

THE INDUSTRIAL INCENTIVES (FACTORY CONSTRUCTION)
ACT

REGULATIONS
(under section 16)

THE INDUSTRIAL INCENTIVES (FACTORY CONSTRUCTION) REGULATIONS,
1962

(Made by the Minister on the 11th day of January, 1962)

L.N. 7/62

1. These Regulations may be cited as the Industrial Incentives (Factory Construction) Regulations, 1962.

2. Every company desiring a licence in respect of the construction of a factory under the Act shall make an application in triplicate in the Form A of the Schedule.

Schedule.
Form A.

3. Every application for a licence in respect of the construction of a factory shall be accompanied by—

- (a) a certified copy of the agreement entered into by the applicant with the recognized enterprise concerned for the lease of the factory for a period of at least five years;
- (b) a statement of the nature and extent of any interest held in the recognized enterprise by the company applying for the licence and of the nature and extent of any interest held by the recognized enterprise in the company applying for the licence;
- (c) a statement that neither beneficially nor as trustee do the recognized enterprise or shareholders in the recognized enterprise hold in the aggregate whether jointly or otherwise, more than 10 per cent of the share capital or of the voting rights of the approved builder and a statement that neither beneficially nor as trustee do the approved builder or shareholders of the approved builder hold in the aggregate jointly or otherwise more than 10 per cent of the share capital or the voting rights of the recognized enterprise;
- (d) a statement that the Articles of Association of the approved builder empowers the directors to refuse to approve the sale

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and transfer of the shares of the company to the recognized enterprise;

- (e) a statement that the Articles of Association of the approved builder prohibits the acquisition of shares without the prior approval of the approved builder by shareholders of the approved builder in the recognized enterprise and that the Articles of Association of the approved builder empowers the directors of the company to forfeit shares of any shareholder who contravenes this provision.

Form B.

4. Every licence granted by the Minister shall be in the Form B of the Schedule.

5. Every licence on being granted by the Minister shall be accompanied by a schedule of those articles, if any, for factory construction relating to which, prior to the grant of the licence, the Minister had, in accordance with subsection (2) of section 8 of the Act notified the Commissioner of Customs and Excise that the provisions of subsection (1) of section 8 of the Act should not apply or if there has been no such notification a statement to that effect.

Form C.

6. Where a factory in relation to which a licence is granted under regulation 5 is sold by the approved builder, the approved builder shall surrender the licence to the Minister forthwith, and except where the purchase of the factory is not a company or is a recognized enterprise or is a manufacturer acquiring the factory for use in his business, the Minister shall endorse the licence transferring it to such purchaser in the manner set forth in Form C of the Schedule and shall thereupon transmit the licence to the said purchaser.

Form D.

7. An approved builder desiring to dispose of articles for factory construction which have been imported into the Island and are no longer required for the purpose of constructing the factory in respect of which the licence was granted, shall make application to the Minister for a permit in the Form D of the Schedule.

8. Every application for a permit under regulation 7 must be accompanied by proof that the approved builder has paid to the Commissioner of Customs and Excise or has given security to his satisfaction that it will so pay all sums which but for the exemption given in section 8 of the Act would have been payable by way of customs duties upon the importation of such articles for factory construction.

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9. Every permit granted by the Minister for the disposal of articles for factory construction shall be in the Form E of the Schedule. Form E.

10. A half-yearly return shall be submitted by every approved builder to the Minister in the Form F of the Schedule during the months of January and July in each year, the particulars thereon shall relate to the position as at the end of the preceding month. The Minister may appoint any person or persons to verify such returns from the books or records of the approved builder and such person or persons shall on proof that he or they are authorized for the purpose be given such access to such books and records as is necessary to enable him or them to do so. Form F.

An approved builder which fails to comply with the provisions of this regulation shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding six hundred dollars:

Provided, however, that an approved builder shall not be prosecuted under this regulation unless after the date of the default complained of it is served with not less than 30 days' notice requiring it to comply with the requirements of this regulation and it fails to do so.

11. An approved builder desiring to sell a factory under paragraph (b) or (c) of subsection (2) of section 4 of the Act shall make application to the Minister for permission to make such sale and such application shall be in the Form G of the Schedule. Form G.

12. Any person who wilfully makes any false or misleading statement in any application or statement made or record kept under these Regulations shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred dollars.

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SCHEDULE

FORM A

(Regulation 2)

THE INDUSTRIAL INCENTIVES (FACTORY CONSTRUCTION) REGULATIONS, 1962

Application for a Licence in respect of the Construction of a Factory

TO: THE MINISTER OF INDUSTRY,
KINGSTON, JAMAICA.

We,....., a company duly
Name of company
incorporated under the laws of.....with registered
office at....., hereby apply for a licence
in respect of the construction of a factory to be located at.....
.....for....., a
Name of recognized enterprise
recognized enterprise operating under.....
Name of Act

Attached is a certified copy of the agreement entered into by us with the recognized enterprise for the lease of the factory together with a declaration by a director and the secretary that this agreement has been entered into between the parties acting at arm's length.

2. We also submit the following particulars—

A. Particulars relating to applicant

1. Date and Place of Incorporation.....
.....;

2. Capital Structure.....

3. List of Shareholders as at date of this application—

<u>Name</u>	<u>Address</u>	<u>Shareholding</u>
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(Use additional sheet, if necessary)

4. List of Directors and Officers—

<u>Name</u>	<u>Address</u>	<u>Office</u>
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5. Schedule of Factories already built by applicant under licence issued under the Act.

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SCHEDULE, *contd.*
FORM A, *contd.*

<u>Date</u>	<u>Date</u>			
<u>Authorized</u>	<u>Location</u>	<u>Completed</u>	<u>Tenant</u>	<u>Cost Remarks</u>

B. Particulars relating to recognized enterprise

- (a) Name.....
- (b) Address.....
- (c) Parent company (if any).....
- (d) Product(s) to be manufactured.....
- (e) Date and place of Incorporation.....
- (f) Shareholders:
- (g) Management:

C. Particulars of Factory to be erected.

- (a) Location.....
 - (b) Area of Land.....acres— Est. Cost \$
 - (c) Area of Building—Work space sq. ft.
 - Welfare " " " "
 - Office " " " "
- | | | | | | |
|--------------|--|-----|-----|---|----|
| Total | | sq. | ft. | „ | \$ |
|--------------|--|-----|-----|---|----|

- (d) Special Features
- | | |
|-------|----|
| „ | \$ |
| _____ | \$ |

D. General Remarks:

3. We declare that to the best of our knowledge, information and belief the particulars furnished herein are true and correct.

.....
Name of Applicant

By.....

Date.....

_____ Title

FORM B (Regulation 4)

LICENCE NO.....

THE INDUSTRIAL INCENTIVES (FACTORY CONSTRUCTION) REGULATIONS, 1962

Licence in respect of Construction of a Factory

....., a company duly incorporated

Name of approved builder

under the laws of.....with registered office at

.....is pursuant to an application made by the

[The inclusion of this page is authorized by L.N. 154/1986]

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SCHEDULE, *contd.*

FORM B, *contd.*

said company and dated.....hereby licensed as an approved builder in respect of the construction of a factory to be located at

.....for lease to.....

.....a recognized enterprise
name of recognized enterprise

operating under.....
name of Act.

2. This Licence is granted subject to the following conditions, that is to say—

(a) The approved builder shall retain ownership of the factory during the relevant statutory period as defined in section 2 of the Act unless at some time during that period the approved builder—

- (i) sells the factory to the recognized enterprise; or
- (ii) with my approval sells the factory to a company to which upon the sale being effected the provisions of subsection (1) of section 5 of the Act will apply; or
- (iii) with my approval and subject to such terms as I may then specify sells the factory to some persons other than a recognized enterprise or a company referred to in sub-paragraph (ii).

(b) The approved builder shall be entitled to import free of all customs duty articles for factory construction and shall upon being required to do so by the Commissioner of Customs and Excise—

- (i) keep such record in such form and containing such particulars as may be required by the Commissioner of Customs and Excise of the movement and disposal of the articles so imported by him; and
- (ii) render to the Commissioner of Customs and Excise from time to time a return in such form and containing such particulars as may be required by the Commissioner of Customs and Excise of the movement and disposal of such articles; and
- (iii) permit the Commissioner of Customs and Excise or any person authorized by him at all reasonable times to inspect such record and to have access to any premises under the approved builder's control for the purpose of examining any such articles which the Commissioner of Customs and Excise may believe to be therein and of satisfying himself of the accuracy of the particulars in relation to such articles contained in such record.

(c) The approved builder or the recognized enterprise as the case may be, shall not by itself or by its members, or both hold, at any time during the relevant statutory period, shares in the company of the other nor enjoy voting rights therein which in the aggregate exceed ten *per centum* of the share capital or the total voting rights respectively of that company:

Provided however that this condition shall not apply to any Government Ministry, department, agency or statutory board or corporation in this Island.

(d) The approved builder shall submit to me a return in the form set out in Form F of this Schedule, such return to reach me not later than the 31st day of January and 31st day of July, respectively, in each year.

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SCHEDULE, *contd.*

FORM B, *contd.*

Other Conditions

Kingston, Jamaica.

.....
Date

Minister of Industry.

Attached is the statement/schedule required under regulation 5 of the Industrial Incentives (Factory Construction) Regulations, 1962.

FORM C

(Regulation 6)

THE INDUSTRIAL INCENTIVES (FACTORY CONSTRUCTION) REGULATIONS, 1962
Endorsement of Transfer of Licence

This licence is hereby transferred to.....
Name of company

with registered office at.....with effect
from the.....day of.....19.....

KINGSTON, JAMAICA.

.....
Date

Minister of Industry.

FORM D

(Regulation 7)

THE INDUSTRIAL INCENTIVES (FACTORY CONSTRUCTION) REGULATIONS, 1962

Application for Permit to dispose of Articles for Factory Construction

TO: THE MINISTER OF INDUSTRY,
KINGSTON, JAMAICA.

We,....., holders of Licence No.

.....dated.....in respect of the
construction of a factory at.....for.....
hereby apply for a permit to dispose of the undermentioned article(s) for
factory construction which was/were imported free of customs duties for
the construction of the said factory and which is/are no longer required for
the construction of the said factory—

Description of article(s)

Quantity

2. We enclose proof that we

*have paid to the Commissioner of Customs and Excise

have given security to the Commissioner of Customs and Excise that we will
pay

(*Strike out words which do not apply)

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SCHEDULE, *contd.*

FORM D, *contd.*

all sums which but for the exemption given in section 8 of the Industrial Incentives (Factory Construction) Act, would have been payable by way of customs duties upon the importation of this/these article (s).

3. We intend to dispose of the article(s) in the following manner—

.....
Name of Applicant

By.....
Title

Date

FORM E

(Regulation 9)

THE INDUSTRIAL INCENTIVES (FACTORY CONSTRUCTION) REGULATIONS, 1962
Permit to dispose of Articles for Factory Construction

....., is hereby permitted to dispose
Name of Approved Builder

of the following article(s) for factory construction which was/were imported free of customs duties for the construction of a factory at.....

.....and which I am satisfied is/are no longer required for the purpose of constructing the said factory.

*Description of
Article(s)*

Quantity

2. The article(s) shall be disposed of in the following manner—

Minister of Industry.

Kingston, Jamaica

.....
Date

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FORM F

(Regulation 10)

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Return by approved builder for half-year ended _____

TO: THE MINISTER OF INDUSTRY,
KINGSTON, JAMAICA.

The following is a schedule giving details of factories authorized under the Industrial Incentives (Factory Construction) Act, and owned by this company as at.....19.....

Licence No.	Date Authorized	Location	Date completed or expected to be completed	Tenant (Recognized Enterprise)	Cost	Annual Rental	Date of Commencement of Lease	Remarks

.....
Approved Builder

By.....
Title

Date.....

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SCHEDULE, *contd.*

FORM G

(Regulation 11)

THE INDUSTRIAL INCENTIVES (FACTORY CONSTRUCTION) REGULATIONS, 1962
Application for Permission to Sell a Factory

TO: THE MINISTER OF INDUSTRY,
KINGSTON, JAMAICA.

We....., holders of
Name of Approved Builder

Licence No.....dated.....in respect of
the construction of a factory at.....hereby apply
for permission to sell the said factory to.....
of.....

2. We submit hereunder particulars relating to the proposed sale:

A. *Particulars of Factory*

1. Cost of factory to be sold—

(a) Area of land.....acres—Estimated Cost \$.....

(b) Area of building—Work space.....sq. ft.

Welfare „ „ „

Office „ „ „

Total „ „ \$

2. Proposed Selling price of Factory.....\$.....

3. Unexpired portion of the relevant statutory period as defined in the Act
(state dates)

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SCHEDULE, *contd.*

FORM G, *contd.*

B. Particulars of Proposed Purchaser:

1. Name of Proposed Purchaser.....
2. Registered Office.....
3. Date and Place of Incorporation.....
4. Capital Structure

	<u>Authorized</u>	<u>Issued</u>	<u>Remarks</u>
—Ordinary Shares			
—Preferred Shares			
—Debentures			
—Loans—Other			
Total Capital			

5. List of Shareholders as at date of this application:

<u>Name</u>	<u>Address</u>	<u>Shareholding</u>
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(Use additional sheet, if necessary)

6. List of Directors and Officers:

<u>Name</u>	<u>Address</u>	<u>Office</u>
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7. Schedule of factories currently owned or leased by prospective purchaser under licence issued under the Act.

<u>Date</u> <u>Authorized</u>	<u>Location</u>	<u>Date</u> <u>Completed</u>	<u>Tenant</u>	<u>Cost</u>	<u>Remarks</u>
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C. Particulars relating to recognized enterprise to which this factory will be leased after proposed sale:

- (a) Name.....
- (b) Address.....
- (c) Parent company (if any).....
- (d) Product(s) to be manufactured.....
- (e) Date and Place of Incorporation.....
- (f) Shareholders.....
- (g) Management:

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SCHEDULE, *contd.*

FORM G, *contd.*

D. Details of Lease (if any) after proposed Sale:

- (a) Tenure
- (b) Basic rent
- (c) Who is to pay Insurance
 - " " " " Local Taxes/Rates
 - " " " " Water Rates
- (d) Copy of proposed Lease is attached.

8. General Remarks:

.....
By

Date.....