

JAMAICA

No. 6 – 2013

I assent,

[L.S.]

(sgd.) P. L. Allen
Governor-General.

21st day of March, 2013

AN ACT to Validate acts done in good faith during the period commencing 1st January, 1999 and ending on the date of coming into operation of this Act in relation to the investment, realization, withdrawal and utilization of a portion of such sums and other income from the assets of the Capital Development Fund established by the Bauxite (Production Levy) Act for the purposes of satisfying the financial obligations of the Government; to indemnify the Government of Jamaica and persons from liability in relation thereto; and for connected matters.

WHEREAS pursuant to section 3 of the Bauxite (Production Levy) Act (hereinafter called the Act) a tax known as a production levy shall be paid on all bauxite or laterite extracted or won in Jamaica on or after the 1st day of January, 1974:

AND WHEREAS there is established under section 12(1) of the Act a fund to be known as the Capital Development Fund (hereinafter called the Fund):

AND WHEREAS section 12(2) provides that, subject to the provisions of the Act, any moneys and securities forming part of the Fund shall be held by the commercial bank approved pursuant to section 3(3) of the Act:

AND WHEREAS, pursuant to section 12(3), all sums received as payment of the production levy under the Act and all other income from the assets of the Fund shall be paid into the Fund:

AND WHEREAS under section 12(4), any moneys and investments forming part of the Fund may from time to time be invested or realized, as the case may be, in accordance with the directions of the Minister:

AND WHEREAS pursuant to section 12(5), the Minister may from time to time by order direct that such sum as shall be specified in the order shall be drawn from the fund for such purposes and subject to such conditions as shall be so specified:

AND WHEREAS pursuant to section 12(6), every order made under subsection (5) shall be subject to affirmative resolution of the House of Representatives:

AND WHEREAS the Fund, although operated in good faith, was nevertheless inadvertently operated from time to time in contravention of section 12 of the Act, by virtue of the failure to pay sums received as payment of production levy under the Act and other income from the assets of the Fund into the Fund and the investment, realization, withdrawal and utilization of sums from the Fund without adherence to the procedure set out in section 12:

AND WHEREAS it is desirable to validate and confirm as lawful, in respect of the period commencing 1st January, 1999 and ending on the date of the coming into operation of this Act, the following

acts carried out in good faith and inadvertently as to their being unlawful, namely—

- (a) the failure to pay all sums received as payment of the production levy under the Act and all other income from the assets of the Fund into the Fund;
- (b) the investment and realization of such sums and income otherwise than in accordance with the requirements of the Act; and
- (c) the subsequent withdrawal and utilization of such sums and other income from the assets of the Fund for the purpose of satisfying the financial obligations of the Government:

[22nd day of March, 2013]

NOW, THEREFORE, BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Bauxite (Production Levy) (Validation and Indemnity) Act, 2013. Short title.

2.—(1) Notwithstanding section 12 of the Bauxite (Production Levy) Act and anything to the contrary in any other enactment— Validation and indemnity.

- (a) the failure to pay all sums received as payment of the production levy under the Act and all other income from the assets of the Capital Development Fund into the Fund;
- (b) the investment and realization of such sums and income otherwise than in accordance with the requirements of the Act;
- (c) the subsequent withdrawal and utilization of a portion of such sums and other income from the assets of the Fund by the Government for the purposes of satisfying the financial obligations of the Government,

in good faith, from time to time, and inadvertently as to their being unlawful, during the period commencing 1st January, 1999 and ending on the date of the coming into operation of this Act, are hereby declared to have been validly, properly and lawfully done to all intents and purposes and with effect as if authorized pursuant to that Act.

(2) The Government of Jamaica and every person liable to be legally proceeded against on the ground that any of the acts referred to in subsection (1) was unauthorized, unlawfully made, or otherwise illegal or improper, for any such reason and who acted in good faith and inadvertently as to those acts being unlawful, are hereby freed, acquitted, discharged and indemnified as well against the Queen's Most Excellent Majesty, Her Heirs and Successors as well as against all persons whatever, from such liability.

Passed in the House of Representatives this 19th day of February, 2013.

MICHAEL A. PEART
Speaker.

Passed in the Senate this 1st day of March, 2013.

STANLEY ST. J. REDWOOD
President.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

/s/gd./ H. E. Cooke
Clerk to the Houses of Parliament.