CERTIFICATE

In accordance with section 56(2) of the Jamaica (Constitution) Order in Council, 1962, I HEREBY CERTIFY that this Bill shortly entitled, "The Income Tax (Amendment) Act, 2008", is a Money Bill.

MARISA DALRYMPLE-PHILIBERT
Deputy Speaker.

JAMAICA

No. 1 –2008

I assent,

[L.S.]

(Sgd.) Kenneth O. Hall
Governor-General
3rd March, 2008

AN ACT to Amend the Income Tax Act.

[4th March, 2008]

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:—

Short title and commencement

1. This Act may be cited as the Income Tax (Amendment) Act, 2008, and shall be read and construed as one with the Income Tax Act (hereinafter referred to as the principal Act) and all amendments thereto and shall be deemed to have come into operation on the 1st day of March, 2005.

Amendment of section 2 of principal Act

2. Subsection (1) of section 2 of the principal Act is amended—

(a) in the definition of "approved retirement scheme", by inserting immediately after the words "a retirement scheme" the words "registered under the Pensions (Superannuation Funds and Retirement Schemes) Act, and";

(b) by deleting the definition of "approved superannuation fund" and substituting therefor the following—

"approved superannuation fund" means a superannuation fund registered under the Pensions (Superannuation Funds and Retirement Schemes) Act and approved by the Commissioner under this Act;";

(c) by deleting the definition of "beneficiary" and substituting therefor the following—

"beneficiary", in relation to an approved superannuation fund or approved retirement scheme, means—

(a) the person designated by a participant in the fund or scheme to benefit from his entitlement in the fund or scheme;

(b) the person who has a beneficial interest in the fund or scheme under the last will and testament of a participant in the fund or scheme; or

(c) a person who has a beneficial interest in the fund or scheme under any enactment;"; and

(d) by inserting in the appropriate alphabetical sequence the following definitions—

" "deferred pensioner" means a member of a fund or scheme who has ceased being an active member of the fund or scheme, but is entitled to receive a pension at a future date from the fund or scheme;

"participant", in relation to an approved superannuation fund or approved retirement scheme, means a person who is an active member, deferred pensioner or pensioner;

"remuneration" in relation to an employed person means all salaries, wages, fees, commissions and allowances paid to the person;

"spouse" includes—

(a) a single woman who has lived and cohabited with a single man as if she were in law his wife for a period of not less than five years immediately preceding the date of his death; and

(b) a single man who has lived and cohabited with a single woman as if he were in law her husband for a period of not less than five years immediately preceding the date of her death;".

3. Subsection (1) of section 13 of the principal Act is amended— Amendment of section 13 of principal Act.

(a) in paragraph (i), by deleting the semicolon appearing at the end of the second proviso and substituting therefor a colon and inserting next thereafter the following—

" Provided further that from and after the coming into operation of the Income Tax (Amendment) Act, 2008—

(A) an employee's contribution in any year of assessment shall not exceed 10% of his annual remuneration; and

(B) an employer's contribution in any year of assessment as respects an employee shall not exceed 10% of that employee's annual remuneration,

so, however, that where the employer contributes less than 10% of an employee's annual remuneration, the employee may contribute the difference between the employer's actual contribution and the maximum contribution payable by the employer;"; and

(b) in paragraph (u), by deleting from the proviso thereto all the words appearing after the word "than", and substituting therefor the words "20 per cent of the chargeable income of the contributor nor more than 20 per cent of the emoluments of an employee (inclusive of the employer's contribution, if any) shall be allowed as a deduction".

Amendment of section 44 of principal Act

4. Section 44 of the principal Act is amended—

(a) in subsection (2)—

(i) by inserting immediately after the word "Act," the words "which is registered under the Pensions (Superannuation Funds and Retirement Schemes) Act,";

(ii) by deleting paragraph (b) and substituting therefor the following—

"(b) the fund has, for its principal purpose, the provision of lump sums, pensions and annuities for its members, and in the case of—

(i) lump sums, an amount not exceeding the commuted value of one-quarter of the accrued pension up to a maximum of twelve and one-half times one-quarter of the annual pension before commutation; and

(ii) pensions and annuities—

(A) an amount not exceeding seventy-five per cent of the remuneration of an employee at the date of his retirement at a specified age after a period of not less than thirty-seven and one-half years of service or on becoming incapacitated at an earlier age; or

(B) a proportionate percentage in respect of a shorter period of service,

for all or any of the following persons in the events respectively specified, that is to say, persons employed in the trade or undertaking, either at a specified age or on becoming incapacitated at some earlier age, and the spouses, children or dependents or legal personal representatives of employees, on the death of such employees; or

(iii) lump sum payments on the death of a member (to the spouse, children or dependents or personal representative of the deceased member) an amount not exceeding two years' remuneration or the employee's actuarial value of the interest in the fund, whichever is greater;"; and

(iii) by deleting paragraphs (ii) and (iv) of the proviso and substituting for paragraph (iv) the following—

"(iv) notwithstanding that the fund makes provision for pensions and annuities, the employer may increase the post-retirement benefit of a pensioner member; however, the increase shall not exceed the annual changes in the Consumer Price Index.";

(b) by deleting subsection (7) and substituting therefor the following—

" (7) Where the Commissioner refuses, withdraws or qualifies approval of a superannuation fund under this section, an appeal from the decision of the Commissioner of Taxpayer Appeals shall lie, within 60 days, to the Revenue Court and the decision of that Court shall be final."; and

(c) in subsection (9)—

(i) by inserting immediately after the words "he may" the words ", after consultation with the financial Services Commission under the Pensions (Superannuation Funds and Retirement Schemes) Act"; and

(ii) by deleting all the words appearing after the words "in such a winding up".

5. Section 44A of the principal Act is amended— Amendment of section 44A of principal Act.

(a) in subsection (4), by deleting the words "not exceeding one hundred and fifty thousand dollars,"; and

(b) by deleting subsection (4A).

6. Subsection (1) of section 99 of the principal Act is amended by deleting the words "one hundred" and substituting therefor the words "one hundred thousand". Amendment of section 99 of principal Act.

7. The Fourth Schedule to the principal Act is amended— Amendment of Fourth Schedule to principal Act.

(a) in paragraph 1, in the definition of "retiring benefits"—

(i) by deleting clause (b) and substituting therefor the following—

"(b) lump sums not exceeding the commuted value of one-quarter of the value of the member's account at the date of retirement or twelve and one-half times one-quarter of the annual pension before commutation, whichever is higher;"; and

(ii) by inserting immediately after the word "dependents" the words, "so, however, that in the case of payments to a spouse, children, dependents or legal personal representatives, the lump sum payments shall not exceed two years' remuneration of the employee or two years' chargeable income of the self-employed contributor or the actuarial value of the member's interest in the scheme, whichever is greater";

(b) in paragraph 2, by deleting from clause (a) of sub-paragraph (1) the word "pensions" and substituting therefor the word "persons"; and

(c) by deleting sub-paragraph (4) of paragraph 3 and substituting therefor the following—

" (4) Where the Commissioner refuses, withdraws or qualifies approval of a retirement scheme under this paragraph, an appeal from the decision of the Commissioner of Taxpayer Appeals shall lie, within 60 days, to the Revenue Court and the decision of that Court shall be final.".

Amendment of Income Tax (Superannuation Funds) Rules, 1955.

8. The Income Tax (Superannuation Funds) Rules, 1955, are amended—

(a) in rule 2, by deleting the definition of "approved superannuation fund" and substituting therefor the following—

" "approved superannuation fund" means a superannuation fund registered under the Pensions (Superannuation Funds and Retirement Schemes) Act and approved by the Commissioner under the Income Tax Act;"; and

(b) in the Schedule—

(i) by deleting from paragraph 3 the words "sole purpose" and substituting therefor the words "principal purpose";

(ii) by deleting from paragraph 6 the word "fifteen" and substituting therefor the word "ten" and by deleting all the words appearing after the words "current remuneration";

(iii) by deleting paragraph 7 and substituting therefor the following—

" 7.—(1) The maximum pension or annuities payable shall not exceed—

(a) seventy-five per cent of the remuneration of the employee at the date of his retirement after a period of not less than thirty-seven and one-half years of service or on becoming incapacitated at an earlier stage; or

(b) a proportionate percentage in respect of a shorter period of service.

(2) Where payment of a lump sum is made on retirement, such lump sum shall be an amount not exceeding the commuted value of one-quarter of the accrued pension up to a maximum of twelve and one-half times one-quarter of the annual pension before commutation.";

(iv) by deleting from paragraph 10 the words "twenty-five years"; and substituting therefor the words "thirty-seven and one-half years"; and

(v) in paragraph 11, by inserting immediately after the words "paid to the employee" the words "until the age of retirement".

Amendment of Income Tax (Approved Retirement Schemes) Rules, 1988.

9. The Income Tax (Approved Retirement Schemes) Rules, 1988, are amended—

(a) in rule 2—

(i) in the definition of "approved retirement scheme", by inserting immediately after the words "a retirement scheme" the words "registered under the Pensions (Superannuation Funds and Retirement Schemes) Act"; and

(ii) in the definition of "ordinary annual contribution", by inserting immediately after the words "reference to the" the words "remuneration or";

(b) by deleting rule 14 and substituting therefor the following—

"14. Where a person is a member of one or more approved retirement schemes, the aggregate amount of contributions in respect of which relief from income tax may be granted shall not exceed twenty per cent of the chargeable income of the contributor or twenty per cent of the emoluments of an employee (inclusive of the employer's contribution if any)."; and

(c) in the Schedule—

(i) by deleting from paragraph 2 the words "sole purpose" and substituting therefor the words "principal purpose"; and

(ii) by deleting paragraph 4.".

Passed in the House of Representatives this 15th day of January, 2008.

MARISA DALRYMPLE-PHILIBERT
Deputy Speaker.

Passed in the Senate this 15th day of February, 2008.

OSWALD D. HARDING
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.

Clerk to the Houses of Parliament.