

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

FAIRMONT SOUTHAMPTON HOTEL ACT 2022

TABLE OF CONTENTS

1	Citation
2	Interpretation
3	Customs duty and tax relief
4	Terms and conditions
5	Application of the Tourism Investment Act 2017
6	Application of the Development and Planning Act 1974
7	Commencement

WHEREAS the hotel developer intends to redevelop the Fairmont Southampton Hotel;

AND WHEREAS it is expedient, in a special Act of the Legislature, to facilitate the project by granting, subject to conditions, certain customs duty and tax concessions in respect of the redevelopment;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Fairmont Southampton Hotel Act 2022.

Interpretation

2 In this Act—

“customs duty” means the duty payable under the Customs Tariff Act 1970;

“Hotel” means the Fairmont Southampton Hotel and its associated restaurants and facilities, as redeveloped by the hotel developer;

“hotel developer” means Westend Properties Limited, a company incorporated in Bermuda on 30 April 1962;

FAIRMONT SOUTHAMPTON HOTEL ACT 2022

“hotel occupancy tax” has the meaning assigned by Part V of the Miscellaneous Taxes Act 1976;

“hotel redevelopment” means the Fairmont Southampton Hotel redevelopment, including renovation of the guest rooms, restaurants, bars, meeting rooms, spa, pool, beach club, kitchen, laundry and staff housing, as described in the summary of works and site plan submitted to the Minister on 19 April 2022;

“land tax” means the tax payable under the Land Valuation and Tax Act 1967;

“Minister” means the Minister responsible for tourism;

“opening date” means the date on which the initial licence to operate the redeveloped hotel granted under the Hotels (Licensing and Control) Act 1969 comes into operation;

“payroll tax” has the meaning assigned by the Payroll Tax Act 1995.

Customs duty and tax relief

3 (1) Subject to section 4, the hotel developer shall be entitled to the following relief—

- (a) for a period of fifteen years from the commencement of this Act, full relief from customs duty in respect of any building materials, furnishings, fixtures and equipment which are necessary for the building, furnishing and equipping of the hotel redevelopment;
- (b) for a period of fifteen years after the hotel’s opening date, full exemption from hotel occupancy tax otherwise payable in respect of the hotel;
- (c) for a period commencing six years after the hotel’s opening date and ending on the fifteenth anniversary of the opening date, full exemption from land tax otherwise payable in respect of the hotel;
- (d) for a period of fifteen years after the hotel’s opening date, full exemption from the employer’s share of the payroll tax otherwise payable in respect of persons employed by the hotel.

(2) For the purposes of subsection (1)(d), the employer’s share of the payroll tax means that portion of payroll tax which the employer is not entitled to deduct from an employee’s wages under section 19 of the Payroll Tax Act 1995.

Terms and conditions

4 (1) To qualify for the exemption from land tax under section 3(1)(c), the hotel developer shall, for the relevant period, confirm in writing to the Minister that in years six through fifteen at least 70% of the hotel’s staff are Bermudian.

(2) To qualify for the exemption from the employer’s share of payroll tax under section 3(1)(d), the Minister responsible for workforce development shall, for the relevant period, confirm in writing to the Minister, annually, that a management training programme for Bermudians is in operation at the Fairmont Southampton Hotel.

FAIRMONT SOUTHAMPTON HOTEL ACT 2022

(3) In this section—

“Bermudian” means a person who possesses Bermudian status under the Bermuda Immigration and Protection Act 1956;

“relevant period” means the period for which the exemption is claimed.

Application of the Tourism Investment Act 2017

5 (1) Sections 7 to 13 of the Tourism Investment Act 2017 (application of customs duty relief and duty payable on diversion, offences, penalties, regulations and guidance) apply with the necessary modifications in relation to the relief granted under this Act as they apply to a tourism investment order made under that Act.

(2) Section 6 of the Tourism Investment Act 2017 shall apply with the necessary modifications to empower the Minister, with the agreement of the Minister of Finance and following consideration of any objections made by the hotel developer, to make an order modifying or repealing any provision of section 3 or 4 of this Act in any of the following circumstances—

- (a) if there has been any breach of the terms or conditions to which the relief is subject;
- (b) if any false declarations are made to the Collector of Customs in respect of the goods to which customs duty relief applies;
- (c) if any goods which were imported subject to customs duty relief are used for purposes which do not relate directly to the hotel redevelopment, otherwise than in accordance with section 8 of that Act (payment of duty on diversion) as applied by subsection (1) above.

(3) Any such order shall be made by the Minister subject to the negative resolution procedure.

Application of the Development and Planning Act 1974

6 Nothing in this Act shall be taken to modify the requirements of the Development and Planning Act 1974 as regards obtaining any planning permission necessary for the hotel redevelopment.

Commencement

7 This Act shall come into operation on such day as the Minister appoints by notice in the Gazette.

FAIRMONT SOUTHAMPTON HOTEL BILL 2022

EXPLANATORY MEMORANDUM

This Bill seeks to facilitate the redevelopment of the Fairmont Southampton Hotel by granting, subject to conditions, certain customs duty and tax concessions in respect of the redevelopment. The concessions are similar to those that could be granted by Order made under the Tourism Investment Act 2017, but the term of the concessions (up to fifteen years) is beyond the scope of that Act.

Clause 1 is self-explanatory.

Clause 2 sets out definitions used in the Bill. The “hotel redevelopment” is defined as meaning the Fairmont Southampton Hotel redevelopment, including renovation of the guest rooms, restaurants, bars, meeting rooms, spa, pool, beach club, kitchen, laundry and staff housing, as described in the summary of works and site plan submitted to the Minister on 19 April 2022. The “hotel developer” is Westend Properties Limited.

Clause 3 sets out the customs duty and tax concessions granted in respect of the redevelopment, as follows:

- (a) full relief from customs duty for a period of fifteen years from commencement of the Bill in respect of any building materials, furnishings, fixtures and equipment which are necessary for the building, furnishing and equipping of the hotel redevelopment;
- (b) full exemption from hotel occupancy tax otherwise payable in respect of the hotel for a period of fifteen years after the hotel’s opening date;
- (c) full exemption from land tax otherwise payable in respect of the hotel for a period commencing six years after the hotel’s opening date and ending on the fifteenth anniversary of the opening date;
- (d) full exemption from the employer’s share of the payroll tax otherwise payable in respect of persons employed by the hotel for a period of fifteen years after the hotel’s opening date.

Clause 4 sets out the terms and conditions subject to which the concessions are granted. The land tax exemption is subject to confirmation that in years six through fifteen at least 70% of the hotel’s staff are Bermudian. The payroll tax exemption is subject to the operation of a management training programme at the hotel for Bermudians.

Clause 5 subsection (1) applies sections 7 to 13 of the Tourism Investment Act 2017 (application of customs duty relief and duty payable on diversion, offences, penalties, regulations and guidance) with necessary modifications as those sections apply to a tourism investment order made under that Act. Subsection (2) also applies section 6 of the 2017 Act with the necessary modifications to empower the Minister, with the agreement of the Minister of Finance and following the consideration of any objections made by the hotel developer, to make an order modifying or repealing any provision of clause 3 or 4 if there is a breach of any term or condition to which the relief is subject, if a false declaration is made

FAIRMONT SOUTHAMPTON HOTEL BILL 2022

to the Collector of Customs, or if any goods which were imported subject to customs duty relief are used for purposes which do not relate directly to the hotel redevelopment. Such an order is to be made by the Minister subject to the negative resolution procedure.

Clause 6 clarifies that this Bill does not modify the requirements of the Development and Planning Act 1974 as regards obtaining any planning permission necessary for the hotel redevelopment.

Clause 7 provides for commencement.