



## ST. CHRISTOPHER AND NEVIS

### CHAPTER 18.01

## AID TO PIONEER INDUSTRIES ACT

### Revised Edition

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### AID TO PIONEER INDUSTRIES ACT

Act 13 of 1960 ... in force 1st May 1960

Amended by: Act 12 of 1964

Act 6 of 1976

Act 7 of 1976

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**CHAPTER 18.01**

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SCHEDULE



## **CHAPTER 18.01**

### **AID TO PIONEER INDUSTRIES ACT**

AN ACT TO PROVIDE FOR THE ESTABLISHMENT, DEVELOPMENT AND REGULATION OF PIONEER INDUSTRIES, PIONEER FACTORIES, PIONEER MANUFACTURERS, PIONEER PRODUCTS; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

#### **Short title.**

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

#### **Interpretation.**

2. In this Act, unless the context otherwise requires—

“Accountant-General” means the officer for the time being lawfully discharging the duties of Accountant-General of the State;

“Comptroller” means the officer for the time being lawfully discharging the duties of Comptroller of Customs of the State or any person authorised by him or her in writing to act on his or her behalf;

“Commissioners of Income Tax” means the persons lawfully discharging the duties of Commissioners under the Income Tax Act, or any Act replacing or substituted for the same;

“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, or, in any case where the factory is in existence before the date of such application, such day as may be specified as the construction day by the Minister in the order made under section 4;

“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;
- (b) the storage of any raw materials, fuel or stores necessary for the manufacture of such product;
- (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;
- (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 or her 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, or, in any case where such factory has commenced to produce the pioneer product or products in marketable quantities before the date of such application, such day as may be specified as the production day by the Minister in the order made under section 4;

“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.

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

3. (1) Subject to the provisions of subsection (2), the Minister may, if he or she is satisfied that it is expedient in the public interest so to do, by Order declare any industry which is not being conducted in the State on a commercial scale or at all and for which there are insufficient manufacturing facilities in the State to enable such industry to be conducted on a commercial scale, or any industry for which, in his or her 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 Minister shall—

- (a) cause a notice to be published in at least two issues of the newspapers circulating in the State at intervals of not less than one week, and twice in the Gazette, setting out the Order which the Minister proposes to make and inviting any person who objects to the making of such Order to give notice in writing of his or her objection and of the grounds on which he or she relies in support thereof to the Financial Secretary 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.

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

4. (1) The Minister—

- (a) on the application of any person who is desirous of establishing a pioneer factory in the State for the purpose of manufacturing any pioneer product or products; or
- (b) on the application of any person who has already commenced to construct or to occupy a factory for the purpose of manufacturing any pioneer product or products, or who has already commenced to manufacture any pioneer product or products,

if he or she is satisfied that it is expedient in the public interest so to do, may, 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 the date

specified in such Order which date may be a date before the commencement of this Act.

(2) In considering whether it is in the public interest to make an Order under subsection (1), regard shall be had to the following factors, among others, that is to say, the number of pioneer industries already established or about to be established for the manufacture of the pioneer product or products and the output or anticipated output of the pioneer factories to which such Order relates.

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

- (a) specify the locality or proposed locality of the factory in respect of which the application is made;
- (b) specify the construction day which shall not be later than twelve months after the date of the granting of the application, or, in any case where a factory is already in existence, furnish such information as the Minister may require in order to be able to specify the construction day;
- (c) specify the production day which shall not be later than eighteen months after the construction day, or, in any case where the production of a pioneer product or products has already commenced, furnish such information as the Minister may require in order to be able to specify the production day; and
- (d) specify the pioneer product or products intended to be manufactured or already being manufactured at the factory.

(4) In any Order made under subsection (1), the Minister may specify the construction day, which need not necessarily be the day on which the construction of the factory commenced, or the production day or both in any case in which such day or days are not specified in the application:

Provided that the Minister may, in any such Order, declare that the effect of the Order shall be restricted to any part of a factory or to any grade, quality, description, type or classification of a pioneer product or products and the Order shall have effect accordingly as so restricted:

Provided further that the Minister may in any such Order impose continuing conditions to be observed by the pioneer manufacturer and subject to which the status of pioneer manufacturer may be retained.

#### **Relief from customs duty.**

5. (1) Every pioneer manufacturer shall be entitled, upon the issue to him or her of a licence by the Minister and subject to such terms and conditions as may be imposed by such licence, to import into the State free of customs duty, or to purchase in the State subject to refund of customs duty, during a period of five years commencing on the date on which he or she 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 or she satisfies the Comptroller that such articles are or were required for the construction, alteration, reconstruction or extension of the pioneer factory in relation to which he or she was declared under section 4 to be a pioneer manufacturer, 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 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 subsection (1) who satisfies the Comptroller—

- (a) that any article specified in the licence has been purchased by him or her in the State subject to the terms and conditions imposed by the licence and that customs duty was paid upon the importation into the State of such article;
- (b) as to the amount of the customs duty so paid, shall be entitled to be refunded by the Accountant-General on the authority of the Comptroller the amount of the customs duty so paid:

Provided that where the holder of the licence satisfies the Comptroller that he or she is unable to ascertain the amount of the customs duty paid, he or she shall be entitled to be paid by the Accountant-General on the authority of the Comptroller by way of refund of customs duty such sum as is, in the opinion of the Comptroller, 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 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.

#### **Special provisions relating to articles imported free of customs duty.**

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

- (a) keep such record in such form and containing such particulars as may be required by the Comptroller of the articles so imported or purchased by him or her;
- (b) cause such articles to be marked with such mark and in such manner as may be required by the Comptroller; and
- (c) permit the Comptroller at all reasonable times to inspect such record and to have access to any factory or warehouse under his or her control for the purpose of examining any such articles which the Comptroller may believe to be therein and of satisfying himself or herself 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 commits an offence and shall be liable, on summary conviction, to a fine not exceeding fifteen thousand dollars and in default of payment of the fine to be imprisoned for a term not exceeding six months or both.

#### **Restriction upon disposition of articles 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 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 the State 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 the State 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 commits an offence and shall be liable, on summary conviction, to a penalty of three times the value of the article in respect of the disposal of which he or she contravenes such provisions, and in default of payment of the fine to be imprisoned for a term not exceeding six months.

#### **Relief from income tax.**

**8.** The income arising from any pioneer enterprise during the period of five years from the production day or from such other day as may be substituted for the production day by the Minister under the provisions of section 12 of this Act (hereinafter called “the tax holiday period”) shall be exempt from income tax in accordance with the provisions of section 7 of the Income Tax Act, Cap. 20.22 or any other provision substituted for the Act.

*(Substituted by Act 12 of 1964)*

#### **Power to extend tax holiday period to ten years.**

**9.** The Minister may, on the application of a pioneer manufacturer, extend to a period not exceeding ten years the period of five years referred to in section 5 and section 8, and thereupon, for the purposes of the said sections the extended period shall, as regards the pioneer enterprise in respect of which such extension is made, be deemed to be substituted for the said period of five years:

Provided that any such application for an extension of the period of the tax holiday from five years to ten years shall be made within the period of the first five years.

#### **Pioneer manufacturer to furnish accounts.**

**10.** (1) The Commissioners of Income Tax may, during the tax holiday period and for three years immediately thereafter, by notice in writing, require any pioneer manufacturer and secretary, manager, director or other officer of any body corporate or of any association which is carrying on a pioneer industry to furnish them within such time as may be mentioned in the notice with a balance sheet and a profit and loss account made up for the annual or other accounting period in respect of the business of the pioneer industry, and such other particulars as the Commissioners of Income Tax may deem necessary.

(2) Any person who fails or neglects to furnish the Commissioners of Income Tax with any such balance sheet, profit and loss account or particulars as are mentioned in subsection (1), commits an offence and shall be liable, on summary

conviction, to a penalty not exceeding ten thousand dollars and in default of payment of the fine to be imprisoned for a term not exceeding six months.

**Restriction on employment of persons in a pioneer enterprise.**

**11.** (1) No pioneer manufacturer shall, without the prior approval of the Minister responsible for Labour in writing, employ within the State in a pioneer enterprise any person not ordinarily resident in the State:

Provided that if he or she satisfies the Minister that the services of any skilled work persons, artisans or mechanics or of any persons possessing particular professional or technical qualifications or skill or experience are necessary for the proper conduct of the pioneer enterprise and that such services cannot be otherwise obtained the Minister responsible for Labour may by permit in writing authorise him or her to employ within the State such number and classes of skilled workers, artisans and mechanics, and of persons possessing particular professional or technical qualifications or skill or experience, not ordinarily resident in the State, and for such periods as may be specified in the permit.

*(Amended by Act 6 of 1976)*

(2) The Minister 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 the State; and
- (b) the number of persons in each category of work who are not ordinarily resident in the State,

employed by him or her within the State in a pioneer enterprise as the Minister may think fit.

*(Amended by Act 6 of 1976)*

**Provisions relating to revocation or recognition of pioneer manufacturers.**

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

- (a) to commence to construct the pioneer factory in relation to which he or she 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 Minister may, by notice, in writing require him or her 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 Minister that his or her failure or neglect to commence to construct the pioneer factory or to commence to manufacture the relevant pioneer product or products in marketable quantities, as the case may be, was due to some cause beyond his or her control, and that there is a reasonable prospect of his or her commencing to manufacture the relevant pioneer product or products in marketable quantities, as the case may be, within such time as the Minister 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 Minister—

- (a) that his or her failure or neglect to commence to construct the pioneer factory to which the notice relates on or before the construction day, or to commence to manufacture the relevant pioneer product or products at the factory in marketable quantities on or before the production day, as the case may be, was due to some cause beyond his or her control; or
- (b) that there is reasonable prospect of his or her commencing to construct the pioneer factory or commencing to manufacture the relevant pioneer product or products in marketable quantities at the pioneer factory within such time as the Minister may consider reasonable,

the Minister shall revoke the Order made under section 4 declaring that person to be a pioneer manufacturer in relation to the pioneer factory and pioneer industry in respect of which the Order was made and thereupon the provisions of sections 5 and 8 shall cease to apply to the person in respect of the pioneer factory and the 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 Minister—

- (a) that his or her failure or neglect to commence to construct the pioneer factory to which the notice relates on or before the construction day, or to commence to manufacture the relevant pioneer product or products at the pioneer factory in marketable quantities on or before the production day, as the case may be, was due to some cause beyond his or her control; and
- (b) that there is reasonable prospect of his or her commencing to construct the pioneer factory or commencing to manufacture the relevant pioneer product or products in marketable quantities at the pioneer factory, as the case may be, within such time as the Minister may consider reasonable,

the Minister 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 the Order, and thereupon the provisions of this Act shall take effect as if the day specified in the Order was the construction day or the production day, as the case may be, specified in the application under subsection (2) of section 4 or in the Order made under section 4.

(4) Where the Minister 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, he or she may revoke the Order made under section 4 declaring that person to be a pioneer manufacturer in relation to the pioneer factory and pioneer industry in respect of which the Order was made and thereupon the provisions of sections 5 and 8 shall cease to apply to that person in respect of the pioneer factory and the pioneer industry and the pioneer factory shall cease to be a pioneer factory.

(5) Where the Minister is satisfied that any pioneer manufacturer has broken any of the conditions contained in the Order declaring him or her to be a pioneer manufacturer and subject to which he or she 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, he or she may revoke the Order made under section 4 declaring

that person to be a pioneer manufacturer in relation to the pioneer factory and pioneer industry in respect of which the Order was made.

(6) When any Order made under section 4 is revoked under the provisions of subsection (5) of this section the provisions of section 5 and of section 8 shall be deemed never to have applied to the person declared to be a pioneer manufacturer under the Order in respect of the pioneer factory and pioneer industry specified in the Order, and that person shall, notwithstanding anything contained in the or the Income Tax Act, Cap. 20.22 be liable to pay to the Comptroller 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 the factory or any extension of the factory for the purpose of manufacturing the relevant pioneer product or products, and all sums refunded to him or her by the Comptroller under the authority of subsection (2) of section 5, and to the Commissioners of Income Tax such income tax as would but for the provisions of section 8 have been payable in respect of the pioneer enterprise:

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

(7) Any sum which may be payable to the Comptroller or the Commissioners of Income Tax under the provisions of sub-section (6) may be recovered in a Court of competent jurisdiction as a debt due to the Government of the State.

#### **Restriction on use of pioneer factory.**

**13.** (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 made under the provisions of section 4 shall, without the prior approval of the Minister, be used at any time within five years from the date of the expiration of the tax holiday for any purposes other than those of the production of the pioneer product or products for the purposes for which the factory was specified as a pioneer factory.

(2) A person who uses a factory in contravention of the provisions of subsection (1) commits an offence and shall be liable, on summary conviction, to a fine not exceeding five thousand dollars and in default of payment of the fine to imprisonment for a term not exceeding six months, and in the case of a continuing offence to a further fine not exceeding one thousand five hundred 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 payable to the Comptroller and the Commissioners of Income Tax under the provisions of subsection (6) of section 12 have been paid.

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**SCHEDULE**

*(Section 5(1))*

Building materials, tools, plant, machinery, pipes, pumps, conveyor belts or other appliances and materials necessary for and used in the construction, alteration and extension or for the equipping of a factory for the manufacture and preparation for sale of pioneer products.

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