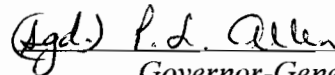


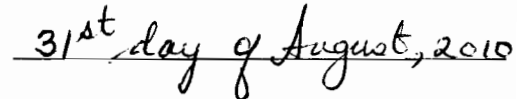
JAMAICA

No. 28— 2010

I assent,

[L.S.]


Governor-General.



AN ACT to Amend the Tourist (Duty-Free) Shopping System Act, so as to change the name of the Act and of the licences, permits and shops governed thereby and to establish a duty-free shopping system for arriving passengers and for connected matters.

*The date notified by the Minister
bringing the Act into operation*

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Tourist (Duty-Free) Shopping System (Change of Name and Amendment) Act, 2010, and shall be read and construed as one with the Tourist (Duty-Free) Shopping System Act (hereinafter referred to as the principal Act) and all amendments thereto, and shall come into operation on a date to be appointed by the Minister by notice published in the *Gazette*.

Short title,
construction
and com-
mencement.

Amendment
of principal
Act.

2. The principal Act is amended—

- (a) by deleting from the title, section 1 and the heading to section 17 the words “Tourist (Duty-Free)” and substituting therefor, in each case, the word “Duty-Free”;
- (b) by deleting from sections 2, 3, 4, 5, 7, 8, 12, 14, 15, 17, 19, 20 and 23 the words “tourist (duty-free)” wherever they appear and substituting therefor, in each case, the word “duty-free”; and
- (c) by deleting from the marginal notes to sections 3, 4, 5, and 14 the words “Tourist (duty-free)” wherever they appear and substituting therefor, in each case, the word “Duty-Free”.

Amendment
of section 2
of principal
Act.

3. Subsection (1) of section 2 of the principal Act is amended—

- (a) in the definition of “Commissioner”, by deleting the words “and Excise”;
- (b) by deleting the definition of “consumables” and substituting therefor the following—

““consumables” means—

- (a) any spirits, wine or fermented, distilled or spirituous liquor;
- (b) any cigars, cigarettes or tobacco; and
- (c) any luxury chocolates,

specified in the Schedule as consumables;”;

- (c) by inserting in the appropriate alphabetical sequence the following definitions—

“duty-free shopping system” means the system permitted by this Act for the sale of approved goods and consumables to arriving passengers, departing passengers or diplomats, free of customs duty, excise duty, general consumption tax and special consumption tax;

“passenger” includes a crew member;”;

- (d) by deleting the definition of “tourist (duty-free) shopping system”; and
- (e) by deleting the definition of “visitor”.
4. Subsection (2) of section 4 of the principal Act is amended by— Amendment of section 4 of principal Act.
- (a) deleting the words “in the prescribed form”; and
- (b) deleting the words “one hundred” and substituting therefor the words “one hundred thousand”.
5. Subsection (1) of section 7 of the principal Act is amended— Amendment of section 7 of principal Act.
- (a) by re-lettering paragraphs (b) to (f) as paragraphs (c) to (g), respectively; and
- (b) by inserting immediately after paragraph (a) the following—
- “(b) does not have sufficient financial resources to enable him to purchase, lease or own the premises to be used as a duty-free shop, and to have suitable furniture, equipment, personnel or available goods therefor;”.
6. Section 8 of the principal Act is amended by renumbering the section as subsection (1) thereof and by inserting next thereafter the following as subsection (2)— Amendment of section 8 of principal Act.
- “ (2) Before cancelling a licence or permit under this section the Commissioner shall by notice in writing—
- (a) notify the holder of the licence or permit, as the case may be, of his intention to cancel the licence or permit at the end of the period of thirty days from the date of service of the notice; and
- (b) state therein the reasons for the cancellation.”.
7. Section 11 of the principal Act is hereby repealed. Repeal of section 11 of principal Act.
8. Subsection (2) of section 12 of the principal Act is amended by deleting the words “one thousand” and substituting therefor the words “one hundred thousand”. Amendment of section 12 of principal Act.

Repeal and replacement of section 13 of principal Act.

9. Section 13 of the principal Act is repealed and the following substituted therefor—

“Returns and records.

13.—(1) Every holder of a duty-free shop licence shall—

- (a) make such returns at such times;
- (b) keep such records in such form; and
- (c) provide such records and information,

as may be prescribed or as may be required by the Commissioner.

(2) The Commissioner may—

- (a) if he thinks fit, vary the time for making any returns; and
- (b) review and audit the records at such times as he thinks necessary.”.

Amendment of section 14 of principal Act.

10. Section 14 of the principal Act is amended—

(a) in subsection (1), by deleting all the words appearing after the words “private warehouse” and substituting therefor the words “or a private excise warehouse, as the case may be, for the purposes of the *Customs Act*, the *Excise Duty Act* and the *General Consumption Tax Act*”; and

(b) by deleting subsection (2) and substituting therefor the following—

“ (2) The Commissioner may permit any approved goods or any consumables which, but for the provisions of this Act, would be liable to customs duty, excise duty, general consumption tax or special consumption tax to be removed from any warehouse, or customs area, or private excise warehouse or factory licensed under the *Excise Duty Act*, without payment of such duty or tax and deposited in a licensed duty-free shop, subject to the prescribed conditions, for purposes of import or export under the duty-free shopping system.”.

11. Section 17 of the principal Act is amended by deleting all the words appearing after the words “free of any” and substituting therefor the words “customs duty, excise duty, general consumption tax or special consumption tax to which such goods would, but for the provisions of this Act, be liable”.

Amendment of section 17 of principal Act.

12. Section 18 of the principal Act is repealed and the following substituted therefor—

Repeal and replacement of section 18 of principal Act.

“Conditions applicable to the sale of approved goods and consumables. 18.—(1) Approved goods or consumables may be purchased from a licensed duty-free shop by any person—

- (a) who is arriving in Jamaica in or on any aircraft or ship at the port of entry, and before clearing Customs;
- (b) who is departing from Jamaica and who can supply proof that he is, at or about the time of the purchase, departing from Jamaica; or
- (c) who is a diplomat.

(2) Any approved goods or consumables purchased by a diplomat or other person under subsection (1) shall be subject to any prescribed requirements in respect of packaging or otherwise.”.

13. Subsection (1) of section 19 of the principal Act is amended—

Amendment of section 19 of principal Act.

- (a) by deleting from paragraph (c) the words “, consumption duty or retail sales tax” and substituting therefor the words “general consumption tax or special consumption tax”; and
- (b) by deleting the words “four thousand” and substituting therefor the words “five hundred thousand”.

14. Sections 20 and 21 of the principal Act are amended by deleting the words “one thousand”, wherever they appear, and substituting therefor, in each case, the words “two hundred and fifty thousand”.

Amendment of sections 20 and 21 of principal Act.

Amendment of section 22 of principal Act.

15. Section 22 of the principal Act is amended by deleting the words “one thousand” and substituting therefor the words “one hundred thousand”.

Amendment of section 23 of principal Act.

16. Section 23 of the principal Act is amended by deleting the words “two thousand” and substituting therefor the words “five hundred thousand”.

Amendment of section 24 of principal Act.

17. Section 24 of the principal Act is amended—

- (a) by deleting the words “customs, excise, or consumption duties or any retail sales tax” and substituting therefor the words “customs or excise duty, general consumption tax or special consumption tax”; and
- (b) by deleting all the words appearing after the words “offence of” and substituting therefor the words “five hundred thousand dollars or treble the value of the goods, whichever is greater; and in addition, all goods in respect of which any such offence is committed shall be forfeited”.

Amendment of section 25 of principal Act.

18. Section 25 of the principal Act is amended by deleting the words “five hundred” and substituting therefor the words “one hundred thousand”.

Amendment of section 28 of principal Act.

19. Section 28 of the principal Act is amended by deleting from subsection (2) the words “one thousand” and substituting therefor the words “three hundred thousand”.

Insertion of new section 29 in principal Act.

20. The principal Act is amended by inserting next after section 28 the following as section 29—

“Amendment of penalties by Minister, subject to resolution. 29. The Minister may from time to time by order, subject to affirmative resolution, increase any monetary penalty imposed by this Act.”.

Amendment of Schedule to principal Act.

21. The Schedule to the principal Act is amended—

- (a) by renumbering items 14 to 22 as items 15 to 23, respectively;
- (b) by inserting next after item 13 the following as item 14—

“14. Leatherwear;”;

- (c) by inserting in item 16, as renumbered, next after the word “Perfumery” the words “and perfumed soaps”;
- (d) by renumbering items 23 to 27 as items 25 to 29, respectively;
- (e) by inserting next after item 23, as renumbered, the following as item 24—

“24. Sunglasses or accessories therefor;” and

- (f) by inserting next after item 29, as renumbered, the following as items 30 to 36—

“30. Loose gem stones (precious and semiprecious, cut and polished);

31. Writing instruments, including mechanical pencils;

32. Watch straps, watch bracelets and other watch accessories;

33. Video cameras;

34. Pocket knives;

35. Children’s clothing;

36. Designer clothing.”;

- (g) by inserting under the heading “Consumables” as item 7 the following—

“7. Luxury chocolates.”.

22. Item 6 (1) of the Second Schedule to the Customs Tariff (Revision) Resolution, 1972 is amended by deleting from paragraph (ii) of the proviso to sub-paragraph (d) all the words appearing after the words “eighteen years”.

Amendment of Customs Tariff (Revision) Resolution, 1972.

23. Until other provision is made pursuant to the principal Act, the provisions of the Tourist (Duty-Free) Shopping System Regulations, 1975 specified in the first column of the Schedule to this Act are amended in the respects specified in the second column thereof.

Amendment of Tourist (Duty-Free) Shopping System Regulations, 1975.

SCHEDULE

(Section 23)

Amendments to the Tourist (Duty-Free) Shopping System Regulations, 1975

Provisions -----	Amendments -----
Title	Delete the words "Tourist (Duty-Free)" and substitute therefor the word "Duty-Free".
Regulation 1	Delete the words "Tourist (Duty-Free)" and substitute therefor the word "Duty-Free".
Regulations 2, 3, 4, 5, 6, 8, 9, 10, 11, 13 and 16	Delete the words "tourist (duty-free)" and "Tourist (Duty-Free)", wherever they appear, and substitute therefor, in each case, the word "duty-free" and "Duty-Free", respectively.
Regulation 6	Delete from paragraph (2) the word "twenty-one" and substitute therefor the word "thirty".
Regulation 7	Delete from paragraph (2) the words "two hundred" and substitute therefor the words "two thousand".
Regulation 8	Delete from paragraph (1) the words "not more than two display centres and substitute therefor the words "every display centre".
Regulation 9	Delete the regulation.
Regulation 10	<ol style="list-style-type: none"> 1. Renumber the regulation as paragraph (1) of regulation 10. 2. Delete paragraph (b) of subsection (1), as renumbered, and substitute therefor the following— <ul style="list-style-type: none"> “(b) exhibit a notice indicating that— <ol style="list-style-type: none"> (i) approved goods and consumables are sold to arriving passengers who make duty-free purchases on arrival from overseas and before clearing customs and to persons departing Jamaica; and

Provisions	Amendments
Regulation 10, <i>contd.</i>	(ii) failure to comply with the requirements set out herein constitutes an offence against the Act for which a penalty shall be incurred.”.
	3. Insert the following as paragraph (2)— “ (2) In the case of duty-free shops which are located otherwise than in an airport or seaport, approved goods and consumables may only be sold by the vendor for purposes of export by the purchaser.”.
Regulation 11	In paragraph (2), delete the word “four” and substitute therefor the word “three”.
Regulation 13	In paragraph (4), delete the word “four” and substitute therefor the word “three”.
Regulation 16	1. In paragraph (1)— (a) delete the words “who is purchasing such goods”; (b) insert immediately after the words “approved goods” the words “and consumables”; and (c) delete the word “visitor” wherever it appears and substitute therefor, in each case, the word “purchaser”. 2. In paragraph (3), delete the words “Every package” and substitute therefor the words “Every package containing consumables purchased by a passenger” and all the words following the words “shall have” and substitute therefor the words “the sales slip affixed thereto”. 3. Delete paragraphs (4) and (5) .
Regulation 17	Delete the words “one thousand” and “two years” and substitute therefor the words “three hundred thousand” and “six months”, respectively.

Provisions -----	Amendments -----
First Schedule	<ol style="list-style-type: none"> 1. Delete the words “Tourist (Duty-Free)” and “tourist (duty-free)” wherever they appear and substitute therefor, in each case, the words “Duty-Free” and “duty-free”, respectively. 2. Insert in paragraph 2(f) immediately after item (ii) the following— <ul style="list-style-type: none"> “(iii) a certified copy of the company’s Articles of Association, Memorandum of Association or its Articles of Incorporation or any other constituting documents, as the case may be;”. 3. Insert in paragraph (2) immediately after subparagraph (g) the following— <ul style="list-style-type: none"> “(h) a valid tax compliance certificate in respect of a company or, in the case of an individual, a valid tax compliance certificate issued in the name of that individual.”. 4. Delete from Forms A1, C1 and E the words “<i>and Excise</i>”, wherever they appear. 5. Delete from Forms B, D and F the words “<i>and Excise</i>”, wherever they appear.
Second Schedule	<ol style="list-style-type: none"> 1. Delete the words “tourist (duty-free)” wherever they appear and substitute therefor, in each case, the words “duty-free”. 2. Delete paragraph 1(2) and substitute therefor the following— <ul style="list-style-type: none"> “(2) The fees payable pursuant to subparagraph (1) shall be paid in full immediately upon application for the grant or renewal of the licence or permit, as the case may be.”. 3. In paragraphs 2 (a) and (b), delete all the words appearing after the words “each such licence or permit”.

Provisions	Amendments
Second Schedule, <i>contd.</i>	4.—(1) In paragraph 3(a), delete all the words appearing after the words “each licence”. (2) In paragraph 3(b), delete all the words appearing after the words “each such licence”. 5. Delete paragraph 4.
Third Schedule	1. In paragraph 1— (a) delete the heading “Approved Goods” and substitute therefor the heading “Approved Goods <i>Sold to Departing Passengers</i> ”; and (b) delete paragraphs (a) to (o), inclusive, and substitute therefor the following— “ (a) the name of the passenger; (b) the date of sale of goods to the passenger; (c) the name of the carrier or the name of the ship on which the passenger is departing Jamaica, the flight number and the destination; (d) the date of departure from Jamaica by the passenger; (e) the port or place from which the passenger is leaving; (f) the description, quantity and value of the goods being purchased; (g) a declaration to be signed by departing passengers, stating that the goods purchased will be exported; and

Provisions
—Third Schedule,
*contd.*Amendments
—

(h) the description and reference number of any of the following forms of identification of the passenger—

- (i) his passport;
- (ii) his driver's licence; or
- (iii) any other internationally accepted document of identification.”.

2. In paragraph 3—

- (a) delete the heading “*Consumables*” and substitute therefor the heading “*Consumables Sold to Departing Passengers*”;
- (b) in sub-paragraph (e), insert immediately after the word “departure” the words “from Jamaica”.

3. Insert immediately after paragraph 4, the following heading and paragraph 5—

“ *Approved Goods and Consumables Sold to Arriving Passengers*

5. The content of sales slips in respect of purchases of goods and consumables by arriving passengers shall show—

- (a) the name of the passenger;
- (b) the residential address of the passenger;
- (c) the address in Jamaica of the passenger, if he is not resident in Jamaica;

Provisions	Amendments
Third Schedule, <i>contd.</i>	(d) the date of the purchase; (e) the name of the carrier and the flight number or the name of the ship and the cabin number; (f) the description of the goods purchased; (g) the quantity of the goods purchased; (h) the value of the goods purchased; (i) a declaration to be signed by arriving passengers stating that the goods purchased will be presented to Customs; and (j) the signature of the duty-free shop operator or his duly appointed agent or representative.”

Passed in the House of Representatives this 13th day of July, 2010.

MARISA DALRYMPLE PHILIBERT,
Deputy Speaker.

Passed in the Senate this 23rd day of July, 2010.

THOMAS TAVARES-FINSON,
Deputy President.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Clerk to the Houses of Parliament.