



**AGRICULTURE AND FISHERIES (INCENTIVES)
ACT, 2005**

(Act 3 of 2005)



I assent

J. A. Michel
President

31st March, 2005

AN ACT to provide for the grant of certain incentives to persons engaged in agriculture, fisheries and activities related thereto.

ENACTED by the President and the National Assembly.

Part 1 - Preliminary

1. This Act may be cited as the Agriculture and Fisheries (Incentives) Act, 2005 and shall come into operation on such date as the Minister responsible for Finance may, by Notice in the Gazette, appoint.

Short title and commencement

Interpretation

2.

In this Act –

“agricultural exporter group A” means an agricultural exporter whose foreign exchange earnings exceed 40 percent of his turnover;—

“agricultural exporter group B” means an agricultural exporter whose foreign exchange earnings are between 20 and 40 per cent of his turnover;

“boat owner” means a person owning one or more fishing boats;

“capital equipment” means –

- (a) in relation to agriculture, any item of equipment used solely in the production or processing of agricultural goods and having a value of R1000 or more and includes construction materials;
- (b) in relation to fisheries, boats, engines including outboard engines of a capacity not exceeding 50 horse power and any other item approved by the Ministry responsible for Fisheries and used solely in commercial fishing activities, processing and exporting of fish products and other marine products each of which item of equipment has a value of R1000 or more, and includes refrigeration trucks and fork lifts used by processors and exporters and construction and boat building materials;

“c.i.f.” means the cost of bringing goods to Seychelles including the cost of the goods, insurance and overseas freight;

“commercial motor vehicle” means any motor vehicle designed for the transportation of goods and includes pick-up trucks and dual or twin cabs;

“Competent Authority” means the Principal Secretary of the Minister responsible for Finance;

“Concessionary GST” means the GST calculated as a percentage of the aggregate of the c.i.f. value, the concessionary trades tax and 0% markup of the goods;

“construction materials” includes all materials used during the construction or major renovation phase of the business premises in respect of which a concession is claimed;

“consumables and raw materials” means such goods as shall be approved as such for the purpose of this Act by the Minister and specified in a notice published in the Gazette;

“exporter” means a person engaged in the export of agricultural products or fish, fish products and other marine products as the case may be;

“farmer” means an individual engaged in the production of livestock, fruits, vegetables, flowers or other crops at a specified location;

“farming entity” means a company, partnership or cooperative engaged in the production of livestock, fruits, vegetables, flowers or other crops;

“fisherman” means an individual engaged in commercial fishing;

“fisheries exporter group A” means a fisheries exporter who has 75 per cent or more of his gross

turnover or the equivalent of R1,000,000 or more in foreign currency remitted to Seychelles;

“fisheries exporter group B” means a fisheries exporter who has less than 75 per cent of his gross turnover or the equivalent of less than R1,000,000 in foreign currency remitted to Seychelles;

“G.O.P” means the gainful occupation permit issued under the Immigration Decree;

“G.S.T” means the Goods and Services Tax imposed under the Goods and Services Tax Act;

“inputs” means goods used in the production or processing of agricultural goods;

“Minister” means the Minister responsible for Finance;

“minor operating equipment” means items of equipment used solely in the production or processing of agricultural goods or in the fishing industry as the case may be and having a value of less than R1000 per item but does not include consumables and raw materials;

“officer” means an officer of the Ministry responsible for Finance or an officer of the Trades Tax Imports Division;

“processor” means –

- (a) in relation to agricultural activities, a person other than a person engaged in a cottage industry or the production of alcoholic beverages who or which adds value by

transforming locally produced farm output into semi-finished or finished products;

- (b) in relation to fisheries, a person engaged in the transformation of fish and other marine products by a process of adding value;

“protective and safety equipment” includes protective clothing, gloves and other items approved by the Ministry responsible for Agriculture and Fisheries.

Part 2 – Grant of Incentives

3. Notwithstanding anything to the contrary in the Business Tax Act, Trades Tax Act, the Goods and Services Tax Act, the Immigration Decree, the Social Security Act, the Exchange Control Act or regulations made thereunder –

Grant of incentives

- (a) farmers;
- (b) farming entities;
- (c) agricultural processors;
- (d) agricultural exporters;
- (e) fishermen;
- (f) boat owners;
- (g) fisheries processors; and
- (h) fisheries exporters,

(hereinafter referred to as “relevant persons”) shall be granted incentives in accordance with the provisions of this Act.

4. (1) A relevant person specified in section 3(a) to (d) shall—

Entitlement

-
- (a) be entitled to business tax concessions specified in Part 1 of Schedule 1;
 - (b) pay Social Security contributions under the Social Security Act in accordance with Part 2 of Schedule 1;
 - (c) obtain Gainful Occupation Permits under the Immigration Decree in accordance with Part 3 of Schedule 1;
 - (d) be entitled to trades tax and G.S.T concessions in accordance with Part 4 of Schedule 1;
 - (e) be permitted to retain a percentage of foreign exchange earnings in accordance with Part 5 of Schedule 1.
- (2) A relevant person specified in section 3(e) to (h) shall –
- (a) be entitled to business tax concessions specified in Part 1 of Schedule 2;
 - (b) pay social security contributions under the Social Security Act in accordance with Part 2 of Schedule 2;
 - (c) obtain Gainful Occupation Permits under the Immigration Decree in accordance with Part 3 of Schedule 2;
 - (d) be entitled to the trades tax and GST concessions in accordance with Part 4 of Schedule 2;
 - (e) be entitled to the fuel concession in accordance with Part 5 of Schedule 2;

- (f) be permitted to retain a percentage of foreign exchange earnings in accordance with Part 6 of Schedule 2.

(3) Every relevant person shall be registered for the purpose of this Act by the Ministry responsible for Agriculture and Fisheries and such registration shall be in addition to any other registration, licence or authorisation required by any other law for a person to engage in the activity for which incentives are granted under this Act.

(4) Where a person is registered under subsection (3) the person shall be issued with a certificate of registration.

5. (1) Any person claiming any concession under this Act shall apply in the prescribed form to the Competent Authority for the grant of such concession.

Application to be made to Competent Authority

(2) The Competent Authority may require the applicant to furnish any additional information relevant to the application for the purpose of dealing with the application.

6. Goods imported into Seychelles in respect of which any concession has been granted under this Act shall not be sold, exchanged, rented, given away or exported from Seychelles or applied to any purpose other than that for which it was imported except –

Restrictions as to use or disposal of certain goods

- (a) in the case of a transfer of the relevant person's business for which it was so imported as a going concern to another person;
- (b) after the lapse of 2 years from the date of importation, upon the relevant person paying or giving security to the satisfaction of the Comptroller of Trades Tax Imports or the

Commissioner of Taxes as the case may be for the payment of an amount equivalent to the amount of Trades Tax or G.S.T as the case may be which would have been payable on it but for this Act,

and with the prior written approval of the Competent Authority which may be given subject to such conditions as may be specified.

Offences and penalties

7. (1) The Competent Authority may require any relevant person to keep such records and in such manner as may be directed by the Competent Authority and to take such other measures as may be necessary to ensure that this section is complied with and the relevant person shall comply with that requirement.

(2) A person who contravenes the provisions of subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding R50,000.

(3) An officer may –

- (a) enter and search any premises used by a relevant person for the purpose of conducting the business of the relevant person;
- (b) examine goods in respect of which any concession has been granted;
- (c) require a relevant person or any person who has the control or custody of or access to any record kept pursuant to subsection (1) to produce such record for inspection;
- (d) examine and take extracts from, and make copies of, any record kept pursuant to subsection (1).

- (4) Any person who –
- (a) obstructs an officer in the exercise of the officer's functions under this Act; or
 - (b) fails or refuses to produce or give access to any record kept pursuant to subsection (1) when required to do so by an officer under subsection (3)(c),

is guilty of an offence and on conviction liable to a fine of an amount not exceeding R50,000.

(5) Where a person who has contravened subsection (1) or (4) admits to the contravention and agrees in writing to the contravention being dealt with under this subsection, the Competent Authority may compound the offence by accepting a sum of money not exceeding the maximum fine specified for the offence under subsection (2) or (4) as the case may be.

(6) The holder of a certificate of registration in respect of which any vehicle or goods have been imported with the benefit of a concession under this Act who contravenes any provision of section 6 is guilty of an offence and liable on conviction to a fine of an amount not exceeding R50,000.

(7) Where a person who has contravened any provision of section 6 admits to the contravention and agrees in writing to the contravention being dealt with under this subsection, the Competent Authority may compound the offence by accepting a sum of money not exceeding the maximum fine specified for the offence in subsection (6).

(8) A sum of money received under subsection (5) or (7) shall be dealt with as if it were a fine imposed by a court.

(9) In any proceedings brought against a person for an offence under subsection (2), (4) or (6), it shall be a good defence if the person proves that:

- (a) the offence has been compounded under this section; and
- (b) the person has paid the sum of money referred to in subsection (5) or (7).

Revocation or suspension of certificate of registration

8. (1) The Principal Secretary of the Ministry responsible for Agriculture and Fisheries may, where he is satisfied that a certificate of registration has been granted on the basis of information or material which to the knowledge of the holder of the certificate was false or misleading or that the holder of the certificate has breached any condition of the certificate or has otherwise become disqualified for the grant of the certificate or has contravened any provisions of this Act –

- (a) revoke or suspend the certificate in whole or in part for a period of not less than 6 months; and
- (b) forthwith notify the Competent Authority and the holder of the certificate of the revocation or suspension as the case may be.

(2) Where a certificate of registration is revoked or suspended under subsection (1) the holder of the certificate shall cease to be entitled to the concessions and incentives in relation to that certificate.

(3) Subject to subsection (1), where the holder of a certificate is aggrieved by a revocation or suspension of the certificate he may within 15 days of receiving the notification of revocation or suspension appeal against the decision to the Supreme Court.

(4) The Supreme Court may on such appeal affirm or quash the decision of the Principal Secretary.

(5) Where on an appeal under subsection (4) the Supreme Court, or on an appeal the Court of Appeal, quashes the decision of the Principal Secretary, the certificate of registration shall be deemed not to have been revoked or suspended.

9. The Minister responsible for Finance may make regulations for carrying into effect the provisions of this Act or for the amendment of any Schedule.

Regulations

SCHEDULE 1

INCENTIVES FOR AGRICULTURE

PART 1

(1) Business Tax

Relevant person	Business Tax
Farmer	0%
Farming entity	R0-240,000 0% Above R240,000 15% flat
Agricultural Processor	R0-240,000 0% Above R240,000 15% flat
Agricultural Exporter Group A	R0-240,000 0% Above R240,000 10% flat
Agricultural Exporter Group B	R0-240,000 0% Above R240,000 15% flat

(2) Special deduction on taxable income

Marketing and promotion

Allowable deduction from taxable income shall be 200% of actual or qualifying expenditure. The amount qualifying for the deduction shall be 5% of turnover or the actual expenditure incurred in respect of marketing and promotion expenses whichever is lower.

(3) Accelerated depreciation

Rates of depreciation allowable on capital investments other than land and buildings will be at the following rates:

Year	%
1	45
2	40
3	20
4	15
5	5

PART 2**Social Security**

Relevant person	Employer's Social Security Contribution	Employee's Social Security Contribution
Farmer	0%	0%
Farming entity	R100 per registered permanent employee per month (inclusive of employee's contribution)	
Agricultural Processor	Maximum 20%	5%
Exporter Group A	0%	5%
Exporter Group B	Maximum 20%	5%

PART 3

Gainful Occupation Permit (G.O.P)

(1)

Relevant person	Fees and applicability
Farmer	1. Maximum Allowable Foreign Employees (M.A.F.E) = 25% of the total number of employees 2. G.O.P fee shall be R500 per person per month.
Farming entity	1. Maximum Allowable Foreign Employees (M.A.F.E) = 25% of the total number of employees 2. G.O.P fee shall be R500 per person per month.
Agricultural Processor	1. Maximum Allowable Foreign Employees (M.A.F.E) = 25% of the total number of employees 2. G.O.P fee shall be R500 per person per month.
Agricultural Exporter Group A	1. Maximum Allowable Foreign Employees (M.A.F.E) = 25% of the total number of employees 2. G.O.P fee shall be R500 per person per month.
Agricultural Exporter Group B	1. Maximum Allowable Foreign Employees (M.A.F.E) = 25% of the total number of employees 2. G.O.P fee shall be R500 per person per month.

- (2) Where a relevant person applies to the Competent Authority for approval to employ a number of employees in excess of the maximum allowable number of foreign employees stating the special circumstances urged in support of the application, the Competent Authority may grant the application on the concessionary terms specified in this Part subject to such conditions as may be imposed by the Competent Authority.

PART 4

Trades Tax and G.S.T Concessions

Relevant persons	Capital Equipment	Commercial Motor Vehicles	Inputs and Minor Operating Equipment	Protective and Safety Equipment
Farmer	0% Trades Tax + 0% G.S.T	50% of applicable trades tax rate + Concessionary G.S.T	5% Trades Tax + Concessionary G.S.T	0% Trades Tax + 0% G.S.T
Farming entity	0% Trades Tax + 0% G.S.T	50% of applicable trades tax rate + Concessionary G.S.T	5% Trades Tax + Concessionary G.S.T	0% Trades Tax + 0% G.S.T
Agricultural Processor	0% Trades Tax + 0% G.S.T	50% of applicable trades tax rate + Concessionary G.S.T	5% Trades Tax + Concessionary G.S.T	0% Trades Tax + 0% G.S.T
Agricultural Exporter Group A	0% Trades Tax + 0% G.S.T	50% of applicable trades tax rate + Concessionary G.S.T	0% Trades Tax + Concessionary G.S.T	0% Trades Tax + 0% G.S.T
Agricultural Exporter Group B	0% Trades Tax + 0% G.S.T	50% of applicable trades tax rate + Concessionary G.S.T	5% Trades Tax + Concessionary G.S.T	0% Trades Tax + 0% G.S.T

PART 5
Foreign Exchange Retention

Relevant person	Percentage of retention
Agricultural Exporter Group A	50%
Agricultural Exporter Group B	15%

SCHEDULE 2
INCENTIVES FOR FISHERIES

PART 1

(1) **Business Tax**

Relevant person	Business Tax
Fisherman	0%
Boat owner	R0-240,000 0% Above R240,000 15% flat
Fisheries Processor	R0-240,000 0% Above R240,000 15% flat
Fisheries Exporter Group A	R0-240,000 0% Above R240,000 10% flat
Fisheries Exporter Group B	R0-240,000 0% Above R240,000 15% flat

2. Special deduction on taxable income

Marketing and promotion-

Allowable deduction from taxable income shall be 200% of actual or qualifying expenditure. The amount qualifying for the deduction shall be 5% of turnover or the actual expenditure incurred in respect of marketing and promotion expenses whichever is lower.

(3) Accelerated depreciation

Rates of depreciation allowable on capital investments, other than land and building will be at the following rates;

Year	%
1	45
2	40
3	20
4	15
5	5

PART 2 Social Security

Relevant person	Employer's Social Security Contribution	Employee's Social Security Contribution
Fisherman	0%	0%
Boat owner	R100 per registered permanent employee per month (inclusive of employee's contribution)	
Fisheries Processor	Maximum 20%	5%
Fisheries Exporter Group A	0%	5%
Fisheries Exporter Group B	Maximum 20%	5%

PART 3

Gainful Occupation Permit (G.O.P)

(1)

Relevant person	Fees and applicability
Fisherman	Not Applicable
Boat owner with an initial investment of R300,000 or less	Not Applicable
Boat owner with an initial investment of more than R300,000	<ol style="list-style-type: none"> 1. Maximum Allowable Foreign Employees (M.A.F.E) = 25% of the total number of employees 2. G.O.P fee shall be R500 per person per month.
Fisheries Processor	<ol style="list-style-type: none"> 1. Maximum Allowable Foreign Employees (M.A.F.E)= 25% of the total number of employees 2. G.O.P fee shall be R500 per person per month.
Fisheries Exporter Group A	<ol style="list-style-type: none"> 1. Maximum Allowable Foreign Employees (M.A.F.E.) =25% of the total number of employees 2. G.O.P fee shall be R500 per person per month.
Fisheries Exporter Group B	<ol style="list-style-type: none"> 1. Maximum Allowable Foreign Employees (M.A.F.E) = 25% of the total number of employees 2. G.O.P fees shall be R500 per person per month.

(2) Where a relevant person applies to the Competent Authority for approval to employ a number of employees in excess of the maximum allowable number of foreign employees stating the special circumstances urged in support of the application, the Competent Authority may grant the application on the concessionary terms specified in this Part subject to such conditions as may be imposed by the Competent Authority.

PART 4
Trades Tax G.S.T Concessions

Relevant person	Capital Equipment	Consumables and Raw Materials	Bait	Commercial Motor Vehicles	Minor Operating Equipment	Protective and Safety Equipment
Boat owner	0% Trades Tax + 0% G.S.T	0% Trades Tax + Concessional G.S.T	0% Trades Tax + 0% G.S.T	50% of applicable trades tax rate + Concessional G.S.T	5% Trades Tax + Concessional G.S.T	0% Trades Tax + 0% G.S.T
Fisheries Processor	0% Trades Tax + 0% G.S.T	0% Trades Tax + Concessional G.S.T	Not Applicable	50% of applicable trades tax rate + Concessional G.S.T	5% Trades Tax + Concessional G.S.T	0% Trades Tax + 0% G.S.T
Fisheries Exporter Group A	0% Trades Tax + 0% G.S.T	0% Trades Tax + 0% G.S.T	0% Trades Tax + 0% G.S.T	50% of applicable trades tax rate + Concessional G.S.T	0% Trades Tax + Concessional G.S.T	0% Trades Tax + 0% G.S.T
Fisheries Exporter Group B	0% Trades Tax + 0% G.S.T	0% Trades Tax + Concessional G.S.T	0% Trades Tax + 0% G.S.T	50% of applicable trades tax rate + Concessional G.S.T	5% Trades Tax + Concessional G.S.T	0% Trades Tax + 0% G.S.T

PART 5

Fuel Concessions

Relevant person	Fuel Concessions
Boat owner (excluding Long Liners)	<ol style="list-style-type: none"> 1. Boat using 0-4,000 litres of fuel (benzene and diesel) per annum entitled to S.F.A concessions plus the 0.30 cents rebate. 2. Boat using above 4,000 litres of fuel (benzene and diesel) per annum entitled to S.F.A concessions plus the 0.60 cents rebate.
Boat owner (Long Liners)	<ol style="list-style-type: none"> 1. Boat using 0-4,000 litres of diesel per annum entitled to 0% trades tax plus the 0.30 cents rebate. 2. Boat using above 4,000 litres of diesel per annum entitled to 0% trades tax plus the 0.60 cents rebate.
Fisheries Exporter Group A	<ol style="list-style-type: none"> 1. Consumption of 0-4,000 litres of diesel per annum entitled to 0% trades tax plus the 0.30 cents rebate. 2. Consumption above 4,000 litres of diesel per annum entitled to 0% trades tax plus the 0.60 cents rebate
Fisheries Exporter Group B	<ol style="list-style-type: none"> 1. Consumption of 0-4,000 litres of diesel per annum entitled to 0% trades tax plus the 0.30 cents rebate. 2. Consumption above 4,000 litres of diesel per annum entitled to 0% trades tax plus the 0.30 cents rebate

PART 6

Foreign Exchange Retention

Relevant person	Percentage of retention
Fisheries Exporter Group A	50%
Fisheries Exporter Group B	15%

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th March, 2005.



Sheila Banks
Clerk to the National Assembly