



CHAPTER 15.31

TOURIST (DUTY-FREE SHOPPING SYSTEM) ACT

Revised Edition

Showing the law as at 31 December 2005

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TOURIST (DUTY-FREE SHOPPING SYSTEM) ACT

Act 23 of 1986 in force 31 January 1987

Amended by Act 20 of 1999 in force 29 May 1999

Amended by S.I. 52/1987 in force 31 October 1987

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Amended by S.I. 78/1993 in force 18 December 1993

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CHAPTER 15.31

TOURIST (DUTY-FREE SHOPPING SYSTEM) ACT

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CHAPTER 15.31

TOURIST (DUTY-FREE SHOPPING SYSTEM) ACT

(Acts 23 of 1986 and 20 of 1999 and S.I. 52/1987, 72/1987, 78/1993, 80/1996, 161/2000 and 101/2002)

AN ACT to provide for a tourist duty-free shopping system permitting duty concessions on goods for export and for connected matters.

Commencement [31 January 1987]

PART 1 PRELIMINARY

1. SHORT TITLE

This Act may be cited as the Tourist (Duty-Free Shopping System) Act.

2. INTERPRETATION

In this Act—

“**approved goods**” means any class or description of goods specified in Schedule 1 as approved goods;

“**approved premises**” means Pointe Seraphine and includes any portion of land or place declared by the Minister under section 3 to be approved premises for the purpose of duty-free shopping;

“**Comptroller**” means the Comptroller of Customs and Excise appointed under section 4 of the Customs (Control and Management) Act;

“**consumable**” means—

- (a) any spirits, wine, or fermented, distilled or spirituous liquors; and
- (b) any cigars, cigarettes or tobacco, specified in Schedule 1 as consumables;

“**diplomats**” means persons entitled to immunities or privileges under the International Organisations and Overseas Countries (Immunities and Privileges) Act;

“**duty-free shopping system**” means the system permitted by this Act for the sale of goods for export free of customs or excise duty or of retail sales tax, consumption tax, stamp duty, or any other tax or duty;

“**licensed duty-free shop**” means any premises, or area in any premises, in relation to which a licence issued under the provisions of section 5 is in force;

“**local resident**” means any person who is not a visitor;

“**Minister**” means the Minister responsible for finance;

“**officer**” has the meaning assigned to it under section 2 of the Customs (Control and Management) Act;

“**Pointe Seraphine**” means the area whose boundaries are defined in Schedule 2, designated a customs area within the meaning of the Customs (Control and Management) Act;

“**visitor**” means a person who is in Saint Lucia—

- (a) on a visitor’s visa; or
- (b) intransit from a place outside Saint Lucia to some other place outside Saint Lucia;
- (c) on a visit primarily for recreational purposes; so, however, that in any case, or on any occasion, where that person’s status as a visitor is being considered for the purposes of this Act, a person shall not be deemed to be a visitor if—
 - (i) on that occasion his or her stay in Saint Lucia exceeds 6 months, or
 - (ii) during his or her stay, he or she works or performs any function in Saint Lucia for payment or reward.

3. **POWER TO AMEND SCHEDULE AND DECLARE APPROVED PREMISES**

The Minister may by order published in the Gazette—

- (a) amend the Schedules; or
- (b) declare any place to be approved premises for the purposes of this Act.¹

4. DUTY-FREE SHOP OPERATOR'S LICENCE

- (1) The Comptroller may, on application made in the prescribed manner and on payment of the prescribed fee, grant to any person who desires to operate on his or her own account a licensed duty-free shop on the approved premises, a licence (hereinafter referred to as a duty-free shop operator's licence) so to do.
- (2) Any licence granted under this section may be granted on such terms and subject to such conditions as may be prescribed or as the Comptroller may in any case stipulate.
- (3) Any licence granted under this section shall, unless previously cancelled under this Act, continue in force from the date of issue until the next succeeding 31 December, and may be renewed from year to year.

5. DUTY-FREE SHOP OPERATOR'S AGENCY PERMIT

- (1) The Comptroller may, on application made in the prescribed manner and on payment of the prescribed fee, issue to any person who, not being the holder of, or an applicant for, a duty-free shop operator's licence, is accredited in writing by the holder of, or an applicant for, a duty-free shop operator's licence as an agent for the purposes of the duty-free shopping system, a permit (hereinafter referred to as a duty-free shop operator's agency permit) to operate a duty-free shop as agent for the duty-free shop operator by whom he or she is accredited.
- (2) Every person accrediting an agent for the purposes of subsection (1) shall keep a register in the prescribed form showing every person who is accredited for this purpose, and shall not grant any such accreditation without making the

¹ **Editor's note:** *The following property is declared to be approved premises for the purpose of duty free shopping by S.I. 80/1996: land bounded as follows—*

North Boundary: Northern Wharf

South Boundary: Jeremie Street

East Boundary: Shed 2 and Peter's Photo Studio

West Boundary: Customs and Excise Headquarters Building

appropriate entry in the register; and if any person contravenes the requirements of this subsection he or she shall, in respect of each contravention, incur a penalty of \$500.

- (3) Any permit under this section may be issued subject to such terms and conditions as may be prescribed or as the Comptroller may in any case stipulate.
- (4) Any permit issued under this section shall, unless previously cancelled under this Act, continue in force from the date of issue until the next succeeding 31 December, and may be renewed from year to year.

6. DUTY-FREE SHOP LICENCE

- (1) The Comptroller may, on application in the prescribed manner and on payment of the prescribed fee grant to any person who is—
 - (a) the holder of, or an applicant for, a duty-free shop operator's licence; or
 - (b) the holder of, or an applicant for, a duty-free shop operator's agency permit,

a licence (hereinafter referred to as a duty-free shop licence) in relation to the approved premises specified in the application, authorising the use of such premises or any area in such premises as a licensed duty-free shop where approved goods or consumables may be sold under the duty-free shopping system.

- (2) Any licence granted under this section may be granted subject to such terms and conditions as may be prescribed or as the Comptroller may in any case stipulate.
- (3) Any licence granted under this section shall unless previously cancelled under this Act, continue in force from the date of issue until the next succeeding 31 December, and may be renewed from year to year.

7. TIME LIMIT FOR APPLICATION FOR RENEWAL

Every application for the renewal of a licence or a permit under this Act shall, unless the Comptroller otherwise permits, be delivered to the Comptroller not later than 21 days before the expiry of that licence or permit, as the case may be.

8. REFUSAL TO GRANT OR RENEW LICENCE OR PERMIT

- (1) Subject to the right of appeal conferred by section 10, the Comptroller may, in his or her discretion, refuse to grant, or to renew, any licence or permit under this Act, and shall so refuse if he or she is not satisfied that the applicant is, or satisfactory evidence is produced that the applicant is not, a fit and proper person to be the holder of a licence or permit, or where it appears that the applicant—
- (a) not being a body corporate, is under 18 years of age;
 - (b) is not resident in Saint Lucia, or was not so resident throughout the 6 months immediately preceding the date of the application;
 - (c) being a body corporate is not incorporated in Saint Lucia;
 - (d) has within the immediately preceding 12 months been refused the grant or renewal of a duty-free shop operator's licence or a duty-free shop operator's agency permit;
 - (e) has been the holder of a duty-free shop operator's licence or a duty-free shop agency permit which has been cancelled within the immediately preceding 12 months; or
 - (f) has been found to be knowingly concerned with evading or attempting to evade the provisions of this Act or of the Customs (Control and Management) Act relating to the importation or exportation of any goods.
- (2) Where the Comptroller refuses an application for the grant or renewal of a licence or a permit, he or she shall refund to the applicant any fee paid in respect of such application.

9. CANCELLATION OF LICENCE OR PERMIT

The Comptroller shall cancel a licence or a permit under this Act if—

- (a) the holder of the licence or the permit is convicted of any offence involving fraud or dishonesty;
- (b) the holder of the licence or the permit is found to be knowingly concerned with evading or attempting to evade the provisions of this Act or of the Customs (Control and Management) Act relating to the importation or exportation of any goods, in connection with the duty-free shopping system; or

- (c) after due consideration and determination in the prescribed manner of any application made in the prescribed form—
 - (i) by any person, or
 - (ii) by any organisation or association recognised by the Comptroller as representing operators of duty-free shops,

requesting that the licence or permit be cancelled, he or she is satisfied that the holder is no longer a fit and proper person to hold such licence or permit.

10. RIGHT OF APPEAL

- (1) In any case where the Comptroller cancels a licence under section 9(c), or refuses to grant or to renew any licence or permit under this Act, the holder of, or the applicant for, as the case may be, the licence or permit may, at any time within 60 days after the decision of the Comptroller has been communicated to him or her, and on payment of such fee as may be prescribed, appeal in the prescribed manner to the Cabinet.
- (2) On such appeal the Cabinet may—
 - (a) confirm the cancellation or refusal; or
 - (b) on payment by the applicant of the prescribed fee, restore, grant or renew the permit or licence, as the case may be,and the decision of the Cabinet on any such appeal shall be final.

11. BOND MAY BE REQUIRED

The Comptroller may require any applicant, as a condition precedent to the grant of a licence under this Act, to furnish a bond—

- (a) in such sum; and
- (b) with such number of sureties approved by the Comptroller,

as the Comptroller may specify in each case, providing for due payment of all duties and the due observance of the provisions of this Act and of any regulations made under the Act.

12. OPERATIONAL CHARGE

- (1) The Minister may by order published in the Gazette, declare an operational charge to be paid in respect of every duty-free shop.
- (2) The operational charge shall be a percentage of the sum received as selling price of approved goods sold in a licensed duty-free shop.
- (3) Every holder of a duty-free shop licence shall pay to the Comptroller in respect of every month during which he or she operates a duty-free shop, not later than 14 days after the end of the month, the amount due as operational charge in respect of every licensed duty-free shop operated by him or her.
- (4) In this section “selling price” includes the value, as assessed by the Comptroller, of things exchanged or other consideration accepted by the operator of a licensed duty-free shop or his or her agent as the price or on account of the price of approved goods or consumables purchased or delivered from a duty-free shop.
- (5) Every order under this section shall be subject to affirmative resolution of the Parliament of Saint Lucia.

13. DISPLAY CENTRES

- (1) Any holder of a duty-free shop licence may apply to the Comptroller to register centres where approved goods and consumables may be displayed, subject to the prescribed conditions, for purposes other than sale.
- (2) Any person who sells approved goods or consumables from a display centre or fails to comply with any prescribed conditions applicable to display centres commits an offence and is liable to a fine of \$1,000.

14. SUBMISSION OF RETURNS

- (1) Every holder of a duty-free shop licence shall—
 - (a) make such returns at such times; and
 - (b) keep such records in such form,as may be prescribed or as may be required by the Comptroller.

- (2) The Comptroller may vary the times for making any returns, if he or she thinks fit.

PART 2 WAREHOUSING

15. DUTY-FREE SHOP AS PRIVATE WAREHOUSE

- (1) Every licensed duty-free shop shall be deemed to be a private warehouse for the purposes of the Customs (Control and Management) Act.
- (2) The Comptroller may permit any approved goods or any consumables which, but for the provisions of this Act, would be liable to customs duty, excise duty or consumption tax, or any other taxes or duties, to be removed from any warehouse, or customs area, or private excise warehouse or factory licensed under the Excise Act without payment of such duties or taxes and deposited in the approved premises or a licensed duty-free shop, subject to the prescribed conditions, for purposes of export under the duty-free shopping system.
- (3) The provisions of this section do not confer on any approved goods or consumables any exemption from customs examination either prior to transfer into, or after delivery from, the approved premises or a licensed duty-free shop.

16. COMPTROLLER MAY ISSUE DIRECTIONS

- (1) The Comptroller may issue any directions he or she considers necessary for the better regulation and control of the operations of a licensed duty-free shop.
- (2) The Comptroller may require a written explanation from any person in charge of a licensed duty-free shop, or his or her servant employed in such shop, or his or her agent, in order to enquire into any matter affecting the administration and control of such shop.

17. APPLICATION OF CUSTOMS

The provisions of Part 4 of the Customs (Control and Management) Act shall apply with the necessary modifications to the warehousing of goods under the provisions of this Act.

**PART 3
DUTY-FREE SHOPPING SYSTEM****18. SALE OF APPROVED GOODS AND CONSUMABLES**

Subject to the provisions of this Act and of any regulations made thereunder, any approved goods or consumables warehoused in a licensed duty-free shop may be sold free of any customs, excise or consumption duties or any other duties or taxes to which such goods would, but for the provisions of this Act, be liable.

19. DEPOSIT OF APPROVED GOODS

- (1) Only goods imported or otherwise obtained for sale at the approved premises shall be permitted to be stored at the approved premises.
- (2) Any goods removed from the approved premises other than by a visitor or diplomat are subject to all duties and taxes normally applicable.

20. CONDITIONS APPLICABLE TO SALE OF APPROVED GOODS AND CONSUMABLES

The sale of any approved goods or consumables warehoused in a duty-free shop shall be subject to the following conditions, that is to say—

- (a) approved goods and consumables shall be sold—
 - (i) only for export, or
 - (ii) to arriving passengers at George F.L. Charles Airport;
- (b) subject to any prescribed requirements in respect of packaging or otherwise, approved goods may be delivered to the visitor, local resident or diplomat at the time of purchase; and

- (c) consumables shall not be delivered to the purchaser until and unless satisfactory proof is furnished to the vendor that the purchaser is, at or about the time of the delivery of the consumables, departing from Saint Lucia.

(Amended by Act 20 of 1999)

21. RESTRICTED GOODS

- (1) No goods, class or description of goods prescribed in Schedule 3 shall be brought into or kept in the approved premises without the prior permission of the Comptroller.
- (2) All goods brought into the approved premises in contravention of subsection (1) is liable to forfeiture.
- (3) If any person—
 - (a) brings;
 - (b) is concerned in bringing; or
 - (c) assists any other person in bringing,goods into the approved premises in contravention of subsection (1), he or she commits an offence and is liable to a fine of \$2,500 or treble the value of the goods including any duty payable thereon, whichever is higher.

22. SEARCHES

An officer may search persons and vehicles entering, within, or leaving the approved premises, where there is reasonable cause to do so.

PART 4 OFFENCES AND PENALTIES

23. FALSE ADVERTISEMENT

- (1) Any person who, not being the holder of a duty-free shop operator's licence or a duty-free shop operator's agency permit, with intent to deceive, displays any advertisement indicating in any manner that—

- (a) any premises used by him or her is a licensed duty-free shop;
 - (b) approved goods or consumables may be obtained from him or her or through him or her under the duty-free shopping system; or
 - (c) he or she is authorised to sell goods free of customs duty, excise duty, or consumption tax,
- commits an offence and is liable to a fine of \$4,000.
- (2) In this section “advertisement” has the same meaning assigned to it in section 2 of the Control of Advertisements Act.

24. FAILURE TO CARRY OUT DIRECTIONS

Any person who fails to carry out any direction given in writing by the Comptroller relating to the operation of a duty-free shop commits an offence and is liable to a fine of \$1,000.

25. INFRINGEMENT OF CONDITIONS

Any person who infringes any term or condition subject to which his or her licence or permit was granted, commits an offence and is liable to a fine of \$1,000.

26. REFUSAL TO GIVE EXPLANATION

Any person who, when required by the Comptroller to give a written explanation of any matter relating to the operation of a place used as a private warehouse under this Act, without reasonable cause, refuses or fails to give a satisfactory written explanation or to give any explanation within a reasonable period of time, commits an offence and is liable to a fine of \$1,000.

27. FALSE DECLARATION

Any person who, in any matter relating to the duty-free shopping system or to the operation of any duty-free shop, with intent to deceive—

- (a) makes, or causes to be made, any false declaration, whether oral or written;
- (b) uses, or causes to be used, any false certificate; or

- (c) makes, or causes to be made, any alteration or falsification in any document after that document has been officially issued,

commits an offence and is liable to a fine of \$5,000.

28. EVADING PROVISIONS RELATING TO APPROVED GOODS AND CONSUMABLES

- (1) Any person who, knowingly and with intent to defraud the Government of Saint Lucia of revenue—

- (a) acquires possession of;
- (b) carries, removes, deposits, conceals or harbours; or
- (c) deals in any manner, otherwise than in accordance with the provisions of this Act or of any regulations made thereunder, with,

any approved goods or any consumables on which customs, excise, or consumption duties or any retail sales tax or other tax or duty thereon has not been paid, commits an offence and is liable to a fine for each such offence of \$500 or treble the value of such goods, at the election of the Comptroller and, in addition, all such goods shall be forfeited.

- (2) Any person who commits an offence under subsection (1), on summary conviction, liable to imprisonment for a period not exceeding 2 weeks.

29. FAILURE TO MAKE RETURNS

Any person who fails or refuses—

- (a) to make such returns at such times;
- (b) to keep such records in such form; or
- (c) to embody in any return any such information,

as may be prescribed or as may be required by the Comptroller, commits an offence and is liable to a fine of \$500.

30. PENALTY RECOVERABLE FROM BOND

Without prejudice to any form of recovery, any penalty incurred under the provisions of this Act may be recovered by the

Comptroller, in whole or in part, from any bond furnished under section 11.

31. PROSECUTIONS FOR OFFENCES

Subject to section 32, any offences under this Act may be prosecuted, and any penalty incurred under, or forfeiture imposed by this Act may be sued for, prosecuted or recovered summarily in a magistrate's court, and any sum of money payable under this Act may be recovered and enforced in a summary manner in a magistrate's court on the complaint of the Comptroller or any officer.

32. PROVISION FOR MITIGATION OF SEVERITY OF LAW

Despite section 31, Cabinet may accept a money payment *in lieu* of proceedings for any fine, penalty or forfeiture incurred under this Act, and may also order the restitution of anything seized, and may order the remission of any duty paid under this Act.

33. COMPTROLLER MAY MITIGATE PENALTY

Subject to the approval of Cabinet (which approval may be signified by general directions to the Comptroller) and despite anything contained in section 31, the Comptroller may mitigate or remit any penalty or restore anything seized under this Act at any time prior to the commencement of proceedings in any court against any person for any offence against this Act or for the condemnation of any seizure.

34. REGULATIONS

(1) The Minister may make regulations generally for the better carrying out of the purposes and provisions of this Act, and in particular, but without prejudice to the foregoing, may make regulations—

- (a) prescribing the form and manner in which applications shall be made for any licence or permit which may be granted under this Act, and the forms of such permits or licences;
- (b) prescribing any fees to be paid under this Act;

- (c) prescribing the nature of the notices, emblems or other instruments to be displayed in duty-free shops;
- (d) prescribing the method of packaging of approved goods and consumables;
- (e) governing the movements of persons, vehicles, and goods into, within or out of the approved premises;
- (f) prescribing any other matter or anything which may be, or is required to be, prescribed.

SCHEDULE 1

(Section 2)

PART 1 APPROVED GOODS

1. Apparel (top quality)
2. Binoculars
3. Electric and electronic components and goods
4. Photographic cameras with accessories and lenses
5. Chinaware — bone and porcelain
6. Cosmetics
7. Cutlery and articles of cutlery — of precious metal and stainless steel
8. Crystalware
9. Earthenware
10. Figurines — bronze, ivory or quartz
11. Figurines — china or porcelain
12. Handicrafts
13. Jewellery and articles consisting of or incorporating pearls
14. Mechanical lighters for cigars, cigarettes and pipes
15. Perfumery
16. Pipes, cigars and cigarette holders

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17. Projectors
18. Sweaters and cardigans, pullovers or similar knitted outerwear of angora, mohair cashmere or similar mixtures of wool
19. Silverware — sterling silverplate, sheffield plated and antique reproductions, Siamese, Portugese and Indian sterling silver
20. Table linen — Madeira, Irish, embroidered, hand-painted, cut-work
21. Telescopes
22. Toilet preparations
23. Watches
24. Leather and imitation leather goods
25. Approved Souvenirs of Saint Lucia
26. Approved locally manufactured goods
27. Sunglasses
28. Bou Boudima Fabric
29. Beach Games
30. Beach Toys
31. Confectionery
32. Grooming Products
33. Literature of Saint Lucia
34. Key rings
35. Figurines
36. Air Fresheners
37. Picture Frames
38. Indoor Games
39. Musical Instruments and related accessories
40. Travel Goods, handbags and the like

(Amended by S.I. 52/1987, 72/1987, 78/1993, 80/1996 and 161/2000)

PART 2 CONSUMABLES

1. Cigarettes — locally manufactured or imported in containers of not less than 200 units each.
2. Cigars — in boxes of not less than 5.
3. Tobacco.
4. Spirits, liqueurs and wines (except miniatures) imported.
5. Spirits or liqueurs (miniatures) — whether assorted or not, locally manufactured or imported, in sealed containers.
6. Spirits, liqueurs or wines — locally manufactured.
7. Souvenir Packed Coffee.

(Amended by S.I.101/2002)

SCHEDULE 2

(Section 2)

All that piece or parcel of land at Pointe Seraphine in the vicinity of the City of Castries and being bounded as follows—

- | | |
|--------|---|
| North: | by Heirs of Dr. Nels Johnson; |
| South: | by Castries Harbour; |
| East: | partly by Castries Harbour and partly by the Fisheries Complex lands; |
| West: | by Castries Harbour. |

The whole being the area reclaimed from the sea around the southern end of Pointe Seraphine and containing 6.52 acres as shown on Plan of Survey by Mr. J. E. Modeste, Licensed Land Surveyor, dated 28 January 1981 and lodged in the Office of the Commissioner of Crown Lands as Plan C. 5903 and recorded as No. 26/81.

SCHEDULE 3

(Section 21)

1. Firearms and ammunition.
2. Explosives.
3. Petroleum.
4. Inflammable materials.
5. Hazardous cargoes.
6. Oil fuels.
7. Dangerous drugs and narcotics.
8. All goods the importation of which is prohibited under the Customs (Control and Management) Act or any other enactment.