

## CHAPTER 14

### THE AID TO PIONEER INDUSTRIES ACT

#### Arrangement of Sections

#### Section

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## AID TO PIONEER INDUSTRIES

*(5th December, 1950.)*2/1950.  
7/1956.  
8/1969.  
18/1975.  
23/1976.  
18/1989.

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

2. In this Act—

Interpretation.

"Comptroller of Customs" means the officer for the time being lawfully discharging the duties of Comptroller of Customs or anyone authorised by him in writing to act on his behalf;

"construction day" means the day specified in any application under section 4 as being the day on or before which it is intended to commence to construct the factory to which the application relates;

"factory" includes all buildings and structures within the same curtilage used for—

(a) the housing of machinery, plant or apparatus of any description for the manufacture of any product or the generation of power for such manufacture; or

(b) the storage of any raw materials, fuel or stores necessary for the manufacture of such product; or

(c) the storage of any such product prior to the time at which the property in such goods passed to any person other than the manufacturer thereof; or

(d) the proper administration of the business of the manufacturer in relation to the manufacture of such product and the sale thereof; or

(e) canteens, rest rooms, recreation rooms, lavatories, baths and wash rooms for

workers employed by the manufacturer in the manufacture of such product or in any process incidental to such manufacture;

"pioneer enterprise" means the manufacture by a pioneer manufacturer at a pioneer factory of any relevant pioneer product or the sale by him of any relevant pioneer product so manufactured;

"pioneer factory" means any factory established or occupied for the purposes of a pioneer industry;

"pioneer industry" means an industry declared under section 3 to be a pioneer industry;

"pioneer manufacturer" means a person declared under section 4 to be a pioneer manufacturer;

"pioneer product", when not preceded by the word "relevant", means any product declared under section 3 to be a pioneer product;

"production day" means the day specified in any application under section 4 as being the day on or before which it is anticipated that the factory to which the application relates will commence to produce in marketable quantities the pioneer product intended to be manufactured therein;

"relevant pioneer product" used in relation to any pioneer manufacturer means the pioneer product of the pioneer industry in relation to which such pioneer manufacturer has been declared under section 4 to be a pioneer manufacturer.

Cabinet may subject to conditions, declare an industry to be a pioneer industry.

**3.** (1) Subject to the provisions of subsection (2), the Cabinet may, if they are satisfied that it is expedient in the public interest so to do, by order declare any industry which is not being conducted in Antigua and Barbuda on a commercial scale or at all and for which there are insufficient manufacturing facilities in Antigua and Barbuda to enable such industry to be conducted on a commercial scale, or any industry for which, in their opinion, there is favourable prospect of further development, to be a pioneer industry and any specified product of such industry to be a pioneer product.

(2) Before making any order under subsection (1), the Cabinet shall—

(a) cause a notice to be published in at least three issues of a newspaper circulating in Antigua and Barbuda at intervals of not less than one week, and twice in the *Gazette*, setting out the order which it is proposed to make and inviting any person who objects to the making of such order to give notice in writing of his objection and of the grounds on which he relies in support thereof to the Secretary to the Cabinet on or before such day as may be specified in such notice; and

(b) consider any objections which may have been received pursuant to such notice.

**4.** (1) The Cabinet, on the application of any person who is desirous of establishing a pioneer factory in Antigua and Barbuda for the purpose of manufacturing any pioneer product or products, if they are satisfied that it is expedient in the public interest so to do, and in particular having regard to the number of pioneer factories already established or about to be established for the manufacture of such pioneer product or products and to the output or anticipated output of such pioneer factories, may in their absolute discretion by order declare such person to be a pioneer manufacturer in relation to a pioneer factory and pioneer industry specified in such order with effect from such date as may be specified:

**Cabinet may declare persons to be pioneer manufacturers.**

Provided that the Cabinet may in any such order impose continuing conditions to be observed by the pioneer manufacturer and subject to which the status of pioneer manufacture may be retained.

In this section the expression "continuing conditions" means conditions which may continue for a period of not more than five years.

(2) Every application under subsection (1) shall be in writing and shall—

(a) specify the locality in which it is proposed to establish the factory in respect of which the application is made; and

(b) specify the construction day which shall not be later than twelve months after the date of the granting of the application; and

(c) specify the production day which shall not be later than eighteen months after the construction day; and

(d) specify the pioneer product or products intended to be manufactured at the factory.

Relief from  
customs duty.

Schedule.

**5.** (1) Every pioneer manufacturer shall be entitled, upon the issue to him of a licence by the Cabinet and subject to such terms and conditions as may be imposed by such licence, to import into Antigua and Barbuda free of customs duty, or to purchase in Antigua and Barbuda subject to refund of customs duty, during a period of five years commencing on the date on which he became a pioneer manufacturer by virtue of an order made under section 4, such of the articles included in the Schedule as may be specified in such licence, if he satisfies the Comptroller of Customs that such articles are or were required for the construction, alteration, reconstruction or extension of the pioneer factory, or for equipping such pioneer factory or the extension thereof for the purpose of manufacturing the relevant pioneer product or products, so however, that relief from customs duty shall not be granted under this section in respect of articles which in the opinion of the Comptroller of Customs are or were intended for the purpose of effecting repairs to such pioneer factory or extension thereof, or to any apparatus, machinery, appliances or equipment in any pioneer factory or extension thereof.

(2) Every holder of a licence issued under the authority of the last preceding subsection who satisfies the Comptroller of Customs—

(a) that any article specified in the licence has been purchased by him in Antigua and Barbuda subject to the terms and conditions imposed by the licence and that customs duty was paid upon the importation into Antigua and Barbuda of such article;

(b) as to the amount of the customs duty so paid,

shall be entitled to be refunded by the Comptroller of Customs the amount of the customs duty so paid:

Provided that where the holder of the licence satisfies the Comptroller of Customs that he is unable to ascertain the amount of the customs duty paid, he shall be entitled to be paid by the Comptroller of Customs by way of refund of customs duty such sum as is, in the opinion of the Comptroller of Customs, reasonable:

Provided further that no refund of customs duty shall be made under this subsection where the amount of customs duty so paid or the sum which the Comptroller of Customs assesses as a reasonable sum to be paid by way of refund of customs duty, as the case may be, is less than ten dollars.

**6.** (1) Every pioneer manufacturer who imports into Antigua and Barbuda or purchases in Antigua and Barbuda any article in respect of which he has been granted relief from customs duty under the provisions of section 5 shall—

Special provisions relating to articles imported or purchased free from customs duty.

- (i) keep such record in such form and containing such particulars as may be required by the Comptroller of Customs of the articles so imported or purchased by him; and
- (ii) cause such articles to be marked with such mark and in such manner as may be required by the Comptroller of Customs; and
- (iii) permit the Comptroller of Customs at all reasonable times to inspect such record and to have access to any factory or warehouse under his control for the purpose of examining any such articles which the Comptroller of Customs may believe to be therein and of satisfying himself of the accuracy of the particulars in relation to such articles contained in such record.

(2) Every pioneer manufacturer who contravenes any of the provisions of this section shall be guilty of an offence and on summary conviction therefor shall be liable to a fine of twenty-five thousand dollars and in default of payment thereof to be imprisoned for a term not exceeding six months or to both such fine and imprisonment.

Restriction upon disposition of articles acquired free of customs duty.

7. (1) No article acquired by any pioneer manufacturer free of customs duty under the provisions of this Act shall be sold, given away or otherwise disposed of by such pioneer manufacturer except—

(a) in the case of an assignment of the pioneer factory for the purpose for which such article was acquired, to the assignee of such factory; or

(b) upon the pioneer manufacturer paying, or giving security to the satisfaction of the Comptroller of Customs for the payment of—

(i) an amount equivalent to the amount of customs duty which, but for the provisions of this Act, would have been payable upon the importation into Antigua and Barbuda of such article, where such article was so imported by such pioneer manufacturer, or

(ii) an amount equivalent to the amount refunded to such pioneer manufacturer by way of relief from customs duty under the provisions of subsection (2) of section 5, where such article was purchased in Antigua and Barbuda by such pioneer manufacturer; or

(c) after the expiration of five years from the date of acquisition of such article.

(2) Every pioneer manufacturer who contravenes any of the provisions of this section shall be guilty of an offence and on summary conviction therefor shall be liable to a penalty of three times the value of the article in respect of the disposal of which he contravenes such provisions, and in default of payment thereof to be imprisoned for a term not exceeding six months.

Relief from income tax.

8. (1) A pioneer manufacturer shall, during the period of five years from the production day or from such other day as may be substituted therefor under the provisions of section 10 (hereinafter called the tax holiday period), be exempt from the payment of income tax in respect of all profits or gains earned from the operation of the pioneer enterprise in that period.

(2) Where a loss is incurred in the operation of a pioneer enterprise during the tax holiday period such loss shall, for the purposes of assessment to income tax, be carried forward and allowed as far as possible against subsequent profits or gains earned from such enterprise:

Provided that any loss so incurred during the tax holiday period, in so far as it has not been fully allowed as aforesaid, shall not be available for carry forward beyond the end of the third year of assessment next following that in which the tax holiday period terminated.

(3) In any case in which the termination of the tax holiday period does not coincide with the termination of the accounting period of a pioneer enterprise, the profits or gains or, as the case may be, the loss for the accounting period in which the last day of the tax holiday period falls shall, for the purposes of this section, be apportioned between the parts of the said accounting period which respectively precede and follow the termination of the tax holiday period.

(4) For the purposes of this section the profits or gains or loss shall be computed in like manner as profits or gains or loss are computed for the purposes of assessment to income tax and, subject to the provisions of this section, any person who has been declared a pioneer manufacturer shall be subject in all other respects to the provisions of the Income Tax Act. **Cap. 212.**

**9.** (1) No pioneer manufacturer shall, without the prior approval of the Cabinet in writing, employ within Antigua and Barbuda in a pioneer enterprise any person not ordinarily resident in Antigua and Barbuda or in any of the countries hereinafter specified:

Provided that if he satisfies the Cabinet that the services of any skilled workmen, artisans or mechanics or of any persons possessing particular professional or technical qualifications or skills or experience are necessary for the proper conduct of the pioneer enterprise and that such services cannot be otherwise obtained the Cabinet may by permit in writing authorize him to employ within Antigua and Barbuda such number and classes of skilled workmen, artisans and mechanics, and of persons possessing particular professional or technical qualifications or skills or experience,

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employment of  
persons in a  
pioneer  
enterprise.**

not ordinarily resident in Antigua and Barbuda or in any of the countries hereinafter specified, and for such periods as may be specified in the permit.

(2) The Cabinet may require any pioneer manufacturer to make such return of—

(a) the number of persons in each category of work who are ordinarily resident in Antigua and Barbuda or in any of the countries hereinafter specified, and

(b) the number of persons in each category of work who are not ordinarily resident in Antigua and Barbuda or in any of the countries hereinafter specified,

employed by him within Antigua and Barbuda in a pioneer enterprise as the Cabinet may think fit.

(3) The countries contemplated by this section are Anguilla, Barbados, Belize, the British Virgin Islands, the Commonwealth of Dominica, Grenada, the Co-operative Republic of Guyana, Jamaica, Montserrat, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines and the Republic of Trinidad and Tobago.

Provisions relating to revocation or recognition of pioneer manufacturers.

**10.** (1) Where any pioneer manufacturer fails or neglects—

(a) to commence to construct the pioneer factory in relation to which he is a pioneer manufacturer on or before the construction day; or

(b) to commence to manufacture the relevant pioneer product or products in marketable quantities at such pioneer factory on or before the production day, the Cabinet may by notice in writing require him within thirty days of such notice either—

(i) to commence to construct the pioneer factory or to commence to manufacture the relevant pioneer product or products at the pioneer factory in marketable quantities, as the case may be; or

(ii) to establish to the satisfaction of the Cabinet that his failure or neglect to commence to construct the pioneer factory or to

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commence to manufacture the relevant pioneer product or products in marketable quantities, as the case may be, was due to some cause beyond his control, and that there is a reasonable prospect of his commencing to construct the pioneer factory or commencing to manufacture the relevant pioneer product or products in marketable quantities, as the case may be, within such time as the Cabinet may consider to be reasonable.

(2) Where any pioneer manufacturer, having been required by notice in writing under subsection (1) so to do, fails to satisfy the Cabinet—

(a) that his failure or neglect to commence to construct the pioneer factory to which such notice relates on or before the construction day, or to commence to manufacture the relevant pioneer product or products at such factory in marketable quantities on or before the production day, as the case may be, was due to some cause beyond his control; or

(b) that there is reasonable prospect of his commencing to construct such pioneer factory or commencing to manufacture the relevant pioneer product or products in marketable quantities at such pioneer factory within such time as the Cabinet may consider reasonable,

the Cabinet shall revoke the order under section 4 declaring such person to be a pioneer manufacturer in relation to the pioneer factory and pioneer industry in respect of which such order was made and thereupon the provisions of sections 5 and 8 shall cease to apply to such person in respect of such pioneer factory and such pioneer industry and the pioneer factory shall cease to be a pioneer factory.

(3) Where any pioneer manufacturer having been required by notice in writing under subsection (1) so to do, satisfies the Cabinet—

(a) that his failure or neglect to commence to construct the pioneer factory to which such notice relates on or before the construction day, or to commence to manufacture the relevant pioneer product or products

at such pioneer factory in marketable quantities on or before the production day, as the case may be, was due to some cause beyond his control; and

(b) that there is reasonable prospect of his commencing to construct such pioneer factory or commencing to manufacture the relevant pioneer product or products in marketable quantities at such pioneer factory, as the case may be, within such time as the Cabinet may consider reasonable,

the Cabinet shall by order declare that there shall be substituted for the construction day or for the production day, as the case may be, some other day specified in such order, and thereupon the provisions of this Act shall take effect as if the day specified in such order was the construction day or the production day, as the case may be, specified in the application under subsection (2) of section 4.

(4) Where the Cabinet is satisfied that any pioneer manufacturer has contravened any of the provisions of this Act and that having regard to all the circumstances of the case it is expedient so to do, they may revoke the order under section 4 declaring such person to be a pioneer manufacturer in relation to the pioneer factory and pioneer industry in respect of which such order was made and thereupon the provisions of sections 5 and 8 shall cease to apply such person in respect of such pioneer factory and such pioneer industry and the pioneer factory shall cease to be a pioneer factory.

(5) Where the Cabinet is satisfied that any pioneer manufacturer has broken any of the conditions contained in the order declaring him to be a pioneer manufacturer and subject to which he was so declared to be a pioneer manufacturer and that having regard to all the circumstances of the case it is expedient so to do, they may revoke the order made under section 4 declaring such person to be a pioneer manufacturer in relation to the pioneer factory and pioneer industry in respect of which such order was made.

(6) When any order made under section 4 is revoked under the provisions of subsection (2) the person who in such order was declared to be a pioneer manufacturer shall be liable to pay to the Comptroller of Customs all sums which but for the provisions of section 5 would have been payable

as customs duty on the importation of any articles or any refund of customs duty he has received in respect of the purchase of articles in Antigua and Barbuda for the construction, alteration, re-construction or extension of the pioneer factory in relation to which he was declared under section 4 to be a pioneer manufacturer, or for equipping such pioneer factory or any extension thereof for the purpose of manufacturing the relevant pioneer product or products.

(7) When any order made under section 4 is revoked under the provisions of subsection (5) the provisions of section 5 and section 8 shall be deemed never to have applied to the person declared to be a pioneer manufacturer under such order in respect of the pioneer factory and pioneer industry specified in such order; and such person shall, notwithstanding anything contained in the Customs Duties Act, or the Income Tax Act, be liable to pay to the Comptroller of Customs all sums which, but for the provisions of section 5 would have been payable as customs duty on articles acquired for the construction, alteration, re-construction or extension of the pioneer factory, or for equipping such factory or any extension thereof for the purpose of manufacturing the relevant pioneer product or products, and all sums refunded to him by the Comptroller of Customs under the authority of subsection (2) of section 5, and to the Commissioner of Inland Revenue such income tax as would but for the provisions of section 8 have been payable in respect of the pioneer enterprise:

Cap. 125.

Cap. 212.

Provided that if in the opinion of the Cabinet liability to the payment of any such sums or any such tax would cause undue hardship or if for any other reason the Cabinet deem it expedient so to do, the Cabinet may remit the whole or any part of such sum or tax.

(8) Any sum which may be payable to the Comptroller of Customs under the provisions of subsection (6) may be recovered in a Court of competent jurisdiction as a debt due to the Government.

**11.** (1) Subject to the provisions of subsection (3) no factory, whether it is still a pioneer factory or not, which has been specified as a pioneer factory in any order under the provisions of section 4 shall, without the prior approval

Restriction on use of pioneer factory.

of the Cabinet, be used at any time within ten years from the date of such order for any purposes other than those of the pioneer industry for the purposes of which such factory was established as a pioneer factory.

(2) Any person using any such factory in contravention of the provisions of subsection (1) shall be guilty of an offence and on summary conviction therefor shall be liable to a fine not exceeding five thousand dollars and in default of payment thereof to imprisonment for any term not exceeding six months and in the case of a continuing offence to a further fine not exceeding three thousand dollars in respect of each day during which the offence continues.

(3) The provisions of this section shall not apply to any factory which has ceased to be a pioneer factory and in respect of which all sums which are payable to the Comptroller of Customs and to the Commissioner of Inland Revenue under the provisions of subsection (6) or subsection (7) of section 10, as the case may be, have been paid.

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S.5(1).

## SCHEDULE

All building materials, tools, plant, machinery, pipes, pumps, conveyor belts, or other appliances and materials necessary for and used in the construction, alteration and extension of the factory or for equipping the factory or any extension thereof for the manufacture and preparation for sale by the pioneer manufacturer of the relevant pioneer product or products.

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