

**BAUXITE AND ALUMINA INDUSTRIES  
(ENCOURAGEMENT)**

**THE BAUXITE AND ALUMINA INDUSTRIES  
(ENCOURAGEMENT) ACT**

**ARRANGEMENT OF SECTIONS**

1. Short title.
2. Power to declare producers of bauxite and alumina recognized producers thereof.
3. Power to make agreements, etc.
4. Import concessions to recognized bauxite producers.
5. Import concessions to recognized alumina producers.
6. Customs duty and tax to be paid in certain circumstances.
7. Restriction of imposition of import duty on certain articles.
8. Excise duty concessions.
9. Special provisions relating to income tax.
10. Regulations.

**SCHEDULE**

THE BAUXITE AND ALUMINA INDUSTRIES  
(ENCOURAGEMENT) ACT

[12th June, 1950.]

Cap. 37.  
Acts  
37 of 1967,  
15 of 1980,  
12 of 1985  
Sch.,  
1 of 1990,  
16 of 1991  
S. 64,  
13 of 1997.

1. This Act may be cited as the Bauxite and Alumina Industries (Encouragement) Act. Short title.

2.—(1) Where the Minister is satisfied that any person is engaged in or is desirous of engaging in the winning in Jamaica of bauxite or the producing in Jamaica of alumina from bauxite so won, and that it is expedient so to do, he may by order declare such person to be a recognized bauxite producer or a recognized alumina producer, or both, as the case may be, with effect from such day (which may be anterior to the enactment of this Act) as may be specified in such order, so, however, that no order shall be made under this section unless the person to whom such order relates has signified in writing his approval of such order and of the conditions, if any, contained therein. Power to declare producers of bauxite and alumina recognized producers thereof.

(2) Every order under subsection (1) shall be subject to such conditions (including but not restricted to conditions requiring the payment by the producer to whom the order relates to the Government of Jamaica of any sum of money) specified therein as the Minister may think expedient for securing that the total area and the fertility and the productivity of land available in Jamaica for agricultural and pastoral purposes shall not be diminished to any greater extent or for any longer period than can in the opinion of the Commissioner of Mines economically be avoided, by the occupancy by such producer of any lands

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in Jamaica or by the winning of bauxite in Jamaica by or on behalf of or for the purpose of being supplied to such producer, and for securing the speedy and full development of the bauxite resources of Jamaica and the speedy and most effectual development of an alumina industry in Jamaica.

(3) Where any recognized bauxite producer or any recognized alumina producer fails or neglects to comply with any conditions included by virtue of the provisions of subsection (2) in the order by which he is declared to be a recognized bauxite producer or recognized alumina producer, or both, as the case may be, the Minister may by notice in writing require such person within such period (not being less than three months) as may be specified in such notice to comply with such conditions and if such person fails within the period so specified so to comply with such conditions, may in his absolute discretion revoke the order by which such person was declared to be a recognized bauxite producer or recognized alumina producer, or both, as the case may be.

(4) Where any order under subsection (1) is revoked pursuant to the provisions of subsection (3) the provisions of this Act shall be deemed never to have applied to such person and any sums which but for the provisions of this Act would have been payable by such person by way of tonnage tax or customs duty or other similar impost shall forthwith be deemed to be due and payable to the Government of Jamaica and shall be recoverable in an action for a civil debt.

Power to  
make  
agreements,  
etc.  
37/1967  
S. 2.

3. It is hereby declared that the Minister may, on behalf of the Government, make or confirm such agreements and arrangements as he may think expedient for the encouragement and expansion of the alumina industry in Jamaica.

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4.—(1) No customs duty or other similar impost or general consumption tax shall be payable in respect of the importation into Jamaica by any recognized bauxite producer of—

Import concessions to recognized bauxite producers. 15/1980 S. 2(a). Schedule, Part I. 16/1991 S. 64.

- (a) any of the articles specified in Part I of the Schedule; or
- (b) lubricating oils, grease, blasting materials and chemicals and such other materials (except petrol) necessary for the winning, treating and transportation in Jamaica and shipping of bauxite as the Minister may by order declare.

(2) All documents used in connection with the importation into Jamaica of any of the articles referred to in subsection (1), shall be exempt from additional stamp duty.

(3) For the purposes of this section any articles specified in Part I of the Schedule shall be deemed to be imported by a recognized bauxite producer if the Commissioner of Customs and Excise is satisfied that they are imported by the holder of a contract with such producer to perform construction work for such producer and that the articles so imported will—

12/1985 Sch.

- (a) be solely used for the purposes of performing such work or any work in connection with the repair, maintenance or restoration of any plant or equipment; and
- (b) upon the conclusion of such work either be disposed of by the contractor to such producer or be re-exported by the contractor,

37/1967 S. 3(b), (c). 15/1980 S. 2(b).

and if the contractor gives security to the satisfaction of the Commissioner of Customs and Excise.

12/1985 Sch. recognized

5.—(1) No customs duty or other similar impost or general consumption tax shall be payable in respect of the importation into Jamaica by any recognized alumina producer—

Import concessions to alumina producers. 15/1980 S. 3(a). 16/1991 S. 64.

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Schedule.  
Part II.

37/1967  
S. 4(a).

- (a) of any of the articles specified in Part II of the Schedule; or
- (b) of lubricating oils, grease, chemicals and such other materials (except petrol) necessary for the manufacture and transportation in Jamaica and shipping of alumina from bauxite won in Jamaica as the Minister may by order declare.

(2) All documents used in connection with the importation into Jamaica of any of the articles referred to in subsection (1), shall be exempt from additional stamp duty.

12/1985  
Sch.

(3) For the purposes of this section any articles specified in Part II of the Schedule shall be deemed to be imported by a recognized alumina producer if the Commissioner of Customs and Excise is satisfied that they are imported by the holder of a contract with such producer to perform construction work for such producer and that the articles so imported will—

37/1967  
S. 4(c).  
15/1980  
S. 3(b).

- (a) be solely used for the purposes of performing such work or any work in connection with the repair, maintenance or restoration of any plant or equipment; and
- (b) upon the conclusion of such work either be disposed of by the contractor to such producer or be re-exported by the contractor,

and if the contractor gives security to the satisfaction of the Commissioner of Customs and Excise.

12/1985  
Sch.

Customs  
duty and  
tax to be  
paid in  
certain  
circum-  
stances.  
16/1991  
S. 64.

16/1991  
S. 64.

6.—(1) Where any articles are imported into Jamaica free of customs duty pursuant to the provisions of this Act such articles shall not be sold or given away at any time within five years next after the date of their importation into Jamaica except to a person who under the provisions of this Act would have been entitled to import such articles into Jamaica free of customs duty or other similar impost or general consumption tax unless at the time when such

articles are so sold or given away there is paid to the Commissioner of Customs and Excise or the Commissioner of Taxpayer Audit and Assessment all sums which would have been payable in respect of customs duty or other similar impost and general consumption tax in respect of the importation into Jamaica of such articles if such articles had not been imported into Jamaica under the provisions of this Act.

12/1985  
Sch.  
16/1991  
S. 64.  
L.N.  
163/1995.

16/1991  
S. 64.

(2) Where any articles imported into Jamaica free of customs duty or general consumption tax pursuant to the provisions of this Act are sold or given away otherwise than in accordance with the provisions of subsection (1), such articles shall be forfeited to the Crown and the persons by whom and to whom such articles are so sold or given away shall both be guilty of an offence against this section and on summary conviction before a Resident Magistrate shall respectively be liable to a penalty of three times the value of the articles so sold or given away or one thousand dollars (whichever shall be the greater) and in default of payment thereof to be imprisoned for any term not exceeding twelve months.

16/1991  
S. 64.

7.—(1) Notwithstanding anything in any Act which may hereafter be enacted or in any resolution of the House of Representatives or in any order of the Minister, whereby any customs duty or other similar impost may be imposed upon the importation into Jamaica of petroleum fuel (except petrol), fuel oil or diesel oil, no such customs duty or other similar impost shall be payable in respect of the importation into Jamaica of any petroleum fuel (except petrol), fuel oil or diesel oil, during the relevant concession period if such petroleum fuel or such oil is imported—

Restriction  
of imposi-  
tion of  
import  
duty on  
certain  
articles.  
37/1967  
S. 5(a).

37/1967  
S. 5(b).

- (a) by any recognized bauxite producer for the purpose of being used in the winning, treating, transporting in Jamaica and shipping of bauxite; or

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- (b) by any recognized alumina producer for the purpose of manufacturing, transporting in Jamaica and shipping of alumina manufactured from bauxite won in Jamaica.

15/1980  
S. 4.  
1/1990  
S. 2.  
13/1997  
S. 2 (a).  
13/1997  
S. 2 (b).

(2) For the purposes of this section "the relevant concession period" means a period commencing on the 1st day of November, 1979, and ending on the prescribed date.

(3) For the purposes of subsection (2) the prescribed date means the 31st day of December, 1996 or such other date as the Minister may, by order, prescribe.

13/1997  
S. 2 (b).

(4) An order under subsection (3) shall be subject to affirmative resolution of the House of Representatives.

Excise  
duty con-  
cessions.  
37/1967  
S. 6.  
15/1980  
S. 5.  
Schedule.  
Part I.

8.—(1) Notwithstanding anything contained in any law no excise duty shall be payable on the following articles purchased from the manufacturer thereof by any recognized bauxite producer, that is to say—

- (a) any of the articles specified in Part I of the Schedule or in paragraph (b) of section 4 (1), manufactured in Jamaica and purchased for the purposes specified in that paragraph; or
- (b) any of the articles specified in subsection (1) of section 7, manufactured in Jamaica and purchased during the period and for the purposes specified in that subsection.

(2) Notwithstanding anything contained in any law no excise duty shall be payable on the following articles purchased from the manufacturer thereof by any recognized alumina producer, that is to say—

Part II.

- (a) any of the articles specified in Part II of the Schedule or in paragraph (b) of section 5 (1), manufactured in Jamaica and purchased for the purposes specified in that paragraph; or

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(b) any of the articles specified in subsection (1) of section 7, manufactured in Jamaica and purchased during the period and for the purposes specified in that subsection.

(3) In relation to the exemption of articles from excise duty the provisions of—

- (a) subsection (3) of section 4;
- (b) subsection (3) of section 5;
- (c) section 6,

shall apply, with such modifications as may be necessary, as they apply in relation to the exemption of articles from customs duty or other similar impost.

9.—(1) Notwithstanding anything to the contrary, where the Minister is satisfied that by reason of the manner in which or terms upon which or persons to whom any recognized bauxite producer disposes or proposes to dispose of any bauxite won by him in Jamaica it is not practicable accurately to assess for the purposes of any law relating to income tax his rate of profit upon bauxite so won, the Minister may direct that during such period as may be specified in such direction the rate of profit assessable for income tax purposes upon all units of bauxite (specified in such direction) disposed of by such producer shall for such purposes be deemed to be such sum as may be so specified :

Special provisions relating to income tax.

Provided that no order under this subsection shall apply to any bauxite won in Jamaica and utilized in the manufacture in Jamaica of alumina.

37/1967  
S. 7(a).

(2) Notwithstanding anything to the contrary the Minister may—

37/1967  
S. 7(b).

- (a) where any recognized alumina producer is a company which disposes of alumina manufactured



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in Jamaica by that producer to an affiliated company, by order direct that for the purposes of any law relating to income tax the amount received by that producer during such period or periods as may be specified in the order, from the disposal of alumina as aforesaid, shall be a sum to be directed by the Minister, being a fair and reasonable assessment of the value of alumina and based on the market conditions prevailing at the time of the disposal thereof;

- (b) by order declare any recognized alumina producer specified therein to be a designated producer during such period as may be prescribed in the order; and thereupon, and during the period so prescribed, the Income Tax Act, shall, in its application to that designated producer, have effect subject to the modifications and variations set out in the order:

Provided that any order made under this paragraph and any subsequent order varying or revoking such an order shall be subject to affirmative resolution of the House of Representatives.

37/1967  
S. 7(b).

(3) The Minister shall, in making any order or direction under subsection (2), have regard to any agreement or arrangement referred to in section 3 which is made with the recognized alumina producer to whom such order relates and is in force at the date on which such order is made.

(4) No direction under subsection (1) or paragraph (a) of subsection (2) shall be revoked or varied during the period specified in such direction except with the prior approval of the producer to whom such direction relates.

(5) Where any recognized alumina producer disposes of alumina manufactured in Jamaica by that producer to any person other than an affiliated company for a sum which appears to the Commissioner of Taxpayer Audit and Assessment to be less than the fair and reasonable value of the alumina based on the market conditions prevailing at the time of the disposal thereof, the Commissioner of Taxpayer Audit and Assessment may, in assessing the amount of income tax payable by that producer in respect of the period during which the profits received from the disposal of the alumina are required to be brought into charge to tax for income tax purposes, substitute for the aforesaid sum the fair and reasonable value of the alumina based on the market conditions prevailing at the time of the disposal thereof.

L.N.  
165/1999.

L.N.  
165/1999.

(6) Subsection (5) shall not apply in respect of any transaction which the Commissioner of Taxpayer Audit and Assessment is satisfied was carried out in good faith between independent persons dealing at arm's length.

L.N.  
165/1999.

(7) In this section—

the expression "an affiliated company" means a company which controls, or is controlled by, or is under common control with, the recognized alumina producer to whom the context refers;

"Minister" means the Minister responsible for finance.

10. The Minister may make regulations generally for the better carrying into effect of this Act and without prejudice to the generality of the foregoing may by regulations provide—

Regulations.

(a) for the marking of any articles purchased free of excise duty or imported free of customs duty

37/1967  
S. 8.

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- or any similar impost under the provisions of this Act with a distinctive mark; and
- (b) for the keeping of records in such form, containing such particulars and relating to such matters as may be prescribed; and
  - (c) for the making of returns in such form at such times to such persons and containing such particulars in relation to such matters as may be prescribed; and
  - (d) for the inspection of any records required to be kept under regulations made under this Act and of any lands, buildings, plant, apparatus, materials, stores, bauxite or alumina occupied by or under the control of any recognized bauxite producer or any recognized alumina producer; and
  - (e) that any person who contravenes any regulations made under this section shall on summary conviction before a Resident Magistrate be liable to a fine not exceeding such sum not being greater than one thousand dollars, or to such term of imprisonment with hard labour for such period not exceeding twelve months, or to both such fine and imprisonment as may be prescribed.

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**SCHEDULE**

**PART I**

(Sections  
4 & 8)

All plant, machinery, building materials not intended for the construction of dwelling-houses, tools, mechanical diggers, overhead conveyors, rails, rail cars, pipes, pumps, wharf materials, drilling and blasting equipment, explosives and accessories, trucks and cars not intended to be and in no circumstances used upon a public road and not required to be licensed under the Road Traffic Act, trucks as defined in section 11 of the Road Traffic Act with the exception of passenger vehicles such as are commonly known as buses and mini-buses and motor vehicles constructed to carry a load or passengers or both and commonly known as station-waggons, and any other items of, or for the construction of, plant and equipment necessary for the winning, treating, transportation in Jamaica and shipping of bauxite.

15/1980  
S. 6.

**PART II**

(Section  
5)

All plant, machinery, building materials not intended for the construction of dwelling-houses, tools, mechanical diggers, overhead conveyors, rails, rail cars, pipes, pumps, wharf materials, drilling and blasting equipment, explosives and accessories, trucks and cars not intended to be and in no circumstances used upon a public road and not required to be licensed under the Road Traffic Act, trucks as defined in section 11 of the Road Traffic Act with the exception of passenger vehicles such as are commonly known as buses and mini-buses and motor vehicles constructed to carry a load or passengers or both and commonly known as station-waggons, and any other items of, or for the construction of, plant and equipment necessary for the manufacture, transportation in Jamaica and shipping of alumina.

15/1980  
S. 6.