

CHAPTER 74

INDUSTRIAL DEVELOPMENT (EXPORT INDUSTRIES) 1969-43

This Act came into operation on 4th September, 1969.

Amended by:

1978-22

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1979

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 74

INDUSTRIAL DEVELOPMENT (EXPORT INDUSTRIES) 1969-43

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**BARBADOS**

INDUSTRIAL DEVELOPMENT (EXPORT INDUSTRIES)

1969-43

An Act to make provisions for the grant of concessions in relation to income tax, trade tax, the fees chargeable for an interim trader's licence, customs duties and package tax in aid of industries producing mainly for export, and for other related matters.

[Commencement: 4th September, 1969]

PART I

GENERAL

Short title

1. This Act may be cited as the Industrial Development (Export Industries) Act.

Interpretation

2. For the purposes of this Act—
“approved export product” when not preceded by the word “relevant” means a product approved by the Minister under section 3 produced by an approved export producer;

“approved export producer” means a company or statutory board approved by the Minister under section 4 for the production of an approved export product;

“assessable income” means income of any kind which is not exempted from income tax otherwise than by way of special exemption expressly authorised as such by the *Income Tax Act*, Cap. 73;

“benefit” means the relief in regard to income tax, trade tax, the fees chargeable under the *Interim Traders Act*, Cap. 180 for an interim trader’s licence, customs duties or package tax enjoyed by an approved export producer by virtue of this Act;

“Commissioner” means the Commissioner of Inland Revenue;

“company” means any company registered in Barbados;

“Comptroller” means the Comptroller of Customs;

“customs laws” has the same meaning as in section 2 of the *Customs Act*, Cap. 66;

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

“depreciable property” means—

- (a) machinery or plant, other than equipment for scientific research, used in that business; or
- (b) an industrial building or structure used in that business for some purpose other than resale; or
- (c) equipment for scientific research used in that business or in a field related to that business;

“factory” means any premises in which, or within the close or curtilage or precincts of which or any place where persons are or will be employed in any process for or incidental to any of the following purposes, namely—

- (a) the production of any approved export product;
- (b) the adapting for sale of any approved export product, being premises or any place 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 approved export producer which employs or will employ the persons employed or to be employed therein has the right of access or control;

“Minister” means the Minister responsible for Industry:

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

“territory” includes country;

“year of assessment” means the year for which income tax is payable pursuant to the *Income Tax Act*, Cap. 73.

Power of Minister to declare an approved export product

3.(1) Subject to section 6, the Minister may, at any time on or before the 31st December, 1970 or such later date as the Minister may appoint by notice published in the *Official Gazette* by order declare that a product shall be an approved export product for the purposes of this Act.

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

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

- (a) the effect which approval would have on existing industries; and

- (b) the amount of risk involved in establishing a successful production and export of the product.

Declaration of approved export producers

4.(1) Subject to section 7, the Minister may, at any time on or before the 31st December, 1970 or such later date as the Minister may appoint by notice published in the *Official Gazette*, by order declare that a company or statutory board which is producing or proposes to produce an approved export product is an approved export producer for the purposes of this Act if he is satisfied that the company or statutory board—

- (a) proposes to produce the approved export product exclusively for export from Barbados to any country or territory other than the countries and territories described in the First Schedule and the dependencies of any of them;
- (b) is or will be adequately financed;
- (c) has adequate trained personnel in its employ or is able to obtain the services of such personnel;
- (d) has access to the necessary technical information;
- (e) is able to obtain adequate raw materials;
- (f) possesses or will possess the necessary factory.

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

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

(4) Where, on the application of an approved export producer, the Minister is satisfied that it is necessary, for the purpose of promoting the production of the approved export product by the approved export producer, that the site of the factory should be changed or that the factory specified in any order made under subsection (1) should be altered, added to, extended or otherwise changed, the

Minister may, in his absolute discretion and upon such conditions as he may think fit, by order amend any order made under subsection (1) in respect of the factory specified therein.

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

Applications for approval

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

Objections to proposals to approve a product

6.(1) Before any order is made under section 3 the Minister shall cause the fact that the Minister is about to be asked to consider whether a product should be an approved export product for the purposes of this Act, to be advertised in Barbados and, if the Minister so deem it necessary, elsewhere.

(2) The advertisement referred to in subsection (1) shall contain such particulars as to the product of which such approval is being sought as the Minister may think necessary.

(3) The advertisement shall state the period within which any objection to the approval of the product shall be made.

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

Limitation on powers of Minister to approve producer

7. The Minister shall not approve a company or statutory board as an approved export producer if such company or statutory board is an enterprise approved, recognised or licensed for the purposes of the Pioneer Industries (Encouragement) Act 1951* or of the *Pioneer Industries Act*, Cap. 83.

**[Act 1951—44, not reprinted in these Laws.]*

Minister to have absolute discretion to refuse approval

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

Production to be in bond

9.(1) Every factory in which an approved export product is produced shall be under the supervision of the Comptroller and no such factory shall be used for the production of the approved export product until a bond, in such sum as may from time to time in each case be required by the Comptroller, is given by the approved export producer with one or more sufficient sureties, conditioned on due payment of all duties and the due observance of this Act and the customs laws.

(2) Every such factory, or such part or parts thereof as may be specified by the Comptroller, shall be deemed a private warehouse within the meaning of the customs laws and, save as modified by this Act or the regulations, the customs laws shall apply accordingly.

PART II
PROVISIONS RELATING TO INCOME TAX

Ten year tax holiday

10. Notwithstanding anything contained in the *Income Tax Act*, Cap. 73, during the period of ten years commencing on the date of production specified in the order declaring a company or statutory board to be an approved export producer, there shall be exempt from income tax all profits or gains arising or accruing to such approved export producer from the production or sale of the relevant approved export product.

Income Tax at 12½ cents on the dollar after tax holiday

11. Notwithstanding anything contained in the *Income Tax Act*, during any period subsequent to the period referred to in section 10, income tax shall be charged at the rate of twelve and one half cents on every dollar of the assessable income of an approved export producer on profits or gains arising or accruing to such approved export producer from the production or sale of the relevant approved export product.

Notional depreciation of depreciable property

12.(1) In the second year of the period provided for by section 10 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, any depreciable property that belongs to an approved export producer and is in use during the said period of ten years for the purpose of producing the approved export product in the production or on the sale of which the profits or gains derived therefrom and arising or accruing to the approved export producer during the said period of ten years are exempt from income tax, shall be notionally depreciated in value at a rate equivalent to that at which an annual allowance would have been made in respect of such depreciable property had such profits or gains not been exempt from income tax.

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

(3) 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 ten years provided for by section 10, may, in respect of any depreciable property notionally depreciated in value pursuant to subsections (1) and (2), be made pursuant to the Income Tax Act to the approved export producer to which such depreciable property belonged during the said period of ten years, there shall be deducted from the capital expenditure incurred by such approved export producer on the provision of such depreciable property—

- (a) an amount equal to the notional depreciation so calculated in respect of such depreciable property; and
- (b) any other amount to be deducted pursuant to the Income Tax Act.

(4) Subject to subsection (6), in calculating the amount of any balancing allowance or balancing charge that, in any year of assessment after the year next following the expiration of the period of ten years provided for by section 10, may, in respect of the capital expenditure incurred on the provision of any depreciable property notionally depreciated in value pursuant to subsections (1) and (2), be made pursuant to the Income Tax Act to or on the approved export producer to which such depreciable property belonged during the said period of ten years, there shall be added to any annual allowances previously made pursuant to that Act to the approved export producer in respect of such depreciable property—

- (a) an amount equal to the notional depreciation so calculated; and
- (b) any other amounts to be taken into account pursuant to the Income Tax Act.

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

(6) In no case shall the amount on which a balancing charge is made on an approved export producer in respect of any depreciable property notionally depreciable in value pursuant to subsections (1) and (2) exceed the aggregate of—

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

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

- (a) during the period of ten years specified in section 10;
- (b) in the production or on the sale of an approved export product in the production or on the sale of which the profits or gains derived therefrom and arising or accruing to the approved export producer were exempt from income tax during the said period of ten years; and
- (c) in excess of any profits or gains derived from the production or sale of an approved export product and arising or accruing to the approved export producer during the said period of ten years,

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

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

(9) For the purposes of subsections (7) and (8), losses shall be deemed to include the amount of the notional depreciation made pursuant to subsections (1) and (2).

Restriction on setting off losses

13. Notwithstanding anything contained in the *Income Tax Act*, Cap. 73, any loss which may be deducted or set off pursuant to subsections (7) and (8) of section 12 shall not be deducted from or set off against any profits or gains which arise or accrue to the approved export producer by which such loss was incurred and which are derived from any other source of income of that approved export producer.

Initial allowances under the Income Tax Act not to be granted in respect of certain depreciable property

14.(1) Subject to subsection (2) and notwithstanding anything contained in the *Income Tax Act*, an approved export producer shall not be entitled to claim the allowances referred to in that Act as an initial allowance and an investment allowance in respect of any depreciable property which the Commissioner considers was acquired by that approved export producer for the purposes of producing an approved export product in the production or on the sale of which the profits or gains derived therefrom and arising or accruing to the approved export producer are or will be exempt from income tax, by virtue of section 10.

(2) Subsection (1) shall not apply to any such depreciable property as is referred to in that subsection which was acquired by an approved export producer at any time after the period of ten years provided for by section 10.

Maintenance of separate account for income tax free profits and gains and payment therefrom of certain dividends free of income tax

15.(1) During the first seven years of the period of ten years specified in section 10, an approved export producer shall credit to a separate account all profits or gains which the Commissioner is satisfied have been exempted from income tax in accordance with that section and if an approved export producer intends to pay a dividend to its shareholders out of such profits or gains, such dividend shall be charged to such account.

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

- (a) if he is resident in 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 dividend a tax (by whatever name called) corresponding to income tax; and
- (c) if the dividend is paid at any time within two years after expiration of the period of seven years referred to in subsection (1).

(3) The exemption from income tax granted by subsection (2) shall not exceed the amount of income tax which would, but for this Part, have been payable by the approved export producer by which such dividend was paid on the profits or gains out of which the dividends were 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 10, the Commissioner may refuse to accept as paid or payable to or by an approved export

producer any amount which is shown in the accounts of the approved export producer as paid or payable, as the case may be, if he considers that such amount relates to a transaction entered into by the approved export producer otherwise than in the normal course of production or sale of the relevant approved export product with the object of inflating the profits or gains in any year in which the profits or gains from the production and sale of the relevant approved export product were, by virtue of this Act, exempt from income tax.

Exemption from income tax on certain debenture stock

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

- (a) if he is resident in 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 approved export producer in respect of the first seven years of the period of ten years specified in section 10.

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

Application of Income Tax Act

17. Save as is expressly provided by this Part, this Part shall in no other respect than as so expressly provided affect the *Income Tax Act*, Cap. 73 or the application thereof.

PART III

PROVISIONS RELATING TO TRADE, CUSTOMS DUTY AND PACKAGE TAX

Relief from interim trader's licence fee and from trade tax

18. Notwithstanding anything contained in the *Interim Traders Act*, Cap. 180 or in the *Local Government Act*, Cap. 107, any company declared by an order made under this Act to be an approved export producer of an approved export product specified in such order shall, in respect of any business carried on by that company in relation to such approved export product, be exempt from any fee chargeable under the Interim Traders Act for an interim trader's licence and from any trade tax chargeable under the Local Government Act.

Relief from customs duty and package tax

19.(1) Subject to subsection (3), every approved export producer shall, if it satisfies the Comptroller that any of the articles specified in the First Part of 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;
- (b) equipping such factory or any extension thereof for the production or sale of the relevant approved export product; or
- (c) effecting repairs to such factory or any extension thereof or to any apparatus, machinery, tools, appliances or equipment contained in the factory or any extension thereof or for replacing any apparatus, machinery, tools, appliances or equipment in the factory or any extension thereof,

be entitled to import such article into Barbados free of customs duty and package tax.

(2) Subject to subsection (3), every company or statutory board declared by an order made under this Act to be an approved export producer of an approved export product specified in such order shall, if it satisfies the Comptroller that any of the articles specified in the Second Part of the Second Schedule are to be imported by it for use in the production or preparation for export or sale of the relevant approved export product, be entitled to import such article into Barbados free of customs duty and package tax.

(3) Where any article described in the Second Schedule is being produced in Barbados in such quantity that, in the opinion of the Minister, an adequate supply of that article is available from sources in Barbados for use by every approved export producer in the production of his relevant approved export product, the Minister may from time to time declare by notice published in the *Official Gazette* that the exemptions from customs duty and package tax granted by this section shall not apply to that article and, thereafter, those exemptions shall cease so to apply.

Refund of customs duty and Package tax on certain imported articles

20.(1) Subject to subsection (2), where an approved export producer has at any time prior to the coming into operation of an order made under this Act declaring it to be an approved export producer of an approved export product and after the 31st December, 1962, imported into Barbados any of the articles described in the First Part or the Second Part of the Second Schedule, the Comptroller, if satisfied that such article was at that time imported for any of the purposes mentioned in subsection (1) or subsection (2), as the case may be, of section 19, shall on the application of the approved export producer refund to it the customs duty and package tax paid by it on the importation of such article.

(2) No refund of customs duty or package tax shall be given to an approved export producer by or on behalf of which an application is made pursuant to

subsection (1) if the article in respect of which such application is made is an article—

- (a) to which, by virtue of a declaration pursuant to subsection (3) of section 19, the exemptions from customs duty and package tax granted by that section do not apply; and
- (b) which was imported into Barbados by the said approved export producer after the date of the publication of the said declaration in the *Official Gazette*.

Payment to approved export producer of customs duty and package tax on articles purchased in Barbados

21.(1) Where an approved export producer purchases in Barbados any article described in the First Part or the Second Part of the Second Schedule for any of the purposes mentioned in subsection (1) or subsection (2), as the case may be, of section 19, that approved export producer may in writing apply to the Comptroller for the payment to it of the customs duty and package tax 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 such application was made was imported into Barbados;
 - (b) the date of the importation of such article into Barbados;
 - (c) the amount of customs duty and package tax paid on the importation into Barbados of such article; and
 - (d) such other particulars as may be prescribed.

(3) Where on an application made pursuant to this section the Comptroller is satisfied that—

- (a) the article in respect of which such application is made—
 - (i) was purchased for a purpose to which reference is made in subsection (1);
 - (ii) is an article with respect to which no declaration pursuant to subsection (3) of section 19 is in force, or, if it is an article with respect to which such declaration is in force, that it was purchased in Barbados by the said approved export producer at a date prior to the publication of the said declaration in the *Official Gazette*;
- (b) customs duty or package tax was paid on the importation into Barbados of such article;
- (c) the application made in respect of such article was made within one year of the date of the importation into Barbados of such article; and
- (d) if the application is accepted the amount to be paid to the approved export producer is in excess of five dollars,

the Comptroller shall issue an order authorising the payment to the approved export producer of the amount of the customs duty and package tax paid on the importation of such article, and upon such order being issued the approved export producer shall be entitled to be paid out of moneys voted for the purpose by Parliament the amount stated in the order.

Special provisions relating to articles relieved of customs duty, and package tax or in respect of which customs duty and package tax were refunded or paid to an approved export producer

22.(1) Where—

- (i) any article described in the Second Schedule is imported free of customs duty and package tax pursuant to section 19; or

(ii) a refund of customs duty and package tax is given in respect of such article pursuant to section 20; or

(iii) an order is issued in respect of such article pursuant to section 21, the secretary, manager or other principal officer of the approved export producer by or on behalf of which the same is or was imported or purchased, as the case may be, shall upon being required to do so by the Comptroller—

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

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

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

is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of one hundred dollars or to imprisonment for two months.

Restriction on disposition of article relieved of customs duty and package tax or in respect of which customs duty or package tax was refunded or paid to an approved export producer

23.(1) No article described in the Second Schedule which is imported into Barbados by or on behalf of an approved export producer free of customs duty and package tax pursuant to section 19 or in respect of which a refund was given of customs duty or package tax or an order was issued pursuant to section 20 or 21, as the case may be, shall be sold, given away or otherwise disposed of in Barbados by the approved export producer by which it was imported or purchased, as the case may be, 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 approved export producer paying or giving security to the satisfaction of the Comptroller for the payment of an amount equivalent to the amount of customs duty and package tax unpaid by or refunded or paid to the said approved export producer, as the case may be; or
- (c) after the expiration of five years from the date of the importation into Barbados or the purchase of such article, as the case may be; or
- (d) the Minister on being satisfied that—
 - (i) such article is not required for the purpose for which it was imported or purchased; or
 - (ii) is no longer required for the purpose for which it was imported or purchased,

grants a permit to the approved export producer to dispose of such article in such manner as the Minister thinks fit and subject to such terms and conditions as he thinks fit.

(2) Any approved export producer by or on behalf of which any article described in the Second Schedule was imported into Barbados free of customs duty and package tax pursuant to section 19 is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of three times the value of such article at the date of its importation into Barbados, if it sells, gives away or otherwise disposes of such article otherwise than in accordance with subsection (1).

(3) An approved export producer to which a refund of customs duty was given pursuant to section 20 or to which a payment was made pursuant to section 21 in respect of any article described in the Second Schedule is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of three times the value of such article at the date of its importation or purchase, as the case may be, if it sells, gives away or otherwise disposes of such article otherwise than in accordance with subsection (1).

Payment of customs duty and package tax in certain cases

24.(1) Where pursuant to section 29 the Minister revokes the order made under section 4 by which a company or statutory board becomes an approved export producer, such company or statutory board shall—

- (a) pay to the Comptroller all sums which, but for this Part, would have been payable by it as customs duty and package tax in respect of any article described in the Second Schedule and which was imported by or on behalf of such company or statutory board pursuant to section 19; and
- (b) pay to the Comptroller any sum refunded to it or paid to it, as the case may be, pursuant to section 20 or section 21.

(2) Notwithstanding subsection (1), the Minister responsible for Finance may waive, in whole or in part, the payment of any sum payable as customs duty under that subsection if—

- (a) he is satisfied that the payment of any such sum would cause undue hardship to the company or statutory board; or

(b) he considers it just and reasonable so to do.

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(3) Any sum payable to the Comptroller under subsection (1) may be recovered in a magistrate's court on the complaint of the Comptroller or any person authorised in writing in that behalf by the Comptroller.

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

Restriction on use of certain factories and equipment

25.(1) No factory which is specified in any order made under this Act declaring a company or statutory board to be an approved export producer and in respect of which factory the approved export producer named in such order has received any benefit conferred by this Part, shall, without the prior written approval of the Minister, be used at any time within ten years of the date specified in such order as the date of production, for any purpose other than that of producing the approved export product specified in such order.

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

(3) The Minister may, as a condition for the grant of any approval for the purposes of 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 Part have not been paid or have been refunded by way of customs duty or package tax on the importation or purchase, as the case may be, of any article used in the construction, alteration, reconstruction, extension,

equipping of the said factory or in effecting repairs thereto or to the equipment therein.

(4) Subject to subsection (5), a person who uses any 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 is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of five hundred dollars and in the case of a continuing offence to a further fine of two hundred and fifty dollars for each day during which the offence continues.

(5) A person shall not be guilty of an offence under subsection (4) if the order by virtue of which the said company or statutory board became an approved export producer was at any time prior to the commission of such offence revoked by the Minister under section 29.

PART IV

MISCELLANEOUS

Relief from company registration fees

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

(2) Where a company or person received information pursuant to subsection (1) and such company or person, within the limited time, produces to the Registrar of the Supreme Court the document signed by the secretary to the Minister whereby that information was conveyed, no fees chargeable under the *Companies Act*, Cap. 308 on the registration of a company shall be charged on

the registration of the company or proposed company named in such document and in respect of which the application was made pursuant to section 5.

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

Control of approved export producer by Comptroller

27.(1) An approved export producer shall—

- (a) upon being required by the Comptroller to do so, furnish to the Comptroller such information as the Comptroller may require for the purposes of this Act;
- (b) import, store or otherwise deal with raw materials and any other materials or commodities imported by virtue of this Act without payment of customs duty or package tax under such conditions as the Comptroller may impose;
- (c) store, export or otherwise deal with the relevant approved export product under such conditions as the Comptroller may impose.

(2) Every approved export producer who fails to comply with any requirement of the Comptroller made under this section and every director, manager, agent, officer and servant of the company or statutory board who is knowingly a party to such failure is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of five hundred dollars and, in default of payment thereof, every such director, manager, agent, officer or servant shall be liable to be imprisoned for six months.

Restriction on sale of product in Barbados and certain other territories

28.(1) No approved export producer shall sell, give away or otherwise dispose of any approved export product for use in Barbados or in any country or territory or dependency thereof described in the First Schedule.

- (2) Nothing in this section shall prevent—
- (a) the sale, gift or other disposition of an approved export product by one approved export producer to another approved export producer to be used in, wrought into or attached to an approved export product; or
 - (b) the sale by the approved export producer thereof for use in Barbados or any country or territory or dependency thereof described in the First Schedule of an approved export product specified by the Minister by order, provided that—
 - (i) such product, if imported into Barbados, would not be chargeable with duty of customs under section 19 of the *Customs Act*, Cap. 66, or would be exempted from such duty under section 20 of that Act, and
 - (ii) the total sales of any such product under this paragraph by such approved export producer shall not in any year exceed fifty per cent of the total sales of that product by that approved export producer for use otherwise than in Barbados or any country or territory or dependency thereof described in the First Schedule.
- (3) The Minister may by order amend the First Schedule by the addition thereof or the deletion therefrom of any territory.
- (4) Every person who is knowingly concerned in contravening this section is guilty of an offence and on conviction thereof by a magistrate's court shall incur a penalty of two thousand dollars, or treble the value of the approved export product sold for use in Barbados or in any country or territory or dependency thereof described in the First Schedule, at the election of the Comptroller and in default of payment shall be liable to be imprisoned for twelve months.

Order under section 4 may be revoked

29.(1) Subject to this section, on the application of an approved export producer or in such other circumstances as may be prescribed the Minister may

revoke the order made under section 4 by virtue of which a company or statutory board became an approved export producer.

(2) Upon the revocation of an order pursuant to subsection (1), nothing in this Act shall prevent the company or statutory board from being granted any special treatment which may be granted pursuant to any of the provisions of the *Industrial Incentives Act*, Cap. 75 or the *Pioneer Industries Act*, Cap. 83.

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

Regulations

30.(1) The Minister may make regulations in regard to—

- (a) any matters required by this Act to be prescribed;
- (b) the terms and conditions under which an approved export producer may utilise the services of outworkers, that is to say, persons to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired or adapted for sale in their own homes or on other premises not under the control or management of the person who gave out the articles or materials;
- (c) the terms and conditions under which an approved export producer may sell or otherwise dispose of genuine wastes arising from the production of the approved export product;
- (d) the imposition of conditions and restrictions on a company or statutory board which ceases to be an approved export producer when an order made under section 4 is revoked under section 29;
- (e) any matter or thing connected with the construction, supervision or control of a factory used or intended to be used for the producer of an approved export product;

(f) any other matter or thing, whether similar to the above or not, in respect of which it may be expedient to make regulations for the purpose of carrying this Act into effect.

(2) Any regulation made under subsection (1) may provide in respect of the breach of any of the provisions thereof that the offender shall be liable to a fine not exceeding five hundred dollars or to such term of imprisonment not exceeding six months, or to both such fine and imprisonment, as may be therein prescribed.

Saving of existing statutory instruments

31. Without prejudice to subsection (3) of section 30 of the *Interpretation Act*, Cap. 1, all statutory instruments made under the Industrial Development (Export Industries) Act, 1963* shall, in so far as they are in force at the commencement of this Act and are not inconsistent therewith, continue in force and may be amended or revoked as if made under this Act.

**[1963-28, repealed by this Act.]*

FIRST SCHEDULE*(ss. 4 and 28)*

Antigua	Montserrat
Dominica	St. Kitts-Nevis-Anguilla
Grenada	St. Lucia
Guyana	St. Vincent
Jamaica	Trinidad and Tobago

SECOND SCHEDULE*(ss. 19, 20, 21, 22, 23, 24)**First Part*

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

Second Part

- (i) All types of containers, including labels;
- (ii) fuel;
- (iii) raw materials, chemicals, other ingredients and supplies whether in a produced or semi-produced state and whether intended to form part of the finished product or not.