



MINISTRY OF TOURISM, TRANSPORT & MUNICIPALITIES

MINISTERIAL STATEMENT

**SUBJECT: Proposed Draft Bill entitled
Tourism Investment Act 2017
For Information Only**

22nd March 2017

Madam President, as Minister responsible for Tourism, I come before the Senate today with a Ministerial Statement for Information, as promised to you during the last Senate Session, to speak about the Hotels Concession Act 2000 and why we should consider creating new legislation by way of the proposed draft Bill.

Madam President, the information provided in this brief is intended to provide the background history of the Hotels Concession Act 2000 and the financial relief provided since its inception; the objectives of the proposed draft Bill; the research conducted by the Bermuda Tourism Authority on competitive destinations and the outcomes leading to the new draft legislation.

Madam President, the Hotel Concessions Act 2000 was enacted to encourage investment in hotel development by providing full relief from customs duty and full or partial relief from hotel occupancy tax, payroll tax, land tax and by removing certain restrictions on companies holding interests in land. The Hotels Concession Act also outlined procedures that developers should follow when applying for a hotel concession order. The intended impact and outcome was to create employment and entrepreneurial opportunities within the hotel properties and tourism sector. Since August 2000, twenty (20) Hotel Concession Orders have been granted, of which three (3) hotels have since which closed [Lantana,

Wyndham and Palmetto Bay] and concessions were not accessed. Four (4) hotels did not access all the years available to them, due primarily to the hotel not keeping accurate financial records or not willing to invest in having their financial accounts and records professionally audited every year, and that included the former Castle Harbour and Cambridge Beaches, Coco Reef and Grotto Bay. One (1) Hotel which received a concessions Order did not access their entitlement at all, and that was the Reefs Hotel. Today there are nine (9) Hotel Orders that are active, which include by name of hotel and year the [Fairmont Southampton 2013; Hamilton Princess 2013; Hamilton Princess 2014; Pink Beach 2015; Coral Beach and Tennis Club 2015; Tucker's Point 2016; Former Surf Side 2016; Elbow Beach 2016 and Hamilton Princess 2016].

Madam President, from the year 2000, a total of \$19.3 Million Dollars in relief has been granted by the Government of Bermuda as of the 1st of March 2017. The under-utilized Orders represent a liability for the Office of the Tax Commissioner because most of the Orders do not have an expiry date, which is something that my Ministry has since which tried to fix.

Madam President, looking forward, the relief that is being budgeted over the next ten to fifteen years for existing 'active' Hotels Concession Orders amounts to approximately \$63.3 Million Dollars. Each hotel with active

Orders will continue to make annual submissions for relief under the Hotels Concession Act 2000 and must provide proof of spend on annual marketing, hiring of Bermudian entertainment and the training of Bermudians. This process has proven administratively burdensome and costly for all hotels, as they are required to hire an auditor for each anniversary submission of the Order for each type of relief, therefore it is anticipated that some relief may simply fall-away by virtue of the arduous processes developers have to follow in order to obtain their relief.

In addition to the Hotels Concession Act 2000, there are two Special Acts that have become law over the last few years, and incorporate concessions, they are the Morgan's Point Resort Act 2014 and the St. George's Resort Act 2015 and the concessions available within those Acts are estimated to be worth approximately \$34.1 Million Dollars over the next ten to fifteen years.

Madam President, the overarching objective of the proposed draft Bill is to stimulate more tourism development opportunities by direct foreign and local investment into Bermuda's economy; and to capitalize on the excellent work the Bermuda Tourism Authority (BTA) is doing to increase air leisure arrivals and create new products and experiences. The proposed draft Bill would encompass the full spectrum of Bermuda's tourism product, not just hotel development

and would demonstrate a shift from the ‘status quo’ to a jurisdiction that can compete in the global tourism market.

Madam President, over the past two years both the Ministry of Tourism, Transport & Municipalities and the Bermuda Tourism Authority have reviewed the legislative framework of Bermuda’s key island competitors including Bahamas, Barbados, Cayman Islands and Dominican Republic and by comparison, Bermuda’s existing legislative framework is outdated, non-competitive and not investor focused.

The BTA has consulted with international investors, local investors and hotel operators as well as having reviewed internal reports related to tourism and hospitality investment. Overwhelmingly, developers have categorized Bermuda as cost prohibitive leading to unprofitable hotels, while investors describe Bermuda as complicated, cumbersome, uncompetitive and confusing. Indeed, the Bermuda Government held a strategic hotel investment summit in June 2013 to answer three key questions:

- (1) Why isn’t Bermuda getting its fair share of hotel development?
- (2) What are other jurisdictions doing to attract hotel development?
- (3) What are the key strategies for increasing hotel development in Bermuda?

We feel this new investment bill addresses those questions.

Madam President, tourism is considered the second pillar of Bermuda's economy and the revitalization of this sector has the greatest potential to spur economic growth and job development in the immediate and near future. A recapture of fifty (50%) of the previous tourism market of the past thirty (30) years will potentially generate approximately one and a half (1 ½) to two (2) thousand new jobs and contribute \$2 Billion to GDP over the next ten (10) years. The proposed draft Bill is considered the new standards or "table stakes" and the required minimum to be considered by the international and domestic investor community. The proposed draft Bill will also reaffirm our commitment to becoming a competitive investment destination which matches the success we are now seeing with the BTA's new sales and marketing and product and experience strategies; and, sends the right signal and intent to the global investment community.

Madam President, the proposed draft Bill is envisioned to be more attractive to developers to build new hotels, restaurants and attractions, and/or reinvest in Tourism products, and to eliminate the cumbersome and costly administration of approving concession relief. Instead, the proposed draft Bill focuses on ensuring that there are training programmes in hotels that are verified by the Department of Workforce Development and that for the

hotels with Orders that are granted for more than five years, that each hotel provides proof that at least 60% of its workforce is Bermudian in years six through ten, or the hotel will not qualify for that relief during that timeframe.

In addition **Madam President**, the proposed draft Bill seeks to create a competitive investment environment for hospitality developers resulting in hotels and tourism products becoming profitable and no longer reliant on Government tax reliefs/rebates; and encourage Bermudians to realize and take advantage of economic opportunities in the tourism sector through investment and re-investment leading to employment and greater contribution to GDP. The proposed draft Bill will incentivize local tourism developers to invest in their properties in a substantial manner so as to significantly modernize their properties beyond normal capital maintenance and make the claim process for relief as simple as possible without any undue burden on the developer.

Madam President, developers of a restaurant or an attraction will only be able to apply once for a Tourism Investment Order. No applications for a Tourism Investment Order will be granted to the developer of a new restaurant, an existing restaurant or an attraction, 5 years after the Act comes into operation.

Madam President, under the proposed draft Bill ‘tourism investment relief’ will be based only on the actual dollar amount invested in Bermuda’s product and will include all tourism products that are identified in the draft Bill which are key elements of the National Tourism Plan and includes definitions such as an:

“attraction” which means a site that residents and overseas visitors visit that has an identifiable operation and management structure and can be characterised as natural, historical, cultural or man-made; and

a “hotel” which means a hotel as defined in the Hotels (Licensing and Control) Act 1969 and any other premises which the Minister is satisfied are, or will be, used for at least six months in any year to accommodate paying guests who are not ordinarily resident in Bermuda and including purpose-built accommodation for at least 20 members of staff of the hotel and associated offices and storage facilities, whether or not on the grounds of the hotel as defined and includes a refurbished hotel; and

a “new hotel” which means a hotel being developed on a vacant lot; the redevelopment of an operating hotel with estimated development costs of not less than 50% of the appraised market value of such hotel and expended over a period not exceeding three years; or the development of a derelict hotel with estimated development costs of not less

than 50% of the appraised market value of such hotel and expended over a period not exceeding three years;

a “tourism product” which means a new hotel, a refurbished hotel, a restaurant or an attraction; and

a “tourism project” means the development or redevelopment of a tourism product.

Madam President, the following will explain the proposed draft qualifying criteria for a Tourism Investment Order which is set-out in Schedule 1 for:

A NEW HOTEL which is defined as a hotel that is developed on a vacant lot; or is an operating hotel which intends to spend development costs not less than 50% of the appraised market value with construction completed within three years; or is a derelict hotel with estimated development costs not less than 50% of the appraised market value with construction completed within three years.

A REFURBISHED HOTEL is where it is estimated that the development costs are not less than 25% of the appraised market value with construction completed within 18 months.

A RESTAURANT is defined as either a **New Restaurant** with tourism project costs not less than \$1,000,000 with the construction completed within 12 months; or **An Existing Restaurant** where tourism project costs are not less than \$250,000 with the construction completed within 12 months.

AN ATTRACTION is where the tourism project costs are not less than \$100,000 with the construction completed within 12 months.

Madam President, the following is a list of the proposed ‘**scale of relief**’ which is found in Schedule 2:

For **A NEW HOTEL** the **Number of years of relief** would not exceed 10 years; the **Customs duty relief** would be 100%; **Hotel occupancy tax relief** would be 100% and **Land tax relief** would be 100% not exceeding ten years from the opening date, subject to the hotel verifying in writing to the Minister in years ‘six through ten’ that 60% of the hotel’s staff are Bermudian.

Land-holding charge deferral would be 100% where applicable; and **Payroll tax relief** would be 100% of the employer’s share - on written verification from the Director of Workforce Development to the Minister annually that a management training programme for Bermudians is in operation.

For **A REFURBISHED HOTEL** the **Number of years for relief** would be a maximum of five (5) years; the **Customs duty relief** would be 100%; the **Hotel occupancy tax relief** would be 100%; the **Land-holding charge deferral** would be 100% where applicable; and **Payroll tax relief** will be 100%- for the employer's share - on written verification from the Director of Workforce Development to the Minister, annually, that a management training programme for Bermudians is in operation.

For **A NEW RESTAURANT** the **Number of years relief** would be three (3) years; the **Customs duty relief** would be 100%; and **Payroll tax relief** would be 100% of the **employer's share** - on written verification from the Director of Workforce Development to the Minister annually that a management training programme for Bermudians is in operation.

For **AN EXISTING RESTAURANT** the **Number of years of relief** would be for one (1) year; the **Customs duty relief** would be 100% for that one year.

For **AN ATTRACTION** the **Number of years of relief** would be one (1) year; and **the Customs duty relief** would be 100% for that one year.

Madam President, through consultation with the BTA, it is vital that we encourage Bermudians to take advantage of their assets in the best economic manner available to them.

Madam President, the Ministry of Tourism, Transport and Municipalities is responsible for the day to day administration of the Hotels Concession Orders and we have identified problematic areas pertaining to the current application, implementation and current submission process for hotel concession relief. Therefore I can confirm that draft Guidelines for consultation are almost complete and will be shared in due course for the proposed draft Bill.

Madam President, the proposed draft Bill will provide a simple process to administer the incentive and investment relief and our hope is that this new vision will be met with optimism for Bermuda's future.

In closing **Madam President,** the proposed incentive relief for a Tourism Investment Order is purely based on the level of investment that is to be financially committed over a period of time and if a developer does not meet the stated criteria, then they would not qualify.

I would like to thank Andy Burrows, Chief Investment Officer at the Bermuda Tourism Authority for his tireless energy and work assisting the Ministry in developing this

new act. His research and support has been instrumental to delivering what we believe is the beginning of a new era for hospitality investment and development in Bermuda.

And also, I wish to thank Stacey Evans of the Ministry of Tourism, Transport and Municipalities for her dedication and work while managing the Ministry's challenging agenda.

Finally **Madam President**, I wish to publically state again that the proposed draft Bill is laid for information and consultation purposes only. It is anticipated that in May 2017 a final Bill will be tabled in the House of Assembly for debate. I invite members of the public to send any comments on the Bill to Stacey Evans at sevans@gov.bm.

Thank you Madam President

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