



TRINIDAD AND TOBAGO

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No. 3—1958

I ASSENT,

SOLOMON HOCHOY

Governor's Deputy.

7th March, 1958.

AN ORDINANCE to provide for the establishment and development of a Nitrogenous Fertilizer Industry in Trinidad and Tobago and for purposes connected therewith.

[13th March, 1958.]

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Nitrogenous Fertilizer Industry (Development) Ordinance, 1958.

Commencement

Enactment

Short title

Interpretation.

2. In this Ordinance—

“Minister” means the Member of the Executive Council for the time being charged with the administration of the subject of Industry;

“nitrogenous fertilizer” means ammonia, ammonium sulphate and urea and shall include their related intermediates and derivatives;

“ton” means a short ton of weight of two thousand pounds.

Governor in Council may apply provisions of Ordinance to nitrogenous fertilizer manufacturers.

3. (1) The Governor in Council, on the application of any person who undertakes to erect in the Colony a factory (hereinafter referred to as a “factory”) capable in a continuous twenty-four hour period of normal operation of producing one hundred tons of ammonia and converting the same into at least two types of solid nitrogenous fertilizer, 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 (hereinafter referred to as a “fertilizer manufacturer 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 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 nitrogenous fertilizer in marketable quantities;
- (d) the anticipated output of nitrogenous fertilizer; and
- (e) the number of persons proposed to be employed.

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

4. Notwithstanding anything contained in the Aid to Pioneer Industries Ordinance; the manufacture of nitrogenous fertilizer shall be deemed to be a pioneer industry and nitrogenous fertilizer 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 a fertilizer manufacturer order—

Effect of
Order made
under section 3.

- (a) a person in whose favour such order is made (hereinafter referred to as a "fertilizer manufacturer") shall, as from such date as is specified therein (hereinafter referred to as the "effective date"), be deemed to be a pioneer manufacturer within the meaning and for the purposes of the Aid to Pioneer Industries Ordinance in relation to the factory to be erected by him, and of the manufacture of nitrogenous fertilizer, 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:

Ch. 33. No. 3.

Provided that in its application to such fertilizer manufacturer the said Ordinance shall be subject to the following modifications, that is to say—

- (i) the construction day in relation to such fertilizer manufacturer may be any day not later than six months after the effective date and the production day in relation to such fertilizer manufacturer may be any day not later than four years after such construction day;
- (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 a fertilizer manufacturer order;

(vi) reference in the said Ordinance to the Colonial Secretary shall be construed as a reference to the Minister;

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

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

(c) until the expiration of the tax holiday period of such fertilizer manufacturer every sum paid by way of interest by such fertilizer manufacturer on money borrowed by him and employed for the purpose of the manufacture or sale by him of nitrogenous fertilizer shall be exempt from income tax in the hands of the recipient of such interest;

(d) such fertilizer 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 as a fertilizer manufacturer, that is to say—

(i) all types of containers for nitrogenous fertilizer;

(ii) fuel;

(iii) raw materials, chemicals, other ingredients and supplies, whether in a manufactured or semi-manufactured state, for use in the manufacture of nitrogenous fertilizer;

(e) such fertilizer manufacturer shall during a period of ten years commencing on the effective date be entitled, upon the issue to him of a licence by the Governor in Council and subject to such terms and conditions as may be imposed by such licence to import into the Colony free of customs duty such of the articles included in the First Schedule to this Ordinance as he satisfies the Comptroller of Customs and Excise as being necessary and required for use

in the construction, alteration, extension, (equipment, operation and administration of the factory, including—

- (i) the office building, and
- (ii) ancillary facilities necessary for the proper administration thereof and for the health, safety, hygiene and welfare at the factory of the employees of such manufacturer.

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 fertilizer 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.

Compulsory acquisition of right of user.

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

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

- (a) make a 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 fertilizer 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 fourteen days from the date of the last of the said publications) and the 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 fertilizer manufacturer and a like notice to be exhibited conspicuously in one, or more than one, convenient place on or near the land to be affected by the desired right of user not later than the date of the last of the publications contemplated by paragraph (a) of this subsection.

(5) Within the time specified in the notice mentioned in subsection (4) of this section, any person claiming that the grant 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) (a) At the expiration of the period allowed for objections—

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

(ii) 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 to the Registrar General a certificate in the Form B ^{Form B} contained in the Second Schedule to this Ordinance, setting out the description and with the plan annexed thereto:

Provided that no such certificate shall be issued until the expiration of the period allowed for the filing of an appeal against the decision of the Judge in Chambers; and where such an appeal has been filed no such certificate shall be issued unless and until the appeal has been dismissed;

(iii) 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.

(b) 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 fertilizer 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, 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. Ch. 27. No. 11.

(9) Compensation in respect of any loss, damage or injury which, at the time the 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 subsection (10) of this section:

Provided, that the period (if any) of the right of user in any agreement which may have been made, or undertaking which may have been given, by the fertilizer 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 in Chambers on the application of the fertilizer manufacturer or any claimant;

(b) the proceedings before the Judge in Chambers shall in no case be deemed an arbitration within the meaning of the Arbitration Ordinance;

(c) the Judge in Chambers 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.

Ch. 7. No. 1.

Appeals.

7. There shall be a right of appeal to the Full Court against any decision of a Judge in Chambers on any claim for compensation under section 6 of this Ordinance.

Rules of Court.

Ch. 3. No. 1.

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 cost 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.

Protection of right of user.

9. If any person assaults, obstructs, molests or hinders a fertilizer manufacturer or his servant or agent in the exercise of any right of user vested in such fertilizer 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.

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, any fertilizer manufacturer shall be entitled to object to such grant on the ground that it would adversely affect the operation of his factory by permitting the removal of a substantial amount of water which 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.

Special provisions relating to permits and licences for sinking of wells and boreholes and abstraction of underground water.
Ch. 15. No. 2.

(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 subsection (1) of this section or against the imposition of conditions or restrictions thereunder;
- (b) by a fertilizer manufacturer, against the grant of a permit or licence under the said Ordinance.

(3) Where a fertilizer 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 fertilizer 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 fertilizer 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 fertilizer 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.

11. (1) Subject to the provisions of this section the Governor in Council may by order fix the maximum prices that may be charged by a fertilizer manufacturer during any period specified in such order for solid nitrogenous fertilizer sold in the Colony—

Maximum prices.

- (a) to the public generally (in this section referred to as a "general price control order"); or

- (b) to the Government or any department thereof or to any municipal or statutory body for purposes which, in the opinion of the Governor in Council, are public purposes (in this section referred to as a "special price control order").
- (2) No order shall be made under this section and no such order made shall be valid unless—
- (a) there is in force an *ad valorem* customs duty imposed on solid nitrogenous fertilizer imported into the Colony at the rate of twenty per cent. or more;
- (b) the importation of solid nitrogenous fertilizer into the Colony is prohibited except under specific licence issued by or on behalf of the Government; and
- (c) where the release of hard currency is wholly or partially controlled by the Government, the release of any such controlled currency is subject to the condition that the currency shall not be used in payment for any solid nitrogenous fertilizer imported into the Colony except under and in accordance with a special permit issued by or on behalf of the Government.
- (3) The maximum price fixed by a general price control order shall not be less than the landed cost of an identical product.
- * (4) The maximum price fixed by a special price control order shall not be less than ninety per cent. either—
- (a) of the maximum price fixed in respect of such product by a general price control order; or
- (b) of the current price free on board from the factory charged by the fertilizer manufacturer in respect of solid nitrogenous fertilizer exported from the Colony,
- and shall apply only in respect of the sale of a total not exceeding one thousand tons of solid nitrogenous fertilizer in any one calendar year.
- (5) In computing the landed cost referred to in subsection (3) of this section the Governor in Council shall have regard to—
- (a) price quotations of solid nitrogenous fertilizer produced and sold in the United States of America and

the United Kingdom as set forth in established Trade Journals in the United States of America and the United Kingdom; and

- (b) current freight rates, as agreed upon by associations of the shipping lines operating to the West Indies, in respect of the carriage of solid nitrogenous fertilizer to the West Indies from the United States of America or the United Kingdom, as the case may be.

(6) If at any time during the period specified in an order made under subsection (1) of this section the fertilizer manufacturer unlawfully sells solid nitrogenous fertilizer in the Colony at a price in excess of the maximum price fixed by 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 fertilizer manufacturer shall not have taken the action demanded or shown good cause to the satisfaction of the Governor in Council why he should not do so, the fertilizer manufacturer order applicable to the fertilizer manufacturer may be revoked.

(7) A fertilizer manufacturer order may be revoked if at any time during which it is in force the fertilizer manufacturer to whom such order is applicable—

- (a) ceases for any reason other than an Act of God or the Queen's enemies, fire or explosion resulting from any cause whatever, natural calamities, strikes or lock-outs, restraint 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 fertilizer manufacturer, to manufacture solid nitrogenous fertilizer in the Colony for a period of upwards of six months and thereafter upon being required in writing so to do by the Minister, fails to recommence the manufacture of nitrogenous fertilizer within a period of three months after the receipt by him of such notice; or

(b) being able to do so without detriment to any other person requiring not less than two hundred and fifty tons of solid nitrogenous fertilizer to be delivered to him at the factory in any period of four weeks, unreasonably refuses to sell any solid nitrogenous fertilizer to any person requiring not less than two hundred and fifty tons of solid nitrogenous fertilizer to be delivered to him at the factory in any period of four weeks, or refuses to sell any solid nitrogenous fertilizer to the Government or any department thereof or to any municipal or statutory body after being directed so to do by the Governor in Council and in any such case persists in such refusal for seven days after his intention has been drawn in writing to such refusal by the Minister.

FIRST SCHEDULE

(Section 5 (e))

All building materials, fixtures, tools, plant, machinery, pipes, pumps, fencing materials, conveyor belts, sea and land transport equipment and other appliances and equipment necessary for the manufacture and preparation for sale of nitrogenous fertilizer.

SECOND SCHEDULE

FORM A

(Section 6 (6) (a) (i))

Certificate of Compulsory Acquisition of a Right of User

I hereby certify that in accordance with the provisions of section 6 of the Nitrogenous Fertilizer Industry (Development) Ordinance, 1958,

has duly acquired the right of user of land hereinafter described, and that no objection to the grant of the said right has been taken.

Description of Right

Dated this day of

Clerk of the Executive Council

Lodged with me this day of

Registrar General

FORM B

(Section 6 (6) (a) (ii))

Certificate of Compulsory Acquisition of a Right of User

I hereby certify that in accordance with the provisions of section 6 of the Nitrogenous Fertilizer Industry (Development) Ordinance, 1958, _____ has duly acquired the right of user of land hereinafter described, and that no objection to the grant of the said right has been upheld by the Supreme Court.

Description of Right

Dated this _____ day of _____

Registrar of the Supreme Court

Lodged with me this _____ day of _____

Registrar General

Passed in Council this thirty-first day of January, in the year of Our Lord one thousand nine hundred and fifty-eight.

G. E. L. LAFOREST

Clerk of the Council.