

CHAPTER 237A

SPECIAL DEVELOPMENT AREAS

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CHAPTER 237A

SPECIAL DEVELOPMENT AREAS

An Act to provide for the designation of special development areas and for relief to persons carrying out work in those areas and to persons providing the financing of such work. 1996-21.
2001-20.
2007-47.

[4th November, 1996] Commence-
ment.

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

2. (1) In this Act, Interpretation.

"approved developer" means any person approved by the Minister to carry out work in a special development area in accordance with section 4;

"development period" means a period of not more than 15 years prescribed by the Minister under section 3(3); 2001-20.

"improvement works" means the construction or improvement of a building or structure in a special development area, but does not include the relocation of an existing business to a special development area;

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

"Minister" means Minister responsible for Finance;

"special development area" means an area specified in the *First Schedule*. First Schedule.

(2) For the purposes of this Act,

"industrial building or structure" is a building or structure in use, or purchased, constructed, re-constructed, altered, or adapted to be used, for the purposes of

- (a) an undertaking for the generation, transformation, conversion, transmission or distribution of electrical energy; or
- (b) a trade carried on in a mill, factory or other similar premises; or
- (c) a trade which consists in the manufacture of goods or materials or the subjecting of goods or materials to any process; or
- (d) a trade which consists in the storage of goods or materials
 - (i) which are to be used in the manufacture of other goods or materials; or
 - (ii) which are to be subjected in the course of trade to any process; or
 - (iii) which, having been manufactured or produced or subjected in the course of trade to any process, have not been delivered to a purchaser; or
- (e) a trade which consists in the working of any mine, oil well or other source of natural deposits capable of being lifted or extracted from the earth; or
- (f) scientific research exclusively; or
- (g) computer software industries, data processing industries or agro-processing industries,

whether or not such building or structure is provided by the person carrying on such trade or undertaking for the welfare of workers employed in that trade or undertaking and in use for that purpose.

(3) For the purpose of subsection (2), an industrial building or structure does not include any building or structure in use as a dwelling-house or part of a dwelling-house, retail shop, premises used for making repairs, showroom, hotel or office, or for any purpose ancillary to the purposes for which a dwelling-house, retail shop, premises used for making repairs, showroom, hotel or office is used.

(4) In determining whether a building or structure is an industrial building or structure

- (a) part of the trade or undertaking shall be deemed to be severable from the remainder of that trade or undertaking and shall constitute a separate trade or undertaking; and
- (b) where part of a whole building or structure could be classified as an industrial building or structure and part could not, and the capital expenditure in respect of the part that could not be so classified is not more than 10 per cent of the total capital expenditure on the building or structure, the whole building shall be deemed to be an industrial building or structure; and where such percentage exceeds 10 per cent, the whole building shall be deemed not to be an industrial building or structure.

3. (1) For the purposes of this Act, the areas specified in the *First Schedule* are special development areas.

Special
development
areas.
First
Schedule.

(2) The activities listed in the *Second Schedule* may be carried on in special development areas.

Second
Schedule.

(3) The Minister may by order

- (a) prescribe a development period in respect of any special development area;
- (b) amend the *First Schedule* by increasing or decreasing the number of special development areas;

First
Schedule.

- (c) prescribe the boundaries of any special development area; and
- Second Schedule. (d) amend the *Second Schedule* by adding thereto or deleting therefrom specified activities.
- Approved developer. **4.** (1) A person who wishes to be an approved developer may make application to the Minister for the purpose.
- (2) The Minister may approve the application referred to in subsection (1) either unconditionally or subject to such conditions as he thinks fit; or may refuse the application.
- (3) The approval of a person as an approved developer shall be published in the *Official Gazette*.
- Compliance. Cap. 240. **5.** An approved developer shall comply with the provisions of the *Town and Country Planning Act*.
- Exemption from income tax. **6.** Where an investor makes a loan to an approved developer of any sum of money raised for the purpose of financing any improvement works during the development period, the amount of interest received by the investor in respect of that loan shall be exempt from income tax.
- Exemption from other taxes. Third Schedule. **7.** An approved developer shall, during the development period, be exempt from the payment of the taxes and duties specified in the *Third Schedule*.
- Refund of value added tax on inputs. 2001-20. **7A.** An approved developer who has paid value added tax on the local supply of inputs for the
- (a) construction of a new building; or
- (b) renovation or refurbishment of an existing building,
- in a special development area 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.

- 8.** Notwithstanding the *Income Tax Act*, an approved developer
- (a) shall pay corporation tax at the rate of 15 per cent; and
- (b) is entitled to an allowance in accordance with section 9 or 10, as the case may be.

Incentives.
Cap. 73.

2007-47.

9. (1) Notwithstanding the *Income Tax Act*, where an approved developer carrying on a business in an income year has made a capital expenditure in that year on an industrial building or structure used or to be used in that business for some purpose other than resale, then in calculating the assessable income of that person for that income year there shall be deducted as an initial allowance in respect of that income year an amount equal to 40 per cent of the capital expenditure on that industrial building or structure.

Industrial
building
allowances.
Cap. 73.

(2) Notwithstanding the *Income Tax Act*, where an approved developer carrying on a business has made a capital expenditure on an industrial building or structure used or to be used in that business for some purpose other than resale, referred to as depreciable property, then in calculating the assessable income of the approved developer for an income year, an amount may at the option of the approved developer be deducted as an annual allowance equal to 6 per cent of that capital expenditure after deducting therefrom the amount of any rehabilitation grant made to the approved developer in respect of that industrial building or structure.

10. (1) For the purposes of this section, "commercial building" means a building other than a building described in section 12B or 85(4) of the *Income Tax Act* or an hotel under section 2 of the *Hotel Aids Act, 1967*¹ that is in use, or is purchased, constructed, reconstructed, altered or adapted to be used, for commercial purposes, including use as offices or a warehouse or for any trade, but does not include a building let out as a dwelling-house.

Commercial
building
allowances.
Cap. 73.
1967-25.

¹ The *Hotel Aids Act, 1967* was repealed by the *Tourism Development Act*, Cap. 341, but the reference to the *Hotel Aids Act, 1967* here has been retained for the purposes of section 40 of Cap. 341.

(2) Notwithstanding the *Income Tax Act*, where an approved developer has in an income year made a capital expenditure on a commercial building, then in calculating the assessable income of that person for that income year

- (a) an amount may at the option of that person be deducted as an initial allowance equal to 20 per cent of such capital expenditure; and
- (b) there shall be deducted at the option of that person for that income year and any subsequent income year an annual allowance equal to 4 per cent of such capital expenditure.

No annual allowance to an approved developer.

11. Notwithstanding section 9(2) and section 10(2)(b), no annual allowance shall be made to an approved developer for an income year in respect of the property referred to in sections 9 and 10 if the total amount of the initial and annual allowances made to that person in the preceding years exceeds the capital expenditure made by that person.

Rules in respect of allowances. Cap. 73.

12. Subsections (3) to (9) of section 13 of the *Income Tax Act* shall apply, *mutatis mutandis*, to annual allowances referred to in sections 9 and 10 in the calculation of assessable income; and any reference in those subsections to "a person" shall be construed as a reference to "an approved developer".

Non-entitlement to claim. Cap. 73.

13. Notwithstanding any provision of this Act, an approved developer is not entitled to claim an allowance under the *Income Tax Act* where a claim is made under this Act in respect of the same property.

Revocation of approved developer status. 2001-20.

13A. Where an approved developer fails to comply with

- (a) any of the conditions imposed by the Minister under section 4(2); or
- (b) any other provisions of this Act,

the Minister may by notice published in the *Official Gazette* revoke the approved developer status.

14. The Minister may make regulations generally for giving effect Regulations. to the provisions of this Act.

FIRST SCHEDULE

(Section 3)

Special Development Areas

1. Carlisle Bay Re-development Area in the parish of St. Michael.
2. Speightstown in the parish of St. Peter.
3. St. Lawrence Gap in the parish of Christ Church.
4. The Conservation Area as defined in section 2 of the *Soil Conservation (Scotland District) Act*, Cap. 396 and more particularly described in the First Schedule thereto.

SECOND SCHEDULE

(Section 3)

Activities

1. Hotels including conference areas.
2. Residential complexes.
3. Commercial or industrial buildings including office complexes.
4. Other facilities directed towards the improvement or expansion of services to the tourism sector.
5. Water-based activities.
6. Tourism projects highlighting the heritage and natural environment of Barbados.
7. Arts and cultural investments.
8. Agricultural-based activities.

THIRD SCHEDULE

(Section 7)

Exempted Taxes and Duties

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| 2001-20. | 1. Import duty, environmental levy and value added tax on inputs for the construction of new buildings and the renovation or refurbishment of existing buildings. |
| 2001-20. | 2. Charges on the repatriation of interest and capital for a period of 15 years commencing on a date to be prescribed by the Minister. |
| | 3. Land tax on the improved value of land. |
| 2001-20. | 4. Property transfer tax payable on the initial purchase of property. |