

CHAPTER 15.43

COMMUNITY TOURISM DEVELOPMENT ACT

Revised Edition

Showing the law as at 31 December 2022

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• Act • Subsidiary Legislation •

ACT

(Act 9 of 2022)

Act 9 of 2022 .. in force 21 March 2022

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CHAPTER 15.43 COMMUNITY TOURISM DEVELOPMENT ACT

AN ACT to establish the Community Tourism Agency and to provide for the proposal for a partnership agreement, tax relief, registration and monitoring of an approved partnership business and for related matters.

Commencement [21 March 2022]

PRELIMINARY

1. Short title

This Act may be cited as the Community Tourism Development Act.

2. Interpretation

In this Act —

“**Agency**” means the Community Tourism Agency established under section 3;

“**apartment**” means furnished premises in which sleeping accommodation and self-catering facilities are provided in more than one self-contained unit;

“**approved community tourism product**” means a community tourism product declared under section 68;

“**approved community tourism project**” means a project declared under section 68;

“**approved development**” means a tourism project which is granted tax reliefs and exemptions under the Tourism Stimulus and Investment Act;

“**approved partnership business**” means a partnership business declared under section 68;

“approved tourism product” means a tourism product that has resulted from the completion of an approved tourism project under the Tourism Incentives Act;

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

“bar” means an establishment with a valid liquor licence under the Liquor Licence Act, that serves intoxicating liquor for consumption on the licensed premises;

“bed and breakfast” —

- (a) means an establishment that provides overnight sleeping accommodation;
- (b) includes a private home or boarding house —
 - (i) with a full breakfast,
 - (ii) with or without private bath facilities;

“Board” means the Board of the Agency appointed under section 9;

“business” means a tourism accommodation, bar, restaurant or other food establishment or recreational facility that is located within a community that —

- (a) in the case of a business, is registered under the Registration of Business Names Act;
- (b) in the case of a company, is incorporated or registered under the Companies Act;

“camp grounds” means an area with a covered space that is equipped with toilets, potable water and first-aid supplies that provides outdoor stay, shared sleeping and eco-tourism activities and learning;

“capital development arrangement” means a contractual agreement between a partner, the Agency and a third-party for the provision of infrastructure, public spaces, and amenities;

“Chairperson” —

- (a) in relation to the Board, means the Chairperson of the Board designated under section 10;
- (b) in relation to the Committee, means the Chairperson of the Committee designated under section 53;

“Chief Executive Officer” means the Chief Executive Officer appointed under section 32;

“Committee” means the *Adhoc* Review Committee appointed under section 52;

“community” —

- (a) means an area with a group of persons who share a common culture or value and access common resources and institutions to carry out a business;
- (b) includes —
 - (i) a constituency;
 - (ii) an area within a constituency that has a defined spatial boundary;

“community tourism” —

- (a) means the brand or trademark created by the Agency that is attributed to a community tourism product;
- (b) in relation to the tourism industry, means community tourism based on the unique characteristics of a community, that allows a guest to have a

first-hand experience of the local culture, traditional values and heritage of the people in the community;

"community tourism product" means a product or service produced or developed under a partnership agreement;

"community tourism project" means —

- (a) the provision of an accommodation service by a tourism accommodation;
- (b) the construction of —
 - (i) a bar,
 - (ii) a recreational facility,
 - (iii) a restaurant or other food establishment,
 - (iv) a tourism accommodation;
- (c) the refurbishment or renovation of an existing —
 - (i) bar,
 - (ii) recreational facility,
 - (iii) restaurant or other food establishment,
 - (iv) tourism accommodation;

"Community Tourism Strategic Plan" means the Community Tourism Strategic Plan prepared and submitted under section 12(b);

"Comptroller of Customs" means the Office of Comptroller created under section 4 of the Customs (Control and Management) Act;

"condominium" has the meaning assigned under the Condominium Act;

"constituency" has the meaning assigned under the Constituency Councils Act;

"constituency council" has the meaning assigned under the Constituency Councils Act;

"cottage" means a detached dwelling consisting of 3 or more self-contained units that provides paid rental accommodation for guests;

"Deputy Chairperson" means the Deputy Chairperson elected under section 10;

"eco-tourism activities" —

- (a) means events that are based on the natural attraction of an area;
- (b) includes nature tours, fishing, camping, hiking and observing the wildlife;

"financial year" has the meaning assigned under the Public Finance Management Act;

"guest" means a person who pays for and uses a community tourism product;

"guesthouse" means a small, owner-managed private establishment that is used for supplying lodging to guests for reward that may not offer the full services of a hotel;

"hotel" means an establishment with a total of no more than 10 rooms that provides accommodation, meals and other services for guests for reward;

"Minister" means the Minister responsible for tourism;

"Ministry" means the Ministry responsible for tourism;

"Operating Manual" means a document containing standard operating procedures, instructions and guidance for implementing a community tourism product;

"partner", in relation to a partnership agreement, means a business that intends to enter a partnership agreement;

"partnership agreement" means a contract under section 60;

"partnership business" means a business that executes and is a party to a partnership agreement;

"recreational facility" includes a museum, spa, gift shop, park, art gallery, garden, natural and man-made waterfall and other facilities providing recreation for a guest for reward;

"registered tourism accommodation service provider" has the meaning assigned under section 2 of the Saint Lucia Tourism Authority Act;

"restaurant" —

- (a) means premises used to provide dining services to a guest and customer for reward;
- (b) does not include a specialty restaurant;

"specialty restaurant" means a restaurant that offers a menu that is influenced by or developed from an internationally recognized cuisine;

"sustainable community tourism" means the development of a tourism industry that focuses on the portrayal of local culture, the traditional values and heritage of the people in a community;

"tax" means a tax listed under Schedule 1;

"tax relief" means a complete or partial reduction of a tax;

"tourism accommodation" in relation to a guest —

- (a) means the provision of a place to stay at —
 - (i) an apartment,
 - (ii) a bed and breakfast,
 - (iii) a camp ground,
 - (iv) a cottage,
 - (v) a guesthouse,
 - (vi) a hotel,
 - (vii) a villa;
- (b) does not include —
 - (i) a hotel with a total of more than 10 rooms, or
 - (ii) a condominium;

"tourism accommodation service" has the meaning assigned under section 2 of the Saint Lucia Tourism Authority Act;

"tourism industry" means the people, activities and organizations that provide a product or service to guests;

"tourism levy" has the meaning assigned under the Tourism Levy Act;

"villa" means —

- (a) a dwelling unit available for rent by a guest; or
- (b) a cluster of dwelling units available for rent by a guest with supporting recreational facilities.

PART I ADMINISTRATION

Division 1 *Community Tourism Agency*

3. Establishment of the Agency

- (1) There is established a body to be known as the Community Tourism Agency.
- (2) The Agency shall be a body corporate to which section 19 of the Interpretation Act applies.

4. Functions of the Agency

The functions of the Agency are —

- (a) to identify products and services for community tourism;
- (b) to create, manage, develop and market a brand for community tourism;
- (c) to establish a website for community tourism;
- (d) in collaboration with the Authority and Ministry, to design marketing strategies for the promotion of a community tourism product;
- (e) to create, develop, sell, market and enhance a distinct product and service for community tourism;
- (f) to collaborate with a constituency council to encourage and facilitate the establishment and enhancement of public amenities, public facilities and community services to support community tourism;
- (g) to provide training, business development and capacity building programmes for a business or partnership business;
- (h) to receive, evaluate and make recommendations, through the Chief Executive Officer, on proposals to the Board;
- (i) to facilitate and promote investment opportunities and linkages for the benefit of a partnership business;
- (j) to monitor compliance with the terms and conditions of a partnership agreement;
- (k) to issue an Operating Manual to a partner;
- (l) to facilitate applications for tax relief;
- (m) to educate the public on community tourism;
- (n) to keep proper records of accounts in accordance with generally accepted international accounting standards;
- (o) to prepare and retain financial statements in respect of each financial year;
- (p) to prepare a strategic plan, financial plan, operation plan and business plan;
- (q) to prepare estimates of revenue and expenditure;

- (r) to issue a compliance letter to a partnership business;
- (s) to advise the Minister on all matters relating to community tourism;
- (t) to perform other functions specified in this Act.

5. Powers of the Agency

(1) The Agency has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of subsection (1), the Agency has the power to —

- (a) enter into a partnership agreement;
- (b) charge and collect fees under section 79.

6. Principal place of business

The Agency shall establish and maintain an office and principal place of business within Saint Lucia.

7. Tax exempt status

The Agency is exempt from the payment of duties, taxes and levies with respect to moveable and immoveable property, except for the payment of value added tax.

8. Minister may give directions

The Minister may give directions in writing to the Agency on policy matters.

Division 2 *Board of the Agency*

9. Constitution of the Board

(1) Subject to subsection (2) and section 15, the Board of the Agency comprises not less than 5 or no more than 7 members.

(2) The Minister shall appoint the members of the Board from persons who have experience in, and have shown capacity in matters relating to —

- (a) law;
- (b) commerce;
- (c) human resource management;
- (d) finance;
- (e) accounting;
- (f) tourism;
- (g) marketing.

(3) The *ex officio* members of the Board with no voting rights are the Chief Executive Officer and the Permanent Secretary of the Ministry.

(4) The Minister shall, by Notice published in the *Gazette*, provide the names of the members of the Board as first constituted and every change in the constitution of the Board.

10. Disqualification

A person is disqualified from being a member of the Board and is not eligible to be appointed as a member of the Board, or having been appointed, is not eligible to continue as a member of the Board if that person —

- (a) is an employee of the Agency under section 35;
- (b) is a member of Parliament;
- (c) has filed for bankruptcy in a court or is declared by a court to be a bankrupt;
- (d) is declared by a court to be mentally incapacitated by reason of unsoundness of mind;
- (e) 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.

11. Designation of the Chairperson and election of the Deputy Chairperson

(1) The Minister shall designate one member of the Board as the Chairperson of the Board.

(2) The members of the Board shall, at the first meeting, elect a Deputy Chairperson from amongst the members of the Board.

(3) Where the Chairperson is absent, the Deputy Chairperson shall have all the powers of the Chairperson.

12. Term of appointment

(1) Subject to subsection (2), the Board is appointed for a term not exceeding 3 years.

(2) A member of the Board is eligible for reappointment for not more than 2 consecutive terms.

13. Functions of the Board

The functions of the Board are —

- (a) to set the mission, vision, values, strategic priorities, objectives, performance targets and organizational policies of the Agency;
- (b) to prepare and submit to the Minister a Community Tourism Strategic Plan;
- (c) to monitor the performance of the Agency against the Community Tourism Strategic Plan;
- (d) to review the performance of the Chief Executive Officer;
- (e) to establish and revise the terms and conditions of a partnership agreement;
- (f) to make recommendations to the Minister for the development of community tourism;
- (g) to ensure that proper financial records are kept by the Agency;
- (h) to carry out other functions specified under this Act.

14. Powers of the Board

(1) The powers of the Board are —

- (a) to establish a committee, including a finance committee;
- (b) to refer a matter to a committee established under paragraph (a);
- (c) with the approval of the Minister —
 - (i) to enter into capital development arrangements for developing community tourism,
 - (ii) to acquire, purchase, take, hold, lease and dispose of immovable property;
- (d) to exercise any other powers specified under this Act or any other enactment;
- (e) to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) A committee established under subsection (1)(a) —

- (a) may consist of persons who are not members of the Board or employees of the Agency;
- (b) shall not be chaired by the Chairperson of the Board or the Chief Executive Officer;
- (c) shall make recommendations to the Board on matters referred to it by the Board.

(3) In a case where the members of the committee are persons referred to under subsection (2)(a), the members of the committee shall be paid remuneration as the Board determines.

15. Delegation of functions or powers

The Board may, by resolution of a majority of its members, for the purpose of carrying out its functions under this Act, delegate, in writing to one or more of its members, a function or power specified under section 13 or 14.

16. Leave of absence

The Minister may, on the application of a member of the Board in writing, grant leave of absence to the member for a period not exceeding 3 months.

17. Resignation

(1) A member of the Board, other than the Chairperson, may by written notice addressed to the Minister and through the Chairperson resign from his or her office.

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

18. Revocation

The Minister may, by written notice, revoke the appointment of a member of the Board if the Minister is satisfied that the member —

- (a) is disqualified from being a member of the Board under section 15;
- (b) is unable to perform the functions of his or her office;
- (c) commits an act of misconduct under section 24(4); or

- (d) has contravened section 36(2);
- (e) has failed to attend 3 consecutive meetings of the Board 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 member, by the Chairperson in writing.

19. Vacancy

- (1) The office of a member of the Board is vacated —
 - (a) on the death of the member;
 - (b) if the member becomes disqualified under section 15;
 - (c) if the member resigns under section 17;
 - (d) if the Minister revokes the appointment of the member under section 18; or
 - (e) on the expiry of the member's term of appointment.

(2) A decision of the Board taken at a meeting is not invalidated by a vacancy in the membership as long as there was the quorum required under section 23.

20. Temporary appointment

- (1) The Minister may appoint a person to act temporarily in place of a member of the Board who —
 - (a) has been granted a leave of absence under section 16;
 - (b) is absent from Saint Lucia; or
 - (c) is unable to perform the functions of his or her office.
- (2) A person appointed under subsection (1) shall act —
 - (a) for the duration of the absence or inability of the member of the Board; or
 - (b) until another person is appointed in accordance with section 9.

21. Meetings

(1) The Board shall meet at least once each month or at times as may be necessary or expedient for the transaction of business of the Agency.

(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 48 hours of receipt of a written request for that purpose addressed to the Chairperson by 3 members of the Board or the Minister.

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

- (5) At a meeting of the Board —
 - (a) the Chairperson shall preside;
 - (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 members present shall choose one of their number to preside.

22. Co-opting

(1) Subject to subsection (2), 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.

- (2) A co-opted member of the Board does not have the right to vote.

23. Quorum

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 $\frac{2}{3}$ of the members participating in the meeting.

24. Declaration of interest and abstention from voting

(1) A member of the Board 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) Where a member of the Board declares an interest under subsection (1), the member of the Board 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 member of the Board from the meeting under subsection (2) must be noted in the minutes of the meeting.

- (4) A member of the Board 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;
- (c) seeks to influence the vote of another member of the Board in relation to a matter before the Board.

(5) Where a person contravenes subsection (1), his or her appointment may be revoked under section 18(c).

25. Minutes of a meeting

The minutes of each meeting of the Board must be recorded and kept to be confirmed by the Board at its next meeting and signed by the Chairperson or Deputy Chairperson.

26. Decisions of the Board

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

(2) The Chairperson has an original vote and in cases of equal division the Chairperson has the casting vote.

(3) In the absence of the Chairperson and in the case of an equal division of votes, the Deputy Chairperson has the casting vote.

27. Seal

- (1) The Agency shall have an official seal.

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

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

28. Signification of other documents

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

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

29. Service of documents

The service of documents on the Agency is deemed to be effective if delivered at its principal place of business.

30. Board to regulate its own procedure

Subject to this Act, the Board shall regulate its own procedures.

31. Remuneration

A member of the Board shall be paid by the Agency, from the monies of the Agency, remuneration as may be determined by the Minister, after consultation with Cabinet.

Division 3

Appointment of the Chief Executive Officer and Employees of the Agency

32. Appointment of the Chief Executive Officer

(1) The Board shall, with the approval of the Minister, appoint the Chief Executive Officer to manage the daily affairs of the Agency.

(2) In the absence of the Chief Executive Officer, the Board may, with the approval of the Minister, appoint a person to act as the Chief Executive Officer during the period of absence on terms and conditions as the Board determines.

33. Functions of the Chief Executive Officer

(1) The functions of the Chief Executive Officer are —

- (a) implementing the strategic risk and compliance initiatives set by the Board and other decisions of the Board;
- (b) measuring and attaining performance targets approved by the Board;
- (c) communicating decisions of the Board, policies and priorities to the employees of the Agency;
- (d) presenting organizational performance reports and estimates of revenue and expenditure to the Board;
- (e) informing the Board of the number of proposals received under section 46 and the Agency's evaluation of each proposal;
- (g) performing the functions assigned to him or her by the Board and under this Act.

(2) The Chief Executive Officer shall exercise all the functions entrusted to him or her by this Act and be present at all meetings of the Board unless he or she —

- (a) is directed by the Chairperson to withdraw from a meeting;
- (b) has obtained a leave of absence from the Chairperson; or
- (c) is incapacitated by illness or other cause from attending a meeting.

34. Delegation of functions

The Chief Executive Officer may, by written notice, delegate his or her functions under section 33 to a suitable employee of the Agency.

35. Employees of the Agency

(1) The Chief Executive Officer shall employ, on terms and conditions as may be approved by the Board, employees of the Agency for the performance of the functions and powers of the Agency.

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

36. Oath or affirmation of secrecy and confidentiality

(1) A member of the Board and an employee of the Agency is required to take an oath or affirmation of secrecy as set out in Schedule 2.

(2) Subject to subsection (3), a member of the Board or an employee of the Agency —

- (a) shall preserve the confidentiality with respect to matters coming to his or her knowledge in the performance of his or her duties;
- (b) shall not disclose to another person information that a member of the Board or employee has acquired in the course of his or her duties or in the exercise of the Agency's functions under this Act or any other law, relating to —
 - (i) the business affairs of the Agency,
 - (ii) the affairs of a business, partnership business, an employee or a member of a Board;
- (c) shall not permit a person to have access to records in the possession, custody or control of the Agency.

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

- (a) in respect of the affairs of a member of the Board, a business or a partnership business, with the consent of the member of the Board, a business or a partnership business, which consent has been given voluntarily;
- (b) for the purpose of enabling or assisting the Agency 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 business, partnership business or member of the Board, 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,
- (ii) disciplinary proceedings relating to the discharge of duties by a member of the Board or employee of the Agency, or
- (iii) legal proceedings pursuant to a court order.

(4) Where an employee of the Agency or a member of the Board contravenes subsection (2) —

- (a) in the case of an employee of the Agency, his or her employment may be terminated;
- (b) in the case of a member of the Board, his or her appointment may be revoked under section 18.

37. Protection from liability

(1) An action or other proceedings shall not lie against a member of the Board, or an employee of the Agency 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 Agency shall indemnify a member of the Board or an employee of the Agency for the legal cost of defending an action or other proceedings.

Division 4 *Finances of the Agency*

38. Revenue of the Agency

The revenue of the Agency comprises —

- (a) monies raised by the Agency in the form of loans, grants, investments or other lawful means;
- (b) sums allocated to the Agency by Parliament;
- (d) fees charged and collected under section 79;
- (e) monies payable to the Agency under another enactment; and
- (f) other sums that may become payable to or vested in the Agency in respect of matters incidental to its functions and powers.

39. Management of finances and application of revenue

(1) Part XIII of the Public Finance Management Act, applies to the Agency in relation to finance management.

(2) The revenue of the Agency in a financial year may be applied to the payment of —

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

40. Borrowing, lending, guaranteeing and other contingent liabilities

(1) The Agency may, with the approval of the Minister responsible for finance, borrow money from the Government or a financial institution by way of a 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 or additional working capital; and
- (b) the performance of the functions of the Agency under this Act.

(2) 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 Agency.

(3) Where 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.

41. Estimates of revenue and expenditure

(1) The Agency shall submit to the Minister its estimates of revenue and expenditure in a form the Minister directs.

(2) In accordance with section 78(1)(e) of the Public Finance Management Act, the Agency shall submit estimates of revenue and expenditure for 2 subsequent financial years for the approval of the Minister responsible for finance.

42. Strategic, financial, operational and business plan

In accordance with section 82 of the Public Finance Management Act, the Agency shall submit to the Minister and the Minister responsible for finance —

- (a) a 3 year strategic plan reflecting the strategic objectives of the Agency over the financial year and 2 subsequent financial years; and
- (b) no later than 4 months before the beginning of a financial year, a financial, operational or business plan reflecting proposals to operationalize the Agency's strategic objectives over the financial year.

43. Accounts and audit

(1) In accordance with section 83 of the Public Finance Management Act, the Agency shall make a report to the Minister and the Minister responsible for finance on its financial operations quarterly and at such other time specified by the Minister or the Minister responsible for finance in relation to its approved business plan for the financial year.

(2) The Agency shall within 3 months after the end of each financial year have its accounts audited by an independent auditor appointed by the Agency who shall conduct the audit in accordance with generally accepted international auditing standards and provide the Agency with an audited financial statement and a report on the financial statement.

(3) A member of the Board, the Chief Executive Officer, and an employee of the Agency shall grant to the auditor appointed under subsection (2), access to books, deeds, contracts, accounts, vouchers, or other documents which the auditor considers necessary.

(4) The auditor may require a member of the Board, the Chief Executive Officer or an employee of the Agency 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.

(5) Where a member of the Board, the Chief Executive Officer or an employee of the Agency contravenes subsection (3) —

- (a) in the case of a member of the Board, his or her appointment may be revoked;
- (b) in the case of the Chief Executive Officer, his or her appointment may be terminated;

- (c) in the case of an employee of the Agency, his or her employment may be terminated.

44. Quarterly and annual reports

(1) The Agency shall submit to the Minister —

- (a) a quarterly report outlining data from community tourism, including —
 - (i) the number of new businesses created,
 - (ii) the number of existing businesses that are upgraded,
 - (iii) feedback from businesses and partnership businesses,
 - (iv) a list of community tourism products,
 - (v) other data on community tourism required by the Minister;
- (b) subject to subsection (2) and not later than 6 months after the end of each financial year, an annual report on the operations and activities and transactions of the Agency containing —
 - (i) an account of the performance of activities and operations of the Agency,
 - (ii) an assessment of marketing performance undertaken under this Act, and
 - (iii) an analysis of the Community Tourism Strategic Plan during the preceding year.

(2) An annual report under subsection (1)(b) must be accompanied by the auditor's report under section 43(2).

(3) The Minister shall submit the annual report and auditor's report submitted under subsection (1)(b) to be laid in Parliament within 28 days of its receipt by the Minister, or if Parliament is not in session, within 28 days of the next session of Parliament.

PART II PARTNERSHIP AGREEMENT

Division 1

Requirement for Partnership Agreement

45. Requirement for a partnership agreement

A business shall enter into a partnership agreement with the Agency to provide a community tourism product.

Division 2

Proposals

46. Proposal for a partnership agreement

(1) A business may submit a proposal for a partnership agreement to the Agency, in the prescribed form.

(2) A proposal for a partnership agreement under subsection (1) must be accompanied by —

- (a) evidence of ownership of the property to be used to provide a product or service for community tourism;

- (b) evidence of ownership of the land or a valid leasehold interest in land which is valid for a period commensurate with the business plan;
- (c) evidence of planning approval or approval in principal under the Physical Planning and Development Act, as required to provide a product or service for community tourism;
- (d) evidence of the financial arrangements or the source of the funds to be used to provide a product or service for community tourism;
- (e) a certified copy of a permit, authorization or licence with respect to its operation as required under the laws of Saint Lucia;
- (f) a business plan;
- (g) in the case of a business —
 - (i) a certified copy of its Certificate of Registration,
 - (ii) a Statement of Particulars, signed and stamped by the Registrar of Companies and Intellectual Property,
 - (iii) a Certificate of Character for each owner of the business;
- (h) in the case of a company —
 - (i) a certified copy of its Certificate of Incorporation,
 - (ii) a certified copy of its last filed Notice of the Beneficial Owners,
 - (iii) a certified copy of its last filed Notice of Directors and Notice of Consent to act for each director,
 - (iv) a certified copy of its Articles of Incorporation and Bye-laws,
 - (v) a Certificate of Good Standing;
- (i) other information required by the Agency.

47. Evaluation of a proposal for a partnership agreement

On receipt of a proposal for a partnership agreement under section 46, the Agency —

- (a) shall evaluate the proposal;
- (b) if the proposal satisfies the requirements under section 46, shall submit the proposal and the supporting documents to the Board for consideration.

48. Consideration of a proposal for a partnership agreement by the Board

On submission of a proposal for a partnership agreement under section 47(b), the Board shall consider the proposal and the supporting documents and review the evaluation of the of the proposal by the Chief Executive Officer.

49. Approval of a proposal for a partnership agreement

(1) After considering a proposal for a partnership agreement under section 48, the Board may approve the proposal.

(2) Where a proposal is approved under subsection (1), the Agency shall —

- (a) give to the business, written notice of the approval;
- (b) make an offer to the business to enter into a partnership agreement.

50. Refusal of a proposal for a partnership agreement

(1) After considering a proposal for a partnership agreement under section 48, the Board may refuse the proposal.

(2) Where a proposal is refused under subsection (1), the Agency —

- (a) shall give to the business, written notice of the refusal and the reasons for refusing the proposal;
- (b) may make recommendations to the business to improve its product or service.

51. Request for review

(1) Where a proposal for a partnership agreement is refused under section 50, a business may, in writing, request the Minister to grant a review of the proposal.

(2) A request under subsection (1) —

- (a) must be in writing, addressed to the Minister and submitted through the Agency;
- (b) must be submitted within 30 calendar days of the notice of refusal;
- (c) must not introduce new information or documents that were not included in a proposal under section 46;
- (d) must show one or more of the following grounds for seeking a review —
 - (i) incorrect application of this Act,
 - (ii) that the Board considered irrelevant matters or failed to consider relevant matters in making a decision,
 - (iii) that the Board did not have evidence to support its decision against the business.

(3) The Minister shall consider the request within 14 days of receipt and notify the business in writing of his or her decision to grant or deny the request for review.

(4) Where the Minister denies a request for review of a proposal, the Minister shall provide the business with a written notice with reasons.

Division 3

Adhoc Review Committee

52. Appointment and composition of the Committee

(1) Where the Minister grants the request for review under section 51, he or she shall appoint an *Adhoc* Review Committee and refer the proposal for the partnership agreement that was refused by the Board to that committee for review.

(2) An *Adhoc* Review Committee under subsection (1) consists of 3 persons appointed by the Minister, including, an attorney-at-law of at least 5 years experience.

(3) The Minister shall publish, in the *Gazette*, the names of the persons appointed under subsection (2).

53. Chairperson of the Committee

The Minister shall designate one of the members of the Committee as the Chairperson of the Committee.

54. Functions of the Committee

The functions of the Committee are —

- (a) to review a proposal for a partnership agreement that is referred to it under section 52(1);
- (b) to make a recommendation to the Minister after reviewing a proposal under paragraph (a).

55. Powers of the Committee

(1) The powers of the Committee are —

- (a) to request information or an explanation from a business that made a proposal for a partnership agreement to the Agency;
- (b) to request employees of the business to appear for an interview;
- (c) to co-opt any person to attend a meeting of the Committee.

(2) Subject to subsection (3), an interview may be conducted electronically in Saint Lucia.

(3) At the request of the business and where considered by the Minister to be appropriate, provision may be made for the interview to be conducted elsewhere at the expense of the business.

56. Meetings of the Committee

(1) The Committee shall meet at such times and as may be necessary or expedient for carrying out its functions under section 54.

(2) At a meeting of the Committee the Chairperson shall preside.

(3) Decisions of the Committee shall be taken by a simple majority of votes of the members of the Committee present and voting at the meeting.

(4) Minutes of each meeting of the Committee must be recorded.

57. Declaration of interest and abstention from voting

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

(2) Where a member of the Committee declares an interest under subsection (1), the member of the Committee 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 member of the Committee from the meeting under subsection (2) shall be noted in the minutes of the meeting.

(4) A member of the Committee commits an act of misconduct if he or she —

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

(5) Where a person contravenes subsection (1), his or her appointment may be revoked by the Minister under section 18.

58. Recommendation of the Committee

(1) After the Committee has reviewed a proposal for a partnership agreement referred to it under section 52, the Committee shall make a recommendation, in

writing to the Minister for the approval or refusal of the proposal for a partnership agreement.

(2) Where the Committee makes a recommendation to the Minister for the approval of a proposal for a partnership agreement under subsection (1), the Minister shall give written notice to the Board of the recommendation and request the Board to reconsider and approve the proposal.

(3) Where the Committee makes a recommendation to the Minister for the refusal of a proposal for a partnership agreement under subsection (1), the Minister shall give written notice to the Board of the recommendation with reasons to confirm the decision of the Board.

Division 4 *Partnership Agreement*

59. Offer of a partnership agreement

The Agency shall make an offer to a business to enter a partnership agreement after its approval of a proposal for a partnership agreement under section 49 or 58.

60. Contents of a partnership agreement

A partnership agreement must include —

- (a) the name of the partner;
- (b) the address of the partner;
- (c) the type of product or service the partner provides or intends to provide;
- (d) the terms and conditions for the partnership agreement;
- (e) the commencement and termination date of the partnership agreement;
- (f) any other information considered necessary by the Agency.

61. Execution of a partnership agreement

(1) On receipt of an offer from the Agency, a business may agree to enter a partnership agreement with the Agency by signing a partnership agreement.

(2) By signing a partnership agreement under subsection (1), the business agrees to provide a community tourism product in accordance with the terms and conditions of the partnership agreement.

62. Effect of a partnership agreement

A partnership agreement is a contract between the Agency and a partner for the provision of a community tourism product that allows the partner to access —

- (a) loan financing for property improvement, expansion and enhancement from a financial institution;
- (b) branding, business development and support services from the Agency;
- (c) human resource capacity building from the Agency
- (d) tax relief under Part III.

PART III
TAX RELIEF, REGISTRATION AND MONITORING AN APPROVED
PARTNERSHIP BUSINESS

Division 1

Tax Relief for and registration of an approved partnership business

63. Eligibility for a tax relief

A partnership business is eligible to make an application for a tax relief.

64. Application for a tax relief

(1) A partnership business may make an application for a tax relief in the prescribed form to the Minister, through the Agency.

(2) An application under subsection (1) must provide a description of a community tourism project and be accompanied by —

- (a) in the case of a business, its Certificate of Registration issued under the Registration of Business Names Act;
- (b) in the case of a company —
 - (i) evidence of ownership of land or a valid leasehold interest in land which is valid for a period commensurate with the business plan,
 - (ii) its Certificate of Incorporation,
 - (iii) its last filed Annual Returns,
 - (iv) its last filed Notice of Directors and Consent to act as a Director;
- (c) in the case of an approved development or an approved tourism product —
 - (i) information on a tax relief the business has obtained under the Tourism Incentives Act, or the Tourism Stimulus and Investment Act;
 - (ii) a written request to the Minister to revoke the status of an approved development or an approved tourism product in order to be considered for a tax relief under this Act;
- (d) a compliance letter from the Agency, issued by the Agency not later than one month from the date of submitting an application under subsection (1);
- (e) a compliance letter from the National Insurance Corporation;
- (f) a compliance letter from the Inland Revenue Department with respect to each tax administered by that Department;
- (g) an approval from the Development Control Authority, if applicable;
- (h) a compliance letter from the Authority to verify compliance with the Tourism Levy Act, if applicable;
- (i) the partnership agreement;
- (j) any other documents requested by the Minister.

65. Power of the Minister to request further information

(1) The Minister may make a written request to the partner, within 21 days of receipt of the application, for further information that is reasonably required to enable a proper consideration of the application.

(2) Where the Minister makes a request for further information under subsection (1), the partnership business shall submit the relevant information in writing within 21 days of the request being made.

(3) Where the partnership business is unable to provide the information requested under subsection (1) within the time period specified under subsection (2), the partnership business may request an extension of time to provide the information.

(4) The Minister may, in a written notice sent to the partnership business, grant an extension of time as specified in the notice.

66. Submission of an application for a tax relief to Cabinet

On receipt of an application under section 64 and further information under section 65, the Minister shall submit the application to Cabinet for consideration.

67. Approval of an application for a tax relief

(1) After Cabinet considers an application submitted under section 66, Cabinet may approve an application for tax relief.

(2) An approval under subsection (1) must specify —

- (a) the tax relief that is granted;
- (b) the applicable time period for each tax relief that is granted, including, the commencement date and termination date;
- (c) the approved partnership business;
- (d) the approved community tourism project to which the tax relief is granted;
- (e) the approved community tourism product or approved community tourism service;
- (f) the conditions under which the tax relief is granted.

(3) In the case of a tax relief granted to an approved development under the Tourism Stimulus and Investment Act, or a person under the Tourism Incentives Act, that has entered into a partnership agreement under section 60, Cabinet shall —

- (a) approve the revocation of an Order under the Tourism Incentives Act, or the Tourism Stimulus and Investment Act; and
- (b) grant a tax relief to the business.

(4) A tax relief granted under this section takes effect from the date specified in an Order made under section 68.

68. Order on grant of a tax relief

(1) Where Cabinet grants approval of an application under section 67 and subject to subsection (2), the Minister shall, by Order published in the *Gazette* —

- (a) declare the partnership business to be an approved partnership business;
- (b) declare the approved community tourism project;
- (c) declare the community tourism project to be an approved community tourism product;
- (d) specify —
 - (i) the tax relief granted,
 - (ii) the applicable time period for each tax relief that is granted, including, the commencement date and termination date,

(iii) the conditions specified by Cabinet under section 67(2)(f);

- (e) provide for its suspension or revocation in a case of non-compliance with the conditions specified under paragraph (d).

(2) In the case of an approved development or an approved tourism product that has been granted approval under section 67(3), an Order under subsection (1) shall not be made with respect to that approved development or approved tourism product before a revocation Order is made under the Tourism Incentives Act, or the Tourism Stimulus and Investment Act.

69. Transfer of status of approved partnership business and a tax relief

(1) Where an approved partnership business intends to sell or transfer the partnership business during the applicable period of the tax relief granted under this Act, the approved partnership business shall inform the Minister, in writing, of the proposed changes in the ownership or leasehold of the approved partnership business.

(2) The tax relief may, on the approval of Cabinet, continue to apply to the new approved partnership business for the remainder of the applicable period of the tax relief.

(3) The Minister may require additional information from the new proposed owner or lessee of an approved partnership business.

(4) The Minister may, on the approval of Cabinet and by Order published in the *Gazette*, transfer the tax relief granted to an approved partnership business to the new partnership business where —

- (a) an approved partnership business merges with or is taken over by another approved partnership business, or forms part of a company's reconstruction; or

- (b) in its opinion it is equitable or in the public interest so to do.

(5) Prior to the publication of an Order under subsection (4), Cabinet may require the approved partnership business to which the status or an approved partnership business is to be transferred, to comply with such conditions and to give such undertakings and assurances in such form as Cabinet considers desirable.

(6) On the publication of an Order under subsection (4) all the rights, privileges, benefits, immunities, duties and obligations conferred or imposed by or under this Act on the approved partnership business may be transferred to the new approved partnership business.

70. Suspension of an Order

(1) The Minister may suspend an Order made under section 68 where an approved partnership business —

- (a) fails to comply with the conditions specified by Cabinet under section 67;
- (b) does not have an authorization, a permit or licence required under the laws of Saint Lucia.

(2) An Order under section 68, may be suspended with effect from the date specified in the Order under subsection (1).

(3) Where an Order is suspended under this section the partnership business is liable to pay to the Government the amount of the tax that was realized after the date of the publication of the Order under subsection (2).

71. Revocation of an Order

The Minister may revoke an Order made under section 68 where an approved partnership business —

- (a) is no longer registered under the Registration of Business Names Act;
- (b) is struck off the Register of Companies under the Companies Act;
- (c) is declared insolvent under the Companies Act;
- (d) has obtained a tax relief by a false statement;
- (e) has abused or misused a tax relief;
- (f) has failed to comply with a condition of the Order.

72. Retrospective effect

The Minister may give retrospective effect to an Order made under this Act, if it is satisfied that it is equitable for such Order to have retrospective effect, to confer a benefit on or to remove a disability from an approved partnership business.

73. Requirement for registration of an approved partnership business

(1) Notwithstanding Part 1A of the Saint Lucia Tourism Authority Act, an approved partnership business, that is granted a tax relief under this Act and supplies a tourism accommodation service, shall make an application for registration with the Authority to be a registered tourism accommodation service provider.

(2) Where an approved partnership business fails to register under subsection (1), the Authority may register that approved partnership business from the date determined by the Authority.

74. Collection and remittance of the tourism levy

(1) An approved partnership business that is registered under section 73 is deemed to be a collector of the tourism levy in accordance with section 8 of the Tourism Levy Act.

(2) Notwithstanding section 20 of the Tourism Levy Act, and subject to section 73 and this section, an approved partnership business shall collect and remit to the Authority the tourism levy collected and recorded in its accounting system no later than the 21st day of the following calendar month.

(3) The Authority shall cause the tourism levy to be paid into and placed in an account at a financial institution approved by the Minister responsible for finance.

(4) Notwithstanding section 22 of the Tourism Levy Act, the Authority shall apply the tourism levy remitted under subsection (3) to the payment of its obligations or in the discharge of its functions under this Act.

Division 2 *Monitoring and Compliance*

75. Compliance with conditions for tax relief

The Ministry is responsible for monitoring compliance by an approved partnership business with the conditions on which a tax relief was granted by Cabinet.

76. Restriction on sale or other disposal of articles

(1) An article purchased by an approved partnership business free of import duties shall not be sold, given or otherwise disposed of by the approved partnership business except —

- (a) in case of a transfer of the ownership of a partnership business, to the transferee;

- (b) where the approved partnership business pays or gives security to the satisfaction of the Comptroller of Customs for the payment of an amount equivalent to the amount of import duties which, would have been payable on importation of such article into Saint Lucia, where the article was so imported by the approved partnership business; or
- (c) after the expiration of 5 years from the date of the purchase of the article.

(2) An approved partnership business that contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding 3 times the value of the article.

77. Power to require the production of information

(1) The Minister may serve a notice in writing on an approved partnership business to provide information to the Ministry to show that the conditions on which a tax relief was granted are satisfied.

(2) A notice issued under this section must —

- (a) contain details of the information required;
- (b) direct the partnership business to deliver the information to the Minister;
- (c) specify the time within which the information sought in the notice is to be delivered.

(3) An approved partnership business may request, in writing, an extension of time to provide the information in the notice issued under subsection (2).

(4) The Minister may extend the time specified in the notice issued under subsection (2) where it considers that the circumstances necessitate an extension.

(5) An approved partnership business that is directed by a notice to deliver information to the Minister shall deliver it to the Minister in accordance with the notice.

(6) An approved partnership business shall not —

- (a) in, or in connection with, delivering information under this section, willfully tamper with or alter any information or any part of the information so that the information or any aspect of it is false when received by the Minister;
- (b) willfully alter, destroy, damage or conceal any information required by the Minister under this section.

78. Inspection an approved partnership business

(1) An authorized officer of the Ministry may inspect the offices, building sites and other premises from which the approved partnership business conducts business to make inquiries pertinent to the approved community tourism product or the approved community tourism service.

(2) An approved partnership business, its officers and agents, shall provide an authorized officer of the Ministry with all information and documents requested in the course of his or her visit under subsection (1).

(3) In this section “authorized officer” means a person appointed by the Public Service Commission within the Ministry responsible for tourism to carry out compliance or an enforcement function required by law.

PART V MISCELLANEOUS

79. Fees

(1) The Agency may charge and collect fees for providing a service to a business or a partnership business as specified in a partnership agreement.

(2) In determining the fees to be charged on a business or under a partnership agreement, the Agency may consider —

- (a) the existing and potential business model;
- (b) the profitability of the business;
- (c) the initial level of training and support to be provided;
- (d) the anticipated demand for the product or service;
- (e) the level of ongoing capacity building that is required;
- (f) other relevant matters.

(3) The Minister may, on consultation with the Agency, specify the fees under subsection (1) by Order published in the *Gazette*.

80. Amendment of Schedule 1 and Schedule 2

The Minister may, by Order published in the *Gazette*, amend Schedule 1 and Schedule 2.

81. Guidelines

The Minister may, on the recommendation of the Agency, issue Guidelines for community tourism.

82. Regulations

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

Schedule 1

(Section 2)

LIST OF TAXES

1. Corporate tax for a maximum period of 15 years
2. Income tax
3. Import duty on imports of building materials, equipment, furniture, fixtures and fittings
4. Stamp duty and vendor's tax on the initial conveyance or transfer on sale of any immovable property for an approved community tourism project
5. Property tax
6. Value added tax on building materials, equipment, furniture, fixtures and fittings

Schedule 2

(Section 36)

OATH OR AFFIRMATION OF SECRECY

I,, do solemnly *swear/affirm that I will faithfully, truly and to the best of my judgement, skill and ability, execute and perform the duties required of me as a *member/employee of the *Board/Agency and unless ordered so to do by a Court will not disclose, communicate or convey or allow to be disclosed, communicated or conveyed directly or indirectly to any person, any private or confidential information obtained by virtue of the performance of my duties with the *Board/Agency.

I further promise and *swear/affirm that I will not allow any person to inspect or have access to any documentation or record over which I have control, care or custody and I will conscientiously endeavour to prevent any person from inspecting, or having access to any such information or documentation."

Oath/Affirmation taken at,
this day of
Before:

CHAPTER 15.43 COMMUNITY TOURISM DEVELOPMENT ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
