



TRINIDAD AND TOBAGO

No. 44—1961

[L.S.]

I ASSENT,

SOLOMON HOCHOY

*Governor.*

5th October, 1961

AN ORDINANCE to provide for the establishment and development of a Lubricating Oils and Greases Industry in Trinidad and Tobago and for purposes connected therewith.

[7th October, 1961.]

Commencement

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

Enactment

1. This Ordinance may be cited as the Lubricating Oils and Greases Industry Development Ordinance, 1961.

Short Title.

## Interpretation

## 2. (1) In this Ordinance,

- (a) "approved manufacturer" means a manufacturer in whose favour a manufacturing order has been made under this Ordinance;
- (b) "barrel" means a unit of volume equal to 35 Imperial gallons measured at 60 degrees Fahrenheit;
- (c) "effective date" in reference to a manufacturing order means the date fixed in the order with respect to any plant therein mentioned;
- (d) "greases" means viscous, semi-solid or solid forms of lubricants made from emulsified hydrocarbon lubricating oils compounded with metallic soaps and other additives and chemicals, and processed to suitable consistencies and textures for use in the lubrication of moving parts;
- (e) "lubricating oils" means special fractions of extensively treated and processed heavy hydrocarbon oils derived from specially selected crude oils and includes :
  - (i) the treated and processed stocks before blending or compounding or blending and compounding with additives or chemicals;
  - (ii) the finished oils suitable for the lubrication of moving surfaces obtained from the treated and processed stocks by blending or compounding or blending and compounding with additives or other chemicals;
- (f) "manufacturer" includes any person providing plant and materials for making lubricating oils or greases;
- (g) "manufacturing order" means a Lubricating Oils and Greases Manufacturing Order made pursuant to this Ordinance;
- (h) "Minister" means the member of the Cabinet for the time being charged with the administration of the subject of industry;
- (i) "plant" means a factory as defined in the Principal Ordinance;
- (j) "Principal Ordinance" means the Aid to Pioneer Industries Ordinance;
- (k) "tax holiday period" means the period during which income is exempt from income tax;
- (l) "Territory" means the Territory of Trinidad and Tobago.

(2) A reference in this Ordinance to a section or schedule shall, unless a contrary intention appears, be read as a reference to a section or schedule of this Ordinance; and a reference in a subsection or paragraph to a subsection or paragraph shall, unless the contrary intention appears, be read as a reference to a subsection or paragraph of the section or subsection, as the case may be, in which the reference occurs.

3. (1) A manufacturer who undertakes to erect in the Territory one or more of the following plants, that is to say :

Application  
to have  
Ordinance  
apply.

- (a) a plant for manufacturing light paraffin base lubricating oils capable in a continuous twenty-four hour period of operation of producing approximately two thousand seven hundred or more barrels of different grades of bulk paraffin base distillate lubricant stocks, whether or not the plant includes facilities for compounding and blending the said lubricant stocks into various grades of finished lubricating oils and for packaging the quantities of the said lubricating oils that may be sold by the manufacturer for consumption in the Territory, the Guianas and the Caribbean;
- (b) a plant for manufacturing heavy paraffin base lubricating oils and naphthene base lubricating oils capable in a twenty-four hour period of operation of producing approximately four thousand four hundred or more barrels of base distillate lubricating stocks, whether or not the plant includes facilities for compounding and blending the said lubricating stocks into various lubricating oil products and for packaging those oil products;
- (c) a plant for manufacturing greases capable in a continuous twenty-four hour period of operation of producing approximately six thousand or more Imperial gallons of viscous greases and eleven thousand pounds of solid greases to be compounded and blended into various grease products, whether or not the plant includes facilities for packaging those grease products;

may apply in writing to the Governor in Council to have any such plant or plants described in the application brought under the operation of this Ordinance.

(2) An application made under subsection (1) shall specify—

- (a) the locality in which it is proposed to erect the plant in respect of which the application is made;
- (b) the date on or before which it is intended to begin the construction of the plant;
- (c) the date on or before which it is anticipated that the plant will commence to manufacture lubricating oils and greases in marketable quantities;
- (d) the anticipated output of lubricating oils and greases;
- (e) the number of persons proposed to be employed; and
- (f) the extent of the investment in fixed and other capital involved in the construction, equipment and operation of the plant or plants.

Lubricating  
Oils and  
Greases  
Manufacturing  
Order.

4. (1) The Governor in Council upon receipt of an application under section 3 may, if he deems it expedient to do so in the public interest and for the furtherance of the economic development of the Territory, make a Lubricating Oils and Greases Manufacturing Order applying the provisions of this Ordinance to the applicant manufacturer in respect of any plant or plants described in the application.

(2) The Governor in Council may in any manufacturing order impose conditions, not being inconsistent with this Ordinance, to be observed by an approved manufacturer; and upon failure to observe any such condition the manufacturing order may be revoked by the Governor in Council.

(3) A manufacturing order shall fix therein a date or dates which shall be the effective date or dates with respect to any plant or plants described in the order.

(4) An approved manufacturer is entitled in respect of each plant specified in the manufacturing order that relates to him to receive the benefits of the concessions provided by this Ordinance.

Pioneer  
Industry  
under  
Principal  
Ordinance.

5. Notwithstanding anything in the Principal Ordinance,

- (a) the manufacture of lubricating oils and greases, or the manufacture of either of those products, shall be deemed to be a pioneer industry, and
- (b) lubricating oils and greases shall each be deemed to be separate pioneer products,

within the meaning and for the purposes of the Principal Ordinance as though section 3 of the Principal Ordinance had been complied with.

6. (1) Subject to subsection (2) of this section, where a manufacturing order is made under this Ordinance, the approved manufacturer to whom the order relates shall, from the effective date thereof, be deemed to be a pioneer manufacturer within the meaning and for the purposes of the Principal Ordinance in relation to the plant or plants specified in the manufacturing order for the manufacture of lubricating oils or greases or both, as the case may be, as though application had been made for that purpose under section 4 of the Principal Ordinance and the other provisions of that section had been complied with.

Application of  
Principal  
Ordinance.

(2) In its application to an approved manufacturer the Principal Ordinance is subject to the following modifications, namely:—

- (a) the construction day in relation to each plant specified in a manufacturing order may be any day not later than six months after the effective date thereof;
- (b) the production day in relation to each plant specified in a manufacturing order may be any day not later than two years after the construction day;
- (c) the period during which relief from the payment of customs duties on articles imported into the Territory and during which refund of customs duties imposed on articles purchased in the Territory will be granted shall be ten years instead of the five years prescribed in section 5 of the Principal Ordinance and shall be in respect of each plant specified in a manufacturing order;
- (d) the tax holiday period shall be ten years instead of the five years prescribed in subsection (1) of section 8 of the Principal Ordinance and shall be in respect of each plant specified in a manufacturing order.

(3) For the purposes of the Principal Ordinance, a reference to an order made under section 4 of the Principal Ordinance shall be deemed to include a manufacturing order made under this Ordinance.

(4) Notwithstanding the exemption from income tax conferred by an order made under section 8 of the Principal Ordinance, an approved manufacturer shall make a return of the income so exempt from tax at the same time and in the same manner as he would be required to do if the income were not exempt from tax.

Effect of  
manufacturing  
order.

7. (1) Notwithstanding any other law, where a manufacturing order is made under this Ordinance,

- (a) the approved manufacturer named in the order shall be exempted from the payment of duty, tax or charge on the export of lubricating oils and greases manufactured in the Territory by him and exported from the Territory: Provided that no such grades of lubricating oils and greases shall be exported from the Territory by any such manufacturer except upon proof where required by the Minister to his satisfaction that the needs of the Territory will not be adversely affected by such export;
- (b) every sum paid by way of interest by an approved manufacturer on moneys borrowed by him and employed for the purpose of the manufacture or sale by him of lubricating oils and greases, if the moneys are borrowed for a period of at least five years, shall, until the expiration of the tax holiday period of the approved manufacturer, be exempted from income tax in the hands of the recipient of such interest;
- (c) the approved manufacturer named in the order is entitled to import the following into the Territory free of customs duty and to claim a refund of customs duty thereon when they are purchased in the Territory by him—
  - (i) all types of containers except those of a class or type that at the time of importation are being manufactured in the Territory, and
  - (ii) all types of materials to be used in the manufacture of containers for lubricating oils or greases and for the sale thereof, if those containers and materials are for use in connection with his undertaking as a manufacturer;
- (d) the approved manufacturer to whom the order relates, or a contractor employed by him for the construction of any plant or facilities specified in the order, or any other persons importing material for use in the construction of any plant or facilities specified in the order, may, during a period of ten years beginning on the effective date of the order, import the articles mentioned in the First Schedule free of customs duties and claim for himself or such

other parties a refund of customs duties thereon in respect of any such articles as he may satisfy the Comptroller of Customs and Excise are necessary and required for use in the construction, alteration, extension, equipment, operation and administration of any plants specified in the manufacturing order, and, without prejudice to the foregoing, such of the following as are required for the purposes of any plant specified in the order:—

- (i) steam and water plants;
- (ii) wharves and marine transportation facilities;
- (iii) container manufacturing facilities;
- (iv) blending and packaging facilities.

8. (1) In this section "right of user" means a right to the user of land for any purpose, including the abstraction of water, in connection with the undertaking of an approved manufacturer, and includes the right of access to and of opening up of 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 this section, an approved manufacturer may under the provisions of this section acquire a right of user compulsorily.

(3) Every approved 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 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 of the land, hereinafter referred to as "the plan", and with such information as he may require to enable him to adjudicate upon the application.

(4) If the Governor in Council is satisfied that the right of the user sought by an approved manufacturer cannot reasonably be acquired by the manufacturer by private treaty and that the right should be acquired by that manufacturer, the Governor in Council shall,

- (a) by publication once in the *Royal Gazette* and not less than twice in a local daily newspaper circulating in the Territory, give notice of the application for the right of user, setting forth in the notice the description thereof and the period, if any, for which the right of user is sought, and specifying the time, which shall not be less than fourteen days from the date of the last of the required publications, and the manner in which objections may be made, and
- (b) not later than the date of the last of the publications required under paragraph (a), cause like notices to be served upon the interested parties named in the written application of the approved manufacturer and a like notice to be exhibited in one or more convenient places on or near the land to be affected by the desired right of user.

(5) Any person claiming that the grant of the right of user will cause him loss, damage or injury, may within the time specified in the notice mentioned in subsection (4), apply to a Judge in Chambers for a declaration that the right of user ought not to be granted; and an appeal may be made by either party to the Full Court against the decision of the Judge in Chambers and the decision of the Full Court upon the appeal is final.

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

- (a) if no application for a declaration has been made during that period, the Secretary to the Cabinet shall issue to the Registrar General a certificate, in Form A in the Second Schedule, setting out the description of the right of user sought and with the plan annexed thereto;
- (b) if any application for a declaration has been made during that period but no objection has been upheld, the Secretary to the Cabinet 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 Form B in

the Second Schedule, setting out the description of the right of user sought with the plan annexed thereto; but 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 the appeal has been dismissed;

- (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.

(7) The Registrar General shall countersign every certificate issued to him in accordance with subsection (6) and register such certificate and index in such manner as he may deem convenient; and any person may inspect and search any such register and index on payment of the sum of sixty cents.

(8) Upon the registration of a certificate in accordance with subsection (7), the right of user described in the certificate shall be deemed to have been duly granted to the approved manufacturer named therein for the period, if any, specified in the certificate and is binding as against all persons.

(9) 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.

(10) Compensation in respect of any loss, damage or injury that, at the time the right of user is acquired under this section, may be expected to be caused by the acquisition of such right, shall be paid in accordance with the provisions of subsection (11); and in the determination of the compensation payable thereunder the period, if any, of the right of user in any agreement that may have been made, or undertaking that may have been given, by the approved 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.

(11) Whenever compensation is payable under this section, the following provisions 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 approved manufacturer or any claimant;

Ch. 7. No. 1.

- (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 all or any part of the period from the date of the acquisition to the date of the award, and at such rate, not exceeding six per cent a year, as he may deem just in all the circumstances of the case;
- (d) any compensation awarded shall bear interest at the rate of six per cent a year from the date of the award.

Appeal on compensation.

9. A right of appeal lies to the Full Court against any decision of a Judge in Chambers on any claim for compensation under section 8.

Rules of Court.

Ch. 3. No. 1.

10. (1) 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.

(2) Where no rules are made under subsection (1), the rules and practice of the Supreme Court apply.

Protection of right of user.

11. A person who assaults, obstructs, molests or hinders an approved manufacturer or his servant or agent in the exercise of any right of user vested in such manufacturer under and by virtue of subsection (8) of section 8 is liable on summary conviction to a fine of two hundred dollars or to imprisonment for three months or to both such fine and such imprisonment.

Wells and boreholes.

Ch. 15. No. 2.

12. (1) In this section—

- (a) "Board" means the Board of Appeal constituted under the Waterworks and Water Conservation Ordinance;
- (b) "Director" means the Director of Works and Hydraulics under the Waterworks and Water Conservation Ordinance or any person performing the duties of the Director thereunder.

(2) Where any person makes application for the grant of a permit or licence under section 18 of the Waterworks and Water Conservation Ordinance, an approved manufacturer is entitled to object to such grant on the ground that it would adversely affect the operation of a plant specified in a manufacturing order by permitting the removal of a substantial amount of water that would otherwise have been available to meet the reasonable requirements of his undertaking, and the Director may refuse the application for the grant of the permit or licence on that ground, or may grant the same subject to such conditions and restrictions as he may think fit to impose by reason of such objection.

(3) An appeal lies to the Board—

- (a) by an applicant, against a refusal of an application for the grant of a permit or licence made under subsection (2) of this section or against the imposition of conditions or restrictions thereunder;
- (b) by an approved manufacturer against the grant of a permit or licence under the Waterworks and Water Conservation Ordinance.

(4) Where an approved manufacturer makes application for the grant of a permit or licence under section 18 of the Waterworks and Water Conservation Ordinance and such application is refused or is granted subject to conditions or restrictions imposed by the Director, the approved manufacturer may appeal against the decision of the Director to the Board and if the Board is satisfied that it is necessary for the efficient operation of the undertaking of the approved 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 that Ordinance can be taken, the Board shall direct the Director to issue the permit or licence to the approved manufacturer subject to such conditions or restrictions, if any, as the Board may think fit to impose, and the Director shall comply with such direction.

**13.** A manufacturing order may be revoked if, at any time during which it is in force, the approved manufacturer to whom the order relates—

- (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 lockouts, restraint of princes or peoples, the provisions of any legislative enactment having statutory effect either in the Territory or elsewhere, accidental,

Penalties and sanctions.

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 approved manufacturer, to manufacture lubricating oils and greases in the Territory 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 lubricating oils and greases 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 fifty barrels of any finished and packaged lubricants and greases to be delivered to him at a plant specified in a manufacturing order in any period of four weeks, unreasonably refuses to sell any finished and packaged lubricating oils and greases to any person requiring not less than the equivalent of fifty barrels of any such oils and greases to be delivered to him at such plant in any period of four weeks, or refuses to sell any such lubricating oils and greases 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 attention has been drawn in writing by the Minister to such refusal.

FIRST SCHEDULE

(Section 7(d))

All building materials, fixtures, tools, plant, machinery, compressors, pipes, pumps, drivers, fencing materials, conveyor belts, sea and land transport equipment and other appliances and equipment.

SECOND SCHEDULE

FORM A

(Section 8(6)(a))

**Certificate of Compulsory Acquisition of a Right of User**

I hereby certify that in accordance with the provisions of section 8 of the Lubricating Oils and Greases Industry Development Ordinance, 1961,

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

*Secretary to the Cabinet*

Lodged with me this

day of

*Registrar General*

## SECOND SCHEDULE—CONTINUED

FORM B

(Section 8 (6) (b))

**Certificate of Compulsory Acquisition of a Right of User**

I hereby certify that in accordance with the provisions of section 8 of the Lubricating Oils and Greases Industry Development Ordinance, 1961,

has duly acquired the right of user of land hereinafter described, and 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 Supreme Court*

Lodged with me this

day of

*Registrar General*

Passed in Council this twentieth day of September, in the year of Our Lord one thousand nine hundred and sixty-one.

J. P. OTTLEY  
*Acting Clerk of the Council*