

Airport Development Act

SAINT LUCIA

No. 14 of 2017

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Airport Development Act

I ASSENT

[L.S.]

DAME PEARLETTE LOUISY,
Governor-General.

December 22, 2017.

SAINT LUCIA

No. 14 of 2017

AN ACT to provide for airport development and for related matters.

[27th December, 2017]

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:

*Airport Development Act***PRELIMINARY****Short title and commencement**

1.—(1) This Act may be cited as the Airport Development Act, 2017.

(2) This Act shall come into force on the 1st day of January, 2018.

Interpretation**2. In this Act —**

“Authority” means the Saint Lucia Air and Sea Ports Authority established under section 3 of the Saint Lucia Air and Sea Ports Authority Act, Cap. 8:13;

“carrier” means —

- (a) the owner of an aircraft which transports a passenger from an airport to a place outside Saint Lucia;
- (b) the pilot or other person in charge or control of an aircraft which transports a passenger from an airport to a place outside Saint Lucia;
- (c) the agent of a person referred to in paragraph (a) or (b);
- (d) if the owner referred to in paragraph (a) or the agent referred to in paragraph (c) is a corporation, the director and manager of the corporation;

“collector” means —

- (a) a carrier under section 8(2); or
- (b) a person designated under section 9;

“debt service” means the amount required to satisfy the repayment of a debt on terms mutually agreed between the Authority and a lender;

“development charge” means the airport development charge levied under section 3;

“financial year” means the financial year of the Fund under section 17;

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“Fund” means the Airport Facility Development Fund established under section 13;

“Minister” means the Minister responsible for finance;

“traveller” means a person who —

(a) travels from an airport to a place outside Saint Lucia;
or

(b) proposes to travel from an airport to a place outside Saint Lucia.

Levying of development charge

3.—(1) Subject to subsection (2), a charge to be known as an airport development charge shall be levied on a traveller at the rate specified in Schedule 1.

(2) A traveller specified in Schedule 2 is exempt from the development charge.

Duty of carrier

4. A carrier shall apply the development charge to a ticket purchased by a traveller.

Prohibition of boarding aircraft without payment of development charge

5.— (1) A traveller shall not board, or proceed to board, an aircraft by which he or she proposes to travel from an airport, unless he or she has paid the development charge to a carrier.

(2) A carrier shall not permit a person who is liable to pay, but has not paid the development charge, to board an aircraft of which he or she is in charge or control.

(3) A traveller or carrier who contravenes subsection (1) or (2) commits an offence and is liable, on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months.

(4) A Magistrate may, in addition to a penalty he or she may impose on a traveller or carrier convicted of an offence under subsection (3), order the traveller or carrier convicted to pay a charge

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found to be due and payable by him or her inclusive of interest and may order, in default of such payment, imprisonment of that traveller or carrier for a term not exceeding one month.

Liability of and recovery from carrier

6.—(1) Where the development charge, due and payable remains unpaid by a traveller, the full amount of the development charge is due and payable by, and recoverable from the carrier of that traveller.

(2) Where under subsection (1) a sum of money due and payable in respect of the development charge is recoverable from more than one person, the liability of such persons to pay that sum is joint and several.

(3) A sum due and payable under this section may be recovered as a debt due to the Authority in civil proceedings.

Power to withhold clearance of aircraft from unpaid development charge

7. The authorized officers under section 43(1) of the Saint Lucia Air and Sea Ports Authority Act, Cap. 8.13 may withhold clearance of an aircraft whose pilot or other person in charge or control proposes, or is about to transport a traveller in respect of whom a development charge is due and payable but has not been paid in accordance with this Act.

Payment of development charge to collector

8.—(1) The development charge shall be paid by a carrier to the Authority or to a collector.

(2) If a carrier pays the development charge to the Authority under subsection (1), the carrier is deemed to be a collector.

Designation of collector

9. The General Manager of the Authority may designate, in writing, a person to be a collector for the purposes of this Act.

Functions of collector

10.— (1) A collector shall —

- (a) establish and maintain an accounts payable system to handle the development charge revenue;

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- (b) account for the development charge revenue separately and the development charge revenue must not be commingled with the collector's other sources of revenue;
- (c) segregate the development charge revenue in a designated separate development charge account;
- (d) subject to section 11, pay to the Authority the development charge revenue recorded in the accounting system of the collector no later than the last day of the following calendar month or if that date falls on a weekend or holiday, the first subsequent business day; and
- (e) provide monthly reports to the Authority unless otherwise agreed by the collector and the Authority providing an accounting of funds collected and funds paid.

(2) A report under subsection (1)(e) must, unless otherwise agreed by the collector and the Authority —

- (a) state —
 - (i) the name of the collector and airport involved,
 - (ii) the total development charge revenue collected,
 - (iii) the total development charge revenue refunded to travellers, and
 - (iv) the dates and amounts of each payment for the month;
- (b) be filed by the last day of each month.

(3) The development charge revenue is held by a collector after collection in trust for the beneficial interest of the Authority and the carrier does not hold the legal or equitable interest in the development charge revenue.

(4) A collector that fails to comply with a requirement of this section or causes the Authority to spend funds to recover or retain payment of the development charge revenue shall compensate the Authority for the cost incurred to recover the charge owed and is subject to an interest charge on outstanding development charge revenues for the period until revenues are paid to the Authority.

*Airport Development Act***Payment of development charge to the Authority**

11. A collector shall pay the development charge into and place the development charge to the credit of an account at a bank approved by the Authority with the consent of the Minister.

Debt service

12.—(1) Subject to this section, the development charge is for the purpose of making payments for the debt service requirement of a debt arrangement to implement airport facility improvement projects.

(2) The Authority may enter into a debt arrangement for the purpose of carrying out airport development projects on terms mutually agreed between the Authority and a lender.

(3) Where a debt arrangement is entered under subsection (2), the Authority shall set up a lockbox account into which monies collected from the development charge are transferred.

(4) A lockbox account may be set up exclusively for the benefit of a lender for the purpose of debt service.

(5) A lockbox account set up under subsection (4) —

(a) is immune from and is not subjected to any or available for any rights, duties, claims or other expenses of or against the Authority, the Government or any other corporate or governmental entity related to the Authority or the Government;

(b) shall be administered by a trustee for the exclusive interest of the lender and for the purpose of debt service.

(6) The proceeds in a lockbox account may be subjected to a perfected first security interest pledged to a lender.

(7) The Authority shall ensure that the revenue in a lockbox account is not less than sufficient to meet the sums required to service the debt incurred.

Establishment of Airport Facility Development Fund

13. There is established an Airport Facility Development Fund.

Administration of the Fund

14. The Authority shall administer the Fund.

*Airport Development Act***Revenue of the Fund**

15. The revenue of the Fund consists of the development charge and the interest on the development charge that exceeds the debt service requirement of a debt arrangement.

Expenses of the Fund

16. The expenses of the Fund shall be determined by the Authority with the approval of the Minister.

Financial year of the Fund

17. The financial year of the Fund commences on the 1st day of April and ends on the 31st day of March in each year or such other period as the Authority may specify by notice published in the *Gazette*.

Budget and plan of action

18. The Authority shall not later than the 31st day of December in each year —

- (a) prepare and adopt a budget with the estimates of the Fund's revenue and expenses and a plan of action for the Fund in respect of the next financial year; and
- (b) submit the budget and plan of action under paragraph (a) to the Minister in the form the Minister directs.

Accounts

19. The Authority shall —

- (a) keep proper records of accounts in relation to the Fund in accordance with generally accepted international accounting standards and principles; and
- (b) prepare and retain financial statements in relation to the Fund for each financial year.

Audit

20.—(1) The Authority shall within three months after the end of each financial year have the accounts of the Fund audited by an independent auditor appointed by the Authority who shall conduct

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the audit in accordance with generally accepted international auditing standards and provide the Authority with an audited financial statement and a report on the financial statement.

(2) The employees of the Authority shall grant to the auditor appointed under subsection (1), access to books, deeds, contracts, accounts, vouchers, or other documents in relation to the Fund which the auditor considers necessary.

(3) The auditor may require the employees of the Authority referred to under subsection (2) to appear, make a signed statement or provide information relating to the books, deeds, contracts, accounts, vouchers, or other documents in relation to the Fund as the auditor considers necessary.

(4) An employee who fails to comply with subsections (2) and (3) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years or to both.

Annual report

21.—(1) Subject to subsection (2), and not later than six months after the end of the financial year, the Authority shall submit to the Minister, an annual report on the operations and activities of the Fund.

(2) An annual report under subsection (1) must be accompanied by the auditor's report under section 20.

(3) The Minister shall lay an annual report and auditor's report submitted under subsection (2) in Parliament.

Amendment of Schedule

22. The Minister may, on the recommendation of the Authority, by Order published in the *Gazette*, amend Schedule 1 or Schedule 2.

Regulations

23. The Minister may, on the recommendation of the Authority, make Regulations for carrying the provisions of this Act into effect.

Repeal

24. The Hewanorra International Airport Development Act, No. 7 of 2015 is repealed.

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SCHEDULE 1

(Section 3(1))

RATE OF TAX

	Rate of Tax
All Travellers	\$US 35 or the equivalent in Eastern Caribbean Dollars

*Airport Development Act***SCHEDULE 2**

(Section 3(2))

**TRAVELLERS EXEMPTED FROM PAYMENT OF
DEVELOPMENT CHARGE**

- (a) the Governor General, his or her spouse and children under the age of eighteen years when travelling with him or her;
- (b) a member of Parliament, his or her spouse and children under the age of eighteen years when travelling with him or her;
- (c) a Judge of the Eastern Caribbean Supreme Court;
- (d) a person signified by a Minister or a Permanent Secretary of a Ministry, to be travelling on business of the Government;
- (e) a person signified by a Minister to be guests of the Government;
- (f) an official representative of the government of any country, his or her spouse and children under the age of eighteen years when travelling with him or her;
- (g) a representative of the United Nations Organization or other international or regional organization accorded diplomatic privileges in Saint Lucia or a person sent on a mission on behalf of an organization, their spouses and their children under the age of eighteen years;
- (h) a member of the protective services of Saint Lucia or a friendly country, when travelling on official duty;
- (i) a person leaving Saint Lucia on the same day of arrival;
- (j) a member of the operating crew of an aircraft;
- (k) a minister of a religious denomination which has a congregation in Saint Lucia and registered with the Ministry responsible for ecclesiastical affairs;
- (l) a student who is a Saint Lucian national, citizen or resident proceeding abroad to an educational institution to pursue a course of study approved by the Ministry responsible for education;
- (m) a person repatriated, or deported from Saint Lucia by the Government, or under any law in force;
- (n) a person below the age of twelve years;

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- (o) a person who is a Saint Lucian national, citizen or resident proceeding abroad to represent Saint Lucia at —
 - (i) a sporting event approved by the Ministry responsible for Sports,
 - (ii) a youth event approved by the Ministry responsible for Youth,
 - (iii) a cultural event approved by the Ministry responsible for Culture.

Passed in the House of Assembly this 5th day of December, 2017.

LEONNE THEODORE-JOHN,
Speaker of the House.

Passed in the Senate this 7th day of December, 2017.

ANDY G. DANIEL,
President of the Senate.