

MINISTRY PAPER NO. 6/83

EXTENSION OF EXCHANGE CONTROL
ACT (AMENDMENT) ORDER 1983

Members of this Honourable House will be aware that an Order entitled "The Exchange Control Act (Amendment) Order, 1983" (copy tabled), has been made under Section 45 of the Exchange Control Act.

This Order will expire on the 22nd February, 1983 unless renewed by a Resolution of this Honourable House.

The Order:

- (a) Creates a classification of a "tourist service" to embrace any service provided primarily for tourists in the areas of accommodation, entertainment, transportation or duty-free shopping.
- (b) Gives the Minister power to issue directions to control the activities of persons operating tourist services, including the obtaining of returns, mandatory keeping of records, and the institution of any system to ensure proper channelling of foreign exchange.
- (c) Prescribes special penalties for failure to comply with directions.
- (d) Allows application of the penalties to directors and officers of a company which operates the tourist service.

2. The House is advised that, the Cabinet recognising the need for these Amendments to be made permanent, has issued instructions to the Chief Parliamentary Counsel to prepare the necessary legislation to incorporate these Amendments permanently into the Exchange Control Act.

3. Until these Amendments have been incorporated into law it is necessary to seek the approval of the House for an extension of this Order for a period of ninety days.

4. The relevant provision (Section 45) of the Exchange Control Act states:-

"45(1) The Minister may, so far as appears to him to be necessary or expedient in the interest of the economy of Jamaica, by order provide:-

- (b) For amending this Act (other than this Section) for suspending the operation of any part of this Act, and for applying this Act with or without modification."
- (4) "An Order under Sub-section (1) shall not continue in force for more than thirty days unless extended by resolution of the House of Representatives."

5. The House is accordingly asked to authorise the extension of

the Exchange Control Act (Amendment) Order, 1983 under Section 45 (4) of the Exchange Control Act for a period of ninety days from 23rd February, 1983. An appropriate resolution will be moved in the Honourable House of Representatives shortly.

Edward P. G. Seaga
Prime Minister and Minister of Finance
and Planning

21st February, 1983

THE EXCHANGE CONTROL ACTThe Exchange Control Act (Amendment) Order, 1983

In exercise of the powers conferred upon the Minister by Section 45 of the Exchange Control Act, the following Order is hereby made:-

1. This Order may be cited as the Exchange Control Act (Amendment) Order, 1983.
2. During the continuance in force of this Order the Act is hereby amended -
 - (a) by inserting in Section 2 immediately below the definition of "specified currency" the following definitions -

"tourist" means a person who is in Jamaica -

- (a) on a visitor's visa; or
- (b) intransit, from a place outside Jamaica to some other place outside Jamaica; or
- (c) on a visit primarily for recreational purposes and is not the holder of a Jamaican passport;

"tourist service" means any service provided primarily for tourists in respect of accommodation, transportation, entertainment and duty-free shopping";

- (b) by deleting from subsection (2) of section 37 the word "and" at the end of paragraph (d) and by substituting for the comma at the end of paragraph (e) a semi-colon and the word "and" and by inserting immediately below paragraph (e) the following as paragraph (f) -

"(f) persons empowered to operate or maintain a tourist service";

- (c) by deleting from paragraph (ii) of subsection (2) of section 37 the comma after the words "authorised dealers" and substituting therefor the words "and persons empowered to operate or maintain a tourist service";
- (d) by adding thereto next after section 46 the following as sections 47, 48 and 49 -

"Operation of tourist service 47 - No person shall operate or maintain a tourist service except in accordance with such conditions or requirements as the Minister may from time to time, by directions under this Act, impose.

Records and returns of tourist service 48 - Without prejudice to any directions given under the provisions of section 37 or 47, every person operating or maintaining a tourist service shall -

- (a) make such returns at such times; and
- (b) keep such records in such form as may be required by the Minister.

Penalties in relation to tourist services 49 - (1) Any person operating or maintaining a tourist service who, without reasonable excuse, fails or refuses to comply with the provisions

of Section 48 or to embody in any return such information as the Minister may require shall be guilty of an offence.

(2) Any person operating or maintaining a tourist service who knowingly or recklessly -

- (a) makes, or causes to be made, any false or misleading returns or declarations, whether oral or in writing; or
- (b) uses, or causes to be used, any false certificates; or
- (c) makes, or causes to be made, any alterations or falsification of any document after that document has been officially issued

shall be guilty of an offence.

(3) Any person operating or maintaining a tourist service who is convicted in a Resident Magistrate's Court of an offence punishable under this Section shall be liable to a penalty not exceeding \$5,000 or to imprisonment for a term not exceeding six months and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for every day on which the offence continues or to imprisonment for a term not exceeding three months.

(4) Where an offence punishable under this Section has been committed by a body corporate, any person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the contravention was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature to his functions in that capacity and to all the circumstances."

3. This Order shall come into effect on the 24th day of January, 1983.

Dated this 20th day of January, 1983.

/sgd./ Edward Seaga
Minister of Finance and Planning