

**THE CEMENT INDUSTRY (ENCOURAGEMENT
AND CONTROL) ACT**

ARRANGEMENT OF SECTIONS

1. Short title.
2. Interpretation.
3. Power to grant licence.
4. Licence may provide for exemption from customs duty and tonnage tax.
5. Licence may provide for relief from income tax.
6. Licence may exempt from royalty on minerals.
7. Licence may authorize acts in relation to roads.
8. Prohibition of importation of cement.
9. Prohibition of manufacture of cement.
10. Offences by corporations.
11. Regulations.

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AND CONTROL) ACT

Cap. 53.

[15th November, 1948.]

1. This Act may be cited as the Cement Industry Short title.
(Encouragement and Control) Act.

2. In this Act— Interpre-
“cement” means any product consisting principally of lime tation.
silica alumina and iron oxide or of some of such in-
gredients which have been calcined and ground to a fine
powder which on hydration is capable of setting to a
hard mass;
“ordinary Portland cement” means cement which complies
with the British Standard specifications for ordinary
Portland cement published by the British Standards
Institute.

3.—(1) Subject to the provisions of subsection (2) the Power to
Minister may, on the application of any person, grant to grant
such person a licence conferring the exclusive right to licence.
manufacture cement in Jamaica during such period as may
be specified in the licence and may from time to time with
the written consent of the licensee vary or amend any term
or condition or the period of such licence or add or repeal
any term or condition thereof.

(2) At any time after the grant of any licence under
subsection (1) (hereinafter referred to as “the prior licence”)
no other licence (hereinafter referred to as “the subsequent
licence”) conferring the exclusive right to manufacture
cement in Jamaica shall be granted, whether or not the

**CEMENT INDUSTRY (ENCOURAGEMENT
AND CONTROL)**

prior licence shall have expired, to any person except to the grantee of the prior licence or, if such licence shall have been assigned during the currency thereof, to the last assignee thereof, unless the grantee of the prior licence or the last assignee thereof, as the case may be, has either—

- (a) ceased to exist; or
- (b) ceased for two years or more before the date of the application for the subsequent licence to manufacture cement in Jamaica; or
- (c) has consented in writing to the grant of the subsequent licence.

(3) Any licence under this Act shall contain such terms and be subject to such conditions and may, if thought fit, be limited to such types of cement as the Minister may, in his absolute discretion, think fit to specify therein.

Licence may provide for exemption from customs duty and tonnage tax.

4.—(1) Notwithstanding anything to the contrary, any licence under this Act may provide for exempting the licensee, subject to such conditions as may be specified in the licence, from the payment of any customs duties or tonnage tax upon any articles imported by him into Jamaica, in respect of which such duties or tax would be payable under the provisions of any law for the time being in force, if this section had not been enacted.

(2) Notwithstanding anything to the contrary, any licence under this Act may provide for the payment to the licensee out of the Consolidated Fund, subject to such conditions as may be specified in the licence, of a sum not in excess of the customs duties and tonnage tax paid under any law for the time being in force upon the importation into Jamaica, of any articles purchased by the licensee in Jamaica, in respect of the importation of which into

Jamaica the licensee would have been entitled, under subsection (1), to exemption from such duty or tax if such articles had been imported into Jamaica by him.

5.—(1) Notwithstanding anything to the contrary, any licence under this Act may provide for the setting off by the licensee, subject to such conditions as may be specified in the licence, for income tax purposes against any profits made by him in respect of the manufacture of cement in Jamaica during any period so specified, of such sum or sums as may be provided in the licence.

Licence may provide for relief from income tax.

(2) Notwithstanding anything to the contrary, any licence under this Act may provide that the licensee, if a company, may, subject to such conditions as may be specified in the licence, distribute any sum or sums set off against the profits of the licensee under subsection (1), to the shareholders or debenture holders in such company as capital moneys free of income tax.

6. Notwithstanding anything to the contrary, any licence under this Act may exempt the licensee from the payment of any royalty to the Crown under any law for the time being in force upon the excavation for or transportation of any mineral ordinarily used in the manufacture of cement.

Licence may exempt from royalty on minerals.

7.—(1) Notwithstanding anything to the contrary, any licence under this Act may authorize the licensee, subject to such conditions as may be specified in the licence and with the consent of the Road Authority, which shall not be unreasonably withheld, for any permitted purposes—

Licence may authorize acts in relation to roads.

- (a) to erect and maintain along, over or across any main road or any parochial road any poles, wires, cables or conduits; and
- (b) to break up the surface of any main road or parochial road for the purpose of laying, main-

**CEMENT INDUSTRY (ENCOURAGEMENT
AND CONTROL)**

taining or repairing and to lay, maintain and repair under, along or across any such road any pipes, cables or conduits; and

- (c) during the performance of any of the acts referred to in paragraphs (a) and (b), to obstruct passage over any such road.

(2) In this section—

“the Road Authority” means, in relation to any main road, the Chief Technical Director, and in relation to any parochial road, the Parish Council for the parish in which such road is situated or, in relation to any road in the Corporate Area, the Kingston and St. Andrew Corporation or any authority charged with the maintenance of such road;

“permitted purpose” means the conveyance to or from any factory used by the licensee for the manufacture of cement of any cement made at such factory or of raw material used in or in connection with the manufacture thereof or any oil, water, gas or electricity so used or any waste products resulting from the manufacture thereof.

Prohibition
of importa-
tion of
cement.

8.—(1) During the continuance in force of any licence under this Act, no person shall import into Jamaica any cement of any type to which such licence applies except in accordance with the terms of such licence.

(2) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence against this section, and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding thirty dollars in respect of each ton, or part thereof, of cement so imported, or in default of payment of such fine to be imprisoned for any term not exceeding six months.

9.—(1) During the continuance in force of any licence under this Act, no person shall manufacture in Jamaica any cement of any type to which such licence relates except under or in accordance with the terms of such licence.

Prohibition
of manu-
facture of
cement.

(2) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence against this section, and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding thirty dollars in respect of each ton, or part thereof, of cement so manufactured, or in default of payment of such fine to be imprisoned for any term not exceeding six months.

10. Where a person convicted of an offence against this Act is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

Offences by
corpora-
tions.

11.—(1) During the continuance in force of any licence under this Act, the Minister may make regulations—

Regula-
tions.

- (a) prescribing the maximum commission on or the maximum margin of profit in excess of the licensee's maximum permitted price which may be made by any distributor, wholesaler or retailer in respect of the distribution or sale by wholesale or retail in Jamaica of any cement to which such licence relates other than for export; and
- (b) prescribing the books of account which shall be kept by any distributor, wholesaler or retailer who shall sell or distribute cement in Jamaica other than for export at any price in excess of the licensee's permitted price; and

*CEMENT INDUSTRY (ENCOURAGEMENT
AND CONTROL)*

- (c) requiring any such distributor, wholesaler or retailer of cement to make such return in such form at such time and to such authority as may be prescribed of all dealings by him in cement; and
- (d) providing for the production by any such distributor, wholesaler or retailer of cement to such authority as may be prescribed at such time and place as may be required by such authority of such books, invoices, receipts or other documents relating to the distribution, purchase or sale of any cement by him as he may be required by such authority to produce.

(2) Every person who contravenes or fails to comply with any regulation made under this section shall be guilty of an offence against this section and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding fifty dollars or in default of payment of such fine to be imprisoned for any term not exceeding three months.