

**HOTELS AID (AMENDMENT) ACT, 1996**

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**ARRANGEMENT OF SECTIONS****SECTION**

1. Short title and commencement
2. Interpretation
3. New heading added
4. Section "2" amended
5. Section "3" amended
6. Section "5" amended
7. New Part added (inserting "Part II" and new provisions as Sections "12" to "27")

**FIJI**

**ACT NO. 17 OF 1996**



I assent.

[L.S.]

K. K. T. MARA  
President

[21 October 1996]

**AN ACT**

**TO AMEND THE HOTELS AID ACT  
(CHAPTER 215)**

ENACTED by the Parliament of Fiji:—

*Short title and commencement*

1.—(1) This Act may be cited as the Hotels Aid (Amendment) Act, 1996.

(2) This Act shall come into force on the day it is published in the *Fiji Republic Gazette*.

*Interpretation*

2. In this Act, the Hotels Aid Act is referred to as “the Act”.

*New heading added*

3. The Act is amended by adding the following new heading immediately after section “1” and before section “2”:

“PART 1—STANDARD ALLOWANCES AND SUBSIDY”

- (b) in the definition of "hotel", by deleting the word "person" in the second line and substituting the word "persons";
- (c) by adding immediately after the definition of "hotel owner" the following new definition—

"Minister" means the Minister responsible for Tourism"; .

*Section "3" amended*

5. Section "3" of the Act is amended in subsection "(1)" by deleting the word "Act" in the first line and substituting the word "Part".

*Section "5" amended*

6. Section "5" of the Act is amended in paragraph "(a)" of subsection "(1)" by adding the words "under this Part" immediately after the word "approval".

*New Part added*

7. The Act is amended by adding the following new Part and heading immediately after section "11"—

**"PART II—SHORT LIFE INVESTMENT**

*Interpretation*

12. In this Part, unless the context otherwise requires—

"company" means a company registered under the Companies Act, Cap. 247;

"consultant fees" include salaries, allowances, per diem and incidental expenses, food and accommodation, and any other fees paid to an overseas consultant that directly or indirectly relate to the short life investment;

"hotel" means any premises in which accommodation is supplied to or is available to be supplied to persons in exchange for money or other valuable consideration;

"Minister" means the Minister responsible for Tourism;

"provisional approval" means the approval in principle by the Minister, signified in writing, to an application made under the provisions of section 14.

"short life investment" means a project for the building of a new hotel—

- (a) with a minimum capital investment of not less than F\$40 million exclusive of the cost of land, but including the cost of support infrastructure and overseas consultant fees; and

- (b) with a minimum room capacity (in the new hotel) of not less than 200 bedrooms: and
- (c) where the building of the hotel commences at any time on or after 13 February 1996 and is completed on or before 30 June 2000;

“short life investment package” means the various exemptions, concessions, and allowances provided for by sections 21 to 24 inclusive in respect of a short life investment.

*Minister may grant short life investment package*

13. The Minister may, in accordance with this Part, grant a short life investment package to a company which has completed a short life investment and otherwise has complied with the provisions of this Part.

*Written application to be made to Minister*

14.—(1) Any company intending to carry out a short life investment may apply in writing to the Minister for provisional approval of the short life investment.

(2) In support of its application under subsection (1) the company shall provide the following information:—

- (a) the name and registered office of the company;
- (b) the names of all directors and shareholders of the company together with details of their respective shareholdings;
- (c) a current statement of all assets and liabilities of the company;
- (d) the location and description of the site;
- (e) the number and description of proposed bedrooms and beds and the toilet facilities proposed to be established therewith;
- (f) a description of each proposed public room;
- (g) a detailed description of any other proposed amenities, including, but not limited to, swimming pools, tennis courts, golf courses, recreation facilities and such like;
- (h) a sketch plan showing in sufficient detail the site and lay-out of the proposed hotel and the amenities thereof;
- (i) an estimate of the total cost of the short life investment;

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- (j) a description, and an estimate of the cost, of each individual stage of construction and details of the proposed timetable for completion of the short life investment;
- (k) details of the proposed method of financing the short life investment;
- (l) evidence of the company's ability to complete the short life investment;
- (m) estimates of the projected income from the new hotel.

(3) Without prejudice to his powers under section 15 the Minister may require the company to provide such other information as he may consider necessary and may specify particular requirements applicable to any particular area of Fiji.

*Provisional approval*

15.—(1) Upon receiving an application under section 14 and subject to subsections (2) and (3) the Minister shall consider such application and after consultation with the Minister responsible for finance may, in his discretion, by written notice to the company—

- (a) reject the application; or
- (b) give provisional approval to the application with or without such conditions as he may consider reasonable.

(2) The Minister shall not give provisional approval to the application unless he is satisfied:—

- (a) the application is made in respect of a short life investment; and
- (b) the company intends to complete and is capable of completing the short life investment; and
- (c) the short life investment will benefit the economic development of Fiji.

(3) In arriving at his decision the Minister shall take the following matters into account:—

- (a) the assets and liabilities of the company;
- (b) the nature and extent of the short life investment;
- (c) the requirements for hotel accommodation in the area concerned;

- (d) whether the short life investment will adequately contribute to the requirements of the area concerned;
- (e) whether the proposed hotel is of suitable size and standard for the area concerned;
- (f) whether adequate amenities would be provided as part of the proposed hotel;
- (g) such other matters as the Minister may consider relevant to the desirability or otherwise of the short life investment for Fiji and the capability of the company to complete it.

(4) The decision of the Minister under subsection (1) shall be final, but, in the case of rejection, shall not preclude the company from submitting a fresh application or amending its original application.

*Effect of provisional approval*

16.—(1) On the giving of provisional approval all capital goods, including capital equipment plant and machinery, imported on or before 30 June 2000 by or on behalf of the company and used in the carrying out of the short life investment shall be exempt from all duties otherwise payable in respect of their importation notwithstanding anything contained in the Customs Act 1986 and the Customs Tariff Act 1986.

(2) Nothing in this section shall apply to any tax payable under the Value Added Tax Decree 1991.

*Completion of short life investment*

17.—(1) Subject to the other provisions of this section where a company has been given provisional approval and has completed the short life investment it may apply to the Minister for final approval.

(2) An application under subsection (1) shall be made in writing and shall be supported by the following :

- (a) fully audited final accounts showing the total cost of the short life investment; and
- (b) a final plan showing the site and layout of the hotel and surrounding areas.

(3) Upon receiving an application under subsection (1) the Minister shall consider the application and after consultation with the Minister responsible for finance may, in his discretion, by written notice to the company—

- (a) reject the application; or

(b) give final approval to the application with or without such conditions as he may consider reasonable.

(4) Subject to the provisions of sections 18 and 19 the Minister shall refuse to grant final approval if the company has failed to complete the short life investment or has failed to comply with any conditions upon which provisional approval was given.

(5) If the Minister refuses to grant final approval the duties otherwise exempted under section 16 shall immediately become due and payable by the company.

*Extension of time for completion*

18.—(1) If the company is unable to complete the short life investment on or before 30 June, 2000 due to unforeseen circumstances or some other act beyond the control of the company the Minister may extend the time by which the short life investment must be completed.

(2) In the event that time is extended by the Minister under subsection (1) the company shall continue to enjoy the duty free concession provided for by section 16 during the extended period.

*Final approval if substantially completed*

19. Notwithstanding any other provision of this Act the Minister, after consultation with the Minister responsible for finance, may grant final approval if he is satisfied the company has in all respects substantially completed the minimum requirements of a short life investment.

*Effect of final approval*

20.—(1) The grant of final approval shall entitle the company to the benefits of a short life investment package from the first day of commercial operation of the hotel or such other date as the Minister may specify.

(2) The company shall not be entitled to claim the benefits of a short life investment package in any year unless it has been granted final approval and the Minister is satisfied that the shareholders of the company are substantially the same as the shareholders of the company when provisional approval was given.

(3) For the purposes of subsection (2) the shareholders of the company shall be deemed not to be substantially the same as the shareholders on the date when provisional approval was given unless not less than 51 percent of the voting power in and the right to receive dividends from the company is held by or on behalf of the same persons, nor unless, not less than 50 percent of the nominal value of the allotted shares in the company are held by or on behalf of the same persons.

(4) Notwithstanding the provisions of subsections (2) and (3) the company may apply to the Minister for exemption from those provisions and the Minister may, in his discretion, grant such an exemption.

*Income Tax exemption*

21.—(1) Notwithstanding anything in the Income Tax Act the income of the company derived from the operation of the hotel shall be exempt from income tax for a period of 20 years.

(2) The Minister shall notify the Commissioner of Inland Revenue when final approval is given.

*Special depreciation allowance*

22.—(1) The company shall be entitled in any one of the eight years immediately succeeding the tax free period referred to in section 21 to claim a special depreciation allowance against the income arising from the operation of the hotel of up to the total amount of the capital expenditure incurred in the short life investment excluding the cost of land.

(2) The special depreciation allowance provided for by subsection (1) shall be an alternative and not in addition to any claim for depreciation otherwise available under the Income Tax Act.

*Carry forward of losses*

23. Subject to the provisions of the Income Tax Act any loss incurred by the company in the operation of the hotel may be set off against its income from other sources for the same year or may be carried forward and set off against what would otherwise have been the total income of the company for the next 6 years in succession.

*Electricity generation*

24.—(1) The company shall be entitled to be issued with a licence under the Electricity Act to operate a generating station for the purpose of providing electricity for the hotel.

(2) Any electricity generated by the company and surplus to the company's requirements may be sold.

(3) For the avoidance of doubt the company shall comply with all requirements of the Electricity Act in respect of its generating station.

*Annual accounts*

25. Within 6 months after the end of each financial year a company which is entitled to the benefits of a short life investment package shall submit to the Minister fully audited accounts together with such further information as the Minister may, in his discretion, require.



*Hotels Aid (Amendment) — 17 of 1996**Transferability of package*

26. Where the hotel in respect of which the short life investment package has been granted is sold or to be sold the purchaser or prospective purchaser, as the case may be, may apply to the Minister for the transfer to it of any remaining benefits of the short life investment package.

*Revocation of package*

27. The Minister may revoke any short life investment package where the company has breached any conditions imposed by the Minister when granting provisional or final approval or has failed to comply with any of the requirements of this Act."

Passed by the House of Representatives this Twelfth day of September, in the year of our Lord One Thousand, Nine Hundred and Ninety-Six.

Passed by the Senate this Third day of October, in the year of our Lord One Thousand, Nine Hundred and Ninety-Six.