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CHAPTER 344

CRUISE SHIPS (OVERNIGHTING INCENTIVES)

An Act to make provision for the grant of concessions for the purpose of encouraging the development of tourism in The Bahamas, and for related matters.

*31 of 1995
S.I. 62/1997
28 of 2009*

*[Assent 6th November, 1995]
[Commencement 15th November, 1995]*

PART I PRELIMINARY

1. This Act may be cited as the Cruise Ships (Overnighting Incentives) Act. Short title.
2. In this Act, unless the context otherwise requires — Interpretation.
2009, s. 2.
- “agreement” means an agreement under section 4(1)(b);
- “application” means an application, made under section 3, for approval of a cruise ship;
- “approved port” means a port specified in the First Schedule. First Schedule.
- “approved ship” means a ship specified in the second column of the Second Schedule and in respect of which there exists an agreement; Second Schedule
- “business” has the meaning assigned to that expression in the Business Licence Act; Ch. 329.
- “casino” means any room, premises or place, on board a cruise ship, which is kept and managed for gain by any person and to which persons may resort for the purpose of gaming;
- “concession” means a benefit specified in the Third Schedule. Third Schedule.
- “cruise ship” or “ship” means a vessel which —
- (a) operates for not less than one hundred and twenty days in each year, anywhere in the world;
 - (b) provides cruises of not less than sixty hours in length for persons holding tickets entitling them to travel on board the vessel; and

- (c) provides on board the vessel overnight accommodation for not less than five hundred passengers, or such other number of passengers as the Minister may by order specify;
- Fourth Schedule. “designated port” means a port specified in the Fourth Schedule;
- Ch. 387. “gaming” has the meaning assigned to that expression in subsection (1) of section 2 of the Lotteries and Gaming Act;
- Ch. 387. “Gaming Board” has the meaning assigned to that expression in subsection (1) of section 2 of the Lotteries and Gaming Act;
- Ch. 387. “inspector” means an officer of the Gaming Board, appointed as an inspector under section 61 of the Lotteries and Gaming Act;
- Ch. 372. “intoxicating liquor” has the meaning assigned to that expression in section 2 of the Liquor Licences Act;
- “licence” means a licence issued under subsection (4) of section 4;
- 28 of 2009, s. 2. “licensing authority” has the meaning assigned to that expression in section 2 of the Liquor Licences Act and includes the licensing authority referred to in section 14(1)(a)(v) of the Local Government Act;
- Ch. 37. “licensed cruise ship” or “licensed ship” means a cruise ship in respect of which a licence is in force;
- “Minister” means the Minister responsible for tourism;
- 28 of 2009, s. 2. “overnight” means arrival of ship not earlier than 11 a.m. with a departure of not less than 12 a.m. for a minimum period of thirteen hours;
- “passenger” means any person carried in a cruise ship with a return ticket and who resides on such ship while the ship is in port;
- Second Schedule. “scheduled ship owner” means a person specified in the first column of the Second Schedule;
- Ch. 387. “Secretary” means the person appointed as secretary of the Gaming Board under section 61 of the Lotteries and Gaming Act;

“shop” has the meaning assigned to that expression in section 2 of the Shop Licences Act. Ch. 377.

PART II
AGREEMENTS WITH SHIPOWNERS AND
LICENSING OF SHIPS

3. (1) Any scheduled ship owner who is desirous of obtaining a concession under this Act, may make application to the Minister at any time after the coming into operation of this Act for the approval of that owner’s ships for the purposes of this Act. Application for approval of ship.

(2) An application shall be in writing and shall contain the information specified in the Fifth Schedule. Fifth Schedule.

4. (1) Where the Minister is satisfied that the operation of a ship to which an application relates, will contribute to the growth and development of the tourist — related sector of The Bahamas, will result in increased employment in The Bahamas and will have a significant effect upon the overall economy of The Bahamas, the Minister shall — Licensing of ships.

(a) grant the approval of the application subject to the provisions of this Act and to such conditions as the Minister sees fit; and

(b) upon any such grant, enter into an agreement, for a period not exceeding six years, with the applicant, providing for any of the matters specified in the Third Schedule, notwithstanding anything to the contrary in any other law but subject to the provisions of this Act. 28 of 2009, s. 3.
Third Schedule.

(2) In considering whether an application should be approved, the Minister shall, without prejudice to the exercise of his authority to refuse the approval, have regard to the commitments which the applicant undertakes in respect of —

(a) the provision of additional opportunities for employment which would be created for citizens of The Bahamas;

(b) the amount of additional expenditure which would take place in The Bahamas; and

(c) the growth and expansion, in The Bahamas, of the following —

(i) the ground transportation industry;

(ii) the land and sea tours industry;

- (iii) the restaurant and entertainment industries;
- (iv) the straw, hair-braiding, arts and craft, and wood-carving industries; and
- (v) the construction, industrial and commercial sectors.

28 of 2009, s. 3.

(3) The Minister shall lay before each House of Parliament, a copy of every agreement executed pursuant to subsection (1)(b) within sixty days after its execution.

(4) Upon the execution of an agreement between the Minister and a scheduled ship owner —

(a) the licensing authority shall issue, in respect of each ship, a licence authorising —

(i) the operation of shops; and

(ii) the sale, exposure or offer for sale, of intoxicating liquor;

and

(b) the Minister responsible for Lotteries and Gaming shall issue, in respect of each ship, a licence authorising casinos to be operated,

28 of 2009, s. 3.

on board the ship while the ship remains at an approved port or at a designated port, as the case may be, subject to the provisions of this Act and to any terms and conditions of the agreement or of the licence.

(5) A licence shall be issued subject to such conditions as the Minister sees fit and, in addition, the conditions set out in the Sixth Schedule shall be deemed to be conditions of the licence.

Sixth Schedule.

28 of 2009, s. 3.

(6) A casino licensed under this Act shall be considered a “financial institution” for the purposes of the Financial Transactions Reporting Act.

Ch. 368.

Conditions governing issue of licences.

5. The following conditions shall be observed with respect to the issue of licences —

(a) a licence shall be issued in respect of a cruise ship named and described in the licence; and

(b) subject to the provisions of this Act, a licence shall remain in force for a period of three years but the licence may, subject to the provisions of this Act, be renewed from time to time for a further period of three years or any part thereof.

28 of 2009, s. 4.

6. Every person holding a licence under the authority of this Act shall cause such licence to be posted in a conspicuous place on the ship to which the licence relates.

Licence to be posted in ship.

7. (1) The licensing authority or the Minister responsible for Lotteries and Gaming, as the case may be, may in writing at any time —

Amendment and cancellation of licences.

(a) on the application of the licensee, amend a licence issued under this Act upon *such* terms and conditions as the Minister may think fit;

(b) subject to the provisions of subsection (2), suspend or cancel a licence issued under this Act, in any case where —

28 of 2009, s. 5.

(i) the licence was obtained as a result of any misleading, false or fraudulent representation or in consequence of any information which is incorrect in any material particular; or

(ii) there has been a breach of any of the restrictions or conditions imposed by the Minister.

(2) Prior to the suspension or cancellation of a licence in any particular case under the provisions of paragraph (b) of subsection (1), the licensing authority or the Minister responsible for Lotteries and Gaming, as the case may be, shall in writing inform the licensee of the ground on which it is felt that the licence ought to be suspended or cancelled and require the licensee to show cause within a specified time why the licence should not be suspended or cancelled and if either the licensee fails to comply with that requirement within the time specified or the cause shown is inadequate, the licensing authority or the Minister responsible for Lotteries and Gaming, as the case may be, may suspend or cancel the licence and in such case shall cause notice of the fact to be sent to the licensee by registered post at the licensee's last known postal address.

28 of 2009, s. 5.

8. Any person applying for a licence or for the renewal of a licence, or any person whose licence has been suspended or cancelled, who is dissatisfied with the decision of the licensing authority or the Minister responsible for Lotteries and Gaming, as the case may be, shall have a right of appeal to the Supreme Court on any question of law and, in such event, the provisions relating

Appeal.

28 of 2009, s. 6.

to appeals from magistrates contained in any Act shall apply to such appeal.

Inspectors.

9. (1) If, in the opinion of the Secretary, gaming is being carried on in casinos on board a licensed ship, in a manner detrimental to the public interest or in contravention of the provisions of this Act or of any term or condition subject to which the licence was issued, the Secretary may require an inspector to examine the gaming being carried on on board the ship for the purpose of satisfying the Secretary that the provisions of this Act and the terms and conditions of the licence are being complied with, and to report to the Secretary the results of every such examination.

(2) In the performance of his duties under this Act, the inspector shall be entitled, on the direction of the Secretary —

- (a) to board any licensed cruise ship while the ship is at an approved port or at a designated port and inspect any casino situated on the ship and any machine or equipment relating to gaming carried on aboard the ship; and
- (b) to call upon the operator of any casino situated on a licensed cruise ship, for such information or explanation as the inspector may reasonably require for the purpose of enabling him to perform his duties under this Act.

28 of 2009, s. 7.

(3) In addition to subsections (1) and (2), the Secretary may, at any time, while the licensed cruise ship is at an approved or designated port, direct any inspector to board such ship in order to examine the records of a casino licensed under this Act to ensure compliance with the provisions of the Financial Transactions Reporting Act.

28 of 2009, s. 7.

Ch. 368.

Opening of shops, in Nassau, on Sundays and public holidays.

10. (1) Notwithstanding any other written law to the contrary, any shop in the City of Nassau may open for business on any Sunday or public holiday (except a specified day) on which a licensed cruise ship is scheduled to be in the port of Nassau:

Provided that a shop of a kind mentioned in the Third Schedule of the Public Holidays Act shall not open for business at any time after the hour of ten o'clock in the forenoon of any Sunday.

Ch. 36.

(2) In subsection (1), “specified day” means Good Friday, Easter Sunday, Labour Day, Independence Day and Christmas Day.

PART III OFFENCES AND PENALTIES

11. No casino, or shop, situated on board a cruise ship, shall be operated while the ship is in the waters of The Bahamas, except —

Restriction of gaming and shopping on board ships.

28 of 2009, s. 8.

- (a) at an approved or designated port;
- (b) under the authority of the respective licence issued by the Minister responsible for Lotteries and Gaming or the licensing authority, as the case may be, under the provisions of this Act; and
- (c) in accordance with the terms and conditions of the licence.

12. Any person who wilfully procures or attempts to procure the issue of a licence in respect of any cruise ship, by means of any representation or declaration, either oral or in writing, which is to his knowledge false, is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars.

Wrongfully procuring licensing of ship.

13. Any person who —

- (a) operates a casino or shop on board a cruise ship, in contravention of the provisions of section 11; or
- (b) being a scheduled ship owner, consents to any person operating a casino or shop on board the ship, in contravention of the provisions of section 11,

Operation of casino or shop on unlicensed ship.

is guilty of an offence and liable on summary conviction to a fine of twenty thousand dollars.

14. Any person who fails to comply with any requirement made pursuant to section 9(2)(b) by an inspector, is guilty of an offence and liable on summary conviction to a fine of five thousand dollars.

Failure to comply with inspector’s requirement.

15. Any person who, being a licensee, fails to post his licence in a conspicuous place on the licensed cruise ship, is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

Failure to post licence.

16. *Repealed.*

28 of 2009, s. 9.

PART IV
MISCELLANEOUS PROVISIONS

- Fees. **17.** There shall be paid into the Consolidated Fund, in respect of the issue of a licence, the appropriate fee set out in the Seventh Schedule.
- Seventh Schedule.
- Amendment of Schedules. **18.** The Minister may by order amend the provisions of any of the Schedules, other than paragraph 2 of the Third Schedule.
- Regulations. **19.** The Minister may make regulations —
- (a) prescribing the form of licences and other documents to be used under this Act; and
 - (b) generally for carrying into effect the provisions of this Act.
- Financial provisions. **20.** All expenses incurred by the Minister under this Act shall be defrayed out of moneys provided by Parliament.
- Application of laws. **21.** Except as otherwise expressly provided in this Act, the provisions of this Act do not in any way derogate from or limit the provisions of any written law; and the provisions of this Act and of any agreement made under this Act shall be subject to the provisions of any licence granted under section 44 of the lotteries and Gaming Act, and to any agreement entered into by the Government or the Hotel Corporation of The Bahamas with Paradise Enterprises Limited, Carnival Leisure Industries Limited and licensees of the Grand Bahama Port Authority, respectively, being a licence or agreement which is in force at the date of commencement of this Act.
- 28 of 2009, s. 10.*
- Act binds the Crown. **22.** This Act binds the Crown.

FIRST SCHEDULE (Sections 2 and 18)**APPROVED PORTS***28 of 2009, s. 11.*

Port of Freeport

Port of Nassau

SECOND SCHEDULE (Sections 2 and 18)*S.I. 62/1997.
28 of 2009, s. 12.***Ship Owner**

Carnival Cruise Line

Disney Cruise Line

Norwegian Cruise Line

Royal Caribbean Cruise Line

THIRD SCHEDULE (Sections 2, 4(1)(b) and 18)**CONCESSIONS FOR OVERNIGHTING**

1. A scheduled ship owner of ships — Eligibility for concessions.
- (a) in respect of which there is in existence an agreement made under section 4(1)(b); and
- (b) which, in the course of their respective voyages, arrive at an approved or designated port not later than 11 a.m. on one day and depart from an approved or designated port not earlier than 12 a.m. having remained at an approved or designated port for a period of not less than thirteen hours, *28 of 2009, s. 13.*
- may be granted any of the concessions specified in paragraphs 2,3 and 4 of this Schedule.
2. (1) Notwithstanding any provision of the Passenger Tax Act to the contrary and subject to subparagraph (2) of this paragraph, the following sums of money shall be charged, levied, collected and paid into the Consolidated Fund towards the general revenue of The Bahamas, in respect of passengers arriving in and departing from The Bahamas on the approved ships of a scheduled ship owner, namely — Departure tax concessions.
Ch. 379.
28 of 2009, s. 13.
- (a) where, during the period of twelve months commencing 1st July, 2007 the number of passengers brought in and taken out of The Bahamas, exceeds six hundred thousand the maximum of seven dollars and fifty cents will be paid for each passenger in excess of six hundred thousand; *28 of 2009, s. 13.*

28 of 2009. s. 13. (b) where, during years two through six of the agreement the number of passengers brought in and taken out of The Bahamas exceeds eight hundred thousand but less than one million in the aggregate, the sum of eight dollars and fifty cents will be paid for each passenger in excess of eight hundred thousand but not exceeding one million; and

(c) where, during the period referred to in paragraph (b), the number of passengers brought in and taken out of The Bahamas exceeds one million the sum of ten dollars per passenger for each passenger in excess of one million.

28 of 2009. s. 13. (2) The provisions of paragraph 2(1)(b) and (c) shall not apply unless during the period referred to therein —

(a) the number of passengers brought in and taken out of the Port of Nassau equals —

(i) eight hundred and fifty thousand passengers or more in year two of the agreement;

(ii) nine hundred thousand passengers or more in year three of the agreement;

(iii) nine hundred and fifty thousand passengers or more in year four of the agreement; and

(iv) in excess of one million passengers thereafter;

(b) the shipowner brings to the Port of Nassau a minimum of three hundred and fifty thousand overnight passengers; and

(c) the shipowner brings to the Port of Freeport a minimum of one hundred and seventy five thousand passengers;

Provided that no such sums shall be collected or paid in respect of a passenger who arrives in The Bahamas on a second or subsequent occasion in the course of the same voyage.

28 of 2009. s. 13. (3) The provisions of subparagraph (1)(a) shall remain in force for a period not exceeding six years commencing on 1st July, 2007.

Opening of casinos and ships at an approved or designated port.
28 of 2009. s. 13. **3.** The Minister responsible for Lotteries and Gaming or the licensing authority as the case may be, may authorise a casino or shop to be operated, and intoxicating liquor to be sold, exposed or offered for sale, on board the approved ships of a scheduled ship owner, while the ships remain at an approved or designated port, subject to the provisions of this Act and to any terms and conditions of any agreements or licences relating to the ships.

4. The Minister responsible for Lotteries and Gaming or the licensing authority as the case may be, may authorise a casino or shop to be operated and any intoxicating liquor to be sold, exposed or offered for sale, on board approved ships —

Opening of casinos and shops at designated ports.

28 of 2009. s. 13.

- (a) which have, during the same voyage, arrived at an approved or designated port not later than 11 a.m. on one day and departed from an approved or designated port not earlier than 12 a.m., having remained at an approved or designated port for a period of not less than thirteen hours; and
- (b) which are travelling to or from an approved port or designated ports,

while the ships remain at any approved port or designated port, subject to the provisions of this Act and to any terms and conditions of any agreements or licences relating to the ships.

FOURTH SCHEDULE (Sections 2 and 18)

DESIGNATED PORTS

28 of 2009. s. 14.

Port of Castaway Cay

Port of Coco Cay

Port of Great Stirrup Cay

Port of Half Moon Cay

Port of Rock Sound

FIFTH SCHEDULE (Sections 3(2) and 18)

INFORMATION FOR INCLUSION IN APPLICATIONS

1. The name and postal address of the owner, and of the operator, of the cruise ship to which the application relates.
2. The name of the cruise ship to which the application relates.
3. The number of berths on such ship.
4. Particulars respecting the origin of such ship and the name of the country in which such ship is registered.
5. Particulars as to the proposed number and type of voyages to be made by such ship, from a port in a country other than The Bahamas to a port in The Bahamas, during the period not exceeding six years immediately following the date of the application, and particulars as to the respective minimum lengths of time for which such ship would remain at a port in The Bahamas.

28 of 2009. s. 15.

6. The number of passengers proposed for carriage on board such ship during the period of twelve months immediately following the date of the application.
7. Particulars as to the names of the games played in any casino situated on such ship, the rules in accordance with which such games are played, and the equipment used in the playing of such games.
8. Such other information as the Minister may require.

SIXTH SCHEDULE (Sections 4(5) and 18)

PROVISIONS DEEMED TO BE CONDITIONS OF LICENCES

The following shall be deemed to be conditions of a licence —

- (a) that the licensed ship shall make not less than twenty voyages each year from a port in a country other than The Bahamas to a port in The Bahamas;
- 28 of 2009. s. 16. (b) that while the licensed ship remains at an approved or designated port, no casino or shop shall be operated on board the ship at any time earlier than 7 p.m. on one day and later than 3 a.m. on the following day;
- (c) that a person who —
 - (i) is the holder of a permanent residence certificate granted under any statute regulating immigration in The Bahamas;
 - (ii) is ordinarily resident in The Bahamas;
 - (iii) is engaged in any business or profession, or employed for gain, in The Bahamas;
 - (iv) is in the employment of the Government of The Bahamas;
 - (v) possesses or requires a permit to engage in gainful occupation under the provisions of any statute regulating immigration in The Bahamas;
 - (vi) is the spouse of any such person as is mentioned in subparagraphs (i) to (v); or
 - (vii) is not the holder of a ticket entitling him to travel on board the licensed ship,

shall not take part in gaming on such ship while the ship is in the waters, or at a port, of The Bahamas, unless such person is employed, by the licensee or the operator of the casino situated on board the ship, to take part in the conducting of the gaming in the casino and such person takes part in the gaming within the course of his employment;

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- (d) that the licensee shall notify the Minister of any change in —
- (i) the name of any game played in a casino situated on the licensed ship;
 - (ii) the rules in accordance with which such game is to be played; or
 - (iii) the equipment used in the playing of such game;
- (e) that any gaming conducted on the licensed ship is ancillary to the voyage and the voyage has as its main purpose scenic cruising and port visits in The Bahamas or elsewhere;
- (f) that the licensed ship operates under an itinerary that either originates or terminates outside The Bahamas;
- (g) that the concessions specified in the Third Schedule will be granted only in respect of a licensed ship which, in the course of a voyage, remains at an approved or designated port for a period of not less than eighteen hours; *28 of 2009, s. 16.*
- (h) that an inspector shall, on the direction of the Secretary, board any licensed cruise ship while the ship is at a port in The Bahamas and inspect any casino situated on the ship and any machine or equipment relating to gaming on the ship;
- (i) that every licence granted for a casino under this Act shall contain a provision that non-compliance with the provisions of the Financial Transactions Reporting Act shall be grounds for the suspension or cancellation of the licence by the Minister; *28 of 2009, s. 16.*
Ch. 368.
- (j) that the licensee will endeavour to provide opportunities for the employment of citizens of The Bahamas on board the licensed ship; and
- (k) that the licensee will endeavour to adopt all such measures as may be necessary for promoting and advertising The Bahamas as a tourist resort (such measures to include the promotion of land and sea tours and attractions in The Bahamas, and the exhibition of promotional films of The Bahamas).

SEVENTH SCHEDULE (Sections 17 and 18)

FEES

28 of 2009, s. 17.

For the issue of one or more licences in respect of a ship with not less than 2,000 berths	\$35,000.00 per year or \$15,000.00 per ship, whichever is greater.
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