

CHAPTER 297.

PIONEER SERVICES AND ENTERPRISES.

(31st January, 1967.)

4/1966
S.R.O. 14/1973
S.R.O. 11/1974
S.R.O. 29/1976
S.R.O. 13/1980
S.R.O. 30/1980
S.R.O. 10/1981
S.R.O. 11/1981
S.R.O. 20/1981
S.R.O. 21/1981
S.R.O. 36/1981
S.R.O. 7/1982
S.R.O. 19/1982
Lg Co. Resolution

1. This Ordinance may be cited as the Pioneer Services and Enterprises Ordinance.

Short title.

2. In this Ordinance—

Interpretation.

“construction day” means the day specified in any application made under section 3 as being the day on or before which it is intended to commence the construction of the pioneer works necessary for rendering the pioneer service or carrying on of the pioneer enterprise to which the application relates;

“customs duty” includes any taxes, duties or imports imposed on the importation of any article or thing into the Territory;

“pioneer enterprise” means any pioneer enterprise specified in the First Schedule;

First Schedule.

“pioneer investor” means any person declared to be a pioneer investor under section 3;

“pioneer service” means any pioneer service specified in the First Schedule;

“pioneer works” means all buildings, structures and other facilities whether within the same curtilage or not, which are used for—

(a) housing the plant, machinery, apparatus and other equipment necessary for rendering the pioneer service or carrying on the pioneer enterprise; or for the generation of power for such service or enterprise;

(b) the storage of any materials, fuel or stores necessary for rendering the pioneer service or carrying on the pioneer enterprise;

- (c) the storage of any product of the pioneer enterprise prior to the time at which the property in such product passes to any person other than the owner of the pioneer enterprise;
- (d) the storage of any goods prior to their being serviced, or after they have been serviced by the pioneer investor;
- (e) the proper administration of the business of the pioneer investor;
- (f) canteens, rest rooms, recreation rooms, lavatories, baths and wash rooms for workers employed in rendering a pioneer service or in a pioneer enterprise or in any process incidental thereto;

“production day” means the day specified in any application under section 3 as being the day on or before which it is intended that the pioneer works to which the application relates, will commence to produce in marketable quantities the relevant pioneer product or goods or to render the pioneer service referred to in the application.

Governor in Council may declare any person to be a pioneer investor.

3. (1) Subject to the provisions of section 10 the Governor in Council on the application of any person who desires, or who has already commenced to render a pioneer service or to carry on a pioneer enterprise in the Territory, if he is satisfied that it is expedient in the public interest so to do, and in particular having regard to the number of pioneer services or pioneer enterprises already established, or about to be established for the purpose of supplying any product or in general demand and not produced in the Territory or any service in general demand and not obtainable in the Territory, may in his absolute discretion by Order declare such person to be a pioneer investor authorised to produce such products or goods, or to render such service as may be stated in the Order, subject to such terms and conditions as may be specified therein, and for such period of time as may be specified in the said Order.

(2) Every application under subsection (1) shall be in writing and shall—

- (a) specify the place and locality in which it is proposed to establish the pioneer service or pioneer

enterprise in respect of which the application is made; and

(b) specify the date on which the pioneer works will commence to produce in marketable quantities the relevant pioneer product or goods, or to supply the pioneer service referred to in the application; and

(c) specify the construction date which shall be not later than twelve months after the date of making the Order.

4. Every pioneer investor shall be entitled to import into the Territory during a period of ten years commencing on the date on which he is declared by Order made under section 3 to be a pioneer investor, any of the articles specified in the Second Schedule free of customs duty, if he satisfies the Financial Secretary that such articles are imported for the construction, alteration, reconstruction or extension of the pioneer works in relation to which he was declared under section 3 to be a pioneer investor or for equipping such pioneer works or any extension thereof for the purpose of rendering the relevant pioneer service or carrying on the relevant pioneer enterprise, so, however, that no articles shall be imported free of customs duty under this section if the Financial Secretary is of opinion that such articles are intended for the purpose of effecting repairs to such pioneer works or extension thereof, or to any apparatus, machinery, appliance or equipment contained in any such works or extension thereof, or for replacing any apparatus, machinery, appliances or equipment in any pioneer works or extension thereof.

Relief from
customs duty.

Second Schedule.

5. (1) Every pioneer investor who imports into the Territory any articles free of customs duty under the provisions of section 4 shall—

Special
provisions
relating to
articles imported
free of customs
duty.

(a) keep such record in such form and containing such particulars as may be required by the Financial Secretary of the articles so imported by him; and

(b) cause such articles to be marked with such mark and in such manner as may be required by the Financial Secretary; and

(c) permit the Financial Secretary at all reasonable times to inspect such record and to have access to any works, buildings or warehouse under his control for the purpose of examining any such articles which the

Financial Secretary may believe to be therein and of satisfying himself of the accuracy of the particulars in relation to such articles contained in such record.

(2) Every pioneer investor who contravenes any of the provisions of this section shall be guilty of an offence and on summary conviction thereof shall be liable to a fine not exceeding two thousand five hundred dollars and in default of payment thereof to be imprisoned for a term not exceeding six months.

Restriction upon disposition of articles imported free of customs duties.

6. (1) No article imported into the Territory by any pioneer investor free of customs duty under the provisions of this Ordinance shall be sold, given away or otherwise disposed of by such pioneer investor except—

(a) in the case of an assignment of the pioneer works, for the purpose which such articles were imported into the Territory, to the assignee of such works; or

(b) upon the pioneer investor paying or giving security to the satisfaction of the Financial Secretary for the payment of an amount equivalent to the amount of customs duty which would have been payable upon the importation of such article but for the provisions of this Ordinance; or

(c) after the expiration of five years from the date of the importation into the Territory of such articles.

(2) Every pioneer investor who contravenes any of the provisions of this section shall be guilty of an offence and on summary conviction thereof shall be liable to a penalty of three times the value of the article in respect of the disposal of which he contravenes such provisions, and in default of payment thereof to be imprisoned for a term not exceeding six months.

Relief from income tax.

7. The income of any pioneer investor arising from any pioneer service or pioneer enterprise during the period of ten years from the production day thereof or from such other day as may be substituted therefor by the Governor in Council under the provisions of subsection (3) of section 8 (hereinafter called the tax holiday period) shall be exempt from income tax:

Provided that if the end of the tax holiday period does not coincide with the end of an accounting period of any pioneer service or pioneer enterprise the income for the accounting period in which the last day of the tax holiday period falls shall

be apportioned between the parts of the said accounting period which respectively precede and follow the end of the tax holiday period and the income thus attributed to the part which precedes the end of the tax holiday period shall be exempt from income tax.

8. (1) Where any pioneer investor fails or neglects—

(a) to commence to construct the pioneer works in relation to which he is a pioneer investor on or before the construction day; or

(b) to be ready to render the relevant pioneer service or to produce the relevant pioneer product or goods in marketable quantities on or before the production day,

the Governor in Council may by notice in writing require him within thirty days of such notice either—

(i) to commence to construct the pioneer works or to be ready to render the relevant pioneer service or to produce the relevant pioneer product or goods in marketable quantities, as the case may be; or

(ii) to establish to the satisfaction of the Governor in Council that his failure or neglect to commence to construct the pioneer works or to be ready to render the relevant pioneer service or to produce the relevant pioneer product or goods in marketable quantities, as the case may be, was due to some cause beyond his control, and that there is a reasonable prospect of his commencing to construct the pioneer works or to be ready to render the relevant pioneer service or to produce the relevant pioneer product or goods in marketable quantities as the case may be,

within such time as the Governor in Council may consider to be reasonable.

(2) Where any pioneer investor, having been required by notice in writing under subsection (1) so to do, fails to satisfy the Governor in Council—

(a) that his failure or neglect to commence to construct the pioneer works, to which such notice relates, on or before the construction day, or to be ready to render the relevant pioneer service, or to produce the relevant

Provision relating to revocation or recognition of pioneer investors.

pioneer products or goods at such works in marketable quantities on or before the production day, as the case may be, was due to some cause beyond his control; or

(b) that there is reasonable prospect of his commencing to construct such pioneer works or of his being ready to render the relevant pioneer service or to produce the relevant pioneer product or goods in marketable quantities at such pioneer works within such time as the Governor in Council may consider reasonable,

the Governor in Council shall revoke the Order made under section 3 declaring such person to be a pioneer investor in relation to the pioneer works and pioneer service or enterprise in respect of which such Order was made, and thereupon the provisions of section 4 and section 7 shall cease to apply to such person in respect of such pioneer works and such pioneer service or enterprise, and the said works shall cease to be a pioneer works.

(3) Where any pioneer investor, having been required by notice in writing under subsection (1) so to do, satisfies the Governor in Council—

(a) that his failure or neglect to commence to construct the pioneer works to which such notice relates on or before the construction day, or to be ready to render the relevant pioneer service or produce the relevant pioneer product or goods at such pioneer works in marketable quantities on or before the production day, as the case may be, was due to some cause beyond his control: and

(b) that there is reasonable prospect of his commencing to construct such pioneer works or of his being ready to render the relevant pioneer service or to produce the relevant pioneer product or goods in marketable quantities at such pioneer works, as the case may be, within such time as the Governor in Council may consider reasonable,

the Governor in Council shall by Order declare that there shall be substituted for the construction day or for the production day, as the case may be, some other day specified in such Order, and thereupon the provisions of this Ordinance shall take effect as if the day specified in such Order was the construction day, or the production day, as the case may be, specified in the application made under subsection (2) of section 3.

(4) Where the Governor in Council is satisfied that any pioneer investor has contravened any of the provisions of this Ordinance, and that having regard to all the circumstances of the case it is expedient so to do, he may revoke the Order made under section 3 declaring such person to be a pioneer investor in relation to the pioneer works and the pioneer investor or pioneer enterprise in respect of which such Order was made, and thereupon the provisions of section 3 and section 7 shall cease to apply to such person in respect of such pioneer works and such pioneer service or pioneer enterprise, and the said works shall cease to be a pioneer works.

(5) When any Order made under section 3 is revoked under the provisions of subsection (2), the person who in such order was declared to be a pioneer investor shall be liable to pay to the Financial Secretary all sums which but for the provisions of section 4 would have been payable as customs duty on the importation of any articles for the construction, alteration, reconstruction or extension of the pioneer works in relation to which he was declared under section 3 to be a pioneer investor, or for equipping such pioneer works or any extension thereof for the purpose of rendering the relevant pioneer service or producing the relevant pioneer product or goods.

(6) Any sums which may be payable to the Financial Secretary under the provisions of subsection (5) may be recovered in a court of competent jurisdiction as a debt to the Government of the Territory.

9. (1) Subject to the provisions of subsection (3), no pioneer works, whether it is still a pioneer works or not, which has been specified as a pioneer works in any Order under the provisions of section 3 shall, without the prior approval of the Governor in Council, be used at any time within ten years from the date of such Order for any purposes other than those of the pioneer service or enterprise for the purposes of which such works were established as a pioneer works.

Restriction of use
of pioneer works.

(2) Any person using any such works in contravention of the provisions of subsection (1) shall be guilty of an offence and on summary conviction thereof shall be liable to a fine not exceeding five hundred dollars and in default of payment thereof to imprisonment for any term not exceeding six months and in the case of a continuing offence to a further

fine not exceeding two hundred and fifty dollars in respect of each day during which the offence continues.

(3) The provisions of this section shall not apply to any works which have ceased to be pioneer works and in respect of which all sums payable to the Financial Secretary under the provisions of subsection (5) of section 8 have been paid.

Power to grant
exclusive licence.

Third Schedule.

10. (1) Subject to the provisions of subsection (2) the Governor in Council may, on the application of any person grant to such person (hereinafter referred to as "the licensee") a licence conferring on him the exclusive right to produce in the Territory or to provide in the Territory any of the products or services specified in the Third Schedule during such period as may be specified in the licence and may from time to time, with the written consent of the licence, vary or amend any term or condition or the period of such licence or add or repeal any term or condition thereof.

(2) At any time after the grant of any licence under subsection (1) (hereinafter referred to as "the prior licence") no other licence (hereinafter referred to as "the subsequent licence") conferring the exclusive right to produce any such product or to provide any such service in the Territory shall be granted, whether or not the prior licence shall have expired, to any person except to the grantee of the prior licence or, if such licence shall have been assigned during the currency thereof, to the last assignee thereof, unless the grantee of the prior licence or the last assignee thereof, as the case may be, has either—

- (a) ceased to exist; or
- (b) ceased for one year or more before the date of the application for the subsequent licence to produce such product or provide such service in the Territory; or
- (c) consented in writing to the grant of the subsequent licence.

(3) Any licence under this section shall contain such terms and be subject to such conditions as the Governor in Council may specify therein.

(4) Notice of the grant of any licence under this section shall be published in the Gazette as soon as practicable after the granting of such licence; such notice shall specify the name of the licensee, the products or services in respect of which the

licence has been granted and the period or validity of the licence.

11. The Legislative Council may, from time to time, by resolution add to, amend, revoke or replace any of the Schedules.

Variation of Schedules.

12. (1) During the continuance in force of any licence granted under section 10 no person shall produce in the Territory or provide in the Territory any of the products or services to which such licence relates except under or in accordance with the terms of such licence.

Prohibition of manufacture and exportation of products to which licence relates.

(2) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence and on summary conviction thereof shall be liable to a fine not exceeding two thousand five hundred dollars and in default of payment thereof to imprisonment for a term not exceeding six months.

13. Where the Governor in Council is satisfied that any person to whom a licence has been granted under the provisions of section 10 has contravened—

Revocation of licence.

(a) any of the terms and conditions of such licence;
or

(b) any of the provisions of this Ordinance and that having regard to all the circumstances of the case it is expedient so to do,

he may revoke any such licence.

14. Where a person convicted of an offence against this Ordinance is a body corporate, any person who, at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

Offences by corporation.

15. (1) No pioneer producer shall employ within the Territory in a pioneer service or in a pioneer enterprise, and no person to whom a licence has been granted under the provisions of section 10, shall employ within the Territory in the production of any product or the rendering of any service specified in such licence, any person not ordinarily resident in

Restriction on employment.

the Territory unless he obtains the prior approval in writing of the Governor in Council:

Provided that if the Governor in Council is satisfied that the services of any skilled workmen, artisans or mechanics or of any person possessing particular professional or technical qualifications or skill or experience are necessary for the efficient conduct of the pioneer service or enterprise concerned or in the production of any product or the rendering of any service referred to in a licence, and that such services cannot be otherwise obtained, the Governor may by permit in writing authorise the employment within the Territory of such number and classes of skilled workmen, artisans and mechanics, and of persons possessing particular professional or technical qualifications or skill or experience not ordinarily resident in the Territory and for such periods as may be specified in the said permit.

(2) Where by virtue of the provisions of subsection (1) any person is permitted to employ any person not ordinarily resident in the Territory the Governor may from time to time, as he may think fit, require any such employer to make a return of—

(a) the number of persons in each category of work who are ordinarily resident in the Territory; and

(b) the number of persons in each category of work who are not ordinarily resident in the Territory,

employed by him within the Territory in a pioneer service or in a pioneer enterprise or in the production of any product or in the rendering of any service in respect of which an exclusive licence has been granted under section 10.

(3) If any such employer—

(a) refuses or without lawful excuse neglects to make a return under this section to the best of his knowledge and belief; or

(b) makes or causes to be made a return which is false in any material particular,

he shall be guilty of an offence and on summary conviction thereof shall be liable to a fine not exceeding five hundred dollars and in default of payment thereof to be imprisoned for a term not exceeding six months.

FIRST SCHEDULE

S. 2.

- (a) Pioneer Service
- (i) Air Services;
 - (ii) Marine Services;
 - (ii) Laundry Services;
 - (iv) Cement Bulk Storage and Receiving Plant;
 - (v) Broadcasting Service; SRO 14/1973.
 - (vi) Printing and Allied Works; SRO 11/1974.
 - (vii) Permanent Camping Facilities; SRO 29/1976.
 - (viii) Public Transport Services; Resolution 7/1990.
 - (ix) Telecommunications Services; Resolution 7/1990.
 - (x) Lawn Maintenance Services; Resolution 7/1990.
 - (xi) Graphic Arts Enterprise; Resolution 7/1990.
 - (xii) Stone Crushing Enterprise. Resolution 7/1990.
- (b) Pioneer Enterprise
- (i) Fish Farming;
 - (ii) Fish Processing or Fressing;
 - (iii) Dairy Farming;
 - (iv) Milk Production;
 - (v) Manufacture of leather goods, sandals, bags and belts; SRO 13/1980.
 - (vi) Manufacture of ice; SRO 30/1980.
 - (vii) Manufacture of fibreglass products; SRO 10/1981.
 - (vii) Bee-keeping; SRO 11/1981.
 - (ix) Processing and manufacture of salt, spices and related products; SRO 20/1981.
 - (x) Cigar production; SRO 21/1981.
 - (xi) Manufacture of concrete and brick floor tiles; SRO 36/1981.
 - (xii) Sailmaking and production of canvas goods; SRO 7/1982.
 - (xiii) Manufacture of spare parts for automobiles and boats. SRO 19/1982.

Resolution.
7/1990.

SECOND SCHEDULE

S. 4.

All building materials, tools, plant, machinery, pipes, pumps, conveyor belts, or other equipment and appliances and materials and any mechanically propelled vehicle or parts and accessories therefor necessary for the rendering of any pioneer service or the carrying on of any pioneer enterprise.

THIRD SCHEDULE

S. 10.

- (i) Air Services;
 - (ii) Cement Bulk Storage and Receiving Plant.
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