

THE EXPORT INDUSTRY ENCOURAGEMENT ACT

ARRANGEMENT OF SECTIONS

1. Short title.

PART I. *General*

2. Interpretation.

3. Power of Minister to declare approved export product.

4. Declaration of approved export manufacturers.

5. Applications for approval.

6. Objections to proposals to approve a product.

7. Limitation of powers of Minister to approve manufacturer.

8. Minister to have absolute discretion to refuse approval.

PART II. *Concessions*

9. Concessions.

10. [*Repealed by Act 18 of 1986.*]

11. Application of concessions under Part VI of the Industrial Incentives Act.

12. Production to be in bond: duty free importation of raw materials.

13. Additional relief from customs duty on plant, etc.

PART III. *Miscellaneous*

14. Control of manufacturer by Commissioner.

15. Restriction of sale of product in Jamaica.

16. Penalties.

17. Order under section 4 may be revoked.

18. Regulations.

19. Restriction of application of section 12, 13, 14, 15 or 16.

20. Saving.

PART IV. *Supply of services*

21. Interpretation.

22. Categories of export services.

23. Declaration of approved export service provider.

24. Application for approval.

EXPORT INDUSTRY ENCOURAGEMENT

25. Matters ancillary to declaration of service provider.
26. Concessions.
27. Income tax relief in relation to furnishing of approved export services.
28. Relief from customs duties and general consumption tax.
29. Power of Minister to permit disposal of imported articles.
30. Supervision re duty free importation.
31. Additional relief from customs duty and general consumption tax on plant, etc.

SCHEDULES.

THE EXPORT INDUSTRY ENCOURAGEMENT ACT

[25th October, 1956.]

Laws
49 of 1956,
13 of 1960,
Acts
11 of 1968,
42 of 1969
3rd Sch.,
56 of 1974
Ss. 2, 4, 5,
12 of 1985
Sch.,
18 of 1986,
16 of 1991
S. 64,
5 of 2001.

1. This Act may be cited as the Export Industry Encouragement Act. Short title

PART I. *General*

2. In this Act unless the context otherwise requires— Interpreta-
tion
- “the Agreement” shall have the meaning assigned thereto by section 2 of the Industrial Incentives Act; 56/1974
S. 5
- “approved export product” when not preceded by the word “relevant” means a product of manufacture approved by the Minister under section 3 manufactured by an approved export manufacturer;
- “approved export manufacturer” means a company approved by the Minister under section 4 for the manufacture of an approved export product;
- “benefit” means the relief in regard to income tax or customs duties enjoyed by an approved export manufacturer in virtue of this Act;
- “Commissioner” means the Commissioner of Customs and Excise; 12/1985
Sch
- “company” means any company incorporated or registered under any enactment in force in the Island or any company which, though incorporated or registered outside the Island, carries on business or has an office or place of business therein;
- “custom laws” shall have the same meaning as in the Customs Act;
- “date of production” means the date declared pursuant to subsection (2) of section 4;

“factory” means the site and the buildings and other structures thereon specified as constituting a factory in an order made under section 4;

“Minister” means the Minister responsible for industrial development;

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

Power of
Minister to
declare
approved
export
product
I.N.
149A/78
G.N.
275/80

3. (1) Subject to the provisions of section 6, the Minister may, by order declare that a product of manufacture shall be an approved export product for the purposes of this Act as regards such approved export manufacturers of that product as may be declared by order pursuant to subsection (1) of section 4.

U.S.
149A/78
G.N.
275/80

(1A) The Minister may, by order, declare that a product of manufacture shall be an approved export product for the purposes of this Act as regards such approved export manufacturers of that product as may be declared by order pursuant to subsection (1A) of section 4.

(2) An order may be made under this section in respect of a product which is being manufactured in the Island at the date of the order.

I.N.
149A/78
G.N.
275/80

(3) Subject to subsection (4), the Minister, before making an order under this section in relation to a product of manufacture, 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 manufacture and export of the product.

I.N.
149A/78
G.N.
275/80

(4) The Minister may, by notice published in the *Gazette*, prescribe provisions which shall, in relation to the

making of orders under subsection (1A), have effect in lieu of the provisions of paragraphs (a) and (b) of subsection (3), but nothing in the foregoing provisions of this subsection shall be construed to prevent any of the provisions so prescribed from being the same as all or any of the provisions of those paragraphs.

4.—(1) Subject to the provisions of section 7, the Minister may, by order, declare that a company which is manufacturing, or proposes to manufacture, an approved export product declared under subsection (1) of section 3 is an approved export manufacturer for the purposes of this Act if he is satisfied that the company—

Declaration
of approved
export
manufac-
turers.
L.N.
149A/78
G.N.
275/80

- (a) proposes to manufacture the approved export product exclusively for export from this Island to countries other than those belonging to the Caribbean Common Market;
- (b) is 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.

42/1969
3rd Sch.
56/1974
S. 5.

(1A) Subject to the provisions of section 7, the Minister may, by order, declare that a company which is manufacturing or proposes to manufacture an approved export product declared under subsection (1A) of section 3 is an approved export manufacturer for the purposes of this Act if, in regard to that company, he is satisfied as to the matters for the time being prescribed under subsection (1B) with reference to such a company, but nothing so prescribed shall require the Minister to be satisfied that the company proposes to manufacture the approved export product exclusively for export.

L.N.
149A/78
G.N.
275/80

L.N.
149A/78
G.N.
275/80.

(1B) The Minister may, by notice published in the *Gazette*, prescribe matters as to which the Minister shall, in conformity with subsection (1A), be satisfied before he makes an order thereunder, and different matters may be so prescribed with reference to companies manufacturing, or proposing to manufacture, different approved export products.

L.N.
149A/78
G.N.
275/80.

(1C) Every order which declares that a company is an approved export manufacturer under subsection (1) or (1A) shall specify the order whereby the relevant approved export product has been declared as mentioned in that subsection.

L.N.
149A/78
G.N.
275/80.

(2) In every order made under this section 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 site and the buildings and other structures thereon constituting the factory in respect of which the benefits of this Act may be enjoyed.

(4) If, on the application of an approved export manufacturer, the Minister is satisfied that it is necessary, for the purpose of promoting the manufacture of the approved export product by the approved export manufacturer, that the site of the factory should be changed or that the buildings or other structures 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.

13/1960
S. 2 (b).

(5) On the application of an approved export manufacturer 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 the provisions of 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.

(6) Without prejudice to the generality of subsection (5), the amendment of an order pursuant to that subsection may be made on terms which permit an option exercised in accordance with section 10 of the Industrial Incentives Act to be changed at any time before the date of production as amended, or on terms which require that no such change in the exercise of an option shall be made.

5. All applications for the approval of a product as an approved export product or the approval of a company as an approved export manufacturer shall be addressed to the Minister in such form and with such particulars as may be prescribed.

Applica-
tions for
approval

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

Objections
to proposals
to approve
a product
I. N
149A/78
G N
275/80

(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 subsection (1) of section 3.

Limitation
of powers
of Minister
to approve
manufac-
turer
First Schedule
5/2001
S 2

7. The Minister shall not approve a company as an approved export manufacturer if such company is an enterprise approved, recognized or licensed for the purpose of any of the enactments specified in the First Schedule.

Minister to
have
absolute
discretion
to refuse
approval
56/1974
S 4 (a)

8.—(1) Subject to the provisions of this section and section 7 the Minister shall have an absolute discretion to grant or refuse to grant approval in respect of a product for manufacture as an approved export product or a company as an approved export manufacturer for the purposes of this Act.

(2) If a company which is applying for approval as an approved export manufacturer is, at the time of such application, manufacturing the approved export product in Jamaica, the Minister may, as a condition of his granting the application, require the applicant to incorporate a company in Jamaica, upon such terms and conditions as he may determine, and grant approval in respect of that company when so incorporated.

56/1974
S 4 (b)
18/1986
S 3 (a)

(3) Upon any application for an order to be made under section 4, the Minister shall, in the exercise of his discretion in that behalf—

- (a) take account of the Agreement; and
- (b) consider whether in his opinion, the periods of relief to be granted should be less than the periods of relief prescribed under section 11 and section 13 having regard to the nature of the project envisaged in the application and the economic or other circumstances existing at the time thereof,

and if he makes that order may include therein such terms as, having regard to paragraph (a) or (b), he may consider necessary or expedient for all or any of the following, that is to say—

- (i) restricting, abridging, withholding or stipulating conditions for, any relief that may (apart from this section or otherwise) be granted by virtue of the order; L.N.
149A/78
G.N.
275/80
- (ii) extending any relief, in respect of customs duties, to any specified class of imports required for use in the manufacture of the approved export product in connection with which the order is made;
- (iii) subject to subsection (4), authorizing relief to be afforded indefinitely or for any specified period (whether or not in excess of any period contemplated for concessions under section 11) with regard to income tax on export profits;
- (iv) determining export profits for the purposes of any relief authorized under paragraph (iii);
- (v) providing for any matters appearing to the Minister to be incidental, ancillary or supplementary to, or consequential upon, any such relief as may be afforded pursuant to the order.

(4) No relief shall by the terms of any order made under subsection (1) of section 4 be authorized under paragraph (ii) of subsection (3) for an approved export manufacturer during any period for which that manufacturer is afforded under this Act— L.N.
149A/78
G.N.
275/80

- (a) any relief as to customs duty; or
- (b) any relief from income tax in respect of profits or gains (exclusive of any amount allowable by way of deduction on computing the chargeable income of the said manufacturer), other than sums determinable in accordance with provision made

in relation to such manufacturer under paragraph (iv) of subsection (3).

L.N.
149A/78
G.N.
275/80

(4A) All relief, other than such relief as may be authorized under and pursuant to paragraphs (iii) and (iv) of subsection (3), shall be withheld under paragraph (i) thereof by the terms of any order made under subsection (1A) of section 4, but without prejudice to the inclusion in any such order of terms pursuant to paragraph (i) or (v) of subsection (3) with reference to the relief so authorized.

(5) Any terms included pursuant to this section in any order shall have effect notwithstanding anything to the contrary provided by or under the Customs Act, the Income Tax Act, or the Industrial Incentives Act, exclusive of subsection (2) of section 29 thereof (but without prejudice to the power exercisable under paragraph (i) of subsection (3) of this section, to restrict or withhold relief or to abridge any period of relief), or by or under any other provisions of this Act.

PART II. Concessions

Concessions.
18/1986
S. 4.

9. Subject to the provisions of this Act, an approved export manufacturer shall be entitled to the concessions specified in section 11.

10. *[Repealed by Act 18 of 1986.]*

Application
of concessions
under Part
VI of the
Industrial
Incentives
Act.
11/1968
S. 3.

11.—(1) The concessions obtainable under this section shall, subject to the provisions of this Act, be those reliefs from customs duties and income tax obtainable under the Industrial Incentives Act; and the provisions of that Act shall apply *mutatis mutandis* and with such modifications as may be prescribed to an approved export manufacturer to which this section applies as if such approved export manufacturer were an approved enterprise to which Part VI of the Industrial Incentives Act applied, the relevant approved export product were a new product within the meaning of Part VI of that Act and the factory were the factory premises within the meaning of that Act.

[The inclusion of this page is authorized by L.N. 41/1987]

(2) The date of production for the purposes of this Act shall be deemed to be the date of production for the purposes of the Industrial Incentives Act.

(3) Notwithstanding anything contained in the Industrial Incentives Act, all approved export manufacturers to which this section applies shall be entitled to one hundred *per centum* of the benefits of the Industrial Incentives Act.

(4) The provisions of this section shall have effect subject to anything to the contrary provided by virtue of this Act.

L.N.
149A/78
G.N.
275/80

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

Production to be in bond: duty free importation of raw materials.
12/1985 Sch.

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

12/1985 Sch.

(3) The goods specified in subsection (4) may be deposited in such factory or such part or parts thereof as may be specified by the Commissioner upon first importation without payment thereon of customs or excise duty or general consumption tax.

13/1960 S. 3.
12/1985 Sch.

16/1991 S. 64.

(4) Subsection (3) shall apply to the following goods imported by an approved export manufacturer for use in the manufacture or preparation for export or sale of the relevant approved export product, that is to say—

13/1960 S. 3.

- (a) all types of containers including labels;
- (b) fuel;
- (c) raw materials, chemicals, other ingredients and supplies whether in a manufactured or semi-manufactured state and whether intended to form part of the finished product or not.

Additional relief from customs duty on plant, etc. 12/1985 Sch.

13.—(1) Notwithstanding anything contained in the Industrial Incentives Act, articles may, during the relevant statutory period, be imported free of customs duty if the Commissioner is of opinion that such articles are intended for the purpose of effecting repairs to a factory within the meaning of this Act or any extension thereof or to any apparatus, machinery, tools, appliance or equipment contained in the factory or any extension thereof or for replacing any apparatus, machinery, tools, appliance or equipment in the factory or any extension thereof.

11/1968 S. 3.

(2) For the purposes of this section the relevant statutory period in relation to the factory of any approved export manufacturer to which section 11 applies shall be the period commencing on the date on which any company is declared under section 4 to be an approved export manufacturer in respect of such factory and terminating ten years thereafter.

56/1974 S. 5.
18/1986 S. 7(c).

PART III. *Miscellaneous*

Control of manufacturer by Commissioner. 12/1985 Sch.

14. In addition to complying with the requirements of section 16 of the Industrial Incentives Act, an approved export manufacturer, shall—

- (a) upon being required by the Commissioner to do so, furnish to the Commissioner such information as he may require;
- (b) import, store or otherwise deal with raw materials and any other materials or commodities imported

without payment of customs duty under such conditions as the Commissioner may impose;

12/1985
Sch

- (c) store, export or otherwise deal with the approved export product under such conditions as the Commissioner may impose.

12/1985
Sch

15. No approved export manufacturer shall sell, give away or otherwise dispose of any approved export product for use in Jamaica or in any country belonging to the Caribbean Common Market:

Restriction
of sale of
product in
Jamaica
13/1960
S 4
56/1974
S 5
42/1969
3rd Sch

Provided that nothing in this section shall—

- (a) prevent the sale, gift or other disposition of an approved export product by one approved export manufacturer to another approved export manufacturer, to be used in, wrought into, or attached to, an approved export product;
- (b) prevent any approved export manufacturer approved as such prior to the 30th December, 1974, from selling, giving away or otherwise disposing of an approved export product for use in any country belonging to the Caribbean Common Market, other than Jamaica.

56/1974
S 5

16.—(1) Every approved export manufacturer who fails to comply with any requirement of the Commissioner made under section 14 and every director, manager, agent, officer and servant of the company who is knowingly a party to such failure shall be guilty of an offence and, on summary conviction thereof before a Resident Magistrate, shall be liable to a fine not exceeding fifty thousand dollars and, in default of payment thereof, every such director, manager, agent, officer, or servant shall be liable to be imprisoned for a term not exceeding twelve months.

Penalties
12/1985
Sch

5/2001
S 3

(2) Every person who shall be knowingly concerned in contravening the provisions of section 15 shall be guilty of an offence and on summary conviction thereof before a Resident Magistrate shall incur a penalty of fifty thousand dollars, or treble the value of the approved export product sold for use in Jamaica, at the election of the Commissioner and in default of payment shall be liable to be imprisoned for any term not exceeding twelve months.

5/2001
S 3
12/1985
Sch

Order under
section 4
may be
revoked.

17. On the application of an approved export manufacturer or in such other circumstances as may be prescribed the Minister may revoke the order made under section 4 by which a company became an approved export manufacturer. Upon such revocation nothing in this Act shall prevent the company from being granted any special treatment which may be granted pursuant to any of the enactments specified in the Schedule:

Schedule.

Provided that, notwithstanding anything contained in any of the enactments specified in the Schedule, any special treatment granted under any of those enactments to a company 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

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

- (a) any matters required by this Act to be prescribed;
- (b) the particulars to be furnished by an approved export manufacturer to which section 11 applies;
- (c) the terms and conditions under which an approved export manufacturer may utilize the services of outworkers, that is to say, persons to whom articles or materials are given out to be made up, cleaned,

11/1968
S 5

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;

- (d) the terms and conditions under which an approved export manufacturer may sell or otherwise dispose of genuine wastes arising from the manufacturer of the approved export product;
- (e) the imposition of conditions and restrictions on a company which ceases to be an approved export manufacturer when an order made under section 4 is revoked under the provisions of section 17;
- (f) any matter or thing connected with the construction, supervision or control of a factory used or intended to be used for the manufacturer of an approved export product;
- (g) 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 fifty thousand dollars, or to such term of imprisonment with hard labour not exceeding twelve months, or to both such fine and imprisonment, as may be therein prescribed.

S/2001
S 4

19. Nothing in section 12, 13, 14, 15 or 16 shall have effect as regards an approved export manufacturer declared under subsection (1A) of section 4.

Restriction
of applica-
tion of
section 12,
13, 14, 15
or 16
L N
149A/78
G N
275/80

Saving
L N
149A/78
G N
275/80
(Act 56 of
1974
S 6
Omitted)

20. Any order lawfully made or anything lawfully done by virtue of this Act prior to the 1st day of July, 1976, and which but for the *amendments made to this Act with effect from the said day under section 6 of the Industrial Incentives (Regional Harmonization) Act, 1974, would continue to have effect after the 30th day of June 1976, shall so continue to have effect and shall be treated as having been made or done under this Act as so amended.

PART IV. *Supply of Services*

Interpre-
tation
5/2001
S 6

- 21.—(1) In this Part, unless the context otherwise requires—
- “approved export service” when not preceded by the word “relevant” means service of a type which pursuant to this Part may, on approval by the Minister, be furnished by an approved export service provider with the concessions permitted by this Part;
 - “approved export service provider” or “service provider” means a company approved by the Minister under section 24 for the purposes of this Part;
 - “benefit” means the relief in regard to income tax or customs duties enjoyed by a service provider by virtue of this Part;
 - “export profits” means profits of a service provider directly attributable to the furnishing of an approved export service to clients in a territory other than a country belonging to the Caribbean Common Market;
 - “headquarters” used in relation to a service provider means one or more locations in Jamaica specified by the service provider as the base from which it furnishes approved export services;
 - “relevant approved export service” used in relation to any service provider, means the approved export service in relation to which the service provider has been declared under section 23 to be a service provider;
 - “starting date” means the date declared pursuant to section 23(2).

N B *Vide L N 149A/78, G.N 275/80

(2) No provision made by or pursuant to this Part shall be construed as requiring the Minister to be satisfied that a company proposing to furnish approved export service needs to do so exclusively for export.

22.—(1) Subject to subsection (2), the Second Schedule lists in general terms the categories of services which may be approved for the purpose of this Part.

Categories
of export
services
5/2001
S. 6.
Second
Schedule

(2) The Minister may—

- (a) by order amend the Second Schedule; and
- (b) in granting any approval pursuant to section 23, modify the description of the category of service in such manner and in such detail as he thinks appropriate.

23.—(1) The Minister may, by order, declare that an approved export company which is providing or proposing to provide approved export services is an approved export service provider for the purposes of this Act if he is satisfied that the company—

Declaration
of approved
export
service
provider
5/2001
S 6

- (a) has adequate trained personnel in its employ or is able to obtain the services of such personnel;
- (b) has access to the necessary technical information and facilities to provide the service;
- (c) is adequately financed; and
- (d) whether or not it provides the service to clients in Jamaica, proposes to offer that service to clients in countries other than those belonging to the Caribbean Common Market.

(2) Subject to subsection (5), in every order made under subsection (1) a date shall be declared to be the date on which, consequent on representations made by or on behalf of the applicant, the supply of the approved export services shall be deemed to begin for the purposes of this Part.

(3) Every order made under subsection (1) shall specify the site and the buildings and other structures thereon which shall constitute the headquarters and, where relevant, ancillary facilities in Jamaica in relation to which the benefits of this Part may be enjoyed.

(4) If, on the application of the service provider, the Minister is satisfied that it is necessary, for the purpose of promoting the relevant approved export service, that—

- (a) the site of the headquarters of the service provider should be changed; or
- (b) buildings and other structures specified in any order made pursuant to this section should be altered, added to, extended or otherwise changed,

the Minister may, upon such conditions as he thinks fit, amend the order in respect of the headquarters and, where relevant, ancillary facilities specified therein.

(5) On the application of an approved export service provider the Minister may, upon such conditions as he thinks fit, amend an order made under this section in respect of the starting date specified therein.

(6) Where an order is amended pursuant to subsection (5), the provisions of this Part shall, subject to any conditions specified in relation to such amendment, have effect as if for the starting date declared pursuant to subsection (2) there were substituted the starting date amended as aforesaid.

24.—(1) An application for the approval of a company as an approved export service provider shall be addressed to the Minister in such form and with such particulars as may be prescribed.

(2) The Minister shall not approve a company as an approved export service provider if that company is an enterprise approved, recognized or licensed for the purpose of any of the enactments specified in the First Schedule.

Application
for
approval
5/2001
S 6

First
Schedule

25.—(1) If a company which is applying for approval as an approved export service provider is at the time of the application, providing that service, the Minister may, as a condition of his granting the application, require the applicant to incorporate a company in Jamaica upon such terms and conditions as he may determine, and grant approval of that company when so incorporated.

Matters
ancillary to
declaration
of service
provider
5/2001
S 6

(2) Upon receipt of an application for an order to be made under section 23, the Minister shall, in the exercise of his discretion in that behalf—

- (a) take account of the Agreement; and
- (b) consider whether, in his opinion, the periods of relief to be granted should be less or more than the periods of relief prescribed under sections 27 and 28, having regard to the nature of the project envisaged in the application and the economic or other circumstances existing at the time thereof.

(3) The Minister may include in the order under section 23, such terms as, having regard to paragraph (a) or (b) of subsection (2), he may consider necessary or expedient for all or any of the following, that is to say—

- (a) restricting, abridging, withholding or stipulating conditions for, any relief that may (apart from this section or otherwise) be granted by virtue of the order;
- (b) extending any relief, in respect of customs duties or any general consumption tax, to any specified class of imports required for use in providing the relevant approved export service;
- (c) subject to subsection (4), authorizing relief to be afforded indefinitely or for any specified period (whether or not in excess of any period contemplated for concessions under section 27) with regard to income tax on export profits;
- (d) determining export profits for the purposes of any relief under paragraph (c);

- (e) providing for any matters appearing to the Minister to be incidental, ancillary or supplementary to, or consequential upon, any such relief as may be afforded pursuant to the order.

(4) No relief shall, by the terms of any order made under section 23, be authorized under subsection (3) (c) of this section for a service provider during any period for which that provider is afforded under this Act—

- (a) any relief as to customs duty or general consumption tax;
- (b) any relief from income tax in respect of profits or gains (exclusive of any amount allowable by way of deduction on computing the chargeable income of the service provider), other than sums determinable in accordance with provisions made in relation to such service provider under paragraph (d) of subsection (3).

(5) Any terms including pursuant to this section in any order shall have effect notwithstanding anything to the contrary provided by or under—

- (a) the Customs Act;
- (b) the General Consumption Tax Act;
- (c) the Income Tax Act;
- (d) the Industrial Incentives Act (other than section 29 (2) thereof); or
- (e) subject to subsection (6), any other provisions of this Act.

(6) Subsection (5) shall have effect without prejudice to the power of the Minister pursuant to this Act to restrict or withhold relief or to abridge any period of relief.

Concessions

26. Subject to the provisions of this Part, an approved export service provider shall be entitled to the concessions specified in sections 27 and 28.

27.—(1) An approved export service provider shall, subject to the provisions of subsection (2), be entitled to the following relief from income tax, that to say—

Income tax relief in relation to furnishing of approved export services
5/2001
S 6

- (a) relief in respect of profits or gains earned from the furnishing of the relevant approved export service, for a period of ten years from the starting date applicable to that service provider;
- (b) where relevant annual allowances may be made with respect to any period prior to the commencement of the period of ten years referred to in paragraph (a), those annual allowances may be made in respect of that prior period;
- (c) annual allowances shall be made during that period of ten years but a notional depreciation of assets shall be made at the approved rates within the meaning of the Income Tax Act;
- (d) after the expiration of the period of ten years—
 - (i) annual allowances may be made upon the original cost of the assets less the notional depreciation for which provision is made in paragraph (c); and
 - (ii) the service provider may, for the purpose of assessment of income tax, carry forward in respect of the next succeeding six years of assessment, losses incurred during the period of ten years aforesaid which have not been written off.

(2) An approved service provider may, at any time during the period of ten years referred to in subsection (1), surrender the right to benefit in regard to income tax and elect to be assessed for income tax thereafter under the Income Tax Act.

28.—(1) An approved export service provider shall be entitled, upon production of the prescribed documents to the proper Customs Officer, to import into the Island any of the articles specified in the Third Schedule with such relief from customs duty and general consumption tax as may be prescribed.

Relief from customs duties and general consumption tax
5/2001
S 6
Third Schedule

(2) Subject to the provisions of section 29, where articles have been imported into the Island pursuant to this section such articles shall not be sold, exchanged, given away, exported from the Island or applied for any purpose other than use in connection with the approved export service.

(3) Every person who contravenes subsection (2) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Power of
Minister
to permit
disposal of
imported
articles
5/2001
S 6

29.—(1) Where the Minister is satisfied that any articles which have been imported into the Island under section 28 are no longer required for the purpose for which they were imported he may grant a permit to the service provider to dispose of such articles in such manner as the Minister may specify.

(2) No permit shall be granted under subsection (1) until the service provider has paid to the Commissioner of Customs or has given security to that Commissioner as assurance that it will so pay all sums which, but for exemption given in section 28, would, have been payable by way of customs duties and general consumption tax upon the importation of those articles.

Supervision
re duty
free im-
portation
5/2001
S 6

30.—(1) Every headquarters in which an approved service provider carries on an approved export service shall be under the supervision of the Commission and no such headquarters shall be used for the purposes of the approved export service until a bond, in such sum as may from time to time in each case be required by the Commissioner, is given by a reputable financial institution with one or more sufficient sureties, conditioned on due payment of all duties and tax and the due observance of the provisions of this Act and the customs laws.

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

(3) The goods prescribed pursuant to subsection (4) may be deposited in such headquarters or such part or parts thereof as may be specified by the Commissioner upon first importation without payment thereon of customs, or excise duty or general consumption tax.

(4) Subsection (3) shall apply to such goods as may be prescribed which are imported by a service provider for use in the provision of the relevant approved export service.

31.—(1) Articles may, during the relevant statutory period, be imported by a service provider free of customs duty and general consumption tax if the Commissioner is of the opinion that such articles are intended for the purpose of—

(a) effecting repairs to—

- (i) the headquarters or any extension thereof; or
- (ii) any apparatus, machinery, tools, appliance or equipment contained therein; or
- (iii) any extension thereof; or

(b) replacing any apparatus, machinery, tools, appliance or equipment in the headquarters or any extension thereof.

(2) For the purposes of this section the “relevant statutory period” in relation to any headquarters shall be the period commencing on the date on which the company is declared under section 23 to be an approved export service provider in respect of such headquarters and terminating ten years thereafter.

Additional relief from customs duty and general consumption tax on plant, etc. 5/2001 S 6

FIRST SCHEDULE

(Sections 7 and 24) 5/2001
Sch

The Hotels (Incentives) Act.
 The Motion Picture Industry (Encouragement) Act
 The Industrial Incentives Act

SECOND SCHEDULE

(Section 22) 5/2001
Sch*Designated Services for Purposes of Part IV*

1 Infrastructural services, i.e., which constitute the basic infrastructure on which other services are developed and traded

These include:

- (a) The transport services—both air and marine.
 - (b) Transport maintenance services such as dry-docking and aircraft maintenance;
 - (c) Communication including telematics or satellite or other forms of high speed transmission such as computer, radio or television;
 - (d) Information processing, including data entry, software programming, telemarketing, reservation services, credit verification, architectural design, computer aided design, desk-top publishing and type-setting.
- 2 Financial services, including banking, insurance, re-insurance, accountancy, leasing and brokerage.
- 3 Technical and professional services, including—
- (a) quality control;
 - (b) construction,
 - (c) engineering architectural design;
 - (d) consultancy services;
 - (e) management services;
 - (f) advisory services;
 - (g) international marketing;
 - (h) legal services,
 - (i) medical services, including geriatric and hospice services,
 - (j) printing and publishing;
 - (k) educational services;
 - (l) public relations,
 - (m) advertising services,
 - (n) graphic design, and
 - (o) cultural services

THIRD SCHEDULE

(Section 28)

5/2001
Sch

All building materials, tools, plant, machinery, pipes, pumps, conveyor belts or other appliances or materials necessary for and used in construction, alteration and extension of the headquarters specified in an order made under section 23 or for equipping such headquarters or any extension thereof used or intended to be used for the furnishing of the approved export service by the service provider.