



TRINIDAD AND TOBAGO

No. 41—1951

[L.S.]

I ASSENT,

H. E. RANCE

*Governor.*

30th November, 1951.

AN ORDINANCE to provide for the establishment and development of a cement industry in the Colony.

[1st December, 1951.]

**E** NACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

Commence-  
ment

Enactment.

1. This Ordinance may be cited as the Cement Industry (Development) Ordinance, 1951.

Short title

## Interpretation

## 2. In this Ordinance—

“cement” includes all types of cement and cement clinker;

“standard cement” means ordinary Portland cement of a quality not less than the British Standard Specification;

“the Pioneer Industries Ordinance” means the Aid to Pioneer Industries Ordinance, 1950, as amended by the Aid to Pioneer Industries (Amendment) Ordinance, 1950;

“ton” means a weight of two thousand two hundred and forty pounds.

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Governor in Council may apply provisions of Ordinance to cement manufacturers

3. (1) The Governor in Council, on the application of any person who is prepared to erect in the Colony a factory capable of producing in any year of normal operation not less than fifty thousand tons of standard cement, if he shall deem it expedient in the public interest and for the furtherance of the economic development of the Colony so to do, may make an order in favour of such person applying the provisions of this Ordinance to such person and thereupon such person shall be entitled to receive the benefits of the concessions for which provision is hereinafter made.

(2) Every application under subsection (1) of this section shall be in writing and shall specify—

(a) the locality in which it is proposed to erect the cement factory in respect of which the application is made;

(b) the date on or before which it is intended to commence to construct the factory;

(c) the date on or before which it is anticipated that the factory will commence to manufacture cement in marketable quantities;

(d) the anticipated output of cement; and

(e) the number of persons proposed to be employed.

Manufacture of cement deemed to be a pioneer industry, and cement a pioneer product, for purposes of the Aid to Pioneer Industries Ordinance

4. Notwithstanding anything contained in the Pioneer Industries Ordinance, the manufacture of cement shall be deemed to be a pioneer industry and cement a pioneer product within the meaning and for the purposes of the said Ordinance as though the provisions of section 3 of the said Ordinance had been complied with.

5. Notwithstanding anything contained in any other law, upon the making of an order under section 3 of this Ordinance—

Effect of Order  
made under  
section 3.

(a) the person in whose favour such order is made (hereinafter referred to as the "cement manufacturer") shall, as from such date as is specified therein, be deemed to be a pioneer manufacturer within the meaning and for the purposes of the Pioneer Industries Ordinance in relation to the cement factory to be erected by him, and to the manufacture of cement, as though he had made application for the purpose under section 4 of the said Ordinance and the other provisions of that section had been complied with: Provided that in its application to such cement manufacturer the said Ordinance shall be subject to the following modifications, that is to say—

- (i) the construction day in relation to such cement manufacturer may be any day not later than six months after the date specified in such order as the date from which such cement manufacturer shall be deemed to be a pioneer manufacturer, and the production day in relation to such cement manufacturer may be any day not later than three years after such date;
- (ii) the period during which relief from the payment of customs duty on articles imported into the Colony shall be granted shall be ten years instead of five years as prescribed in section 5 of the said Ordinance;
- (iii) the tax holiday period shall be ten years instead of five years as prescribed in section 8 of the said Ordinance;
- (iv) for the purposes of section 10 of the said Ordinance, the period of thirty days prescribed therein shall be extended to three months;
- (v) for the purposes of the said Ordinance, reference to an order made under section 4 of that Ordinance shall be deemed to include a reference to an order made under section 3 of this Ordinance;

- (b) such cement manufacturer shall be exempt from the payment of export duty (by whatever name called) on cement manufactured by him and exported from the Colony:

Provided that no such cement shall be exported from the Colony by any such cement manufacturer except under licence granted by the Governor and upon proof to his satisfaction that the needs of the Colony will not be adversely affected by such export;

- (c) such cement manufacturer shall be exempt from the payment of customs duty on any of the following goods imported into the Colony by him for use in connection with his undertaking, that is to say—

all types of container for cement,  
fuel,

raw materials for the manufacture of cement.

Compulsory  
acquisition of  
right of user

6. (1) In this section, "right of user" means a right to the user of land for any purpose in connection with the undertaking of a cement manufacturer, including the abstraction of water therefrom, and includes the right of access to and of opening up such land from time to time for the execution of the works necessary for that purpose, and for the inspection, renewal, repair, replacement or removal of such works.

(2) Subject to the provisions of this section, a cement manufacturer may acquire compulsorily under the provisions of this section any right of user.

(3) Every cement manufacturer who desires to acquire any right of user compulsorily under the provisions of this section shall—

- (a) make written application for the purpose to the Governor in Council, giving a detailed description (hereinafter referred to as "the description") of—

(i) the right of user desired,

(ii) the location of the land to be affected thereby, and

(iii) the works proposed to be executed on such land,

and stating the period for which the right of user is sought (if it is sought for a fixed period), and, as far as can be ascertained, the names and addresses of the persons who may be injuriously affected by the acquisition of such right of user;

- (b) furnish the Governor in Council with a survey plan (hereinafter referred to as "the plan") of the land and with such information as he may require to enable him to adjudicate upon such application.

(4) If the Governor in Council is satisfied that it is desirable that the right of user sought by such cement manufacturer should be acquired by him and cannot reasonably be acquired by private treaty, the Governor in Council shall—

- (a) give notice accordingly by publication once in the *Royal Gazette* and not less than twice in two local daily newspapers circulating in the Colony, setting forth in such notice the description and the period (if any) for which the right of user to which the notice relates is sought, and specifying the time (which shall not be less than 14 days from the date of the last of the publications) and manner in which objections may be made; and
- (b) cause like notices to be served upon the interested parties named in the written application of the cement manufacturer and a like notice to be exhibited conspicuously in a convenient place or places on or near the land to be affected by the desired right of user not later than the date of the last of publications contemplated by paragraph (a) of this subsection.

(5) Within the time specified in the notice mentioned in subsection (4), any person claiming that the granting of the right of user will cause him loss, damage or injury, may apply to a Judge in Chambers for a declaration that the right of user ought not to be granted. There shall be a right of appeal by each party to the Full Court against the decision of the Judge in Chambers and the decision of the Full Court shall be final.

(6) (i) At the expiration of the period allowed for objections—

- (a) if no application for a declaration has been made during that period, the Clerk of the Executive Council shall issue a certificate according to Form A in the Schedule to this Ordinance, setting out the description and with the plan annexed thereto, to the Registrar General;

(b) if any application for a declaration has been made during that period but no objection has been upheld, the Clerk of the Executive Council shall forward a copy of the description and the plan to the Registrar of the Supreme Court who shall issue a certificate according to Form B in the Schedule to this Ordinance, setting out the description and with the plan annexed thereto, to the Registrar General;

(c) if any application for a declaration has been made during that period and an objection has been upheld, the Registrar of the Supreme Court shall notify the Governor in Council accordingly.

(ii) The Registrar General shall countersign every certificate issued to him in accordance with the provisions of this subsection and register such certificate and index it in such manner as he may deem convenient; and any person shall be at liberty to inspect and search any such register and index on payment of the sum of sixty cents.

(7) Upon the registration of such certificate in accordance with the provisions of this section, the right of user described in the certificate shall be deemed to have been duly granted to the cement manufacturer named therein for the period (if any) specified therein and shall be binding as against all persons.

(8) Where any land to which a certificate relates is held under the Real Property Ordinance, 1945, the Registrar General shall, on the certificate being lodged with him, endorse a reference to the certificate on the appropriate Crown grant or certificate of title.

(9) Compensation in respect of any loss, damage or injury which, at the time a right of user is acquired under the provisions of this section, may be expected to be caused by the acquisition of such right, shall be paid in accordance with the provisions of the next succeeding subsection:

Provided that the period (if any) of the right of user and any agreement which may have been made, or undertaking which may be given, by the cement manufacturer as to the future restoration in whole or in part of the land to which the right of user relates shall be taken into account in determining the compensation payable.

(10) Whenever compensation is payable under this section, the following provisions shall have effect, that is to say—

- (a) the amount of the compensation payable shall be determined, in default of agreement or arbitration, by a Judge of the Supreme Court on the application of the cement manufacturer or the claimant;
- (b) the proceedings in which the compensation is determined shall in no case be deemed an arbitration within the meaning of the Arbitration Ordinance;
- (c) the court or authority awarding the compensation may include in the award interest on the amount for such period, and at such rate not exceeding six per centum per annum, as it may deem just in all the circumstances of the case;
- (d) any compensation awarded shall bear interest at the rate of six per centum per annum.

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7. There shall be a right of appeal to the Full Court against any decision of a Judge of the Supreme Court on any claim to compensation under the last preceding section.

Appeals

8. Rules of court may be made in like manner as rules may be made under and for the purposes of the Judicature Ordinance for determining the practice and procedure to be followed in relation to applications to the Supreme Court under the provisions of this Ordinance, as to the costs and fees thereon, as to the payment of compensation into court in appropriate cases and the investment and disposal of moneys in court, and as to any ancillary or consequential matters.

Rules of court

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9. If any person assaults, obstructs, molests or hinders a cement manufacturer or his servant or agent in the exercise of any right of user vested in such cement manufacturer under and by virtue of subsection (7) of section 6 of this Ordinance, he shall be liable on summary conviction to a fine of two hundred dollars or to imprisonment for three months or to both such fine and imprisonment.

Protection of right of user

10. (1) Where any person makes application for the grant of a permit or licence under section 18 of the Waterworks and Water Conservation Ordinance, 1944, any cement manufacturer shall be entitled to object to such grant on the ground that it would adversely affect the operation of his cement factory by permitting the removal of a substantial amount of water which

Special provisions relating to permits and licences for sinking of wells and bore-holes and abstraction of underground water

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would otherwise have been available to meet the reasonable requirements of his undertaking, and the Director (as defined for the purposes of the said Ordinance) may refuse the application for the grant of the permit or licence on such ground, or may grant the same subject to such conditions and restrictions as he may think fit to impose by reason of such objection.

(2) An appeal shall lie to the Board of Appeal constituted under the said Ordinance—

(a) by an applicant, against a refusal of an application for the grant of a permit or licence made under the last preceding subsection or against the imposition of conditions or restrictions thereunder;

(b) by a cement manufacturer, against the grant of a permit or licence under the said Ordinance.

(3) Where a cement manufacturer makes application for the grant of a permit or licence under section 18 of the said Ordinance and such application is refused or is granted subject to conditions or restrictions imposed by the Director, such cement manufacturer may appeal against the decision of the Director to the said Board of Appeal and if the said Board is satisfied that it is necessary for the efficient operation of the undertaking of the cement manufacturer that the permit or licence should be granted and that no objection to such grant on any ground specified in subsection (6) of section 18 of the said Ordinance can be taken, the said Board shall direct the Director to issue the permit or licence to the cement manufacturer subject to such conditions or restrictions, if any, as the said Board may think fit to impose, and the Director shall comply with such direction.

Maximum  
prices

11. (1) The maximum prices that may be charged for standard cement sold in the Colony by any cement manufacturer during any period specified in the order applicable to him and the method by which such prices are to be determined shall be such as may be fixed by the Governor in Council in such order:

Provided that the Governor in Council may make provision in such order for the furnishing from time to time to the Governor in Council by the cement manufacturer of such information as will enable the Governor in Council to satisfy

himself that the prices charged by the cement manufacturer are properly determined in accordance with the provisions of the order: Provided further that the cement manufacturer shall sell cement to the Government, and, on the direction of the Governor in Council, to any municipal or statutory body for purposes which, in the opinion of the Governor in Council, are public purposes, at such reduced prices as may be provided for in the order.

(2) If at any time during such specified period the cement manufacturer sells standard cement in the Colony at a price in excess of the price for which such cement is permitted to be sold in the Colony under the provisions of such order, the Governor in Council may call upon him to correct such excess and to refund to any purchaser the amount of any such overcharge and if within thirty days of being so called upon the cement manufacturer shall not have taken the action demanded or shewn good cause why he should not do so, the order may be revoked.

(3) If at any time during which the order subsists the cement manufacturer ceases for any reason other than an Act of God or the King's enemies, fire resulting from any cause whatever, natural calamities, strikes or lock-outs, restraints of princes or peoples, the provisions of any legislative enactment having statutory effect either in the Colony or elsewhere, accidental, negligent or malicious damage, shortages of fuel or materials or any other cause, whether similar to the foregoing or not, beyond the control of the cement manufacturer, to manufacture standard cement in the Colony for a period of upwards of six months and thereafter upon being required in writing so to do by the Colonial Secretary, fails to recommence to manufacture standard cement within a period of three months after such notice, or being able to do so without detriment to any other person requiring not less than 250 tons of standard cement to be delivered to him at the cement factory in any period of four weeks unreasonably refuses to sell any standard cement to any person requiring not less than 250 tons of standard cement to be delivered to him at the cement factory in any period of four weeks or to the Government or to any municipal or statutory body, on the direction of the Governor in Council, at the price provided for in the order and persists in such refusal for seven days after written notification by the Colonial Secretary, the order may be revoked.

