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CHAPTER 75

INDUSTRIAL INCENTIVES

An Act to provide incentives for the establishment and development of industries in this Island by the grant of relief from income tax, trade tax, interim traders' licence fees and customs duties and for other matters incidental thereto or connected therewith.

1963-31.
L.N. 168/
1967.

[15th July, 1963] Commence-
ment.

1. This Act may be cited as the Industrial Incentives Act. Short title.

PART I

General

Inter-
pretation.

2. (1) For the purposes of this Act, the expression—

“approved enterprise” means a company approved by the Minister under section 4 for the manufacture of an approved product;

“approved product”, when not preceded by the word “relevant”, means a product of manufacture approved by the Minister under section 3 for manufacture by an approved enterprise;

“assessable income” means income of any kind which is not exempted from income tax otherwise than by way of a special exemption expressly authorised as such by the Income Tax Act;

Cap. 73.

“benefit” means the relief in regard to income tax, trade tax, the fees chargeable under the Interim Traders Act for an interim trader's licence or customs duty enjoyed by an approved enterprise by virtue of this Act;

Cap. 180.

“Commissioner” means the Commissioner of Inland Revenue;

“company” means any company registered in the Island in accordance with the Companies Act;

Cap. 308.

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“ Comptroller ” means the Comptroller of Customs;

“ date of production ” means the date declared pursuant to subsection (2) of section 4;

“ factory ” means any premises in which, or within the close or curtilage or precincts of which—

(a) persons are or will be employed in any process for or incidental to the manufacture or the adaptation for sale of any approved product; and

(b) the work is or will be carried on by way of trade or for purposes of gain;

being premises to or over which the approved enterprise which employs or will employ the persons employed or to be employed therein has access or control;

“ manufacture ” includes preparation for sale;

“ Minister ” means the Minister responsible for Industry;

“ relevant approved product ”, used in relation to any approved enterprise, means the approved product in relation to which a company has been declared under section 4 to be an approved enterprise;

“ taxable income ” means income on which trade tax may be charged under the Local Government Act;

“ year of assessment ” means the year for which income tax is payable pursuant to the Income Tax Act.

Cap. 107.

(2) For the purposes of this Act, a part of a factory may, with the approval in writing of the Comptroller, be taken to be a separate factory.

(3) Any reference in this Act to annual allowances, a balancing allowance or balancing charge in respect of machinery or plant shall be deemed to include a reference to annual allowances, a balancing allowance or balancing charge in respect of industrial buildings or structures as defined in subsection (4) of section 85 of the Income Tax Act and in relation to any allowance or charge so included, any reference in this Act to machinery or plant shall be read and construed as a reference to industrial buildings and structures as so defined.

3. (1) Subject to sections 6 and 7, the Minister may, by order, declare that a product of manufacture shall be an approved product for the purpose of this Act if he is satisfied that the manufacture of the product would—

Declaration
of approved
product.

- (a) be of benefit to the Island, both economic and non-economic considerations being taken into account; and
- (b) have a beneficial effect on employment both in numbers and in gross wages.

(2) An order may be made under subsection (1) in respect of a product which is being manufactured in the Island at the date of the order.

(3) The Minister, before declaring under subsection (1) that a product of manufacture shall be an approved product for the purpose of this Act, shall also have regard to the following considerations—

- (a) the effect which approval would have on existing industries;
- (b) whether manufacture of the product would utilise raw materials or skill available in the Island;
- (c) whether the existing capacity for manufacture of the product is sufficient to meet the demand for the product; and
- (d) the element of risk involved in establishing a successful manufacture of the product.

4. (1) Subject to sections 6 and 7, the Minister may, by order, declare that a company which is manufacturing, or proposes to manufacture, an approved product is an approved enterprise for the purpose of this Act, if he is satisfied that the company—

Declaration
of approved
enterprises.

- (a) is or will be adequately financed;
- (b) has adequate trained personnel in its employ or is able to obtain the services of such personnel;
- (c) has access to the necessary technical information;
- (d) is able to obtain adequate raw materials;

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(e) possesses, or will possess, the necessary factory.

(2) In every order made under subsection (1) a date shall be declared to be the date on which production is deemed to begin for the purposes of this Act.

(3) Every order made under subsection (1) shall specify the factory in respect of which the benefits of Part IV may be enjoyed.

(4) On the application of an approved enterprise the Minister may, in his absolute discretion and upon such conditions as he thinks fit, amend an order made under subsection (1) in respect of the date of production specified therein, and thereupon this Act shall, subject to any conditions specified in relation to such amendment, have effect as if for the date of production declared pursuant to subsection (2) there were substituted the date of production amended as aforesaid.

(5) On the application of an approved enterprise, the Minister may, in his absolute discretion and upon such conditions as he thinks fit, amend an order made under subsection (1) in respect of the factory specified therein if he is satisfied that it is necessary, in order to promote the manufacture of the approved product by the approved enterprise, that the site of the factory should be changed, and such amending order shall specify the factory in respect of which the benefits of Part IV may be enjoyed after the amending order has been made.

Applications
for approval.

5. All applications for the approval of a product as an approved product or the approval of a company as an approved enterprise shall be addressed to the Minister in such form and with such particulars as the Minister may from time to time determine.

Objections
to proposals
to approve a
product or
an
enterprise.

6. (1) Before an order is made under section 3 or section 4, the Minister shall cause the fact that he is about to consider whether, for the purposes of this Act, a product for manufacture should be an approved product or a company an approved enterprise, to be advertised by a notice published as provided hereinafter in this section.

(2) The notice referred to in subsection (1) shall be pub-

lished in at least two issues of a newspaper at intervals of not less than four days and once in the *Official Gazette* and shall contain such particulars as to the product or company of which such approval is being sought as the Minister may consider necessary in order that any person interested in the manufacture or importation of the product may object to the product or the company being so approved.

(3) The notice shall state the period within which any objection to the approval of the product or the company shall be made by any person interested in the manufacture or of the importation of the product.

(4) Every objection received by the Minister within the period stated in the notice or within such extended period as the Minister may allow shall be considered by the Minister before any order is made under section 3 or section 4.

L.N. 168/
1967.

(5) This section shall not apply to an amending order made under subsection (4) or subsection (5) of section 4.

7. The Minister shall not approve a company as an approved enterprise if such company is approved under the Industrial Development (Export Industries) Act or declared to be a pioneer manufacturer under the Pioneer Industries (Encouragement) Act, 1951,¹ or the Pioneer Industries Act.

Limitation
on power of
Minister to
approve a
company.
Cap. 74.
Cap. 83.

8. Subject to section 7, the Minister shall have an absolute discretion to grant or refuse to grant approval in respect of a product for manufacture as an approved product or a company as an approved enterprise for the purposes of this Act.

Absolute
discretion of
Minister to
refuse
approval.

9. (1) Subject to subsection (2), the Minister may, if he thinks it fit in the public interest so to do, at any time and in such circumstances as may be prescribed, revoke by order published in the *Official Gazette* an order made under section 3.

Power of
Minister to
revoke order
under
section 3.

(2) An order made pursuant to subsection (1) shall not affect any benefits conferred by this Act on any company declared under section 4 to be an approved enterprise in respect of the approved product specified in the order so revoked, if

¹ This Act, 1951-44, which has been replaced by the Pioneer Industries Act, 1958, 1958-54, now Cap. 83, is not reprinted in these *Laws*.

such benefits, at the date of the publication of the order or revocation, are by virtue of this Act benefits to which such company would have been entitled as an approved enterprise had the order not been revoked.

Power of
Minister to
revoke order
under
section 4.

10. (1) Subject to this section, on the application of an approved enterprise or in such other circumstances as may be prescribed, the Minister may, by order published in the *Official Gazette*, revoke the order made under section 4 by virtue of which the company became an approved enterprise.

Cap. 74.
Cap. 83.

(2) Upon the revocation of an order pursuant to subsection (1), nothing in this Act shall prevent the company from being granted any special treatment which may be granted pursuant to any of the provisions of the Industrial Development (Export Industries) Act or the Pioneer Industries Act.

(3) Notwithstanding anything contained in the Industrial Development (Export Industries) Act or the Pioneer Industries Act, any special treatment granted under those Acts to a company which previously enjoyed concessions under this Act shall be subject to such terms and conditions as regards adjustment of benefits received under this Act or otherwise as the Minister may think fit.

PART II

Provisions relating to Income Tax

Alternative
income tax
benefits.

11. (1) Subject to this Part, an approved enterprise shall, at its option exercisable as in this section provided, be entitled to either one or the other of the reliefs from income tax defined in sections 12 and 14 as the first and second options respectively for the periods therein respectively stated.

(2) The option created by subsection (1) shall be exercised within one year of the date of production by the service on the Commissioner of a notice in writing to that effect and the option expressed in such notice may at any time be changed by the approved enterprise serving on the Commissioner within the period specified in this subsection a further notice in writing.

(3) As from the date of service of a notice or, as the case may be, the last of any notices referred to in subsection (2), the option created by subsection (1) shall be deemed to have been exercised and shall not be capable of change.

(4) An approved enterprise which fails, within the period specified in subsection (2), to serve the notice required by that subsection shall be deemed to be entitled to the reliefs from income tax granted by section 14.

12. The first option referred to in section 11 shall, notwithstanding anything contained in the Income Tax Act, but subject to the conditions specified in this section and in section 13, be relief from income tax for ten years from the date of production in respect of profits or gains accruing to an approved enterprise from the manufacture or sale of the relevant product.

First option:
ten year tax
holiday.
Cap. 73.

13. (1) In the second year of the period of ten years specified in section 12 and in every year thereafter up to and including the year next following the year in which that period expires, any machinery or plant—

Notional
depreciation
of machinery
and plant.

- (a) which belongs to an approved enterprise; and
- (b) which is in use during the said period of ten years for the purpose of manufacturing the relevant approved product in the manufacture or on the sale of which the profits or gains derived therefrom and arising or accruing to the approved enterprise during the said period of ten years are exempt from income tax,

shall be notionally depreciated in value at a rate equivalent to that at which an annual allowance would have been made in respect of such machinery or plant had such profits or gains not been exempt from income tax.

(2) Any machinery or plant referred to in subsection (1) shall be notionally depreciated in value in accordance with subsection (1) whether or not any annual allowances may be made pursuant to the Income Tax Act in respect of the said machinery or plant by reason of its being used for any purpose other than the purpose referred to in paragraph (b) of subsection (1) during the said period of ten years.

(3) In calculating the amount of any annual allowances which may be made pursuant to the Income Tax Act—

- (a) in any year of assessment after the year next following the expiration of the period of ten years specified in section 12; and

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- (b) in respect of any machinery or plant notionally depreciated in value pursuant to subsections (1) and (2);
- (c) to the approved enterprise to which such machinery or plant belonged during the said period of ten years,

there shall be deducted from the capital expenditure incurred by such approved enterprise on the provision of such machinery or plant an amount equal to the notional depreciation so calculated in respect of such machinery or plant, as well as any other amount to be deducted pursuant to the Income Tax Act.

(4) Subject to subsection (6), in calculating the amount of any balancing allowance or balancing charge which may be made pursuant to the Income Tax Act—

- (a) in any year of assessment after the year next following the expiration of the period of ten years specified in section 12; and
- (b) in respect of the capital expenditure incurred on the provision of any machinery or plant notionally depreciated in value pursuant to subsections (1) and (2); and
- (c) to or on the approved enterprise to which such machinery or plant belonged during the said period of ten years,

there shall be added to any annual allowances previously made pursuant to the Income Tax Act to the approved enterprise in respect of such machinery or plant an amount equal to the notional depreciation so calculated, as well as any other amounts to be taken into account pursuant to that Act.

(5) Subject to subsection (6), where no such annual allowances as are referred to in subsection (4) have previously been made, the amount equal to the notional depreciation, calculated pursuant to subsections (1) and (2) shall, for the purposes of the Income Tax Act, be deemed to be the total annual allowances made to the approved enterprise in respect of the said machinery or plant.

(6) In no case shall the amount on which a balancing charge is made on an approved enterprise in respect of any machinery

or plant notionally depreciated in value pursuant to subsections (1) and (2) exceed the aggregate of—

- (a) the amount equal to the notional depreciation so calculated in respect of the machinery or plant in question;
- (b) the amount of any annual allowances made pursuant to the Income Tax Act to the approved enterprise in respect of the machinery or plant in question;
- (c) the amount of any balancing allowance previously given pursuant to the Income Tax Act to the approved enterprise in respect of the capital expenditure incurred by it on the provision of the machinery or plant in question.

(7) Subject to subsection (8), all losses incurred by an approved enterprise—

- (a) during the period of ten years specified in section 12;
- (b) in the manufacture or on the sale of the relevant approved product in the manufacture or on the sale of which the profits or gains derived therefrom and arising or accruing to the approved enterprise were exempt from income tax during the said period of ten years; and
- (c) in excess of any profits or gains derived from the manufacture or sale of the relevant approved product and arising or accruing to the approved enterprise during the said period of ten years,

may, for the purposes of computing the assessable income of the approved enterprise for each of the next five succeeding years after the expiration of the said period of ten years, be carried forward and deducted from or set off against any profits or gains which arise or accrue to the approved enterprise in each of those five years and are derived from the manufacture or sale of the relevant approved product.

(8) The amount of any loss allowed pursuant to subsection (7) to be deducted or set off in computing the assessable income of an approved enterprise for any one of the five years mentioned in that subsection shall not be deducted or set off in computing the assessable income of that approved enterprise for any other year.

(9) For the purposes of subsection (7) and (8) losses shall

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be deemed to include the amount of the notional depreciation made pursuant to subsections (1) and (2).

Second option: seven year tax holiday followed by gradual transition to full liability for income tax.

14. (1) The second option referred to in section 11 shall, notwithstanding anything contained in the Income Tax Act be the relief from income tax specified in this section.

(2) All profits or gains arising or accruing to an approved enterprise from the manufacture or sale of the relevant approved product shall—

- (a) for the first seven years of a period of nine years from the relevant date, be exempt from income tax; and
- (b) for the remaining two years of that period, be exempt from income tax as follows—
 - (i) in the eighth year, on two thirds of such profits or gains; and
 - (ii) in the ninth year, on one third of such profits or gains.

(3) For the purposes of this section “relevant date” means such date as the approved enterprise may select by notice in writing served on the Commissioner not later than three years after the date of production.

(4) Any division of profits to be made pursuant to subparagraphs (i) or (ii) of paragraph (b) of subsection (2) shall be made before deducting any losses which may be deducted pursuant to this section and before making any deduction for annual allowances.

(5) If an approved enterprise fails to serve on the Commissioner within the period of three years specified in subsection (3) the notice required by that subsection, the period of nine years referred to in subsection (2) shall commence immediately on the expiration of such period of three years.

(6) Any annual allowances, balancing allowance or balancing charge which—

- (a) pursuant to the Income Tax Act; and
- (b) in any year of assessment after the year next following the period of seven years specified in subsection (2),

may become due in respect of any machinery or plant which—

- (i) belonged to the approved enterprise; and
- (ii) was in use at the end of the said period of seven years for the purpose of manufacturing the approved product in the manufacture or on the sale of which the profits or gains derived therefrom and arising or accruing to the approved enterprise are exempt from income tax,

shall be computed in the manner provided for in subsection (7).

(7) The annual allowances, balancing allowance and balancing charge referred to in subsection (6) shall be computed as if the capital expenditure incurred on the provision of the machinery or plant referred to in that subsection—

- (i) was an amount less the amount of any annual allowances made to the approved enterprise in respect of such machinery or plant at any time before the commencement of the period of seven years specified in subsection (2) and after the date of production; and
- (ii) had been incurred on the last day of the said period of seven years.

(8) All losses incurred by an approved enterprise—

- (a) during the period of seven years specified in subsection (2) (which period is hereinafter in this subsection referred to as the “specified period”);
- (b) in the manufacture or on the sale of the relevant approved product in the manufacture or on the sale of which the profits or gains derived therefrom and arising or accruing to the approved enterprise were exempt from income tax during the specified period; and
- (c) in excess of any profits or gains derived from the manufacture or sale of the relevant approved product and arising or accruing to the approved enterprise during the specified period,

together with any loss incurred by the approved enterprise—

- (i) in the manufacture or on the sale of such approved product before the commencement of the specified period; and

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- (ii) not deducted or set off pursuant to the Income Tax Act by the commencement of the specified period,

may, for the purposes of computing the assessable income of the approved enterprise for each of the next seven succeeding years after the expiration of the specified period, be carried forward and deducted from or set off against any profits or gains which arise or accrue to the approved enterprise in each of those seven years and are derived from the manufacture or sale of the relevant approved product:

Provided that—

- (a) no part of such losses may be deducted from or set off against any profits or gains which arising or accruing to the approved enterprise in the first two years of the said seven years and being derived from the manufacture or sale of the relevant approved product are pursuant to subsection (2) exempt from income tax; and
- (b) the amount of any such loss so allowed to be deducted or set off in computing the assessable income of an approved enterprise for any one of the seven years shall not be deducted or set off in computing the assessable income of that approved enterprise for any other year.

Restriction
on setting
off losses.

15. Notwithstanding anything contained in the Income Tax Act, any loss which may be deducted or set off pursuant to subsections (7) and (8) of section 13 or pursuant to subsection (8) of section 14, as the case may be, shall not be deducted from or set off against any profits or gains which arise or accrue to the approved enterprise by which such loss was incurred and which are derived from any other source of income of that approved enterprise.

Initial
allowances
under
Income Tax
Act not to be
granted in
respect of
certain
machinery
or plant.

16. (1) Subject to subsections (2) and (3), and notwithstanding anything contained in the Income Tax Act, an approved enterprise shall not be entitled to claim the allowance referred to in the Income Tax Act as an initial allowance and an investment allowance in respect of any machinery or plant which the Commissioner considers was acquired by that approved enterprise for the purposes of manufacturing the relevant approved product in the manufacture or on the sale of which the profits or gains derived therefrom and arising or

accruing to the approved enterprise are, or will be, exempt from income tax, in whole or in part, by virtue of section 12 or section 14.

(2) Where an approved enterprise has exercised the option created by section 11 to claim the relief granted by section 12, subsection (1) shall not apply to any machinery or plant referred to in that subsection which was acquired by the approved enterprise at any time after the period of ten years specified in section 12.

(3) Where an approved enterprise—

- (a) has exercised the option created by section 11 to claim the relief from income tax granted by section 14; or
- (b) pursuant to subsection (4) of section 11 is deemed to be entitled to the relief from income tax granted by section 14,

subsection (1) shall not apply to any machinery or plant referred to in that subsection which was acquired by the approved enterprise at any time after the period of nine years specified in subsection (2) of section 14.

17. (1) During the first seven years of the period of ten years specified in section 12 or of the period of nine years specified in subsection (2) of section 14 an approved enterprise shall credit to a separate account all profits or gains which the Commissioner is satisfied have been exempted from income tax in accordance with those sections; and if an approved enterprise intends to pay a dividend to its shareholders out of such profits or gains, such dividend shall be charged to such account.

Maintenance of separate account for income tax free profits and gains and charging thereto of certain dividends free of income tax.

(2) Subject to subsection (3), a shareholder to whom a dividend is paid pursuant to subsection (1) shall, notwithstanding anything contained in the Income Tax Act, be exempt from any income tax payable by him in respect thereof—

- (a) if he is resident in the Island, or
- (b) if not so resident, if he is not liable under the law of the country in which he is resident to pay in respect of such dividend a tax (by whatever name called) corresponding to income tax; and

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- (c) if the dividend is paid at any time within two years after the expiration of the period of ten years or, as the case may be, the period of nine years referred to in subsection (1).

(3) The exemption from income tax granted by section (2) shall not exceed the amount of income tax which, but for this Part, would have been payable by the approved enterprise on the profits or gains out of which a dividend was paid by such approved enterprise pursuant to subsection (1); and any amount of income tax in excess of the amount first mentioned shall be paid by the shareholder.

(4) In determining for the purposes of subsection (1) the profits or gains which shall be exempted from income tax in accordance with section 12 or section 14, the Commissioner may refuse to accept, as paid or payable to or by an approved enterprise, or as an expense incurred by an approved enterprise, any amount which is shown in the accounts of the approved enterprise as paid, payable or incurred as the case may be, if he considers that such amount relates to a transaction entered into by the approved enterprise otherwise than in the normal course of manufacture or sale of the relevant approved product with the object either—

- (a) of inflating the profits or gains in any year in which the profits or gains from the manufacture or sale of the relevant approved product were, by virtue of this Act, either wholly or partially exempt from income tax; or
- (b) artificially reducing the profits or gains in any year in which the profits or gains from the manufacture or sale of the relevant approved product are not by virtue of this Act wholly exempt from income tax.

Exemption
from income
tax on
interest paid
on certain
debenture
stock.

18. (1) Subject to subsection (2), any person holding debenture stock in any company declared under this Act to be an approved enterprise to whom any interest is paid thereon by such approved enterprise shall, notwithstanding anything contained in the Income Tax Act, be exempt from the payment of any income tax on such interest—

- (a) if he is resident in the Island; or
- (b) if not so resident, if he is not liable under the law of the country in which he is resident to pay in respect of such

interest a tax (by whatever name called) corresponding to income tax; and

- (c) if the interest is paid by the approved enterprise in respect of the first seven years of the period of ten years specified in section 12 or of the period of nine years specified in subsection (2) of section 14, as the case may be.

(2) The exemption from income tax granted by subsection (1) shall not exceed the amount of income tax which, but for this Part, would have been payable by the approved enterprise on any profits or gains arising or accruing to such approved enterprise and derived from the manufacture or sale of the relevant approved product; and any amount of income tax in excess of the amount first mentioned shall be paid by the stockholder.

19. Save as is expressly provided by this Part, the provisions of this Part shall not, in any respect other than as so expressly provided, affect the provisions of the Income Tax Act or the application thereof.

Application
of Income
Tax Act.

PART III

Provisions relating to Trade Tax and Interim Traders' Licence Fees

20. (1) Notwithstanding anything contained in the Local Government Act, sections 12, 13 and 15 shall, subject to the exceptions, modifications or adaptations contained in the First Schedule and to such other exceptions, modifications, or adaptations as may be necessary, apply for the purpose of computing the taxable income of any approved enterprise which has exercised the option created by section 11 to claim the relief from income tax granted by section 12 in like manner as they apply for the purpose of computing the assessable income of such approved enterprise and any calculations required to be made pursuant to sections 12 and 13 shall, subject as aforesaid, be made.

Relief from
trade tax.
Cap. 107.
First
Schedule.

(2) Notwithstanding anything contained in the Local Government Act, subsections (2), (6), (7) and (8) of section 14 and section 15 shall, subject to the exceptions, modifications, or adaptations contained in the First Schedule and to such

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other exceptions, modifications, or adaptations as may be necessary, apply for the purpose of computing the taxable income of any improved enterprise which—

- (a) has exercised the option created by section 11 to claim the relief from income tax granted by section 14; or
- (b) pursuant to subsection (4) of section 11 is deemed to be entitled to the relief from income tax granted by section 14,

in like manner as they apply for the purpose of computing the assessable income of any such approved enterprise and any calculations required to be made pursuant to section 14, shall, subject as aforesaid, be made.

Initial allowances under the Local Government Act not to be granted in respect of certain machinery and plant.

21. Notwithstanding anything contained in the Local Government Act, section 16 shall apply for the purpose of computing the taxable income of an approved enterprise in like manner as it applies for the purpose of computing the assessable income of such approved enterprise and any reference therein to the Income Tax Act or to income tax shall respectively be construed as a reference to the Local Government Act and to trade tax.

Relief from interim traders' licence fees. Cap. 180.

22. Notwithstanding anything contained in the Interim Traders Act, any company declared by an order made under this Act to be an approved enterprise in respect of an approved product specified in such order shall be exempt from any fee chargeable under the Interim Traders Act for an interim trader's licence in respect of the business to be carried on by that company in relation to such approved product.

Application of Local Government Act and Interim Traders Act.

23. Save as is expressly provided by this Part, the provisions of this Part shall not, in any respect other than as so expressly provided, affect the provisions of the Local Government Act, the Interim Traders Act or the application of either of those Acts.

PART IV

Provisions relating to Customs Duty

Relief from customs duty.

24. Where any company declared by an order made under this Act to be an approved enterprise in respect of an approved product specified in such order satisfies the Comptroller that

any of the articles described in the Second Schedule are to be imported by that company for the purpose of— Second Schedule.

- (a) constructing, altering, reconstructing or extending the factory the situation of which is specified in such order; or
- (b) equipping such factory or any extension thereof for the manufacture or sale of such product; or
- (c) effecting repairs to such factory or to any extension thereof; or
- (d) effecting repairs to or replacing any apparatus, machinery, plant, appliances, or other equipment installed in such factory or in any extension thereof,

such company shall be entitled to import into the Island free of customs duty any such article at any time within the period of ten years commencing on the date on which such order comes into operation.

25. Where an approved enterprise has, at any time before the coming into operation of an order made under this Act declaring it to be an approved enterprise in respect of an approved product and after the 31st December, 1962, imported into this Island any of the articles described in the Second Schedule, the Comptroller, if satisfied that such article was at that time imported for any of the purposes mentioned in section 24, shall on the application of the approved enterprise refund to it the customs duty paid by it on the importation of such article. Refund of customs duty on certain imported articles.

26. (1) Where an approved enterprise at any time after the 31st December, 1962, and before the expiration of the period of ten years specified in section 24 purchases within the Island any article described in the Second Schedule for the purposes mentioned in that section, that approved enterprise may in writing apply to the Comptroller for the payment to it of the customs duty paid on the importation of such article. Payment to approved enterprise of customs duty on articles purchased within the Island.

(2) Every application made under subsection (1) shall state—

- (a) the country from which the article in respect of which

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such application was made was imported into the Island;

(b) the date of the importation of such article into the Island;

(c) the amount of customs duty paid on the importation of such article; and

(d) such other particulars as may be prescribed.

(3) Where on an application made pursuant to subsections (1) and (2) the Comptroller is satisfied that—

(a) the article in respect of which such application was made was purchased for a purpose mentioned in section 24;

(b) customs duty was paid on the importation into the Island of such article;

(c) the application made in respect of such article was made within one year of the date of the importation into the Island of such article; and

(d) if the application is accepted, the amount to be paid to the approved enterprise exceeds five dollars,

the Comptroller shall issue an order authorising the payment to the approved enterprise of the amount of the customs duty paid on the importation of such article and upon such order being issued the approved enterprise shall be entitled to be paid out of the Consolidated Fund the amount stated in the order.

Special provisions relating to articles relieved of customs duty or in respect of which customs duty was refunded or paid to an approved enterprise.

27. (1) Where—

(a) any article described in the Second Schedule is imported free of customs duty pursuant to section 24; or

(b) a refund of customs duty is given in respect of such article pursuant to section 25; or

(c) an order is issued in respect of such article pursuant to section 26,

the secretary, manager, or other principal officer of the approved enterprise by or on behalf of which the same is or was

imported or, as the case may be, purchased, shall upon being required so to do by the Comptroller—

- (i) keep such record in such form and containing such particulars of such article as may be required by the Comptroller;
- (ii) cause such article to be marked with such mark and in such manner as may be required by the Comptroller; and
- (iii) permit the Comptroller or any person authorised by him at all reasonable times to inspect such record and to make a record of any entry therein and to have access to and to examine any such article for the purpose of satisfying himself that the article is being used for the purpose for which it was imported or purchased or has been marked with the mark and in the manner required by the Comptroller.

(2) Any secretary, manager or other principal officer of an approved enterprise who—

- (a) fails to comply with any of the provisions of paragraphs (i) or (ii) of subsection (1) when required so to do; or
- (b) hinders or obstructs the Comptroller, or any person authorised by him, in the performance of any of his duties pursuant to paragraph (iii) of subsection (1),

shall be guilty of an offence and liable on conviction thereof by a court of summary jurisdiction to a fine of one hundred dollars or to imprisonment for a term of two months.

28. (1) No article described in the Second Schedule which is imported into the Island by or on behalf of an approved enterprise free of customs duty pursuant to section 24 or in respect of which a refund was given of customs duty or an order was issued pursuant to section 25 or 26, as the case may be, shall be sold, given away or otherwise disposed of in the Island by the approved enterprise by which it was imported or, as the case may be, purchased except—

Restriction on disposition of articles relieved of customs duty or in respect of which customs duty was refunded or paid to an approved enterprise.

- (a) in the case of an assignment of the factory for the purpose of which such article was imported or purchased to the assignee of such factory; or

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- (b) upon the approved enterprise paying or giving security to the satisfaction of the Comptroller for the payment of an amount equivalent to the amount of customs duty unpaid by or refunded or, as the case may be, paid to it; or
- (c) after the expiration of five years from the date of the importation into the Island or, as the case may be, purchase of such article; or
- (d) the Minister, on being satisfied that such article is not required for the purpose for which it was so imported or purchased or is no longer required for the purpose for which it was imported or purchased, grants a permit to the approved enterprise to dispose of such article in such manner and subject to such terms and conditions as the Minister thinks fit.

(2) Any approved enterprise which, otherwise than in accordance with subsection (1), sells or gives away in the Island or therein otherwise disposes of any article described in the Second Schedule, being an article—

- (a) which pursuant to section 24 was imported into the Island free of customs duty by, or on behalf of, that approved enterprise; or
- (b) in respect of which a refund was given pursuant to section 25 or a payment was made pursuant to section 26 to that approved enterprise,

shall be guilty of an offence and shall be liable on conviction thereof by a court of summary jurisdiction to a fine of three times the value of such article at the date of its importation or purchase, as the case may be.

Payment of
customs duty
in certain
cases.

29. (1) Where pursuant to section 10 the Minister revokes the order made under section 4 by which a company became an approved enterprise, such company shall—

- (a) pay to the Comptroller all sums which, but for this Part, would have been payable by it as customs duty in respect of any article described in the Second Schedule and which was imported by or on behalf of such company pursuant to section 24; and

- (b) pay to the Comptroller any sum refunded to it or paid to it, as the case may be, pursuant to section 25 or section 26.

(2) Any sum payable to the Comptroller pursuant to subsection (1) may be recovered before a magistrate of District A on the complaint of the Comptroller or any person authorised in writing in that behalf by the Comptroller.

(3) Subsection (1) of section 115 of the Magistrates Jurisdiction and Procedure Act shall not apply to any proceedings brought pursuant to subsection (2). Cap. 116.

30. (1) No factory which is specified in any order made under this Act declaring a company to be an approved enterprise and in respect of which factory the approved enterprise named in such order has received any benefit conferred by this Part shall, without the prior written approval of the Minister, be used at any time within ten years of the date of production, for any purpose other than that of manufacturing the approved product specified in such order. Restriction
on use of
certain
factories and
equipment.

(2) No tool, plant, machinery, pipe, conveyor belt or other appliance of a like nature imported or purchased for the purpose of equipping a factory referred to in subsection (1) and in respect of which an approved enterprise has received any benefit conferred by this Part shall, without the prior written approval of the Minister, be used at any time within the period referred to in subsection (1) for any purpose other than that of manufacturing in such factory the approved product specified in the said order.

(3) The Minister may, as a condition for the grant of any approval pursuant to subsections (1) and (2), require that there shall be paid to the Comptroller all the sums or, in his discretion, any part of such sums, which pursuant to this Part have not been paid or have been refunded by way of customs duty on the importation or purchase, as the case may be, of any article used in the construction, alteration, reconstruction, extension or equipping of the said factory or in effecting repairs thereto or to the equipment therein.

(4) Subject to subsection (5), any person who uses any factory, tool, plant, machinery, pipe, conveyor belt or other

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appliance of a like nature referred to in subsections (1) and (2) in contravention of those subsections shall be guilty of an offence and shall be liable on conviction thereof by a court of summary jurisdiction to a fine of five hundred dollars and in the case of a continuing offence to a further fine of two hundred and fifty dollars for each day during which the offence continues.

(5) A person shall not be guilty of an offence under subsection (4) where the order by virtue of which the said company became an approved enterprise was at any time before the commission of such offence revoked by the Minister under section 10.

PART V

Miscellaneous

Relief from
company
registration
fees.

31. (1) Where an application is made pursuant to section 5 by any company which is not, at the time when such application is made, registered in the Island or where an application is so made by any person proposing to form a company to be registered in the Island, the Minister may, in his discretion, inform such company or person in writing that he will, on the registration in the Island of such company or proposed company, make an order under section 4 declaring the company or proposed company named in such application to be an approved enterprise.

Cap. 308.

(2) Where a company or a person receives information pursuant to subsection (1) and such company or person, within the limited time, produces to the Registrar of the Supreme Court the document signed by the Minister whereby that information was conveyed, no fees chargeable under the Companies Act, on the registration of a company shall be charged on the registration of the company or proposed company named in such document and in respect of which the application was made pursuant to section 5.

(3) For the purposes of subsection (2) the limited time is a period of three months after the date of the document whereby information is conveyed to a company or person pursuant to subsection (1), or such further time as the Minister may, from time to time and in each case in his discretion, determine.

Duties of
Commissioner.

32. (1) Where an approved enterprise has exercised the option created by section 11, the Commissioner shall as soon

as practicable thereafter inform the Treasurer for each local government area of the option so exercised.

(2) Where an approved enterprise fails to exercise the option within the time required by subsection (2) of section 11, the Commissioner shall, as soon as practicable after the expiration of that time, inform the Treasurer for each local government area that by virtue of subsection (4) of section 11 such approved enterprise is deemed to be entitled to the relief from income tax granted by section 14.

(3) Where an approved enterprise—

- (a) which has exercised the option created by section 11 to claim the relief from income tax granted by section 14; or
- (b) which pursuant to subsection (4) of section 11 is deemed to be entitled to the relief from income tax granted by section 14,

has served the notice required by subsection (3) of section 14, the Commissioner shall, as soon as practicable after the service on him of such notice at any time before the expiration of the third year after the date of production mentioned in that subsection, inform the Treasurer for each local government area that the approved enterprise has served such notice.

33. The Minister may make regulations with respect to— Regulations.

- (a) any matter required by this Act to be prescribed;
- (b) the imposition of conditions and restrictions on a company which ceases to be an approved enterprise when an order made under section 4 is revoked under section 10;
- (c) any other matter or thing, whether similar to the above or not, with respect to which it may be expedient to make regulations for the purpose of carrying this Act into effect.

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s. 20.

FIRST SCHEDULE

For the purposes of section 20, the following exceptions, modifications or adaptations shall be made to sections 12, 13 and 15 and to subsections (2), (6), (7) and (8) of section 14—

- (a) any reference therein to “income tax” shall be construed as a reference to “trade tax”;
- (b) any reference therein to the “Income Tax Act” shall be construed as a reference to the “Local Government Act”;
- (c) any reference therein to the “year of assessment” shall be construed as the “financial year in which trade tax is levied”;
- (d) any reference therein to “assessable income” shall be construed as a reference to the “taxable income” of an approved enterprise.

ss. 24, 25,
26, 27, 28
and 29.

SECOND SCHEDULE

All building materials, tools, plant, machinery, pipes, conveyor belts or other appliances and materials of like nature.