first mentioned Order.

Monitoring of compliance

40.—(1) The Ministry responsible for finance shall monitor compliance by an applicant with the terms and conditions upon which a grant of tax reliefs and exemptions was made by Cabinet.

(2) In pursuance of its duty under sub-section (1), a duly authorised official of the Ministry may visit the offices, building sites and other premises from which the applicant conducts business and make inquiries pertinent to the higher education product.

(3) A licensee, his or her officers and agents, shall provide the duly authorized official of the Ministry with all information requested in the course of the official's duty under subsection (1).

(4) The Minister may, on the approval of Cabinet, by Order published in the Gazette, amend all incentives granted under this Act.

Sale or transfer of higher education product

41.—(1) Where a higher education product is sold or transferred during the tax holiday period but continues to be used for the purpose stated in the licence, the tax reliefs and exemptions provided under this Act shall continue to apply to the new owner or lessee, as the case may be, for the remainder of the period.

(2) The owner of the higher education product shall inform the Minister in writing of the proposed changes in the ownership of the higher education product.

(3) The Minister may require additional information from the new owner or lessee of the higher education product.

(4) Notwithstanding the provisions of subsection (1), Cabinet may alter or revoke, in whole or in part, the approval granted in section 37 should the information supplied in the initial application differ significantly as a result of the sale or transfer of the higher education product.

PART V**HIGHER EDUCATION DEVELOPMENT AREAS AND
UNIVERSITY TOWNS****Higher education development areas and university towns**

42.—(1) For the purposes of this Part “Minister” refers to the Minister responsible for finance.

(2) From the commencement of this Act, the areas specified in Schedule 4 are higher education development areas.

(3) The town of Vieux Fort and its environs is declared to be a university town.

(4) An approved higher education developer is entitled to incentives with respect to the projects specified in Schedule 5;

(5) A person who constructs dormitories or homes for rent or lease to students of an offshore higher education institution may apply for incentives as specified in Schedule 6.

- (6) The Minister may by Order -
- (a) prescribe a development period in respect of any higher education development area;
 - (b) amend Schedule 4 by increasing or decreasing the number of higher education development areas or university towns;
 - (c) prescribe the boundaries of any higher education development area or university town;
 - (d) amend Schedule 5 by adding or deleting, specified activities;
 - (e) prescribe that within a higher education development area or university town only a specified activity will qualify for incentives and exemptions; and
 - (f) amend Schedule 6 by adding or deleting specified incentives.

Approved higher education developer

43.—(1) A person who wishes to be an approved higher education 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 or she thinks fit; or may refuse the application.

(3) The approval of a person as an approved higher education developer must be published in the Gazette.

Compliance

44. An approved higher education developer shall comply with any law in force in respect of land development.

Exemption from income tax

45. Where an investor makes a loan to an approved higher education 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 is exempt from income tax.

Exemption from taxes and duties

46. An approved higher education developer shall be exempt from the payment of taxes and duties as specified by Cabinet-

- (a) for a maximum period of 25 years in respect of a new project;
- (b) for a maximum period of 15 years in respect of an existing licenced higher education institution.

Exemption from value added taxes

47. Notwithstanding the provisions of the Value Added Tax Act, No. 7 of 2012, a higher education product shall be exempt from the payment of value added tax for periods during the development period.

PART VI**MISCELLANEOUS****Collection and recovery of fees**

48.—(1) The fees for application, assessment, surveillance and such other services payable under this Act shall be paid into the Consolidated Fund.

(2) The Comptroller of Inland Revenue may, for the purposes of collecting fees payable under this Act, designate public officers as fee collection agents.

(3) Any fees due and unpaid under this Act shall be recovered as if such fee were a debt due to the Crown.

Regulations

49.—(1) The Minister may make regulations for giving effect to any of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) -

- (a) the Minister for Finance may make regulations prescribing matters required or permitted to be prescribed in respect of Parts 4 and 5 of this Act.

SCHEDULE 2

(section 35)

APPLICATION FOR DECLARATION OF A HIGHER EDUCATION PRODUCT AND HIGHER EDUCATION DEVELOPMENT AREA AND FOR THE GRANT OF TAX RELIEFS AND EXEMPTIONS**A. IDENTIFICATION**

1. Name of Applicant/Licensee
2. Nature of Applicant/Licensee (body corporate or unincorporated body)
3. Address of applicant/Licensee (if body corporate, address of registered office)

B. INCENTIVES SOUGHT

1. Relief sought on property tax, vendor's tax, or alien landholding licence
2. Income tax holiday
3. Customs duty exemptions
4. Stamp duty

C. DETAILS OF PROJECT OR UNDERTAKING

Please provide background/rationale for incentives sought. Indicate previous application (s) for concessions if applicable. The following should be considered:

- Details of facilities and amenities on offer
- Profile of Applicant/Licensee
- Anticipated implementation of the Offshore Higher Education Institution

D. PLANNING APPROVAL OF AN OFFSHORE HIGHER EDUCATION INSTITUTION

(incentives are subject to DCA approval of the accommodation project)

Has the project received approval from the Development Control Authority?

- (i) DCA approval in principle
- (ii) DCA full approval

Approval No

- (iii) DCA Application submitted/pending

E. FINANCING

- (i) Estimated Cost of Project
- (ii) Source(s) of Financing

F. PROJECTED ECONOMIC BENEFITS

Indicate, where applicable, the economic and social benefits of the proposed activity to Saint Lucia to include but not be limited to employment during the construction and operational phase.

G SIGNATURE AND CONTACT INFORMATION

- (i) Name of Applicant/Licensee
- (ii) Signature of Applicant Date: (dd) (mm) (yr)
- (iii) On behalf of (if applicable)
- (iv) Address of Applicant/Licensee
- (v) Telephone Number
- (vi) Facsimile
- (vii) Email Address

The application must be accompanied by the following supporting information—

- (i) evidence of approved licence/ownership of the Offshore Higher Education Institution;
- (ii) evidence of ownership/lease of the land/building(s) to be used for the Higher Education Product;
- (iii) in the case of leaseholds, evidence of a valid leasehold for the land to be used for the Higher Education Product, for a period of no less than 50 years;
- (iii) evidence of planning approval in principle for the Higher Education Product;
- (iv) estimated expenditure on the Higher Education Product and evidence of the financial arrangements and the source of the funds to be used;

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(v) a project feasibility study forecasting economic benefits to Saint Lucia;

Applications should be submitted to:

The Minister responsible for Finance
Ministry of Finance
3rd and 4th Floor
Financial Centre
Bridge Street
CASTRIES

SCHEDULE 3

(sections 37 and 38 and 46)

EXEMPTED TAXES, DUTIES AND FEES

1. Import duty on inputs for the construction of new projects and the renovation or refurbishment of existing buildings.
2. Land and house tax.
3. Stamp duty payable by a vendor and purchaser on the initial purchase of property.
4. Aliens landholding licence fee.
5. Income or corporate tax.
6. Exemption of import duty and taxes on –
 - (a) building materials, fixtures and fittings;
 - (b) energy saving and alternative energy devices and equipment;
 - (c) equipment and other material needed to undertake services to be provided by a higher education product or an approved higher education developer.

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SCHEDULE 4

(section 42)

Higher education development area or University town

Areas falling within the boundaries of the constituency of—

- (a) Vieux Fort North
- (b) Vieux Fort South

SCHEDULE 5

(section 42)

PROJECTS**The construction of-**

1. Higher education institution buildings.
2. Conference centres.
3. Laboratory complexes.
4. Medical facilities.
5. Research facilities.
6. Other facilities directed towards the improvement or expansion of services to the education sector.

SCHEDULE 6

(section 42)

INCENTIVES

Exemptions -

1. from stamp duty payable by a vendor and purchaser on the initial purchase, within one year of the purchase, of a property;
2. from land and house tax for a period of no more than ten years;
3. from income and corporate tax for a period of no more than ten years;
4. from import duty and taxes, on a first construction of a structure, for—
 - (a) building materials, fixtures and fittings;
 - (b) energy saving and alternative energy devices and equipment;
 - (c) furniture including desks and equipment provided that all purchases are shown to be for the exclusive use of students of an offshore higher education institution; and
 - (d) security equipment installed on the compound of the building for rent or lease.

Passed in the House of Assembly this 7th day of July, 2015.

PETER I. FOSTER,
Speaker of the House of Assembly.

Passed in the Senate this 24th day of July, 2015.

CLAUDIUS J. FRANCIS,
President of the Senate