

CHAPTER 83**PIONEER INDUSTRIES****ARRANGEMENT OF SECTIONS**

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SCHEDULE

CHAPTER 83

PIONEER INDUSTRIES

An Act to make provision for the establishment and development of industries not being carried on in Barbados on a substantial scale and in aid thereof to grant relief from income tax and customs duties.

1958—54.
1961—41.
1963—32.
L.N. 168/
1967.
1982—54.

[8th January, 1959] Commence-
ment.

1. This Act may be cited as the *Pioneer Industries Act*. Short title.

PART I

Preliminary

2. For the purposes of this Act, the expression Interpretation.
- “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.
- “benefits” means the relief in regard to income tax, rates, or customs duty that may be granted to a pioneer manufacturer pursuant to this Act;
- “Commissioner” means the Commissioner of Inland Revenue;
- “Comptroller” means the Comptroller of Customs;
- “construction day” means the day stated in an application made under section 4 as being the day on or before which it is intended to commence to construct, alter, reconstruct or extend, as the case may be, a factory or proposed factory the locality of which is stated in such application;
- “factory” means any premises in which, or within the close or curtilage or precincts of which, persons are or will be employed in any process for or incidental to any of the following purposes namely

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- (a) the manufacture of any pioneer product;
- (b) the adapting for sale of any pioneer product;

being premises in which, or within the close or curtilage or precincts of which, the work is or will be carried on by way of trade or for purposes of gain and to or over which the pioneer manufacturer which employs or will employ the persons employed or to be employed therein has the right of access or control;

“manufacture” includes preparation for sale;

“pioneer industry” means an industry declared under section 7 to be a pioneer industry;

“pioneer manufacturer” means a company declared under section 8 to be a pioneer manufacturer;

“pioneer product” means any product declared under section 7 to be a pioneer product;

“production day” means

- (a) in relation to an application made under section 4 by a company seeking to be declared by an order made under section 8 to be a pioneer manufacturer of the pioneer products stated in such application and which at the time of the making of such application is a company registered in Barbados and engaged in the manufacture of such product in marketable quantities, the date on which the company first commenced to manufacture such product in marketable quantities, or, if such date was prior to the 1st January, 1957, the 1st January, 1957; and

- (b) in relation to an application made under section 4 by or on behalf of any person other than a company referred to in paragraph (a) of this definition, the day on or before which it is intended to commence the manufacture in marketable quantities of the pioneer product stated in such application;

“registered” in relation to a company means a company incorporated and registered under the *Companies Act*, and

“registration” in relation to a company shall have a corresponding meaning;

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

Cap. 73.

(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) For the purposes of this Act, any reference in this Act, other than in the First Schedule, 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 structure as defined in subsection (4) of section 85 of the Income Tax Act and in relation to any such allowance or charge so included, any reference in this Act, other than in the First Schedule, to machinery or plant shall be read and construed as a reference to industrial buildings or structures as so defined. 1961-41.

PART II

Acquisition and Loss of Pioneer Status

3. Where, having regard to the following factors—

- (a) the benefits, both economic and other, likely to accrue from the establishment as a pioneer industry of any industry which in the opinion of the Minister is not being carried on in this Island on a substantial scale;
- (b) the effect that establishing any such industry would have upon employment in this Island and in attracting other industries to this Island;
- (c) the effect, beneficial or adverse, that establishing such industry would have upon existing industries;
- (d) the extent to which such industry, if established, would utilise local raw materials;
- (e) the economic prospects for any such industry, including the markets available for its products and the degree of risk involved in establishing it as a going concern,

Notice of intention to declare pioneer industries and pioneer products.

the Minister is of the opinion that it would be in the public interest to declare any such industry to be a pioneer industry and any product thereof to be a pioneer product, he may cause to be published in at least three issues of a newspaper at intervals

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of not less than one week and twice in the *Official Gazette* a notice stating that he has under consideration the making of an order to declare the industry named in the notice a pioneer industry and the products of such industry specified in the notice pioneer products, and such notice may in addition contain such particulars of such products as the Minister may consider necessary.

Applications
by persons
desirous of
being
granted the
status of a
pioneer
manufacturer
of a pioneer
product.

4. (1) Any company carrying on a pioneer industry and engaged in the manufacture of a pioneer product or desirous of engaging in the manufacture of such product, or any company desirous of carrying on a pioneer industry and of engaging in the manufacture of a pioneer product or any person proposing to form a company to be registered in this Island for the purpose of carrying on a pioneer industry and of engaging in the manufacture of a pioneer product may, by application in writing, apply to the Minister for an order to be made declaring the company named in the application or, as the case may be, the proposed company named in the application to be a pioneer manufacturer of the pioneer product specified in the application.

(2) The Minister may refuse to consider any such application made by or in respect of—

(a) any company declared under this Act at any time prior to the making of such application to be a pioneer manufacturer;

(b) any company or other person declared under the Pioneer Industries (Encouragement) Act, 1951,¹ to be a pioneer manufacturer within the meaning of that Act,

and which or who in the opinion of the Minister is or was prior to such application engaged in the manufacture of a product the same as or substantially similar to the pioneer product specified in such application.

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

(a) in the case of a company registered in this Island the name and registered address of such company and in

¹ The Pioneer Industries (Encouragement) Act, 1951, 1951-44, which has been replaced by this Act, is not reprinted in these *Laws*.

any other case that the company, or, as the case may be, the proposed company will be registered in this Island under the name and at the address stated in the application;

- (b) the locality within which is situate or will be situate the factory in which is manufactured or it is proposed to manufacture the pioneer product;
- (c) in any case where before engaging in the manufacture of the pioneer product in marketable quantities it is proposed to construct a factory for that purpose or to alter, reconstruct or extend an existing factory for that purpose, the construction day, which shall not be later than six months after the date of the making of the application;
- (d) the production day:

Provided that in the case of an application made by any person other than a company seeking to be declared by an order made under section 8 to be a pioneer manufacturer of a pioneer product stated in the application and which at the time of the making of the application is a company registered in this Island and engaged in the manufacture of such product in marketable quantities, the production day shall, where a construction day is not stated in the application, be not later than six months after the date of the making of the application and, where a construction day is stated in the application, be not later than fifteen months after the construction day;

- (e) the pioneer product being manufactured or to be manufactured;
- (f) the financial backing, number of trained personnel, technical information and markets available to the company or proposed company;
- (g) the nature of the raw material which the company or proposed company uses or intends to make use of in manufacturing the pioneer product;
- (h) such other particulars as may be prescribed.

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Notice of
intention to
declare
companies
to be pioneer
manufac-
turers of
pioneer
products.

5. Where, having regard to the following factors—

(a) the number of—

(i) pioneer manufacturers; or

(ii) companies and other persons declared under the Pioneer Industries (Encouragement) Act, 1951, to be pioneer manufacturers within the meaning of that Act, which or who are engaged in the manufacture of a product which in the opinion of the Minister is the same as or substantially similar to the pioneer product specified in an application made under section 4;

(b) the financial backing, raw material, number of trained personnel, technical information and markets available to the company or proposed company by or in respect of which an application is made pursuant to section 4,

the Minister is of the opinion that it would be in the public interest for the company or proposed company by or in respect of which such application was made by order to be declared to be a pioneer manufacturer of the pioneer product specified in such application, he may publish in at least three issues of a newspaper at intervals of not less than one week and twice in the *Official Gazette* a notice stating that he has under consideration the making of an order to declare the company or proposed company named in the notice to be a pioneer manufacturer of the pioneer product specified in such notice and such notice may in addition contain such particulars of the company or proposed company and of the product referred to in the notice as he may consider necessary.

Notice of
objections.

6. Every notice published pursuant to section 3 or 5 shall, in addition to the matters required or authorised by the said sections to be respectively stated therein, invite any person who objects—

(a) in the case of a notice published under section 3, to the industry named in the notice from being declared to be a pioneer industry or any product specified in such notice from being declared to be a pioneer product; and

(b) in the case of a notice published under section 5, to the company or proposed company named in such notice

from being declared to be a pioneer manufacturer of the pioneer product specified in such notice,

to forward to the Minister within such time as may be specified in the notice to which objection is taken a statement in writing setting forth the grounds of his objection.

7. Where, upon considering any objections which may have been made pursuant to section 6 in respect of a notice published under section 3, the Minister remains of the opinion that it would be in the public interest to declare the industry named in such notice a pioneer industry and any product thereof specified in such notice a pioneer product, he may by order published in the *Official Gazette* declare such industry and product to be respectively a pioneer industry and pioneer product.

Power of the Minister by order to declare pioneer industries and pioneer products.

8. (1) Where, upon considering any objections which may have been made pursuant to section 6 in respect of a notice published under section 5, the Minister remains of the opinion that it would be in the public interest to declare the company or proposed company named in such notice a pioneer manufacturer of a pioneer product specified in such notice, he may, in the case of a company registered in this Island and in any other case on or after the registration in this Island of the company or proposed company named in such notice by order published in the *Official Gazette*, declare the company so registered to be a pioneer manufacturer of such pioneer product.

Power of the Minister by order to declare companies to be pioneer manufacturers of pioneer products.

(2) Every order made under subsection (1) declaring a company to be a pioneer manufacturer of a pioneer product specified in such order shall in addition specify—

- (a) the construction day where such day is stated in the application made under section 4 to which such order relates;
- (b) the production day;
- (c) the locality within which is situate or will be situate the factory in respect of which the benefits conferred by Part V are to be enjoyed; and
- (d) such other particulars as may be prescribed.

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Effect of orders declaring pioneer industries, pioneer products and pioneer manufacturers

9. As from the date of publication of an order made under section 7, the industry and product specified in such order shall, until such order is revoked in the manner hereinafter provided, be for the purposes of this Act a pioneer industry and pioneer product respectively, and as from the date of publication of an order made under section 8, the company named in such order shall, until such order is revoked in the manner hereinafter provided, be for the purposes of this Act a pioneer manufacturer of the pioneer product specified in such order.

Power of the Minister to amend an order declaring a company to be a pioneer manufacturer so as to vary the situation of its factory premises or the construction or production days.

10. (1) On the application of a pioneer manufacturer, the Minister may, in his discretion and upon such terms and conditions as he may think fit by order published in the *Official Gazette*, amend an order declaring the applicant to be a pioneer manufacturer of a pioneer product by varying the provisions of such last mentioned order specifying the locality within which is situate or will be situate the factory in respect of which the benefits conferred by Part V are to be enjoyed or by specifying some other day for the construction or production day specified in such last-mentioned order.

(2) As from the date of publication of an order made pursuant to subsection (1) which relates to the locality within which is situate or will be situate the factory in respect of which the benefits conferred by Part V are to be enjoyed, the factory in respect of which such benefits are to be enjoyed shall be that specified in such order and as from the date of publication of an order made pursuant to subsection (1) which relates to a construction or production day, the construction or production day specified in such order shall, unless some other day is subsequently substituted therefor pursuant to this section or section 12, be the construction or production day for the pioneer manufacturer to which the order so amended relates.

Power of the Minister to revoke orders under section 7.

11. (1) The Minister may, if he thinks it fit in the public interest so to do at any time after making an order under section 7 by order published in the *Official Gazette*, revoke such first-mentioned order.

(2) An order made pursuant to subsection (1) shall not affect any benefits conferred by this Act on a pioneer manu-

facturer of any pioneer product specified in the order so revoked and which at the date of publication of such order of revocation are by virtue of this Act benefits to which as a pioneer manufacturer of a pioneer product it would have been entitled had the order not been revoked.

12. (1) Where any pioneer manufacturer, in relation to which the order declaring it to be a pioneer manufacturer of a pioneer product specifies a construction day, fails or neglects to commence to construct, alter, reconstruct or extend, as the case may be, the factory to be constructed, altered, reconstructed or extended, as the case may be, for the purpose of manufacturing the pioneer product, the Minister may by notice in writing require it within thirty days of the date of receipt of such notice to commence to construct, alter, reconstruct or, as the case may be, to extend such factory.

Provisions relating to revocation of orders under section 8.

(2) Where, on or before the production day specified in an order declaring it to be a pioneer manufacturer of a pioneer product, the pioneer manufacturer to which such order relates fails or neglects to manufacture the pioneer product specified in such order at the factory in respect of which the benefits conferred by Part V are to be enjoyed in such quantities as the Minister considers to be adequate, the Minister may by notice in writing require it within thirty days of the date of receipt of the notice to commence to manufacture such product at the said factory in such quantities as he considers adequate.

(3) Where a pioneer manufacturer to which a notice has been sent pursuant to subsection (1) or subsection (2) fails to comply within the time specified in such notice with the terms of such notice, the Minister may, unless satisfied by the pioneer manufacturer that such failure was due to some cause beyond the control of the pioneer manufacturer, by order published in the *Official Gazette* revoke—

- (a) where the notice was sent pursuant to subsection (1), the order specifying the locality within which is situate or will be situate the factory to which such notice relates and declaring the pioneer manufacturer to be a pioneer manufacturer of a pioneer product;
- (b) where the notice was sent pursuant to subsection (2), the order specifying the pioneer product to which such

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notice relates and declaring the pioneer manufacturer to be a pioneer manufacturer of such product;

and on the publication of such order of revocation the pioneer manufacturer shall cease to be entitled to any benefits conferred by this Act to which it would have been entitled had the order revoked not been revoked.

(4) Where any pioneer manufacturer to which a notice has been sent pursuant to subsection (1) or subsection (2) satisfies the Minister that its failure to comply with the terms of such notice within the time specified in such notice was due to some cause beyond its control and that within such time as the Minister considers reasonable it will commence to construct, alter, reconstruct or extend, as the case may be, the factory concerned, or, as the case may be, it will commence to manufacture the pioneer product concerned within such time and in such quantities as the Minister considers adequate, the Minister shall by order published in the *Official Gazette* amend the order specifying the construction day of such factory or, as the case may be, the production day for such pioneer product by substituting respectively therefor some other day and the day so substituted shall be thereafter the construction day in relation to the factory concerned or, as the case may be, the production day for the pioneer product concerned unless some other day is subsequently substituted therefor pursuant to this section or section 10.

PART III

Provisions relating to Income Tax

Alternative
income tax
benefits.

13. (1) Subject to this section, every pioneer manufacturer shall, prior to engaging in the manufacture of a pioneer product of which it is by an order in force made under this Act declared to be a pioneer manufacturer and in respect of which product it was not engaged in the manufacture thereof in marketable quantities at a time when as a company registered in this Island an application was made by it under section 4, be entitled at its option to the relief granted pursuant either to section 14 or section 15.

(2) Notice in writing of the exercise of the option created by subsection (1) shall be served by a pioneer manufacturer entitled to exercise such option on the Commissioner on or

before the date specified as the production day in the order declaring it to be a pioneer manufacturer of the pioneer product specified in such order or within such further time as the Commissioner may in the circumstances consider reasonable and the option expressed in such notice may at any time be changed by the pioneer manufacturer serving on the Commissioner within the time specified in this subsection a further such notice.¹

(3) As from the date of service of a notice referred to in subsection (2) or, as the case may be, as from the date of service of 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) A pioneer manufacturer entitled to exercise the option created by subsection (1) which fails, within the time specified in subsection (2), to serve the notice required by that subsection shall be deemed to be not desirous of claiming the benefits conferred by this Part and shall not be entitled to any such benefits as the pioneer manufacturer of a pioneer product specified in the order specifying the production day on or before which such notice might have been served.

14. (1) Where a pioneer manufacturer entitled to exercise the option created by section 13 has exercised the option so created to claim the relief granted by this section, this section shall have effect notwithstanding anything contained in the Income Tax Act.

Seven year
tax holiday
with notional
depreciation
of machinery
and plant.
Cap. 73.

(2) All profits or gains arising or accruing to a pioneer manufacturer during the period of seven years commencing on the production day specified in the order declaring the pioneer manufacturer to be a pioneer manufacturer of the pioneer product from the manufacture or sale of which such profits or gains are derived shall be exempt from income tax.

(3) In the second year of the period provided for by subsection (2) for exemption from income tax and in every year thereafter up to and including the year next following the year in which that period expires, so much of such machinery or

¹ Time limits under this section were extended in relation to certain cases by the Pioneer Industries (Amendment) Act, 1963, 1963-32 (not reprinted), but are now spent.

plant as belongs to a pioneer manufacturer and is in use during the said period of seven years for the purpose of manufacturing the pioneer product in the manufacture or on the sale of which the profits or gains derived therefrom and arising or accruing to the pioneer manufacturer during the said period of seven years are exempt from income tax, shall, whether or not any annual allowances may be made pursuant to the Income Tax Act in respect of that machinery or plant by reason of its being used for any other purpose during the said period of seven years, 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.

(4) In calculating the amount of any annual allowances that, in any year of assessment after the year next following the expiration of the period of seven years provided for by subsection (2), may, in respect of any machinery or plant notionally depreciated in value pursuant to subsection (3), be made pursuant to the Income Tax Act to the pioneer manufacturer to which such machinery or plant belonged during the said period of seven years, there shall, in addition to any other amount to be deducted pursuant to the Income Tax Act from the capital expenditure incurred by such pioneer manufacturer on the provision of such machinery or plant, be deducted an amount equal to the notional depreciation so calculated in respect of such machinery or plant.

(5) Subject to subsection (6), in calculating the amount of any balancing allowance or balancing charge that, in any year of assessment after the year next following the expiration of the period of seven years provided for by subsection (2), may, in respect of the capital expenditure incurred on the provision of any machinery or plant notionally depreciated in value pursuant to subsection (3), be made pursuant to the Income Tax Act to or on the pioneer manufacturer to which such machinery or plant belonged during the said period of seven years, there shall, in addition to any other amounts to be taken into account pursuant to the Income Tax Act, be added to any annual allowances previously made pursuant to the Income Tax Act to the pioneer manufacturer in respect of such machinery or plant an amount equal to the notional depreciation so calculated or, if no such annual allowances

have been previously made, the amount equal to the notional depreciation so calculated shall be deemed to be for the purposes of the Income Tax Act the total annual allowances made to the pioneer manufacturer in respect of that machinery or plant.

(6) In no case shall the amount on which a balancing charge is made on a pioneer manufacturer in respect of such machinery or plant 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 pioneer manufacturer 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 pioneer manufacturer 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 a pioneer manufacturer during the period of seven years provided for by subsection (2) for exemption from income tax and which were incurred in the manufacture or on the sale of a pioneer product in the manufacture or on the sale of which the profits or gains derived therefrom and arising or accruing to the pioneer manufacturer were exempt from income tax during that period may, for the purposes of computing the assessable income of the pioneer manufacturer for each of the next five succeeding years after the expiration of the said period, be carried forward and deducted from or set off against any profits or gains which arise or accrue to the pioneer manufacturer in each of those five years and are derived from any source of income of the pioneer manufacturer.

(8) The amount of any loss allowed pursuant to subsection (7) to be deducted or set off in computing the assessable income of a pioneer manufacturer 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 pioneer manufacturer for any other year.

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(9) For the purposes of subsection (7) losses shall be deemed to include such amount of the notional depreciation made pursuant to subsection (3) as exceeds the profits or gains arising or accruing to the pioneer manufacturer during the year immediately preceding the year in which the notional depreciation was so made.

Four year
tax holiday
followed by
a gradual
transition to
full liability
for income
tax.

15. (1) Where a pioneer manufacturer entitled to exercise the option created by section 13 has exercised the option so created to claim the relief granted by this section, this section shall have effect notwithstanding anything contained in the Income Tax Act.

(2) All profits or gains arising or accruing to a pioneer manufacturer during a period of six years commencing on such date as the pioneer manufacturer may select by notice in writing served on the Commissioner not later than three years after the production day specified in the order declaring the pioneer manufacturer to be a pioneer manufacturer of the pioneer product from the manufacture or sale of which such profits or gains are derived, shall—

(a) for the first four years of such period after the date of service of such notice 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 fifth year on two-thirds of such profits or gains; and

(ii) in the sixth year on one-third of such profits or gains.

(3) 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 that may be deducted pursuant to this section and before making any deduction for annual allowances.

(4) If a pioneer manufacturer fails to serve on the Commissioner by the expiration of the third year after the production day referred to in subsection (2) the notice required by that subsection, the period of six years referred to in that subsection

shall commence immediately on the expiration of such third year.

(5) 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 expiration of the period of four years specified in subsection (2),

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

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

shall be computed in the manner provided for in subsection (6).

(6) The annual allowance, balancing allowance and balancing charge referred to in subsection (4) shall be computed as if 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 pioneer manufacturer in respect thereof at any time prior to the commencement of the period of four years specified in subsection (2) and after the production day specified in the order declaring the pioneer manufacturer to be a pioneer manufacturer of such product; and
- (ii) had been incurred on the last day of the said period of four years.

(7) All losses incurred by a pioneer manufacturer—

- (a) during the period of four years provided for by subsection (2) for exemption from income tax;
- (b) in the manufacture or on the sale of a pioneer product in the manufacture or on the sale of which the profits or gains derived therefrom and arising or accruing to the pioneer manufacturer were exempt from income tax during that period,

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together with any loss incurred by the pioneer manufacturer—

- (i) in the manufacture or on the sale of such pioneer product prior to the commencement of that period; and
- (ii) not deducted or set off pursuant to the Income Tax Act, by the commencement of that period,

may, for the purposes of computing the assessable income of the pioneer manufacturer for each of the next seven succeeding years after the expiration of the said period, be carried forward and deducted from or set off against any profits or gains which arise or accrue to the pioneer manufacturer in each of those seven years and are derived from any source of income of the pioneer manufacturer:

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 pioneer manufacturer in the first two years of the said seven years and being derived from the manufacture or sale of such pioneer product are pursuant to subsection (2) exempt from income tax;
- (b) the amount of any such loss so allowed to be deducted or set off in computing the assessable income of a pioneer manufacturer for any one of the seven years shall not be deducted or set off in computing the assessable income of that pioneer manufacturer for any other year.

Restriction
on setting
off losses.

16. Where a pioneer manufacturer entitled to exercise the option created by section 13 has exercised the option so created, then, notwithstanding anything contained in the Income Tax Act, any loss which may be deducted or set off pursuant to subsection (7) of section 14 and any loss which may be deducted or set off pursuant to subsection (7) of section 15 shall not be deducted from or set off against any profits or gains which arise or accrue to the pioneer manufacturer by which such loss was incurred and which are derived from any source of income of that pioneer manufacturer during—

- (a) the period of seven years provided for by subsection (2) of section 14 in the case of any loss which may be deducted or set off pursuant to subsection (7) of section 14; and

- (b) the period of four years provided for by subsection (2) of section 14 in the case of any loss which may be deducted or set off pursuant to subsection (7) of section 15.

17. (1) Subject to subsections (2) and (3) and notwithstanding anything contained in the Income Tax Act, a pioneer manufacturer entitled to exercise the option created by section 13 which has exercised the option so created, shall not be entitled to claim the allowances 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 it for the purposes of manufacturing a pioneer product in the manufacture or on the sale of which the profits or gains derived therefrom and arising or accruing to the pioneer manufacturer are or will be exempt from income tax, in whole or in part, by virtue of section 14 or 15.

Initial allowances under the Income Tax Act not to be granted in respect of certain machinery or plant. 1961-41.

(2) Where a pioneer manufacturer has exercised the option created by section 13 so as to claim the relief granted by section 14, subsection (1) shall not apply to any such machinery or plant as is referred to in subsection (1) which was acquired by the pioneer manufacturer at any time after the period of seven years provided for by subsection (2) of section 14.

(3) Where a pioneer manufacturer has exercised the option created by section 13 so as to claim the relief granted by section 15, subsection (1) shall not apply to any such machinery or plant as is referred to in subsection (1) which was acquired by the pioneer manufacturer at any time after the period of six years provided for by subsection (2) of section 15.

18. (1) Every pioneer manufacturer, other than a pioneer manufacturer entitled to exercise the option created by section 13, shall, by serving on the Commissioner within the time required by subsection (2) of section 15 the notice required by that subsection, be entitled to the relief granted by subsections (2), (5) and (7) of section 15, notwithstanding anything contained in the Income Tax Act.

Income tax provisions relating to pioneer manufacturers not entitled to the option created by section 13.

(2) Any pioneer manufacturer, other than a pioneer manufacturer entitled to exercise the option created by section 13, who fails within the time required by subsection (2) of section 15 to serve the notice required by that section shall be deemed

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to be not desirous of claiming the benefits conferred by section 15.

(3) Sections 16 and 17 shall apply to any pioneer manufacturer which, being a pioneer manufacturer other than a pioneer manufacturer entitled to exercise the option created by section 13, has within the time required by subsection (2) of section 15 served the notice required by that subsection, in like manner as they apply to a pioneer manufacturer entitled to exercise such option and which has exercised such option.

(4) Where by reason of the coming into operation of this Act section 17 applies to a pioneer manufacturer by virtue of subsection (3) at any time after an initial allowance was made to that pioneer manufacturer in respect of any machinery or plant which the Commissioner considers was acquired by the pioneer manufacturer for the purpose of manufacturing a pioneer product in the manufacture or on the sale of which the profits or gains derived therefrom and arising or accruing to the pioneer manufacturer will be exempt from income tax in whole or in part, the Commissioner may re-assess the pioneer manufacturer and make such adjustments as he may consider necessary to ensure the full application of section 17 to that pioneer manufacturer.

Maintenance of separate account for income tax free profits and gains and payment therefrom of certain dividends free of income tax. 1961-41.

19. (1) During the period of seven years referred to in subsection (2) of section 14 or the period of six years referred to in subsection (2) of section 15, a pioneer manufacturer shall place in a separate account all profits or gains which the Commissioner is satisfied have been exempted from income tax in accordance with those sections and where it intends to pay a dividend to its shareholders out of such profits or gains, such dividend shall be paid out of such account.

(2) 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

- (c) if the dividend is paid at any time within 2 years after the expiration of the period of 7 years or, as the case may be, the period of 6 years referred to in subsection (1).

(3) The exemption from income tax conferred by subsection (2) shall not exceed the amount of income tax which would, but for this Part, have been payable by the pioneer manufacturer by which such dividend was paid on the profits or gains out of which the dividend was paid, 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 14 or section 15, the Commissioner may refuse to accept as paid or payable to a pioneer manufacturer or as an expense incurred by a pioneer manufacturer an amount which is shown in the accounts of the pioneer manufacturer as paid, payable or incurred, as the case may be, if he considers that such amount relates to a transaction entered into by the pioneer manufacturer otherwise than in the normal course of manufacture and sale of the pioneer product of which the pioneer manufacturer is declared to be the pioneer manufacturer thereof with the object either

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

20. Any person holding debenture stock in any company declared under this Act to be a pioneer manufacturer to whom any interest is paid thereon by such pioneer manufacturer shall, notwithstanding anything contained in the *Income Tax Act*, be exempt from the payment of any income tax on such interest

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

Cap. 73.

- (a) if he is resident in Barbados; 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 pioneer manufacturer at any time within the period during which the profits or gains arising or accruing to the pioneer manufacturer and derived from the manufacturer of the pioneer product of which by an order made under this Act it is declared to be a pioneer manufacturer are pursuant to section 14 or, as the case may be, section 15 wholly or in part exempt from income tax.

Application
of Income
Tax Act.
Cap. 73.

21. Save as is expressly provided by this Part, the provisions of this Part shall, in no other respect than as so expressly provided, affect the provisions of the *Income Tax Act* or the application thereof.

PART IV

ss. 22—25. *Repealed by 1977—35.*

1977—35.

PART V

Provisions relating to Customs Duty

Relief from
customs
duty.

Second
Schedule.

26. (1) Subject to subsection (2), every company declared by an order made under this Act to be a pioneer manufacturer of a pioneer product specified in such order shall if it satisfies the Comptroller that any of the articles described in the Second Schedule are to be imported by it for the purposes of

- (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 pioneer product,

be entitled, at any time within the period of 5 years commencing on the date on which such order comes into operation, to import into Barbados free of customs duty such article.

(2) The exemption from customs duty granted by subsection (1) on the importation of any article described in the Second Schedule shall not be granted if the Comptroller is of the opinion that such article is to be used for the purpose of effecting repairs to

- (a) the factory in respect of which it is imported or to any extension thereof; or
- (b) any apparatus, machinery, plant, appliances or other equipment installed in such factory or any extension thereof,

or for replacing any such apparatus, machinery, plant, appliances or other equipment mentioned in paragraph (b).

27. (1) Subject to subsection (2), where a pioneer manufacturer, has, at any time prior to the coming into operation of an order made under this Act declaring it to be a pioneer manufacturer of a pioneer product and after the 31st December, 1956, imported into Barbados any of the articles described in the Second Schedule, the Comptroller, if satisfied that such article was at that time imported for the purposes of

Refund of customs duty on certain imported articles.

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 the pioneer product specified in such order,

shall on the application of the pioneer manufacturer refund to it the customs duty paid by it on the importation of such article.

(2) No refund of customs duty shall be given to a pioneer manufacturer by or on behalf of which an application is made pursuant to subsection (1) if the Comptroller is of the opinion that the article in respect of which such application was made was or is to be used for the purposes of effecting repairs to—

- (a) the factory in respect of which it was imported or to any extension thereof; or
- (b) any apparatus, machinery, plant, appliances or other equipment installed in such factory or any extension thereof,

or for replacing any such apparatus, machinery, plant, appliances or other equipment mentioned in paragraph (b).

28. (1) Where a pioneer manufacturer at any time after the 31st December, 1957, and prior to the expiration of five years commencing with the date of the coming into operation of the order made under this Act declaring it to be a pioneer manufacturer of a pioneer product purchases within this Island any article described in the Second Schedule for the purposes of—

Payment to pioneer manufacturers of customs duty on articles purchased within the Island.

- (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 the pioneer product specified in such order,

it may in writing apply to the Comptroller for the payment to it of the customs duty paid on the importation of such article.

(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 this 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 subsection (1) and subsection (2) the Comptroller is satisfied that—

- (a) the article in respect of which such application was made was purchased for a purpose mentioned in subsection (1) and not for the purpose of effecting repairs to—

- (i) the factory in respect of which it was purchased or to any extension thereof; or

- (ii) any apparatus, machinery, plant, appliances or other equipment installed in such factory or any extension thereof,

or for replacing any such apparatus, machinery, plant, appliances or other equipment mentioned in subparagraph (ii);

- (b) customs duty was paid on the importation into this 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 this Island of such article; and
- (d) if the application is accepted, the amount to be paid to the pioneer manufacturer is in excess of five dollars,

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

29. (1) Where—

- (a) any article described in the Second Schedule is imported free of customs duty pursuant to section 26; or
- (b) a refund of customs duty is given in respect of such article pursuant to section 27; or
- (c) an order is issued in respect of such article pursuant to section 28,

Special provisions relating to articles relieved of customs duty or in respect of which customs duty was refunded or paid to a pioneer manufacturer.

the secretary, manager or other principal officer of the pioneer manufacturer 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 a pioneer manufacturer who—

- (a) fails to comply with subsection (1) when required so to do; or
- (b) hinders or obstructs the Comptroller or any person authorised by him to inspect such record or article as is mentioned in paragraph (iii) of subsection (1) from carrying out such inspection,

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

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Restriction on disposition of articles relieved of customs duty or in respect of which customs duty was refunded or paid to a pioneer manufacturer.

30. (1) No article described in the Second Schedule which is imported into this Island by or on behalf of a pioneer manufacturer free of customs duty pursuant to section 26 or in respect of which a refund was given of customs duty or an order was issued pursuant to section 27 or 28 shall be sold, given away or otherwise disposed of by the pioneer manufacturer by which it was imported or, as the case may be, purchased except—

- (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
 - (b) upon the pioneer manufacturer 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 this 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 pioneer manufacturer to dispose of such article in such manner and subject to such terms and conditions as the Minister thinks fit.
- (2) Any pioneer manufacturer—
- (a) by or on behalf of which any article described in the Second Schedule was imported into this Island free of customs duty pursuant to section 26 which sells, gives away or otherwise disposes of such article otherwise than in accordance with subsection (1); or
 - (b) to which a refund of customs duty was given pursuant to section 27 or to which a payment was made pursuant to section 28 and which sells, gives away or otherwise disposes of any article in respect of which a refund or payment was so given or made otherwise than in accordance with subsection (1),

shall be guilty of an offence and liable on conviction by a

court of summary jurisdiction to a fine of three times the value of such article at the date of its importation or, as the case may be, purchase.

31. (1) Where, by virtue of any order made under subsection (3) of section 12, a company ceases to be a pioneer manufacturer of a pioneer product of which by the order revoked by any order so made it was declared to be a pioneer manufacturer, it shall 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 which was imported by or on its behalf pursuant to section 26 or 27 and shall refund to the Comptroller any sum paid to it pursuant to section 28.

Payment of customs duty in certain cases.

Second Schedule.

(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.

32. (1) No factory, the situation of which is specified in any order made under this Act declaring a pioneer manufacturer to be a pioneer manufacturer of a pioneer product and in respect of which factory the pioneer manufacturer 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 10 years of the date specified in such order as the production day for any purpose other than that of manufacturing the pioneer 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 a pioneer manufacturer has received any benefit conferred by this Part shall, without the prior written approval of the Minister, be used at any time within such period for any purpose other than that of manufacturing within such factory the pioneer product specified in such order.

1961—41.

(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 in pursuance of this

1961—41.

Part have not been paid or have been refunded by way of customs duty on the importation or, as the case may be, purchase of any article used in the construction, alteration, reconstruction, extension or equipping of the factory.

1961—41.

(4) Subject to subsection (5), any person using any such factory, tool, plant, machinery, pipe, conveyor belt or other appliance of a like nature referred to in subsections (1) and (2) in contravention of those subsections shall be guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine of \$500 and in the case of a continuing offence to a further fine of \$250 for each day during which the offence continues.

(5) A person shall not be guilty of an offence under subsection (4) if the order specifying the locality within which such factory is situate was at any time prior to the commission of such offence revoked by an order made under subsection (3) of section 12.

PART VI

Miscellaneous

Relief from
company
registration
fees.

1982—54.

Cap. 308.

1982—54.

33. Where an application is made pursuant to section 4 by any company which is not, at the time of the making of such application, registered in Barbados or where an application is so made by any person proposing to form a company to be registered in Barbados and such company or person is informed in writing by the Minister that he will, on the incorporation or registration in Barbados of such company or proposed company, make an order under section 8 declaring the company or proposed company named in such application to be a pioneer manufacturer of a pioneer product, then, on the production to the Registrar of Barbados of the written document to that effect, signed by the Minister, no fees chargeable under the *Companies Act* on the incorporation or registration of a company shall be charged on the incorporation or registration of the company or proposed company named in such application.

Duties of
Commis-
sioner.

34. (1) Where a pioneer manufacturer entitled to exercise the option created by section 13 has exercised such option, the

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

(2) Where such pioneer manufacturer fails to exercise the option within the time required by section 13, the Commissioner shall as soon as practicable after the expiration of that time inform the Treasurer of each local government area of the failure of the pioneer manufacturer to exercise such option.

(3) Where a pioneer manufacturer entitled to exercise the option created by section 13 has exercised such option so as to claim the relief granted by section 15 and has served the notice required by subsection (2) of section 15 or where a pioneer manufacturer which is not so entitled has served such notice, the Commissioner shall, as soon as practicable after service on him of such notice at any time prior to the expiration of the third year after the production day mentioned in that subsection, inform the Treasurer of each local government area that the pioneer manufacturer has served such notice.

35. The Minister may make regulations with respect to any Regulations.
matter required by this Act to be prescribed.

SCHEDULE

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

ss. 26, 27,
28, 29, 30
and 31.