

2020/01/23

OBJECTS AND REASONS

This Bill would amend the *Exchange Control Act*, Cap. 71 to provide for

- (a) the imposition of a foreign exchange fee on foreign exchange transactions;
- (b) the validation of the collection of the foreign exchange fee from 17th July, 2017; and
- (c) for related matters.

Arrangement of Sections

1. Short title
2. Amendment of section 2 of Cap. 71
3. Insertion of Part IIIA into Cap. 71
4. Amendment of section 38 of Cap. 71
5. Insertion of Fifth Schedule into Cap. 71
6. Insertion of Sixth Schedule into Cap. 71
7. Commencement
8. Validation

FIRST SCHEDULE

SECOND SCHEDULE

BARBADOS

A Bill entitled

An Act to amend the *Exchange Control Act*, Cap. 71 to provide for the imposition of a fee on foreign exchange transactions and for the validation of the collection of the fee and for related matters.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Exchange Control (Amendment) Act, 2020*.

Amendment of section 2 of Cap. 71

2. *Section 2 of the Exchange Control Act, Cap. 71, in this Act referred to as the principal Act, is amended by inserting the following new definitions in the appropriate alphabetical order:*

“Central Bank” means the Central Bank of Barbados established under section 3 of the *Central Bank of Barbados Act, Cap. 323C*;

“foreign currency provider” means authorised dealers, money or value transmission service providers, credit card providers, debit card providers and prepaid card providers;

“foreign exchange fee” means the fee payable under section 10A(1);

“money or value transmission service provider” means a person carrying on the business of accepting cash, cheques or any other monetary instrument or other means of storing value and paying a corresponding sum in cash or in another form to a beneficiary, by means of a communication, message or transfer or through a clearing system to which the money or value transmission service belongs;

“weekday” means a day of the week other than Sunday or Saturday.”.

Insertion of Part IIIA into Cap. 71

3. *The principal Act is amended by inserting the following Part immediately after Part III:*

“PART IIIA

FOREIGN EXCHANGE FEE ON FOREIGN CURRENCY
TRANSACTIONS

Foreign exchange fee

10A.(1) A foreign exchange fee, calculated in accordance with subsection (3) and subject to subsection (4), is payable by a person

- (a) who obtains foreign currency in Barbados, in any form, from a foreign currency provider; or
- (b) who, whether in Barbados or outside Barbados, purchases foreign currency or purchases goods or services in foreign currency with a credit card, a debit card or a prepaid travel card denominated in Barbados dollars and issued in Barbados.

(2) Part I of the *Fifth Schedule* shall apply to the foreign exchange fee.

(3) The formula for the computation of the foreign exchange fee is set out in Part II of the *Fifth Schedule*.

(4) The foreign exchange fee payable in accordance with this section shall not exceed \$100 000 per transaction.

Transactions which are exempt from the foreign exchange fee

10B. The foreign exchange fee is not payable in respect of the transactions set out in the *Sixth Schedule*.

Exemption of diplomats and diplomatic missions

10C. The foreign exchange fee is not payable by

- (a) a diplomatic mission, a consulate or an international organisation recognised pursuant to the *Diplomatic Immunities and Privileges Act*, Cap. 18; or
- (b) any person entitled to be exempt from the payment of duties, fees, taxes or rates pursuant to the *Diplomatic Immunities and Privileges Act*,

on production of evidence that the transaction relates to the person, entity or organization referred to in paragraphs (a) or (b).

Payment of foreign exchange fee to the Central Bank

10D.(1) Every foreign currency provider shall pay the foreign exchange fee collected pursuant to section 10A(1) to the Central Bank no later than the 15th day of the month following the end of the reporting period.

(2) The Central Bank may by notice request an authorised dealer to submit reporting schedules and supporting information for the purposes of subsection (1).

(3) Where a notice is served on an authorised dealer under subsection (2), the authorised dealer shall comply with the notice within the time specified in the notice.

(4) For the purposes of this section, “reporting period” means the month prior to the month in which a report is submitted.

Payment of foreign exchange fee into the Consolidated Fund

10E.(1) The Central Bank shall pay the foreign exchange fee collected pursuant to section 10(D)(1) into the Consolidated Fund no later than the 15th day of each month following its collection; but where

the 15th day of the month is not a weekday, the fee is payable on the first weekday thereafter.

(2) The Central Bank shall forthwith submit a statement of confirmation of the deposit to the Minister of Finance and the Accountant-General on payment of the foreign exchange fee into the Consolidated Fund under subsection (1).

Amendment of Fifth and Sixth Schedules

10F. The Minister may by order amend the *Fifth* and *Sixth Schedules*.”.

Amendment of section 38 of Cap. 71

4. *Section 38(2) of the principal Act is amended*

- (a) *in paragraph (a) by inserting the words “foreign currency providers” immediately after the words “authorised dealers,”; and*
- (b) *in paragraph (e)(ii) by inserting the words “and foreign currency providers” immediately after the words “authorised dealers”.*

Insertion of Fifth Schedule into Cap. 71

5. *The principal Act is amended by inserting immediately after the Fourth Schedule, the Fifth Schedule as set out in the First Schedule to this Act.*

Insertion of Sixth Schedule into Cap. 71

6. *The principal Act is amended by inserting immediately after the Fifth Schedule as inserted by section 5 of this Act, the Sixth Schedule as set out in the Second Schedule to this Act.*

Commencement

- 7.** *This Act shall be deemed to have come into operation as follows:*
- (a) the provisions of the Act, except for the provisions relating to credit card, debit card and prepaid card transactions, shall be deemed to have come into operation on 17th July, 2017; and*
 - (b) the provisions relating to credit card, debit card and prepaid card transactions shall be deemed to have come into operation on 1st September, 2017.*

Validation

- 8.** *All monies collected in relation to the foreign exchange fee from 17th July, 2017 to the commencement of this Act shall be deemed to have been validly and lawfully collected as if collected under the Exchange Control Act, Cap. 71.*

FIRST SCHEDULE

(Section 5)

**“FIFTH SCHEDULE
PART I**

(Section 10A(2))

*Rules Applicable to the Collection of the Foreign Exchange Fee by
Authorised Dealers*

1. The foreign exchange fee shall be shown separately on transaction records.
2. The exchange rate relating to foreign currency transactions is the exchange rate applicable to the currency which is being purchased.
3. The foreign exchange fee for foreign exchange transactions and the currency of the settlement of the foreign exchange fee shall both be calculated in Barbados dollars.
4. The foreign exchange fee shall be charged and payable at the time of the cash purchase or added to the credit card statement.

PART II

(Section 10A(3))

Calculation of Foreign Exchange fee

2 per cent (Foreign Currency Purchased or Utilised x Applicable
Exchange Rate)

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SECOND SCHEDULE

(Section 6)

“SIXTH SCHEDULE

(Section 10B)

Exempt Transactions

- 1.** The sale of foreign currency by the Central Bank to authorised dealers where the purchase is on behalf of a customer of the authorised dealer.
- 2.** Trading between authorised dealers on the interbank market.
- 3.** Trading between the Central Bank and any authorised dealer.
- 4.** The sale of foreign currency by authorised dealers to foreign currency providers for the purpose of settling obligations relating to transactions by customers of the foreign currency providers where the customer has paid the foreign exchange fee in respect of those transactions.
- 5.** Transactions involving the use of funds held by any individual or business in a foreign currency account.
- 6.** The sale of foreign currency by authorised foreign exchange dealers to a business or person which is exempt from the payment of the foreign exchange fee where that business or person produces written

evidence that the Government of Barbados has granted the exemption.

7. The purchase of foreign currency for foreign debt service payments by a statutory board within the meaning of section 40 of the *Interpretation Act, Cap. 1* or a statutory corporation where the Government of Barbados is the sole shareholder of the corporation.

8. The purchase of

- (a) kerosene type jet fuel falling under tariff heading number 2710.19.10 of the Customs Tariff;
- (b) diesel oil for use as fuel for road motor vehicles falling under tariff heading number 2710.19.40.100 of the Customs Tariff;
- (c) diesel oil falling under tariff heading number 2710.19.40.900 of the Customs Tariff; and
- (d) bunker “C” grade fuel oil falling under tariff heading number 2710.19.60 of the Customs Tariff.”.

Read three times and passed the House of Assembly this
day of _____, 2020.

Speaker

Read three times and passed the Senate this _____ day of
_____, 2020.

President