

# **EXPLANATORY NOTE**

## **TOURISM LEVY BILL**

1. The Bill for consideration is the Tourism Levy Bill (the Bill).
2. The purpose of the Bill is to provide for the imposition and collection of a tourism levy and for related matters.
3. Clauses 1 and 2 of the Bill provide the short title and commencement and interpretation.
4. Part I of the Bill (Administration) makes provision for the administration of the Bill. Under clause 3 of the Bill the Saint Lucia Tourism Authority (the Authority) is responsible for administering the Bill. However, in a case where the Authority no longer exists, the Minister of Tourism may designate another body to administer the Bill and the functions and powers given to the Authority may be transferred to that other body under the Bill.
5. Clauses 4 and 5 of the Bill expands the functions and powers of the Board of the Authority to carry out the responsibilities and duties assigned under the Bill.
6. Part II of the Bill (Imposition and Rate of Tourism Levy) introduces a new tourism levy that is payable by a guest of a registered tourism accommodation service provider on the supply of a tourism accommodation service under clause 6 of the Bill. Clause 7 of the Bill provides the rate of the tourism levy as specified in Schedule 1 of the Bill.
7. Part III of the Bill (Collector of Tourism Levy) makes provision for a collector of a tourism levy. Under clause 8 of the Bill, a registered tourism accommodation service provider under the Saint Lucia Tourism Authority Act, No. 8 of 2017 is deemed, for the purposes of the Bill, to be a collector of a tourism levy.
8. A collector of the tourism levy must be issued with a collector's certificate and be assigned to a class of collectors to collect the applicable rate of a tourism levy under clause 9 of the Bill.

A collector's certificate must contain the name and address of the collector, the class assigned by the Authority, and the date on which the certificate takes effect.

9. Under clause 10 of the Bill, a registered tourism accommodation service provider has the responsibility to notify the Authority of a change in its circumstances. By virtue of clause 11 of the Bill, the Authority may, on its own or after being notified of a change of circumstances under clause 10, review the classification of a collector for the collection of the applicable rate of a tourism levy.
10. The validity, display, suspension and cancellation of the collector's certificate are provided for under clauses 12, 13, 14 and 15 of the Bill.
11. Clauses 16 and 17 of the Bill provides that the Authority must keep and maintain a record of all collectors and publish the list of collectors in the *Gazette*.
12. Part IV of the Bill (Collection and Recovery of Tourism Levy) makes provision for the collection of the tourism levy. Clause 18 of the Bill requires a registered tourism accommodation service provider to give notice to a person who intends to book or purchase a tourism accommodation service of the requirement to pay the tourism levy.
13. Clause 19 of the Bill, sets out the provisions for the collection of the tourism levy. As such, a collector of the tourism levy is required to establish certain accounting systems which include maintaining an accounts payable system to handle the tourism levy collected and to segregate the tourism levy collected in a designated separate account. Additionally, the collector is required to submit a weekly report in relation to the guests at a registered tourism accommodation service provider and a monthly report giving an account of the monies collected and remitted to the Authority.
14. Under clause 20 of the Bill, a collector must remit to the Authority the tourism levy collected and recorded in its accounting system no later than the twenty-first day of the following calendar month.

15. By virtue of clause 21 of the Bill, the Authority may recover an amount of unpaid tourism levy from a collector and all costs associated with that recovery must be paid by the collector.
16. Under clause 22 of the Bill, a surplus of the tourism levy revenue that is received by the Authority, after making allowance for the budget of the Authority, must be paid to the credit of the Consolidated Fund.
17. Part V of the Bill (Refund of Tourism Levy) makes provision for the refund of the excess of an overpaid tourism levy. A guest who has overpaid the tourism levy may make a claim through the registered tourism accommodation service provider to the Authority for payment of a refund of the excess amount of an overpaid tourism levy. The Authority is responsible for processing the refund under clauses 23, 24 and 25 of the Bill.
18. Part VI of the Bill (Miscellaneous) provides for miscellaneous matters under the Bill. Under clause 26 of the Bill, a guest who is below the age of twelve years at the end of the accommodation period, is a member of a diplomatic or consulate service or occupies a complimentary room is exempted from the payment of the tourism levy. The Minister of Finance, after consultation with the Authority, may also exempt a person or category of persons from payment of a tourism levy.
19. The Minister of Tourism is given the power to amend Schedule 1 and Schedule 2 under clause 27 of the Bill and to make Regulations, after consultation with the Authority, under clause 28 of the Bill.
20. The rates for the tourism levy are specified under Schedule 1 of the Bill while Schedule 2 of the Bill provides for the class of collectors.



# SAINT LUCIA

No. of 2020

## ARRANGEMENT OF SECTIONS

*Section*

### PRELIMINARY

1. Short title
2. Interpretation

### PART 1 ADMINISTRATION

3. Administration of this Act
4. Functions of the Board
5. Powers of the Board

### PART II IMPOSITION AND RATE OF TOURISM LEVY

6. Imposition of tourism levy
7. Rate of tourism levy

### PART III COLLECTOR OF TOURISM LEVY

8. Collector of tourism levy
9. Issue of collector's certificate
10. Notice of change of circumstances
11. Review of class
12. Validity of collector's certificate
13. Display of collector's certificate
14. Suspension of collector's certificate
15. Cancellation of collector's certificate
16. Register of collectors
17. Publication of list of collectors

**PART IV**  
**COLLECTION AND RECOVERY OF TOURISM LEVY**

- 18. Notice of tourism levy
- 19. Collection of tourism levy
- 20. Remittance of tourism levy
- 21. Recovery of unpaid tourism levy
- 22. Application of surplus tourism levy revenue

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**REFUND OF TOURISM LEVY**

- 23. Online notice of overpaid tourism levy
- 24. Claim for refund
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**PART VI**  
**MISCELLANEOUS**

- 26. Exemptions
- 27. Amendment of Schedule 1 or Schedule 2
- 28. Regulations

SCHEDULE 1  
SCHEDULE 2

I Assent

## SAINT LUCIA

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**No. of 2020**

**AN ACT** to provide for the imposition, collection and remittance of a tourism levy and for related matters.

[ ]

**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 and commencement**

1.—(1) This Act may be cited as the Tourism Levy Act, 2020.

(2) This Act shall enter into force on the 1<sup>st</sup> day of December, 2020.

**Interpretation**

2. In this Act —

“accommodation period” means the period of stay between arrival in and departure from Saint Lucia at a registered tourism accommodation service provider;

“average daily rate” means the average income earned per occupied room divided by the number of rooms sold in a given time period;

“Board” means the Board of Directors under section 7 of the Saint Lucia Tourism Authority Act, No. 8 of 2017;

“business day” means a day other than Saturday, Sunday or a Bank Holiday;

“class” means the class of a collector as specified under Schedule 2;

“collector” means a registered tourism accommodation service provider that is deemed a collector of a tourism levy under section 8;

“collector’s certificate” means a certificate issued under section 9;

“complimentary room” means a sleeping accommodation offered to a person for no consideration;

“consideration”, in relation to the supply of a tourism accommodation service —

(a) means the total amount of money paid or payable at the end of the accommodation period and includes a deposit for that tourism accommodation service;



- (b) includes duties, levies, value added tax, fees and charges added to the cost for a tourism accommodation service;

“cost of tourism accommodation service” —

- (a) means the amount of money paid or payable by a guest to a registered tourism accommodation service provider at the end of an accommodation period;

- (b) does not include —

- (i) the cost of food and beverage, transfers and other expenses relating to the stay of a guest,

- (ii) any duties, levies, value added tax, fees and charges;

“guest” means a person who has made a booking and paid, partially or fully, for a tourism accommodation service at a registered tourism accommodation service provider;

“Minister” means the Minister responsible for tourism, unless otherwise specified;

“registered tourism accommodation service provider” has the meaning assigned to it under the Saint Lucia Tourism Authority Act, No. 8 of 2017;

“Saint Lucia Tourism Authority” means the Saint Lucia Tourism Authority established under section 4 of the Saint Lucia Tourism Authority Act, No. 8 of 2017;

“sleeping accommodation” includes a room, hut, tent or other place used primarily for sleeping;

“tourism accommodation service” means the supply of a service for sleeping accommodation in the tourism sector with or without related facilities for consideration;

“tourism levy” means the levy imposed under section 6;

“tourism levy revenue” means monies received by the Saint Lucia Tourism Authority from a collector.

## **PART I ADMINISTRATION**

### **Administration of this Act**

**3.—**(1) For the purposes of this Act, the Saint Lucia Tourism Authority shall administer this Act.

(2) Notwithstanding subsection (1), the Minister may, by Order published in the *Gazette*, if the Saint Lucia Tourism Authority no longer exists, designate a body to administer this Act.

(3) Where the Minister designates a body under subsection (2), the functions and powers assigned to the Saint Lucia Tourism Authority under this Act are transferred to that body.

### **Functions of the Board**

**4.** Without prejudice to the Saint Lucia Tourism Authority Act, No. 8 of 2017, the Board is responsible for —

- (a) issuing a collector's certificate;
- (b) assigning a collector to a class;
- (c) reviewing the class to which a collector is assigned under section 11;
- (d) receiving the tourism levy remitted under section 20.

### **Powers of the Board**

**5.** Without prejudice to the Saint Lucia Tourism Authority Act, No. 8 of 2017, the Board may —

- (a) request books, records and other information to verify a record submitted under section 19;
- (b) recover an unpaid tourism levy under section 21;
- (c) refund the excess amount of an overpaid tourism levy under section 25;
- (d) do all things necessary or convenient in connection with the performance of its functions under this Act.

**PART II**  
**IMPOSITION AND RATE OF TOURISM LEVY**

**Imposition of tourism levy**

**6.**—(1) Notwithstanding the Value Added Tax Act, Cap. 15.42 and subject to this Act, a tourism levy shall be charged and paid on the supply of a tourism accommodation service under this Act.

(2) A tourism levy under subsection (1) shall be paid by a guest on the cost of the tourism accommodation service provided by a registered tourism accommodation service provider.

**Rate of tourism levy**

**7.** The rate of a tourism levy to be collected by a class of collector is specified in Schedule 1.

**PART III**  
**COLLECTOR OF TOURISM LEVY**

**Collector of tourism levy**

**8.**—(1) For the purposes of this Act, a registered tourism accommodation service provider is deemed to be a collector of a tourism levy.

(2) The Saint Lucia Tourism Authority shall, with regard to a registered tourism accommodation service provider that is deemed a collector under subsection (1) —

- (a) issue a collector's certificate; and
- (b) assign a collector to a class.

**Issue of collector's certificate**

**9.** The Saint Lucia Tourism Authority shall issue a collector's certificate to a collector which includes the following information —

- (a) the name and address of the collector;
- (b) the class assigned under section 8(2)(b);
- (c) the date of issuing the collector's certificate.

**Notice of change of circumstances**

**10.** A collector shall notify the Saint Lucia Tourism Authority, in writing, within twenty-one business days of —

- (a) a change in the name, address, place of business, constitution or tourism accommodation service supplied;
- (b) a change of address from which, or name in which, tourism accommodation service is being carried on; or
- (c) a change in circumstances, if the person ceases to operate or closes on a temporary basis.

**Review of class**

**11.—(1)** The Saint Lucia Tourism Authority shall review, on an annual basis, the class to which a collector is assigned under section 8(2)(b).

(2) The Saint Lucia Tourism Authority may —

- (a) on being notified under section 10; or
- (b) after carrying out a review under subsection (1),

assign a collector to a different class for the collection of a tourism levy.

(3) If the Saint Lucia Tourism Authority determines that a collector must be reassigned to a different class, the Saint Lucia Tourism Authority shall —

- (a) cancel the collector's certificate;
- (b) assign the collector to a different class for the collection of a tourism levy; and
- (c) issue a new collector's certificate.

(4) A collector shall compensate the Saint Lucia Tourism Authority for the cost incurred for reassignment to a class under subsections (2) and (3).

**Validity of collector's certificate**

**12.** A collector's certificate remains valid until —

- (a) suspended under section 14; or

(b) cancelled under section 15.

**Display of collector's certificate**

**13.—**(1) A collector shall display the collector's certificate in a conspicuous place at each business location.

(2) A collector that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars per day or each day or part of the day that the failure continues.

**Suspension of collector's certificate**

**14.** The Saint Lucia Tourism Authority may suspend a collector's certificate if a collector fails to comply with the requirements under sections 19 and 20.

**Cancellation of collector's certificate**

**15.—**(1) The Saint Lucia Tourism Authority may cancel a collector's certificate if a collector —

(a) no longer exists;

(b) fails to comply with the requirements specified under sections 19 and 20.

(2) Where a certificate is cancelled under subsection (1), the collector shall submit the collector's certificate to the Saint Lucia Tourism Authority for cancellation.

**Register of collectors**

**16.—**(1) The Saint Lucia Tourism Authority shall keep and maintain a register of all collectors.

(2) The Saint Lucia Tourism Authority shall record in the register, in relation to a collector, the following information —

(a) the name;

(b) the personal address and business address;

(c) the class assigned under section 8(2)(b);

(d) the class reassigned under section 11(2);

(e) other details relating to the collector as the Saint Lucia Tourism Authority considers necessary.

**Publication of list of collectors**

17. The Saint Lucia Tourism Authority shall, before the 1<sup>st</sup> day of January of each year, publish in the *Gazette* a list of all collectors.

**PART IV**  
**COLLECTION AND RECOVERY OF TOURISM LEVY**

**Online notice of tourism levy**

18.—(1) A registered tourism accommodation service provider that advertises, offers or supplies a tourism accommodation service online shall ensure that the advertisement notifies a person, who intends to book and purchase a tourism accommodation service in Saint Lucia, of the tourism levy, where the tourism levy is —

- (a) included in the purchase amount, that the tourism levy will be collected when online payment is made;
- (b) not included in the purchase amount, that the tourism levy will be collected, on arrival of the guest by the registered tourism accommodation service provider.

(2) A registered tourism accommodation service provider that contravenes subsection (1) commits an offence and is liable to a fine not exceeding ten thousand dollars.

**Collection of tourism levy**

19.—(1) A collector shall collect a tourism levy at the rate under section 7 for the accommodation period.

(2) A collector shall —

- (a) establish and maintain an accounts payable system to handle the tourism levy collected;
- (b) account for the tourism levy collected separately and the tourism levy collected must not be commingled with the other sources of revenue;
- (c) segregate the tourism levy collected in a designated separate account;
- (d) remit to the Saint Lucia Tourism Authority the tourism levy collected and recorded in its accounting system;

- (e) submit a weekly report at the beginning of the subsequent week to the Saint Lucia Tourism Authority specifying —
    - (i) the name and registration number of the registered tourism accommodation service provider,
    - (ii) the arrival date of a guest,
    - (iii) the room number assigned to a guest,
    - (iv) the name and age of a guest who occupies a room,
    - (v) the total number of rooms occupied per night,
    - (vi) the total number of guests;
  - (f) submit a monthly report to the Saint Lucia Tourism Authority, unless otherwise agreed by the collector and the Saint Lucia Tourism Authority —
    - (a) that provides an account of monies collected and remitted;
    - (b) together with the remittance of the monies collected for each month.
- (3) A report under subsection (2)(f) includes —
- (a) the information specified under subsection (2)(e);
  - (b) the name of the collector;
  - (c) the payment period;
  - (d) the number of guests charged the rate of a tourism levy under section 7;
  - (e) the number of guests charged fifty per cent of a tourism levy under section 7;
  - (f) the number of guests exempted from payment of a tourism levy under section 26;
  - (g) the total tourism levy collected;
  - (h) the total tourism levy refunded;
  - (i) the total tourism levy remitted.

(4) For the purposes of verifying the information provided in a report submitted under subsections (2) and (3), the Saint Lucia Tourism Authority may request and the collector shall provide the Saint Lucia Tourism Authority access to books, records and other documents for verifying the information in a report.

(5) The tourism levy collected is held by a collector after collection in trust for the beneficial interest of the Saint Lucia Tourism Authority and the collector does not have a legal or equitable interest in the tourism levy collected.

(6) A collector that collects the tourism levy under subsection (1) but fails to remit the sums collected to the Saint Lucia Tourism Authority is liable —

(a) in the case of an individual, to a fine not exceeding ten thousand dollars;

(b) in the case of a company, to a fine not exceeding one hundred thousand dollars.

#### **Remittance of tourism levy**

**20.—**(1) A collector shall remit to the Saint Lucia Tourism Authority the tourism levy collected and recorded in its accounting system no later than the twenty-first day of the following calendar month.

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

#### **Recovery of unpaid tourism levy**

**21.** A collector that fails to comply with sections 19 and 20 or causes the Saint Lucia Tourism Authority to spend funds to recover or retain payment of the tourism levy collected shall compensate the Saint Lucia Tourism Authority for the cost incurred to recover the amount of the tourism levy owed.

#### **Application of tourism levy revenue**

**22.—**(1) The Saint Lucia Tourism Authority shall apply the tourism levy revenue in the payment of its obligations or in the discharge of its functions under the Saint Lucia Tourism Authority Act, No. 8 of 2017.



(2) Any balance of the tourism levy revenue at the end of the financial year of the Saint Lucia Tourism Authority which is available after making full allowance for the budget of the Saint Lucia Tourism Authority shall be paid to the credit of the Consolidated Fund.

## **PART V**

### **REFUND OF TOURISM LEVY**

#### **Notice of overpaid tourism levy**

**23.** Where a guest has overpaid a tourism levy, he or she may give written notice to the collector of the overpaid amount of the tourism levy.

#### **Claim for refund**

**24.** A collector shall, on being notified under section 23 and if the tourism levy collected has been remitted to the Saint Lucia Tourism Authority, submit to the Saint Lucia Tourism Authority a claim on behalf of a guest for a refund of an overpaid tourism levy, accompanied by documentary proof of payment of the excess amount of an overpaid tourism levy.

#### **Refund of overpaid tourism levy**

**25.** The Saint Lucia Tourism Authority shall, on receipt of a claim for a refund under section 24 and if it determines that an excess amount of a tourism levy was paid, refund the excess amount of the overpaid tourism levy.

## **PART VI**

### **MISCELLANEOUS**

#### **Exemptions**

**26.—(1)** A guest who occupies —

- (a) a complimentary room;
- (b) a room and is below the age of twelve years at the end of the accommodation period;
- (c) a room and is a member of a diplomatic or consulate service,

is exempted from paying the tourism levy under this Act.

(2) The Minister may, after consultation with the Saint Lucia Tourism Authority, by Order published in the *Gazette*, exempt a person or category of persons from this Act.

(3) An exemption under subsection (2) may be subject to conditions.

#### **Amendment of Schedule 1 or Schedule 2**

**27.**—(1) The Minister may, after consultation with the Saint Lucia Tourism Authority, by Order published in the *Gazette*, amend Schedule 1 or Schedule 2.

(2) An Order made under subsection (1) to amend Schedule 1 is subject to an affirmative resolution of Parliament.

#### **Regulations**

**28.** The Minister may, after consultation with the Saint Lucia Tourism Authority, make Regulations to give effect to this Act.

**SCHEDULE 1**

(Section 7)

**RATE OF TOURISM LEVY**

<b>Class of Collector</b>	<b>Rate of Tourism Levy</b>
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(a) <b>Class 1 or Class 3</b>	US\$3 per person each night
(b) <b>Class 2 or Class 4</b>	US\$6 per person each night
	In the case of a guest who, at the end of the accommodation period, is twelve years or older but less than eighteen years, the rate of tourism levy is 50% of the rate specified under paragraphs (a) and (b).

**SCHEDULE 2**

(Section 8(2)(b))

**CLASS OF A COLLECTOR**

- (a) **Class 1** — a registered tourism accommodation service provider that charges an average daily rate of US\$120 or less;
- (b) **Class 2** — a registered tourism accommodation service provider that charges an average daily rate of US\$121 or more;
- (c) **Class 3** — a registered tourism accommodation service provider that charges a nightly rate of US\$120 or less;
- (d) **Class 4** — a registered tourism accommodation service provider that charges a nightly rate of US\$121 or more.

Passed in the House of Assembly this       day of       ,  
2020.

*Speaker of the House of Assembly.*

Passed in the Senate this       day of       , 2020.

*President of the Senate.*