

SAINT LUCIA

No.8 of 2017

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I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

July 26, 2017.

SAINT LUCIA

No. 8 of 2017

AN ACT to repeal and replace the Tourist Industry Development Act, Cap. 15.32, to increase the socio-economic contribution of tourism to national development and for related matters.

[14th August, 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:

PRELIMINARY**Short title**

1. This Act may be cited as the Saint Lucia Tourism Authority Act, 2017.

Interpretation

2. In this Act —

“Authority” means the Saint Lucia Tourism Authority established under section 4;

“Board” means the Board of Directors under section 7;

“Chairperson” means the director appointed as Chairperson under section 7(2)(b);

“Chief Corporate Officer” means the person appointed as Chief Corporate Officer under section 22(1)(a);

“Chief Executive Officer” means the Chief Executive Officer to the Authority appointed under section 21(1);

“Chief Financial Officer” means the person appointed as Chief Financial Officer under section 22(1)(b);
“code of practice” means a code of practice issued under section 38;

“Deputy Chairperson” means the Deputy Chairperson of the Authority designated under section 7(6);

“Director” means a director of the Board;

“Minister” means the Minister responsible for tourism unless otherwise stated;

“Tourism Industry” means the people, activities and organizations involved in providing services for people on holiday.

Application

3. A function or power under this Act shall not be exercised so as to limit or restrict the exercise of the function or power conferred by a law relating to statutory bodies.

PART I
SAINT LUCIA TOURISM AUTHORITY

Establishment of the Authority

4. There is established a body to be known as the Saint Lucia Tourism Authority which shall be a body corporate to which section 19 of the Interpretation Act, Cap.1.06 applies.

Functions of the Authority

5. The functions of the Authority are —

- (a) to advance and facilitate the efficient growth and development of the tourism industry in Saint Lucia;
- (b) to assign and implement suitable marketing strategies for the effective promotion of Saint Lucia as a desirable visitor destination;
- (c) to encourage the establishment and enhancement of amenities, facilities and destination services appropriate for the proper engagement of Saint Lucia as a tourist destination;
- (d) to carry out market research in order to inform the needs of the tourism industry;
- (e) to identify and facilitate training and capacity building needs for the tourism industry;
- (f) to facilitate business opportunities and linkages between tourism and other sectors of the economy;
- (g) to advise the Minister on all matters relating to tourism in Saint Lucia;
- (h) to do other things that in the opinion of the Authority, facilitates the proper discharge of its functions or would be incidental or conducive to its functions; and
- (i) to perform other functions specified in this Act.

Powers of the Authority

6. The Authority shall have the power to do things necessary or convenient for or in connection with the performance of its functions.

Board of Directors

- 7.—(1) The Authority shall be governed by a Board of Directors.
- (2) The Board of Directors consists of seven directors of whom —
- (a) three must be persons appointed by the Minister in writing;
 - (b) one must be a person appointed by the Minister in writing to be Chairperson; and
 - (c) three must be persons nominated by primary hotel and tourism associations for appointment by the Minister in writing.
- (3) The directors shall be appointed from amongst persons who have had experience in, and shown capacity in matters relating to —
- (a) law;
 - (b) marketing;
 - (c) business;
 - (d) finance and accounting; and
 - (e) tourism.
- (4) Prior to the first occasion on which an appointment is to be made under subsection (2)(c), and on each later occasion when an office of a director becomes vacant, the Minister shall in writing, request the primary hotel and tourism associations under subsection (2)(c) to nominate within seven days of receiving the request, a person to the Board.
- (5) If a nomination is not received by the Minister within the period requested, the Minister may appoint a person he or she thinks fit and a person appointed under this subsection holds office as if nominated under subsection (4).
- (6) The directors shall designate one of their number as the Deputy Chairperson.
- (7) Where the Chairperson is absent, the Deputy Chairperson shall have all the powers of the Chairperson.
- (8) The Minister shall by notice published in the *Gazette* provide the names of the directors as is first constituted and every change in the constitution of the Board.

Disqualification

8. A person is disqualified from being a director and is not eligible to be appointed as a director, or having been appointed, is not eligible to continue as a director if that person —

- (a) is an employee of the Authority;
- (b) has filed for bankruptcy in a court or is declared by a court to be a bankrupt;
- (c) is declared by a court to be mentally incapacitated by reason of unsoundness of mind;
- (d) has been convicted of a criminal offence except if the offence —
 - (i) is a minor traffic offence, or
 - (ii) is spent in accordance with the Criminal Records (Rehabilitation of Offenders) Act, Cap. 3.13; or
- (e) is a member of Parliament.

Functions of the Board

9.—(1) The Board shall exercise and perform, in the name of the Authority, the functions conferred on the Authority under this Act.

(2) Without prejudice to subsection (1), the Board shall —

- (a) set the mission, vision, values, strategic priorities, objectives, performance targets and organizational policies of the Authority;
- (b) review the performance of the Chief Executive Officer, Chief Financial Officer and Chief Corporate Officer;
- (c) confirm the appointment and compensation of the Chief Executive Officer;
- (d) ensure that proper financial records are kept and that a corporate plan and budget estimates are prepared;
- (e) regularly monitor the Authority's performance against strategies and plans;
- (f) prepare and submit to the Minister a Tourism Marketing and Product Development Strategic Plan for the conduct of tourism development;

- (g) take action to leverage opportunities or address weaknesses within the external operating environment;
- (h) ensure there are adequate processes in place to comply with statutory obligations, legal and accounting requirements and government policy and practices as directed by the Minister;
- (i) ensure good corporate governance;
- (j) ensure that the risks to which the Authority is exposed are clearly identified and that suitable processes are in place to manage or mitigate the risks;
- (k) report, on a quarterly and annual basis, the Authority's performance to the Minister and members of the tourism industry and broader community; and
- (l) act ethically, upholding and modelling the correct values, adhering to codes of practice and administer the codes of practice.

(3) The Tourism Marketing and Product Development Strategic Plan under subsection (2)(f) is subject to annual review and updating by the Board and the reviews and updates must be submitted to the Minister.

Policy directions

10. The Minister may give directions in writing to the Board of a general policy nature and the Authority shall comply with the directions.

Term of appointment

11.—(1) Unless a director resigns under section 12 or the director's appointment is revoked under section 13, the appointment of a director is for a term not exceeding three years.

(2) A director may be reappointed.

Resignation

12.—(1) A director, other than the Chairperson, may resign his or her office by notice in writing addressed to the Minister through the Chairperson.

(2) The Chairperson may, by notice in writing addressed to the Minister, resign from his or her office.

Revocation

13. The Minister may, by notice in writing, revoke the appointment of a director if the Minister is satisfied that the director —

- (a) is disqualified from being a director under section 8;
- (b) is unable to perform the functions of his or her office;
- (c) commits an act of misconduct; or
- (d) has failed to attend three consecutive meetings of the Authority without presenting a medical certificate or without being excused —
 - (i) in the case of the Chairperson, by the Minister in writing, or
 - (ii) in the case of any other director, by the Chairperson in writing.

Vacancy

14.—(1) The office of a director is vacated —

- (a) on the death of the director;
- (b) if the director becomes disqualified under section 8;
- (c) if the director resigns under section 12;
- (d) if the Minister revokes the appointment of the director under section 13; or
- (e) on the expiry of the director's term of appointment.

(2) A decision of the Authority taken at a meeting is not invalidated because there is a vacancy in directorship as long as there was the quorum required under section 19(6).

Temporary appointment

15.—(1) The Minister may appoint a person to act temporarily in place of a director who is absent from Saint Lucia or who is unable to act.

(2) A person appointed under subsection (1) shall act for the duration of the absence or inability of the director.

Remuneration

16. A director shall be paid by the Authority from the revenue of the Authority remuneration as may be determined by the Minister.

Committees

17.—(1) The Board may, for the purpose of carrying out its functions under this Act, establish committees to give advice to the Board on matters as the Board determines.

(2) The Board may appoint persons who are not directors or who are not employees of the Authority to a committee established under subsection (1), but such persons shall not comprise more than one-half of the membership of the committee.

(3) If a person other than a director is appointed to a committee under subsection (2), the Board may, determine the remuneration and allowances to be paid to that person.

(4) The Chairperson of a committee must be a person other than the Chairperson of the Board or Chief Executive Officer.

(5) The recommendations made by a committee established under subsection (1) are not binding on the Board but may be considered by the Board in making decisions.

(6) Without limiting the generality of this section, the Board shall appoint an Audit Committee.

Delegation

18. The Board may, by resolution of a majority of directors, for the purpose of carrying out its functions under this Act, delegate, in writing to one or more of its directors or to an employee of the Authority, the power to carry out on behalf of the Authority, such functions as the Board determines.

Meetings

19.—(1) The Board shall meet at least six times each year or at such times as may be necessary or expedient for the transaction of business of the Authority.

(2) The meetings of the Board must be held at the place the Chairperson determines.

(3) The Chairperson may call a special meeting of the Board within forty-eight hours of receipt of a written request for that purpose addressed to the Chairperson by three directors.

(4) The Chairperson and any other director is deemed to be present at a meeting of the Board if the Chairperson or the other director participates by telephone, video link or satellite, and all directors participating in the meeting are able to hear and to speak to each other.

(5) At a meeting of the Board —

(a) the Chairperson shall preside; or

(b) if the Chairperson is not present, the Deputy Chairperson shall preside; or

(c) if the Chairperson or the Deputy Chairperson is not present, the directors present shall choose one of their number to preside.

(6) A meeting of the Board is constituted if at the meeting there is the presence of the Chairperson or Deputy Chairperson and a quorum of not less than five directors participating in the meeting.

(7) Decisions of the Board shall be taken by a simple majority of votes of directors present and voting at the meeting.

(8) The Chairperson or Deputy Chairperson shall have an original vote and in cases of equal division the Chairperson or Deputy Chairperson shall have the casting vote.

(9) The Board may co-opt a person to attend a meeting of the Board at which it is proposed to deal with a particular matter, for the purpose of assisting or advising the Board, but a co-opted person shall not have the right to vote.

(10) Minutes of each meeting of the Board shall be recorded and kept by the Chief Corporate Officer.

(11) Subject to this section, the Board may regulate its own proceedings.

Declaration of interest and abstention from voting

20.—(1) A director who has a pecuniary or other interest in a matter before the Board shall declare the nature of his or her interest at the first meeting of the Board at which it is practicable to do so.

(2) If a director declares an interest under subsection (1), the director shall leave the meeting on the matter coming up for discussion and shall not receive other communication on the matter.

(3) A declaration under subsection (1) and the departure of a director from the meeting under subsection (2) shall be noted in the minutes of the meeting.

(4) A director commits an act of misconduct if he or she —

- (a) contravenes subsection (1);
- (b) votes in respect of a matter before the Board in which he or she has an interest; or
- (c) seeks to influence the vote of another director in relation to a matter before the Board.

(5) A person who contravenes subsection (1) 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 and to revocation of his or her appointment under section 13.

Chief Executive Officer

21.—(1) The Board shall, with the approval of the Minister, appoint a person as the Chief Executive Officer on such terms and conditions as the Board determines.

(2) The Chief Executive Officer shall —

- (a) manage the day-to-day affairs of the Authority;
- (b) implement the strategic risk and compliance initiatives set by the Board and other decisions of the Board;
- (c) measure, and attain performance targets approved by the Board;
- (d) communicate Board decisions, policies and priorities to employees;

- (e) present organizational performance reports and budgets to the Board;
- (f) attend meetings of the Board unless directed otherwise by the Chairperson but have no voting rights in the meeting; and
- (g) perform the functions assigned to him or her under this Act.

(3) The Chief Executive Officer may, in writing, delegate his or her functions to an employee of the Authority.

Employees of the Authority

22.—(1) The Chief Executive Officer shall appoint, at such remuneration and on such terms and conditions as may be approved by the Board —

- (a) a Chief Corporate Officer;
- (b) a Chief Financial Officer; and
- (c) other employees as the Board considers necessary for the performance of the functions and powers of the Authority.

(2) An employee appointed under subsection (1) shall perform the duties assigned to him or her under this Act and by the Chief Executive Officer.

Chief Corporate Officer

23. The Chief Corporate Officer shall —

- (a) serve as Secretary to the Board;
- (b) manage Board and Committee meeting logistics;
- (c) attend and record minutes of Board and Committee meetings;
- (d) facilitate Board communications;
- (e) monitor corporate governance developments;
- (f) assist the Board in adhering to governance practices; and

- (g) be responsible for the human resources, administration and information technology.

Chief Financial Officer

24.—(1) The Chief Financial Officer shall have day-to-day responsibility for planning, implementing, managing and controlling financial-related activities of the Authority.

(2) Without prejudice to the generality of subsection (1), the Chief Financial Officer shall be responsible for —

- (a) accounting;
- (b) finance;
- (c) forecasting;
- (d) job costing;
- (e) property management;
- (f) negotiations; and
- (g) private and institutional financing.

Seal

25.—(1) The Authority shall have an official seal.

(2) The affixing of the official seal of the Authority shall be in the presence of, and witnessed by —

- (a) the Chairperson or the Deputy Chairperson and the Chief Corporate Officer; and
- (b) the Chief Executive Officer.

(3) A document, other than a document required by law to be under seal, which is executed by, and a decision of, the Authority shall be signed by —

- (a) the Chairperson or a director authorized in writing by the Chairperson to act on behalf of the Chairperson; and
- (b) the Chief Executive Officer.

Secrecy and confidentiality

26.—(1) A director or an employee of the Authority shall sign a secrecy and confidentiality instrument in a form specified by the Authority.

(2) Subject to subsection (3), a director or an employee of the Authority shall not disclose to another person information relating to —

- (a) the business affairs of the Authority;
- (b) the affairs of a customer or director,

that the director or employee has acquired in the course of his or her functions or in the exercise of the Authority's functions under this Act or any other law.

(3) Subsection (2) does not apply to a disclosure —

- (a) in respect of the affairs of a director or customer, with the consent of the director or the customer, which consent has been voluntarily given;
- (b) for the purpose of enabling or assisting the Authority in exercising a function conferred on it under this Act or any other law;
- (c) if the information disclosed is or has been available to the public from another source;
- (d) if the information disclosed is in a summary or in statistics expressed in a manner that does not enable the identity of a customer or director to which the information relates, to be ascertained;
- (e) lawfully made to a person with a view to the institution of, or for the purpose of —
 - (i) criminal proceedings, or
 - (ii) disciplinary proceedings relating to the discharge of duties by a director or employee of the Authority; or
- (f) for the purposes of legal proceedings pursuant to a court order.

(4) A person who contravenes subsection (2) 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 and in the case of a director, to revocation of his or her appointment.

Protection from liability

27.—(1) An action or other proceedings shall not lie against a director, or an employee of the Authority in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of his or her functions under this Act except in cases of personal injury.

(2) The Authority shall indemnify a director or an employee of the Authority for the legal cost of defending an action in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of his or her functions under this Act.

PART II FINANCE

Financial year of the Authority

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

Revenue of the Authority

29.—(1) The Revenue of the Authority comprises —

- (a) sums allocated to the Authority by Parliament;
- (b) taxes, fees and charges payable to the Authority under any other law;
- (c) fees payable to the Authority under section 36;
- (d) revenue raised by the Authority in the form of loans, grants, investments or other lawful means; and
- (e) other sums that may become payable to or vested in the Authority in respect of matters incidental to its functions and powers.

(2) The revenue of the Authority in a financial year must be applied in payment of —

- (a) the interest and other charges on, and the repayment of, a loan payable by the Authority;
- (b) the remuneration and fees payable under this Act; and
- (c) expenses incurred by the Authority in the discharge of its functions under this Act.

Borrowing

30.—(1) The Authority may, with the approval of the Minister responsible for finance, borrow money from the Government or a financial institution by way of loan, overdraft or otherwise on the terms with respect to the borrowing, issue, transfer and interest as the Minister responsible for finance approves for —

- (a) the provision of working capital; and
- (b) the performance of the functions of the Authority under this Act.

(2) The Authority may, with the approval of the Minister responsible for finance, raise additional working capital.

Guarantee

31.—(1) The Minister responsible for finance may, with the approval of Parliament, guarantee in the manner and on conditions as he or she thinks fit, the payments of the principal and interest of an authorized borrowing by the Authority.

(2) If the Minister responsible for finance is satisfied that there has been default in the payment of principal money or interest guaranteed under this section, he or she shall direct the repayment out of the Consolidated Fund for the amount in respect of which there has been such default.

Budget and plan of action

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

- (a) prepare and adopt a budget with the estimates of its income and expenditure and a plan of action for the Authority in respect of the next financial year; and

- (b) submit the budget and plan of action to the Minister in the form the Minister directs.

Accounts

33. The Authority shall keep proper records of accounts in accordance with generally accepted international accounting standards and principles and shall prepare and retain financial statements in respect of each financial year.

Audit

34.—(1) The Authority shall within three months after the end of each financial year have its accounts audited by an independent auditor appointed by the Authority who shall conduct 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 directors, the Chief Executive Officer, and employees of the Authority shall grant to the auditor appointed under subsection (1), access to books, deeds, contracts, accounts, vouchers, or other documents which the auditor considers necessary.

(3) The auditor may require the director, Chief Executive Officer or employee referred to under subsection (2) to appear, make a signed statement or provide information in relation to the books, deeds, contracts, accounts, vouchers, or other documents as the auditor considers necessary.

(4) A person who fails to comply with subsection (2) commits an offence and on summary conviction is liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both and to revocation of his or her appointment as a director or termination of employment as Chief Executive Officer, or employee of the Authority.

Annual report

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

- (a) an account of the performance of activities and operations of the Authority;
- (b) an assessment of marketing performance undertaken under this Act; and
- (c) an analysis of the programme of the tourism industry during the preceding year.

(2) An annual report under subsection (1) shall be accompanied by the auditor's report under section 34.

(3) The Minister shall submit an annual report and auditor's report submitted under subsection (1) to be laid in Parliament within twenty-eight days of its receipt by the Minister, or if Parliament is not in session, within twenty-eight days of the next session of Parliament.

PART III MISCELLANEOUS

Fees

36. The Authority may charge fees as are determined by the Board for a service offered by the Authority under this Act.

Disposal of immovable capital asset

37. The Authority shall not, without the prior approval in writing of the Minister responsible for finance —

- (a) dispose of its capital assets; or
- (b) apply the proceeds of a disposal under paragraph (a) to an undertaking.

Code of practice

38.—(1) The Authority may by Rules published in the *Gazette* issue codes of practice.

(2) A breach of the codes of practice issued by the Authority under subsection (1) is an act of misconduct.

Regulations

39. The Minister may, after consultation with the Authority, make Regulations to give effect to this Act.

Repeal

40. The Tourist Industry Development Act, Cap. 15.32 is repealed.

Transitional provisions

41.—(1) From the date of commencement of this Act —

- (a) the Saint Lucia Tourist Board ceases to exist as a body corporate and its affairs must be adequately wound up;
- (b) the rights of the Saint Lucia Tourist Board become the rights of the Authority;
- (c) an agreement entered into by or on behalf of, or undertaking given to or to a person on behalf of, the Saint Lucia Tourist Board has effect as if the Authority were the original party to it, and a reference in such agreement or undertaking to the Saint Lucia Tourist Board shall be construed as a reference to the Authority;
- (d) nothing done by the Saint Lucia Tourist Board is invalidated by the coming into force of this Act, and any thing commenced by the Saint Lucia Tourist Board may be carried on and completed by the Authority;
- (e) an action, proceedings and any matter commenced or pending by or against the Saint Lucia Tourist Board may be continued as if the Authority were a party to it; and
- (f) the debts and liabilities of the Saint Lucia Tourist Board become the debts and liabilities of the Government.

(2) In this section, “Saint Lucia Tourist Board” means the Saint Lucia Tourist Board established under the Tourist Industry Development Act, Cap. 15.32, repealed under section 40.

Passed in the House of Assembly this 27th day of June, 2017.

LEONNE THEODORE-JOHN,
Speaker of the House.

Passed in the Senate this 29th day of June, 2017.

ANDY G. DANIEL,
President of the Senate.

