

THE SHIPPING (INCENTIVES) ACT

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SCHEDULE

THE SHIPPING (INCENTIVES) ACT

[15th June, 1979.]

Acts
13 of 1979,
12 of 1985
Sch.

1. This Act may be cited as the Shipping (Incentives) Act. Short title.

2. In this Act—

Interpreta-
tion.

“annual allowances”, “chargeable income”, “initial allowances”, “investment allowances” and “year of assessment” shall have the same meaning as in the Income Tax Act, and where pursuant to this Act any annual allowance is made, such allowance shall be made subject to and in accordance with the provisions of that Act;

“approved shipping corporation” means—

- (a) the Jamaica Merchant Marine Limited, a company registered under the Companies Act on the 16th day of October, 1975;
- (b) the JMM Atlantic Line Limited, a company registered under the Companies Act on the 18th day of April, 1977; and
- (c) any other company, being a company which is engaged in shipping activities and is wholly owned by the Government or in which the Government has a majority interest, and which on application made to the Minister is declared by him, by order published in the *Gazette*, to be an approved shipping corporation for the purposes of this Act;

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“company” means any company incorporated or registered under any law in force in the Island and any company which though incorporated or registered outside the Island, carries on business or has an office or place of business therein;

“date of commencement of operations” means the date declared pursuant to section 3;

“ship” includes a fleet of ships;

“shipping activities” in relation to an approved shipping corporation means—

- (a) the operating of ships for the carriage of passengers or cargo;
- (b) the leasing of ships;
- (c) shipbuilding, including reconstruction, alteration, refitting, equipping, maintenance or repairing of ships.

Date of commencement of operations.

3.—(1) The date on which an approved shipping corporation commences or is deemed to commence operations and from which the concessions under sections 6 and 8 may be enjoyed shall, subject to subsection (2), be such date as the Minister may, by order, declare, being a date not earlier than the 25th day of May, 1976.

(2) On application of an approved shipping corporation the Minister may, subject to such conditions as he thinks fit, amend an order made under subsection (1) in respect of the date of commencement of operations.

Concession period.

4. The concession period shall, as respects an approved shipping corporation, be ten years commencing on the date declared under section 3 to be the date of commencement of operations.

Revocation of order.

5.—(1) Subject to subsection (2) where a company has been by order declared an approved shipping corporation,

the Minister may by order published in the *Gazette* at any time during the concession period, revoke the order by which that company was so declared if he is satisfied that the company has failed to fulfil any of the obligations imposed by this Act.

(2) The Minister shall give the company concerned a reasonable opportunity to show cause to the satisfaction of the Minister why the revocation order should not be made.

6.—(1) An approved shipping corporation shall, in respect of profits or gains arising or accruing during the concession period, be entitled to relief from income tax which would, apart from this section, be payable by the approved shipping corporation pursuant to any law for the time being relating to income tax. Income tax concessions.

(2) Notwithstanding anything in the law relating to income tax, initial allowances shall not be made in respect of assets acquired in relation to an approved shipping corporation prior to or during the concession period.

(3) On the expiration of the concession period, initial allowances, investment allowances and annual allowances may be made on the original cost of the assets, less any allowance made before the beginning of the concession period, and initial allowances and investment allowances shall not be made more than once in respect of any one asset.

(4) An approved shipping corporation entitled to relief from income tax under subsection (1), may, for the purpose of the assessment to income tax, carry forward in respect of the first six years of assessment after the expiration of the concession period, losses which were incurred during the concession period and were not written off, so, however, that the annual allowances referred to in subsection (3) and the amount of any loss admitted under paragraph (h) of

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section 13 of the Income Tax Act, shall be taken into account.

Dividends.

7.—(1) Every approved shipping corporation entitled to relief from income tax in respect of profits or gains arising from its operations during the concession period shall place in a separate account all such profits or gains, and where the approved shipping corporation intends to pay a dividend to its shareholders out of such profits or gains such dividends shall be paid out of that account.

(2) Unless pursuant to the first proviso to section 37 (1) of the Income Tax Act, the Commissioner of Income Tax otherwise authorizes, income tax shall be deducted by an approved shipping corporation which pays any dividend pursuant to subsection (1) as if such dividend had been paid out of profits or gains, within the meaning of the provisions of the law relating to income tax, as regards the deduction of tax by a company on the payment of a dividend by that company.

(3) An approved shipping corporation making deductions of income tax pursuant to subsection (2) shall be deemed to be collecting income tax on behalf of the Commissioner of Inland Revenue and shall pay to the Commissioner of Inland Revenue or to such person as he may direct the amount so deducted.

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(4) Notwithstanding subsection (2), a shareholder to whom a dividend is paid pursuant to subsection (1) shall be exempt from income tax in respect thereof if that shareholder is—

- (a) the Government of Jamaica;
- (b) a resident of Jamaica; or
- (c) if not a resident, is not liable to income tax in respect of such dividend in the country in which he is resident.

(5) Where a shareholder to whom a dividend is paid is not resident in the Island and is liable to income tax in respect of the dividend in the country in which he is resident, he shall be exempt from so much of the income tax in respect of that dividend as the Commissioner of Income Tax is satisfied exceeds his liability in respect of such dividend in the country in which he is resident.

(6) The exemption from income tax created by subsections (4) and (5) shall not exceed as regards the rate of the tax from which the shareholder is relieved, the rate of the tax which would, but for the provisions of section 6 and this section, have been paid by the company on the profits out of which the dividend is paid.

(7) Except as otherwise provided in this section, the provisions of the law relating to income tax in regard to the deduction of income tax from dividends and the refund of income tax to shareholders shall apply to dividends paid by an approved shipping corporation pursuant to subsection (1).

(8) The dividend payable to the Government shall be paid into the Consolidated Fund.

(9) Subsection (1) shall not apply to any approved shipping corporation which is wholly owned by the Government.

8.—(1) An approved shipping corporation shall, during the concession period be entitled to import into the Island free of customs duty—

Customs
duty con-
cessions.

(a) any ship if permission for the importation is granted by the Minister;

(b) any of the articles specified in the Schedule where such articles are imported for the construction, reconstruction, alteration, refitting, equipping, maintenance or repairs of a ship.

Schedule.

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(2) The Minister may from time to time amend the Schedule.

9. Every approved shipping corporation which pursuant to section 8 imports into the Island articles or ships free of customs duty shall—

- (a) keep records in such form and containing such particulars as the Commissioner of Customs and Excise may from time to time require in relation to those articles or ships;
- (b) cause those articles or ships to be marked with such mark and in such manner as the Commissioner of Customs and Excise may require;
- (c) permit the Commissioner of Customs and Excise or any person authorized by him at all reasonable times to inspect the records referred to in paragraph (a) and to have access to any premises under the control of the approved shipping corporation by whom those articles or ships were imported for the purpose of examining any of those articles or ships which the Commissioner of Customs and Excise may believe to be on those premises and of satisfying himself as to the accuracy of the particulars in relation to those articles or ships contained in the records.

10. Any article or ship imported into the Island free of customs duty under the provisions of section 8 shall not be used for any purpose other than the purpose for which the article or ship was imported and shall not be sold, given away or otherwise disposed of by the approved shipping corporation which imported such article or ship—

- (a) unless prior permission is given by the Minister for the use thereof for such other purpose or for such sale, gift or other disposal; or

Provisions relating to imported articles and ships.

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Restriction upon disposition of article and ship imported free of duty.

- (b) except after the expiration of ten years from the date of importation of the article or ship into the Island.

11. An approved shipping corporation is not exempt under this Act from making any return to the Commissioner of Income Tax or from complying with the law relating to income tax in any other respects so as to establish liability, if any, of that shipping enterprise to tax.

Compliance with requirement of law relating to income tax.

12. An approved shipping corporation shall—

- (a) keep such books, records and accounts in relation to its operation as may be prescribed;
- (b) permit any person authorized by the Minister, during business hours to enter any premises under the control of an approved shipping corporation in which such books, records and accounts are kept to inspect and make copies of entries therein;
- (c) if required by the Minister or any person authorized by him, produce at such time and place as the Minister or that other person may specify, any books, records, accounts or other documents relating to its operations; and
- (d) at such times and to such persons as the Minister may specify, make such returns as may be prescribed and give such other information relating to its operations as the Minister may require.

Records and returns.

13. Notwithstanding the provisions of section 4 of the Income Tax Act, the Commissioner of Income Tax may certify in such form as may be prescribed the concessions enjoyed by an approved shipping corporation under the provisions of this Act in order that such certificate may be produced by the approved shipping corporation to the fiscal authorities of any other country in which a minority share-

Commissioner of Income Tax may issue certificate.

holder in an approved shipping corporation may be liable to suffer taxation in respect of his shareholding.

Procedure
on transfer
of share-
holding.

14.—(1) A minority shareholder in an approved shipping corporation on disposing of his minority shareholding shall first offer that shareholding to the Government.

(2) Where under subsection (1) the Government does not acquire the minority shareholding, the approval of the Minister in writing as regards the proposed purchaser of the minority shareholding shall first be obtained before the completion of the purchase.

(3) Where the Government disposes of its majority shareholding in an approved shipping corporation all concessions enjoyed by that approved shipping corporation under this Act shall cease as of the date of disposition of the shareholding and the Minister shall by notice published in the *Gazette* make a declaration to this effect.

Penalties.

15.—(1) The provisions of section 99 of the Income Tax Act shall apply to any false statement or representation made or any false return delivered or any false accounts kept or prepared with reference to the concession allowed under section 6 of this Act as if such false statement or representation had been delivered or such false accounts had been kept or prepared with reference to income tax or profits or gains chargeable under the Income Tax Act.

(2) A person who contravenes the provisions of section 9, 10 or 12 shall be guilty of an offence and be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars and in default of payment to imprisonment for a term not exceeding twelve months.

Regulations.

16.—(1) The Minister may make regulations for the purpose of giving effect to the provisions of this Act and, in

particular, but without prejudice to the generality of the foregoing make regulations—

- (a) for ensuring that any article or ship imported into the Island free of customs duty is not used for any purpose other than for shipping activities or such other purpose as may be specified;
- (b) regarding the adjustment of profits or gains when the accounting period of an approved shipping corporation falls partly within and partly outside the concession period;
- (c) for any matter required by this Act to be prescribed.

(2) Regulations made under subsection (1) may be made to have effect from such date as may be specified therein, not being a date earlier than the 25th day of May, 1976.

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(Section 8)

All material used in the construction, reconstruction, alteration, refitting, equipping, maintenance or repair of ships.

Engines, hulls, electronic equipment, radio, radio telephones, masts, sails, rudders, propellers, guys, guywires, anchors, cleats, wheels, windshields, gears, signal lights and flares, dynamos, air conditioning apparatus and appliances, refrigerating apparatus and appliances, mirrors, pillows, mattresses, crockery, silver and plated tableware, table glassware, cutlery, kitchen utensils including stoves, iceboxes, bed linen, table linen, towels, rugs and carpets.

Fire extinguishers and apparatus, pumps, blankets, electric light, bell and telephone equipment and appliances (not including electric light bulbs), electric fans, electric and gas cooking equipment, hot water equipment, boilers, and tanks, kitchen sinks and other kitchen fixtures, bath tubs, basins, toilets, showers and other bathroom fittings.