



INDUSTRIAL DEVELOPMENT (INCOME TAX RELIEF) ACT

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INDUSTRIAL DEVELOPMENT (INCOME TAX RELIEF) ACT

An Act to repeal and re-enact, with major changes, the Industrial Development (Income Tax Relief) Act and to make provision for tax relief for certain industries that may be issued with pioneer certificates by the Minister and other matters ancillary thereto.

[1971 No. 22.]

[1st April, 1970]

[Commencement.]

Pioneer conditions

1. Publication of list of pioneer industries and products and issuing of pioneer certificates

(1) Where the President is satisfied that-

(a) any industry is not being carried on in Nigeria on a scale suitable to the economic requirements of Nigeria or at all, or there are favourable prospects of further development in Nigeria of any industry; or

(b) it is expedient in the public interest to encourage the development or establishment of any industry in Nigeria by declaring the industry to be a pioneer industry and any product of the industry to be a pioneer product, the President may direct publication in the Gazette of a list of such industries and products (in this Act referred to as "the list of pioneer industries and pioneer products") and upon publication as aforesaid, but subject to subsections (5) and (6) of this section, application may at any time thereafter be made under this Act, for the issue of a pioneer certificate to any company in relation to any such pioneer industry or pioneer product, and the President may, in accordance with the provisions of this Act, issue the certificate to the company in any proper case.

(2) An application may also be made under this section for any industry to be included in the list of pioneer industries and pioneer products.

(3) Any application under this section may be made by a company incorporated in Nigeria, or by a group of persons on behalf of a company which is to be so incorporated.

(4) No application for the issue of a pioneer certificate to any company shall be made under this section unless the estimated cost of qualifying

capital expenditure to be incurred by the company on or before production day (if the application is approved) is an amount which-

- (a) in the case of an indigenous-controlled company, is not less than N50,000; or
 - (b) in the case of any other company, is not less than N150,000
- (5) The President may from time to time, on any ground which appears to it sufficient, amend the list of pioneer industries and pioneer products.
- (6) Where, in exercise of the powers conferred under subsection (5) of this section,
any industry or product is deleted from the list of pioneer industries and pioneer products, then-
- (a) no application under this section shall thereafter be made by any company in relation to that industry or product; and
 - (b) as respects any pending application made under subsection (1) of this section, no pioneer certificate shall be issued under this Act, to any company in relation to that industry or product.
2. Mode of application for pioneer certificate, etc., and fee payable
- (1) Subject to the provisions of this Act, every application under section 1 of this Act shall be addressed to the Minister and shall be in such form as he may, from time to time, specify.
- (2) Every such application shall state the grounds upon which the applicant relies
and, if the application is for the issue of a pioneer certificate to any company, the applicant shall-
- (a) state whether the company is, or the proposed company when incorporated shall be, an indigenous-controlled company;

- (b) give particulars of the assets on which qualifying capital expenditure will be incurred by the company, including their source and estimated cost-
 - (i) on or before production day; and
 - (ii) during a period of three years following production day;
 - (c) specify the place in which the assets, in respect of which qualifying expenditure will be incurred by the company or proposed company, are to be situated;
 - (d) estimate and state the probable date of production day of the company or proposed company;
 - (e) specify any product and by-product (not being a pioneer product) proposed to be produced by the company or proposed company, and give a reasonable estimate of the quantities and value of such product and by-product during a period of one year from production day;
 - (f) give particulars of the loan and share capital, or the proposed loan and share capital of the company, or proposed company, including the amount and date of each issue or proposed issue, and the source from which the capital is to be or has been raised;
 - (g) in the case of a company already incorporated, give the name, address and nationality of each director of the company and the number of shares held by him; and
 - (h) in the case of a proposed company give the name, address and nationality of each promoter of the company.
- (3) Every such application shall contain a declaration signed by the applicant that all the particulars contained in the application are true and an undertaking to produce proof, if required, to the satisfaction of the Minister, of the truth of any such particulars which, under

subsection (5) of this section, the Minister may require the applicant to furnish.

- (4) The application shall be accompanied by a fee of N100 (which sum shall not be refundable to the applicant, whether the application is approved or not) and the fee shall be credited to the Consolidated Revenue Fund of the Federation.
- (5) Where an application is submitted to the Minister under this section, he may require the applicant to furnish such further particulars as the Minister may consider necessary, to enable the President to consider the application.
- (6) As soon as may be after the application is submitted to the Minister or, as the case may be, after any further particular required by the Minister under subsection (5) of this section has been furnished to him by the applicant, the Minister shall submit the application and, subject to the provisions of this Act, the President may approve or disapprove the application.

3. Terms of pioneer certificate

- (1) Without prejudice to subsection (3) of this section, every pioneer certificate shall be in the terms of the application to which it relates:
Provided that the President may make any variation in any such application.
- (2) A pioneer certificate may specify any permissible by-product which may be produced by the pioneer company in addition to the pioneer product and, if the President thinks fit, the pioneer certificate may limit the proportion of the permissible by-product in relation to the pioneer product, either in quantity or in value or both.
- (3) Where an application for the issue of a pioneer certificate made on behalf of a
proposed company is approved by the President, it shall-

- (a) specify the period within which the company must be incorporated, not being later than four months after the date of notification of the approval to the applicants;
- (b) specify any other conditions to be endorsed on the pioneer certificate when it is issued.
- (4) Any pioneer certificate to be issued to any company to which subsection (3) of this section relates shall be issued only after the company has been incorporated and the certificate shall be effective from a date, not earlier than the date on which the application for the pioneer certificate was submitted to the Minister or the date on which the company is so incorporated, whichever is the later, and the President may require that an undertaking shall be given by the company for the purpose of ensuring the due compliance by the company with any conditions endorsed on its pioneer certificate.
- (5) Notice of any condition specified by the President under subsection (3) of this section, or of any undertaking required under subsection (4) of this section, shall be given by the Minister to the applicants concerned.
- (6) Notwithstanding anything contained in section 10 of this Act, in any case where a pioneer company-
- (a) has acquired or proposes to acquire assets from any company to which a pioneer certificate has been granted under the Aid to Pioneer Industries Act, the Industrial Development (Income Tax Relief) Act or this Act; or

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- (b) has taken over or proposes to take over the whole assets of any other company which is not a pioneer company, the pioneer certificate may

specify the maximum tax relief period, not exceeding five years, to be enjoyed by the pioneer company.

3. Amending of pioneer certificate by adding additional pioneer product

(1) At any time during its tax relief period, a pioneer company may make an application in writing to the Minister for its pioneer certificate to be amended by the Council by adding any additional product to the pioneer product or products specified in the certificate.

(2) Every such application shall specify the additional pioneer product and the reasons for the application and, subject as aforesaid, the provisions of subsections (3), (5) and (6) of section 2 of this Act shall apply in relation to an application made under section 1 of this Act.

(3) Where an application under this section is approved by the President (with or without variations), it shall amend the pioneer certificate of the pioneer company in such terms and subject to such conditions as the President may think fit.

5. Provisions where pioneer certificate operates retrospectively

Subject to the provisions of section 6 of this Act, where a pioneer certificate is to be operative from a retrospective date, then any act or thing which has been done or which has happened for the purposes of the principal Act since that date, but which would not have been done or happened if the pioneer certificate had been in force at that date, shall, whenever necessary for the purposes of this Act and the principal Act, be treated as not having been done or not having happened, and if the act consists of the payment of any tax by a company certified to be a pioneer company, that tax shall, as soon as may be after the expiration of three months from the production day of that company, be repaid to the company by the Board.

6. Certifying the date of production day and the amount of qualifying capital expenditure, etc.

- (1) Not later than one month after the material date, a pioneer company shall make an application in writing to the Director to certify the date of its production day and shall propose a date to be so certified and give reason for proposing that date.
- (2) Not later than one month after the production day of a pioneer company has been finally determined and certified under this section, or within such extended time as the Board may allow, a pioneer company shall make an application in writing to the Board or certify the amount of the qualifying capital expenditure incurred by the pioneer company prior to production day and the company shall supply full particulars of the capital expenditure so incurred.
- (3) In determining the amount of qualifying capital expenditure incurred by a pioneer company prior to its production day, any sum derived directly or indirectly by that company from any disposal (made before that day) of any asset on which qualifying capital expenditure has been incurred shall be taken into account for the purpose of reducing the amount of the qualifying capital expenditure; but where the disposal of such asset is by way of bargain not made at arm's length or is to any person who is controlled by the pioneer company or who has control over the pioneer company, the asset shall be deemed to have been disposed of for an amount, which in the opinion of the Board, the asset would have fetched if sold in the open market at the date of the disposal, less the amount of any expenses which the company might reasonably be expected to incur if the asset were so sold.
- (4) After considering any application made under subsection (1) of this section, together with such further information as he may call for, the Director shall issue a certificate to the pioneer company certifying the date of its production day.
- (5) After considering any application made under subsection (2) of this section, together with such further information as it may call

for, the Board shall issue a certificate to the pioneer company certifying the amount of qualifying capital expenditure incurred by the company prior to production day.

- (6) The provisions of Parts IX and X of the principal Act (which relate to objections and appeals) and of any rules made thereunder, shall apply, mutatis mutandis, to any certificate issued by the Director or the Board under this section, as if such certificate were a notice of assessment given under the said provisions of the principal Act.
- (7) The Director shall notify the Minister and the Board of the date of the production day of the pioneer company when the same has been finally determined and certified by the Director.
- (8) When the amount of the qualifying capital expenditure incurred by the pioneer company prior to production day has been finally determined and certified by the Board, the Board shall notify the Minister of that amount.
- (9) On the receipt of the notifications mentioned in subsections (7) and (8) of this section, the Minister shall require the pioneer company to declare within a period not exceeding thirty days in what respects the proposals and estimates made in its application for a pioneer certificate, or any conditions contained in its pioneer certificate, have not been fulfilled.
- (10) Where a certificate issued by the Director under subsection (4) of this section certifies that the date of the production day of a pioneer company is more than one year later than the estimate thereof given in the company's application for a pioneer certificate, the Minister shall report that fact to the President and the President shall cancel the pioneer certificate of that company unless he is satisfied that the delay is due to causes outside the control of the company or to other good and sufficient causes.

(11) Where a certificate issued by the Board under subsection (5) of this section certifies that the pioneer company has on or before production day incurred qualifying capital expenditure of an amount which-

- (a) in the case of an indigenous-controlled company, is less than N50,000; or
- (b) in the case of any other company, is less than N150,000,

the Commissioner shall report that fact to the President and the President shall cancel the pioneer certificate of the company.

(12) For the purposes of subsection (1) of this section, "material date" means-

- (a) in relation to a pioneer company engaged in a pioneer industry consisting of the provision of services, the date on which the company is ready to provide such services on a commercial scale; and
- (b) in relation to a pioneer company engaged in a manufacturing, processing, mining, agricultural or any other pioneer industry, the date on which the company begins to produce a pioneer product in marketable quantities.

7. Cancellation of pioneer certificates

- (1) The Minister shall cancel a pioneer certificate upon the application of the pioneer company concerned.
- (2) Subject to the provision of this section and without prejudice to section 6 (10) and (11) of this Act, if the Minister is of the opinion that a pioneer company has contravened any provision of this Act or has failed to fulfil any estimate or proposal made in its application for a pioneer certificate or any conditions contained in its pioneer certificate, the Minister shall report the circumstances to the President who may either cancel the pioneer certificate of the company or restrict the tax relief of that company to such period as the President

may, notwithstanding the provisions of section 10 of this Act, consider appropriate.

- (3) The effective date of cancellation of a pioneer certificate of a company shall be-
 - (a) where the company has been in operation as a pioneer company for a period less than one year after the pioneer date, the pioneer date; and
 - (b) where the company has been in operation as a pioneer company for a period of not less than one year after the pioneer date, the date of the last anniversary of the pioneer date, and in this subsection, "the pioneer date" means the date from which a pioneer certificate takes effect.
- (4) Where the pioneer certificate of a pioneer company is cancelled or the tax relief period of a company is restricted under subsection (2) of this section, the Minister shall give notice of the cancellation (specifying the effective date thereof) or of the restriction, to the pioneer company concerned.

8. Information

When authorised to do so by the Minister, an officer of the Federal Ministry of Industry not below the rank of assistant secretary may require a pioneer company to give information in sufficient detail to his satisfaction-

- (a) as to the local production costs and factory prices of the products of the company;
- (b) in any appropriate case, as to the relative cost (including freight and insurance) of imported products equivalent or similar to the pioneer products produced by the company;
- (c) as to any other matter which the Minister may, in the case of that company, reasonably require for the purposes of this Act.

9. Publication of pioneer certificate, etc.

(1) The Minister shall cause to be published in the Gazette-

(a) the name of any company to which a pioneer certificate has been given and the

pioneer industry or pioneer product to which the certificate relates;

(b) the name of any company the pioneer certificate of which has been cancelled

and the effective date of the cancellation;

(c) any restriction of the tax relief period of a pioneer company.

(2) Subject to the provisions of subsection (1) of this section, the contents of any application made, or of any pioneer certificate given, under this Act with respect to a pioneer company shall not, except at the instance of the company, be published in the Gazette or in any other manner.

Income tax relief

10. Tax relief period

(1) The tax relief period of a pioneer company shall commence on the date of the production day of the company, and subject to sections 3 (6) and of 7 (2) of this Act, the tax relief period shall continue for three years.

(2) The tax relief period of a pioneer company may at the end of the three years be

extended by the President-

(a) for a period of one year and thereafter for another period of one year commencing from the end of the first period of extension; or

(b) for one period of two years.

- (3) The President shall not extend the tax relief period of a pioneer company in exercise of the power conferred under subsection (2) of this section unless the President is satisfied as to---
- (a) the rate of expansion, standard of efficiency and the level of development of the company;
 - (b) the implementation of any scheme-
 - (i) for the utilisation of local raw materials in the processes of the company; and
 - (ii) for the training and development of Nigerian personnel in the relevant industry;
 - (c) the relative importance of the industry in the economy of the country;
 - (d) the need for the extension, having regard to the location of the industry; and
 - (e) such other relevant matters as may be required.
- (4) A pioneer company wishing to obtain a certificate for the purposes of subsection (2) of this section shall make an application in writing to the Board not later than one month after the expiration of its initial tax relief period of three years or of any extension thereof, and such application shall contain particulars of all capital expenditure incurred by the company by the requisite date which the company claims should be accepted as qualifying capital expenditure.
- (5) The Board shall, after considering any application made under subsection (4) of this section together with such information as it may call for, issue a certificate to the company certifying the amount of the qualifying capital expenditure incurred by the company by the requisite date; and section 6 (3) of this Act shall apply for the purposes of determining the amount of the qualifying capital expenditure incurred by the requisite date as it applies for the purposes of determining the amount of qualifying capital expenditure incurred

prior to a production day as if for the reference in that subsection to the words "prior to its production day" there were substituted a reference to the words "by the requisite date".

- (6) Where the Board is satisfied that a pioneer company has incurred a loss in any accounting period falling within a tax relief period specified in the provisions of subsections (1) and (2) of this section, it shall issue a certificate to the company accordingly.
- (7) The provisions of Parts IX and X of the principal Act (which relate to objections and appeals) and of any rule made thereunder shall apply, mutatis mutandis, to any certificate given by the Board under the provisions of this section, or any notice of refusal to give a certificate under this section, as if the certificate or the notice of refusal were a notice of assessment given under the said provisions of the principal Act.
- (8) In this section "the requisite date" means the date when a tax relief period expires.

11. Provisions governing old and new trade or business

Where a trade or business of a pioneer company is carried on by the company before and after the end of its tax relief period, then for the purposes of the principal Act and this Act-

- (a) the trade or business of that company shall be deemed to have permanently ceased at the end of the tax relief period of the pioneer company;
- (b) in respect of that trade or business, the pioneer company shall be deemed to have set up and commenced a new trade or business on the day next following the end of its tax relief period;
- (c) the pioneer company shall make up accounts of its old trade or business for the following periods, that is to say-
 - (i) a period not exceeding one year commencing on its production day;

- (ii) successive periods of one year thereafter; and
 - (iii) a period not exceeding one year ending at the date when its tax relief period (determined under subsections (1) and (2) of section 10 of this Act) ends;
- (d) in making up the first accounts of its new trade or business, the pioneer company shall take as the opening figure for those accounts, the closing figures in respect of its assets and liabilities as shown in its last accounts in respect of its tax relief period; and its next accounts of its new trade or business shall be made up by reference to the closing figures in the said first accounts and any subsequent accounts shall be similarly made up by reference to the closing figures of the preceding accounts of its new trade or business.

12. Restrictions on trading prior to the end of tax relief period, etc.

- (1) Prior to the expiration of its tax relief period, a pioneer company shall not carry on any trade or business other than a trade or business, the whole of the profits of which are derived from its pioneer enterprise.
- (2) Where, prior to the expiration of its tax relief period, any profit is earned by a pioneer company from any operations or activities whatsoever other than its pioneer enterprise, the profit shall be deemed, for the purposes of the principal Act, to be derived from Nigeria and shall be liable to tax under that Act.

13. Power to direct in certain events

- (1) For the purposes of the principal Act and this Act, the Board may direct that-
 - (a) any sums payable to a pioneer company in any accounting period which, but for the provisions of this Act, might reasonably and properly have been expected to have been payable in the normal course of business after the end of that period, shall be treated as not having been payable in that period but as having been payable on such

date after that period, as the Board thinks fit, and where such date is after the end of the tax relief period of the pioneer company, as having been so payable on that date as a sum payable in respect of its new trade or business; and

- (b) any expense incurred by a pioneer company within one year after the end of its tax relief period which, but for the provisions of this Act, might reasonably and properly have been expected to have been incurred in the normal course of business during its tax relief period, shall be treated as not having been incurred within that year, but as having been incurred for the purposes of its old trade or business and on such date during its tax relief period, as the Board thinks fit.
- (2) Where a direction has been given under this section with respect to a pioneer company and thereafter the length of the tax relief period of the pioneer company is varied under any of the provisions of this Act, the Board may amend that direction accordingly.
- (3) In determining whether a loss has been made in an accounting period for the purpose of section 10 (6) of this Act, and for that purpose only, the Board may in its absolute discretion exclude such sum as may be in excess of an amount appearing to the Board to be just and reasonably paid or payable by a pioneer company in respect of-
 - (a) remuneration to directors of the company;
 - (b) interest, service, agency or other similar charges made by a person who is a shareholder of the company or by a person controlled by such shareholder.

14. Capital allowances and losses

- (1) The profits of a pioneer company in respect of its old trade or business falling to be ascertained in accordance with the provisions of the principal Act for any accounting period shall be so ascertained, after making any necessary adjustments in consequence of a direction

under section 13 of this Act, without any regard to the provisions of sections 20 and 21 of the principal Act.

- (2) Where any asset is used for the purposes of the new trade or business of a pioneer company, any capital expenditure incurred by the pioneer company in respect of that asset before the end of its tax relief period shall, for the purposes of the Second Schedule to the principal Act, be deemed to have been incurred on the day next following the end of its tax relief period.
- (3) Where a pioneer company incurs a net loss during an accounting period in its old trade or business, that loss shall be deemed for the purposes of computing total profits (but not profits) to have been incurred by the company on the day on which its new trade or business commences.
- (4) For each accounting period, the Board shall issue to the pioneer company a statement showing the amount of income ascertained under subsection (1) of this section or loss computed in accordance with subsection (3) thereof; and the provisions of Parts IX and X of the principal Act (which relate to objections and appeals) and

of any rules made thereunder shall apply, mutatis mutandis, to the statement as if such statement were a notice of assessment given under the said provisions of the principal Act.

- (5) For the purposes of subsection (3) of this section, "net loss" means the aggregate of losses incurred during the tax relief period after deduction of profits, if any, made at any time during that period; and a loss shall be computed in the same manner as profits are computed under the provisions of subsection (1) of this section and without regard to the provisions of section 13 (3) of this Act.

15. Returns of profits

The provisions of Part VIII of the principal Act shall apply in all respects to the profits of a pioneer company from its old trade or business as if those profits were chargeable to tax under that Act.

16. Profits exempted from income tax

- (1) Subject to the provisions of subsection (2) of this section and section 17 (6) of this Act, where in the application of Parts IX and X of the principal Act, a statement issued under section 14 (4) of this Act has become final and conclusive, any profits shown by that statement shall not form part of the assessable profits or total profits of the pioneer company for any year of assessment and shall be exempt from tax under the principal Act.
- (2) The Board may, in relation to any statement issued under section 14 (4) of this Act, declare that the whole or a specified part of the profits is not in dispute, and any such undisputed profits shall be exempt from tax under the principal Act pending the statement becoming final and conclusive.

17. Exemption of certain dividends from income tax

- (1) Wherever any amount of profits of a pioneer company is exempt from tax under section 16 of this Act, that amount shall immediately be credited by the pioneer company to an account to be kept by it for the purposes of this section.
- (2) Where at the date of payment of any dividends by the pioneer company the said account is in credit, the dividends, or so much of the dividends where (after the end of its tax relief period) the amount thereof exceeds such credit, as equal the amount of such credit, shall be debited to the account.
- (3) So much of the amount of any dividends so debited to the account as are received by a shareholder in the pioneer company shall, if the Board is satisfied with the entries in the account, be exempt from tax in the hands of that shareholder and shall for the purposes of the principal Act and the Personal Income Tax Act, be deemed to be paid out of profits on which tax is not paid or payable.

- (4) Any dividends so debited to the account shall be treated as having been distributed to the shareholders or any particular class of shareholders of the pioneer company, in the same proportions as those shareholders were entitled to payment of the dividends giving rise to the debit.
- (5) Whenever called upon so to do by notice in writing sent by the Board to the registered office of a pioneer company, the company shall, until such time as the Board is satisfied that there is no further need for maintaining the account, deliver to the Board a copy of the account made up to a date specified by the Board in the notice.
- (6) Notwithstanding the provisions of section 16 of this Act and of this section, where it appears to the relevant tax authority that any amount of exempted profits of a pioneer company, or any dividend exempted in the hands of a shareholder, ought not to have been exempted by reason of-
 - (a) a direction under section 13 of this Act having been made with respect to a pioneer company, after any profit of that company has been exempted under the provisions of section 16 of this Act; or
 - (b) the cancellation of a pioneer certificate, the relevant tax authority may at any time within six years of the direction or cancellation make such additional assessment upon the pioneer company or shareholder as may appear to the relevant tax authority necessary in order to counteract any benefit obtained from the amount which ought not to have been exempted.
- (7) For the purposes of subsection (6) of this section, "relevant tax authority" has the same meaning as in section 2 of the Personal Income Tax Act, and in relation to any additional assessment to be made on a company under the said subsection (6), it means the Board.

[Cap. P8.]

18. Restrictions on distribution of dividends and on the granting of loans

During its tax relief period, a pioneer company shall not-

- (a) make any distribution to its shareholders, by way of dividend or bonus, in excess of the amount by which the account, to be kept by the company under section 17 of this Act, is in credit at the date of any such distribution; or
- (b) grant any loan without first obtaining the consent of the Minister, whose consent shall only be given if he is satisfied that the pioneer company is obtaining adequate security and a reasonable rate of interest for any such loan.

19. Exclusion of small companies' relief

A pioneer company shall not be entitled to any relief under section 28 of the principal Act.

20. Provisions for plantation industry

For the purposes of the principal Act and this Act, the trade of a company which operates a plantation and to which a pioneer certificate has been granted shall be deemed to have commenced on the date when planting first reaches maturity, and any expenditure incurred on the maintenance of a planted area up to that date shall be deemed to have brought into existence an asset, and the expenditure shall be qualifying plantation expenditure for the purposes of the Second Schedule to the principal Act.

Miscellaneous and general

21. False information

(1) Any person who, for the purpose of obtaining a pioneer certificate or of complying with any provisions of this Act-

- (a) makes or presents any declaration or statement which is false in any material particular; or

- (b) produces any invoice or undertaking which is false in any material particular or has not been given by the person by whom it purports to have been given or which has been in any way altered or tampered with,

shall be guilty of an offence under this section unless he proves that he has taken all reasonable steps to ascertain the truth of the statement made or contained in any document so presented or produced or to satisfy himself to the genuineness of the invoice or undertaking.

- (2) Any person who is guilty of an offence under this section shall be liable on conviction to a fine not exceeding N1,000 or to imprisonment for a term of five years or to both such fine and imprisonment.

22. Offences by body corporate, etc.

Where an offence under this Act is committed by a body corporate, or firm or other association of individuals-

- (a) every director, manager, secretary or other similar officer of the body corporate;
- (b) every partner or officer of the firm;
- (c) every person concerned in the management of the affairs of the association; or
- (d) every person who was purporting to act in any such capacity as aforesaid, shall severally be guilty of that offence and liable to be prosecuted and punished for the offence in like manner as if he had himself committed the offence, unless the act or omission constituting the offence took place without his knowledge, consent or connivance.

23. Liability under undertaking enforceable notwithstanding proceedings

The institution of proceedings for, or imposition of a fine or term of imprisonment under this Act shall not relieve any person from liability to payment of any sum for which he is or may be liable under any undertaking given by him under any provision of this Act.

24. Repeal, savings and transitional provisions

- (1) Subject to the provisions of this section, the Industrial Development (Income Tax Relief) Act is hereby repealed.

[Cap. 87 of the 1958 Edition.]

- (2) Subject as aforesaid, and notwithstanding the provisions of section 6 of the Interpretation Act (which relates to the effect of repeals) any pioneer certificate given under the Industrial Development (Income Tax Relief) Act (hereafter in this section referred to as "the repealed Act") by which an industry was declared to be a pioneer industry or a company was declared to be a pioneer company (being a certificate which was in force immediately before the relevant date), shall from that date have effect as if it were a pioneer certificate issued under this Act.

[Cap. 123.]

- (3) Where any part of an initial tax relief period of two years granted to a company before the relevant date under the repealed Act has not expired at the relevant date and the qualifying capital expenditure incurred by the company concerned on or before its production day is-

- (a) in the case of an indigenous-controlled company, not less than N50.000; or
- (b) in the case of any other company, not less than N150.000,

the initial tax relief period shall be construed as if that period were three years instead of two years; and thereafter an application may be made by the company for an extension of the tax relief period under section 10 (2) of this Act.

- (4) Where, in any case other than a case mentioned in subsection (3) of this section, a pioneer certificate granted under the repealed Act to any company is in force immediately before the relevant date, the

company may, on or before the expiry date of its pioneer certificate or tax relief period, apply under the provisions of section 10 (2) of this Act, for an extension of its tax relief period; and the provisions of section 1 (4) of this Act shall apply in relation to any application under section 1 of this Act, for the issue of a pioneer certificate.

- (5) A further tax relief period may be granted under section 10 (2) of this Act, to a pioneer company to which subsection (3) or (4) of this section applies, but nothing in this section shall have effect or be construed so as to authorise the grant, in any such case, of a tax relief period (under the repealed Act and this Act) in excess of five years from the production date of the pioneer company.
- (6) Notwithstanding anything in this section, the President may amend or cancel any pioneer certificate to which subsection (2), (3), (4) or (5) of this section applies.
- (7) Where an application for a pioneer certificate made under the repealed Act is pending on the relevant date, the provisions of section 2 of this Act shall apply thereto as if the application had been made under this Act, and the Minister may-
 - (a) require the applicant to furnish any particulars, or enter into any undertaking, which if the application had been made under this Act, would have been required to be included in the application or to be given in respect thereto;
 - (b) require the applicant to pay the fee prescribed under the said section 2, before the application is proceeded with under this Act.
- (8) Where an application for a pioneer certificate made under the repealed Act has been approved by the President, but no pioneer certificate had been issued in respect thereof, any certificate issued thereafter shall be deemed to have been in force immediately before the relevant date and effect shall be given thereto as if it were a pioneer certificate issued under that Act.

(9) In this section "relevant date" means the date of the making of this Act.

25. Interpretation

(1) In this Act, unless the context otherwise requires, the following expressions have

the meanings hereby assigned to them respectively, that is to say-

"Accounting period" means a period for which accounts have been made up in accordance with paragraph (c) of section 11 of this Act;

"Board" means the Federal Board of Inland Revenue established under section 1 of the principal Act;

"Company" means a company (other than a private company) limited by shares and incorporated and registered in Nigeria and resident in Nigeria;

"The Director" means the director appointed pursuant to section 1 (3) of the Industrial Inspectorate Act; [Cap. I8.]

"Gazette" means the Federal Gazette and includes the Gazette of any State in the Federation;

"The Minister" means the Minister for Industry;

"New trade or business" means the trade or business of a pioneer company deemed under the provisions of section 11 of this Act to have been set up and commenced on the day following the end of its tax relief period;

"Old trade or business" means the trade or business of a pioneer company carried on by it during its tax relief period in accordance with the provisions of section II of this Act and which either ceases within that period or is deemed, under those provisions, to cease at the end of that period;

"Permissible by-product" means any goods or services so described in any certificate given under section 1 of this Act being goods or services necessarily or ordinarily produced in the course of producing a pioneer product;

"Pioneer certificate" means a certificate given under this Act certifying, among other things, a company to be a pioneer company, or any such certificate as amended under this Act;

"Pioneer company" means a company certified by any pioneer certificate to be a pioneer company;

"Pioneer enterprise", in relation to a pioneer company, means the production and sale of its relevant pioneer product or products;

"Pioneer industry" means any trade or business of the kind included in any list published under section 1 of this Act;

"Pioneer product" means goods or service of the kind included in any list published under section 1 of this Act;

"Principal Act" means the Companies Income Tax Act;

[Cap. C21.]

"Production day" means the day on which the trade or business of a pioneer company commences for the purposes of the principal Act;

"Qualifying capital expenditure" means capital expenditure of such a nature as to rank as qualifying expenditure for the purposes of the Second Schedule to the principal Act;

"Relevant pioneer product", in relation to any pioneer company, means the pioneer product or products and the permissible by-products specified in its pioneer certificate; and

"Tax relief period", means the period specified under subsection (1) of section 10 of this Act and any extension of that period made under that section.

(2) References in this Act to an indigenous-controlled company are references to any company in which-

- (a) the beneficial ownership of the whole of the equity capital of the company and of all other class of shares conferring voting rights in the company, is vested in persons who are citizens of Nigeria, otherwise than by naturalisation or registration; and
 - (b) the persons mentioned in paragraph (a) of this subsection, control the composition of the board of directors of the company.
- (3) Nothing in this Act shall be taken as prejudicing the effect of section 3 of the Industrial Inspectorate Act (which relates to notice of intention to incur capital expenditure) or any other provision of that Act.

26. Short title

This Act may be cited as the Industrial Development (Income Tax Relief) Act and shall be read as one with the principal Act.

INDUSTRIAL DEVELOPMENT (INCOME TAX RELIEF) ACT

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