

CHAPTER 394A
PIERHEAD DEVELOPMENT
ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Pierhead Development Project.
4. Exemptions.
5. Duty-free shopping system.
6. Maintenance of the Project.
7. Use of works.
8. Removal or modification of works.
9. Vesting of reclaimed land.
10. Jurisdiction.
11. Regulations.
12. Rights of the Crown.
13. Commencement.

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

CHAPTER 394A**PIERHEAD DEVELOPMENT**

An Act to make provision for the development of Lower Bay Street and its environs to be known as the Pierhead Development Project and for related matters. 2000-20.

[By Proclamation] Commence-
ment.

1. This Act may be cited as the *Pierhead Development Act*. Short title.

2. In this Act Interpretation.

"Company" means the Pierhead Development Inc., a company incorporated under the *Companies Act*; Cap. 308.

"Comptroller" means the Comptroller of Customs;

"development period" means a period of not more than 5 years from the date that notice is given to the Chief Town Planner for the commencement of the construction works;

"investor" means a person other than a commercial bank who by means of a loan or otherwise provides funding for the carrying out of any works undertaken in the Project;

"Minister" means the Minister responsible for Finance;

"Project" means the Pierhead Development Project referred to in section 3;

"qualified merchant" means any merchant operating within the Project whose annual turnover is in excess of \$500 000 and whose duty-free sales are at least 60 per cent of that turnover;

"tax holiday" means a period of 15 years commencing from the date of the Chief Town Planner's certificate of compliance confirming that the construction works have been satisfactorily completed;

"works" includes any wharf, jetty, boardwalk, slip, dock, quay, sea defence structure, road, building, plant, machinery and other property appertaining thereto, ancillary facilities or excavation, whether complete or incomplete, on or near the shore or in the sea.

Pierhead
Develop-
ment
Project.
First
Schedule.

3. (1) For the purposes of this Act, the area described in the *First Schedule* and any works constructed or carried out in that area by the Company shall be referred to as the Project.

Second
Schedule.

(2) Subject to paragraph (b) of section 6(1), the activities listed in the *Second Schedule* may be undertaken by the Company in the development of the Project.

First
Schedule.
Second
Schedule.

(3) The Minister may by order amend the *First Schedule* or *Second Schedule*.

Exemptions.

4. (1) The Company is

(a) exempt from the payment of the duties and taxes specified in Part I; and

(b) granted the allowances specified in Part II,

Third
Schedule.

of the *Third Schedule*.

(2) The persons specified in Part III of the *Third Schedule* are exempt from the payment of the duties and taxes specified in that Schedule.

Duty-free
shopping
system.
Cap. 66.
L.N.1963/
61.

5. (1) The Company may provide duty-free shopping facilities within the Project subject to the provisions of the *Customs Act* and the *Customs Regulations, 1963*.

(2) A qualified merchant who operates a duty-free shop within the Project shall be subject to and comply with the provisions of the *Customs (Sale of Duty Free Goods in the Pierhead Development Project) Regulations, 2000*.

6. (1) Pursuant to the permission granted to the Company under the *Town and Country Planning Act*, the Company may

Maintenance
of the
Project.
Cap. 240.

(a) construct the works and any ancillary facilities necessary for the development of the Project; and

(b) undertake the activities listed in the *Second Schedule*.

Second
Schedule.

(2) The Company shall, at its own expense,

(a) maintain all works and other ancillary facilities required for the development of the Project; and

(b) keep all channels free from silt, flotsam, jetsam and other debris generated by the Project that would cause an obstruction to shipping.

(3) Subject to subsection (1) the Company may undertake any dredging works which

(a) may be necessary for the development of the Project; or

(b) may become necessary as a consequence of the Project.

7. Subject to this Act and subject to the rights of the Crown, the Company is entitled to the use of the works and the ancillary facilities constructed by the Company.

Use of
works.

8. (1) Where it appears to the Chief Town Planner that any of the works carried on by the Company have caused or are likely to cause erosion of or other damage to the foreshore, the Chief Town Planner may order the Company to modify or remove such works, or cause them to be modified or removed, at its own expense.

Removal or
modification
of works.

- Cap. 240. (2) Where the Company is aggrieved by an order given by the Chief Town Planner pursuant to subsection (1), the Company may, within 28 days after the date of the order, request the Chief Town Planner to refer the order for review by the Minister responsible for Town Planning; and subsections (3), (5), (6), (8), (9) and (10) of section 19 of the *Town and Country Planning Act* shall apply *mutatis mutandis* as if the order referred to in subsection (1) were a decision given by the Chief Town Planner under section 19 of that Act.
- Vesting of reclaimed land. First Schedule. **9.** The land reclaimed from the sea and more particularly described in the *First Schedule* as the area comprising 4 200 square feet, the property of the Crown, is without further assurance vested in the Barbados Tourism Investment Incorporated in fee simple absolute in possession.
- Jurisdiction. **10.** The land reclaimed from the sea and the works shall be within the jurisdiction of the magistrate's court for District "A".
- Regulations. **11.** The Minister may make regulations
- (a) respecting the use of any works and ancillary facilities constructed by the Company; and
 - (b) generally for giving effect to this Act.
- Rights of the Crown. **12.** Nothing in this Act shall affect the rights of the Crown.
- Commencement. **13.** This Act comes into operation on a date to be fixed by proclamation.

FIRST SCHEDULE

(Section 3(1), (3))

The Pierhead Development Project comprising all that portion of land containing approximately 4.4 hectares commencing from the western tip of Fort Willoughby and proceeding in an easterly direction along the northern seaward boundary of Fort Willoughby to a point where the boundary of Fort Willoughby joins the western boundary of the Dry Dock; proceeding in an easterly direction to a point where the boundary of the Dry Dock joins the north-north-easterly boundary of the Wharf, then proceeding in a north-north-easterly direction and thence in a south easterly direction along the northern seaward boundary of the Wharf to a point on the western side of the Chamberlain Bridge; thence proceeding in a southerly direction along the western boundary of the Wharf and a public road known as Cavans Lane; thence in a south easterly direction along a public road known as Lower Bay Street to a point on the south eastern side of Parfitts Alley and proceeding in a westerly direction along the common boundary of Parfitts Alley and the northern boundary of lands now or late of the Estate of Maughan deceased; proceeding in a south-south easterly direction along the common boundary of lands now or late of the Estate of Maughan deceased and lands now or late of Barbados Shipping and Trading Company Limited; proceeding in an easterly direction along the common boundary of lands now or late of the Estate of Maughan deceased and lands now or late of Barbados Shipping and Trading Company Limited to a point on a public road known as Lower Bay Street; and proceeding in a south-south easterly direction to the junction of Lower Bay Street and the southern boundary of lands now or late of McEneaney Alstons (Barbados) Limited; proceeding in a south-westerly direction along the southern boundary of lands now or late of McEneaney Alstons (Barbados) Limited; and thence proceeding in a northerly direction along the western boundary of lands now or late of McEneaney Alstons (Barbados) Limited to a point where the boundary of those lands joins the south western boundary of lands now or late of Barbados Shipping and Trading Company Limited; then proceeding in a north-north-westerly direction along the boundary of lands now or late of Barbados Shipping and Trading Company Limited to a point where that boundary turns in a south-westerly direction and then in a westerly direction along the seaward boundary of lands now or late of Barbados Shipping and Trading Company Limited; thence in a westerly direction along the seaward boundary of lands now or late of Barbados Shipping and Trading Company Limited to a point where the boundary of those lands joins the boundary of a parcel of land, the property of the Crown measuring approximately 4 200 square feet; thence proceeding in a westerly direction to the common boundary of lands now or late of the Crown and Fort Willoughby and then proceeding in a westerly direction along the southern boundary of Fort Willoughby to the starting point at the western tip of Fort Willoughby.

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SECOND SCHEDULE

(Sections 3(2), (3), 6(1))

Activities

1. Residential units including condominiums and apartment complexes.
2. Commercial buildings including office complexes.
3. Marina facilities.
4. Maritime Museum highlighting the maritime history connected with the Dry Dock, also known as the Screw Dock.
5. Restaurant and beach club facilities.
6. Amusement, recreational and entertainment facilities.
7. Water-taxi service.
8. Parking facilities.
9. Vending facilities.
10. Duty-free shopping facilities.

THIRD SCHEDULE

(Section 4)

PART I

Waiver of Duties and Taxes

1. (1) Import Duty, value added tax and environmental levy in respect of materials and equipment purchased either locally or purchased out of a bonded warehouse, and imported for the construction of new buildings and the renovation or refurbishment of existing buildings falling under the Project.

(2) Value added tax payable for the provision of services that directly relate to the construction activities of the Project.

(3) The exemptions specified in sub-paragraphs (1) and (2) are granted subject to the following conditions respectively:

- (a) the Company shall pay value added tax on the local supply of materials, equipment and construction related services. The Company may, within a period of 2 years after the supply is made, apply to the Comptroller of Customs for a refund of the value added tax paid;
- (b) during the period for which the Company is granted concessions, an aggregate number of rooms in the Project must be made available for rental to tourists, during the course of each year, which would amount to the same number as if each unit had been rented for at least 6 months of each year; and
- (c) where any materials or equipment referred to in sub-paragraph (1) have been imported free of duties and taxes, the Comptroller may, at any time during the period of 5 years from the date of importation of any such materials or equipment, require the management of Pierhead Development Inc. to
 - (i) keep such records in such form and containing such particulars as may be required by the Comptroller in respect of the materials and the equipment; and
 - (ii) permit the Comptroller or any person authorised by him in writing to, at all reasonable times, inspect such records and have access to any premises for the purpose of examining any such materials and equipment which the Comptroller may believe to be therein and of satisfying himself of the accuracy of the particulars in relation to such materials contained in such records.

2. (1) Duties and taxes in respect of the following vessels to be used exclusively by the Company in connection with the operation of the Project:

- (a) a tall ship used only for display purposes in the Maritime Museum; and
- (b) vessels for which the Minister gives his consent in writing for use exclusively in the operation of a water-taxi service.

(2) The exemption specified in sub-paragraph (1)(b) shall be granted subject to the following conditions respectively:

- (a) a vessel imported for use in providing a water-taxi service shall not be sold, otherwise disposed of or used for any other purpose within 10 years from the date of importation unless the duties and taxes in respect thereof are paid and the prior written consent of the Minister is obtained; and
- (b) no director or shareholder of the Company shall be exempt from the payment of duties and taxes in connection with the importation or operation of a vessel or vessels for use with the water-taxi service.

3. (1) Import Duty and environmental levy on articles and equipment imported or purchased out of a bonded warehouse to be used exclusively for the purposes and objects of the Maritime Museum, where the Comptroller is satisfied on a certificate of the Director of the Maritime Museum that the items are so required.

(2) The exemption specified in sub-paragraph (1) shall be granted subject to the condition that the articles and equipment referred to in that sub-paragraph shall not be disposed of by sale or other means within 10 years of the date of importation, unless the prior written consent of the Minister is obtained and the duties and taxes in respect thereof are paid.

4. (1) Duties and taxes in respect of vehicles specified in the list set out at sub-paragraph (3) where those vehicles have been

- (a) approved by the Minister for use by the Company;
- (b) imported by a non-resident business enterprise contracted to work with the Project.

(2) Notwithstanding sub-paragraph (1), duties and taxes will become payable in respect of a vehicle to which that sub-paragraph refers where the vehicle has been sold or otherwise disposed of before the expiration of 3 years from the date of importation.

(3) The vehicles referred to in sub-paragraph (1) are

- (i) bobcats;
- (ii) forklifts;
- (iii) pick-up trucks;

-
- (iv) flat-bed trucks;
 - (v) tipper trucks; and
 - (vi) dump trucks.
5. Persons in receipt of the following payments are exempt from tax:
- (a) the amount of interest received by an investor who makes a loan to the Company of any sum of money raised for the purpose of financing any work during the development period;
 - (b) management fees, where a management agreement is entered into with an international hotel chain to market the condominiums built within the Project;
 - (c) dividends paid by the Company to its non-resident shareholders;
 - (d) interest paid by the Company to resident and non-resident shareholders.

6. (1) Corporation tax on income and capital accruing to the Company in respect of the development and operation of the Project for a period of 15 years, commencing on a date commensurate with that of the Chief Town Planner's certificate of compliance being issued, confirming that the construction works have been completed satisfactorily.

(2) On the conclusion of the tax holiday, the Company shall pay corporation tax at a rate the lesser of 30 per cent and the prevailing corporation tax rate for a period of 10 years.

7. Charges on the repatriation of interest and capital for the duration of the concessions.

8. Land tax on the improved value of the land.

9. Property transfer tax is not payable in respect of the following transactions:

- (a) the transfer of property within the area described in the *First Schedule* to this Act by vendors to the Company; and
- (b) the initial sale by the Company of completed residential units, condominiums and apartments to purchasers.

First
Schedule.

PART II

Allowances

- Cap.73
1. Where an investor has invested additional capital into the Project at the end of the tax holiday, the Company for the purposes of the *Income Tax Act* shall be allowed a deduction or set-off against income arising or accruing to the Company equal to 50 per cent of the expenditure incurred with the additional investment.
 2. Where the amount of expenditure cannot be wholly deducted or set-off against the income, the Company shall be allowed to carry forward the excess for the following 9 years.
 3. A building allowance shall be deducted in calculating the assessable income of the Project where, after the conclusion of the tax holiday, the Company has in an income year made a capital expenditure on any commercial building falling within the Project.
 4. The building allowance shall be an amount equal to
 - (a) 4 per cent of the improved value of the property if the property is not registered with the Barbados National Trust; or
 - (b) 10 per cent of the improved value if the property is registered with the Barbados National Trust.

PART III

1. Non-resident employees of any non-resident business enterprise contracted to work on the Project and the dependants of those employees who are not citizens, permanent residents or immigrants of Barbados, are exempt from the payment of duties and taxes on personal and household effects that are imported into Barbados during the construction of the Project.
2. All *bona fide* personal and household effects of dependants referred to in paragraph 1 are not subject to any duties or taxes if those effects are not sold or otherwise disposed of in Barbados within 3 years of the date of importation.