

THE QUARRIES CONTROL ACT

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SCHEDULE.

THE QUARRIES CONTROL ACT

{3rd January, 1984.}

Acts
16 of 1983,
25 of 1994,
36 of 1995,
3rd Sch.

Preliminary

1. This Act may be cited as the Quarries Control Act. Short title.
2. In this Act—Interpreta-
tion.
 - “Commissioner” means the Commissioner of Mines appointed by the Governor-General under subsection (1) of section 5 of the Mining Act;
 - “Committee” means the Quarries Advisory Committee established under section 6;
 - “illicit quarrying” means any removal of quarry material or quarry mineral from any place without a licence granted under section 8 or without the prior consent of the Minister; 25/1994
S. 2 (a).
 - “licensee” means a person to whom a licence has been granted under section 8;
 - “Medical Officer” means any person appointed as such by the Chief Medical Officer for the purposes of the Mining Act;
 - “mineral” has the meaning assigned to it in the Minerals (Vesting) Act;
 - “quarry” means any place (not being a mine as defined in the Mining Act) where quarry material or quarry mineral has been removed or is being removed, whether by excavation or otherwise, to supply material for construction purposes, other than dimension stones for the construction industry; 25/1994
S. 2 (b).

“quarry material” means rock, stone, sand (including sea sand), marl, gravel, clay, fill and limestone where such material does not contain any minerals in economically workable quantities;

“quarry mineral” means gypsum and any other substance that the Minister may, by notice published in the *Gazette*, declare to be a quarry mineral;

“quarry tax” or “tax” means quarry tax imposed by or under this Act and includes all penalties and interest that are or may be added to a tax under this Act;

“quarry zone” means any area designated as such by the Minister under section 4;

“quarterly period” means a period of three consecutive months commencing on the 1st day of January, or the 1st day of April, or the 1st day of July, or the 1st day of October, in any year;

“rehabilitation” means to restore to previous condition or set up again in good condition;

“sea sand ” means sand on the sea bed, shoreline or foreshore;

“specified area” means any area declared as such by the Minister under section 4;

“tonne” means a tonne by standard measure of weight provided in the Weights and Measures Act (one thousand kilograms weight).

**Delegation
of powers.**

3.—(1) The Commissioner may, with the approval of the Minister, delegate or assign to any officer all or any of his powers, duties and jurisdiction under this Act, subject to such limitations as he may specify, but by so doing the Commissioner shall not be deemed to divest himself of the right to exercise concurrently any of the powers, duties and jurisdiction conferred upon him by this Act.

(2) The Minister may delegate or assign to the Commissioner all or any of his powers, duties and jurisdiction under sections 8, 9 and 10 subject to such limitations as he may specify, but by so doing the Minister shall not be deemed to divest himself of the right to exercise concurrently any of the powers, duties and jurisdiction conferred upon him by the aforesaid sections of this Act.

Quarry zones and licences

4. The Minister may, on the recommendation of the Committee, by order— Quarry zones.

- (a) declare as a specified area any area in which quarry zones are to be established;
- (b) establish quarry zones within any such specified area.

5.—(1) No person shall open, establish or operate a quarry for the purpose of extracting quarry material or quarry mineral except under and in accordance with a licence granted for the purpose under this Act : Offence to operate quarry without licence.

Provided that, on the application of any person, the Minister may, in writing, waive, subject to such terms and conditions as he may specify, the requirement for a licence if he is satisfied that the quarry material or quarry mineral to be extracted by that person from that quarry will not exceed 100 cubic metres. 25/1994 Sch.

(2) Except where the Minister may in special circumstances allow, no licence shall be granted to any person to operate a quarry within a specified area unless such quarry is located within a quarry zone.

(3) A person who contravenes the provisions of subsection (1) shall be guilty of an offence against this Act and on summary conviction in a Resident Magistrate's Court—

- (a) in the case of a first conviction for such offence, be liable to a fine not exceeding thirty thousand 25/1994 Sch.

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dollars or imprisonment for a term not exceeding twelve months or to both such fine and imprisonment; and

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- (b) in the case of a second or subsequent conviction for such offence, be liable to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding one year, and in default of payment, to imprisonment for a further term not exceeding one year, such further term to run consecutively; and

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Sch.

- (c) in any event, if the offence continues (whether or not without interruption) after any such conviction, to a fine not exceeding ten thousand dollars for each day on which the contravention continues after conviction or to a term of imprisonment not exceeding two years.

(4) Any quarry material or quarry mineral extracted in the commission of any offence under this section in respect of which there is a conviction may, in the discretion of the Court, be forfeited to the Crown.

(5) The Court may order that any fine imposed under subsection (3) be employed as the Court may direct towards the rehabilitation of the illegally operated quarry.

Quarries
Advisory
Committee.

6.—(1) There is hereby established for the purpose of this Act a body to be known as the Quarries Advisory Committee.

Schedule.

(2) The provisions of the Schedule shall have effect as to the constitution of the Quarries Advisory Committee and otherwise in relation thereto.

Functions
of the
Committee.

7. It shall be the duty of the Committee to advise the Minister—

- (a) on matters of general policy with respect to quarries;
- (b) with respect to applications for licences; or
- (c) upon any other question referred to it by the Minister.

8.—(1) An application for a licence to operate a quarry shall be filed with the Minister in the prescribed form and shall be accompanied by the prescribed fee and the prescribed particulars.

Quarry
licence.

(2) Every applicant for a licence shall cause to be displayed in a prominent place at the proposed site of the quarry a notice in the prescribed form for a period of not less than twenty-one days, commencing from the date on which the application for a licence is filed with the Minister.

(3) On receipt of an application for a licence the Minister shall consult with the relevant authorities and shall, subject to the provisions of section 9, either grant or refuse the application and, in the event of refusal, shall notify the applicant in writing of the grounds of refusal.

(4) A licence granted under this section may contain such terms and conditions as the Minister considers advisable.

(5) A licence granted under this section—

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S. 3.

- (a) shall, unless previously revoked, remain in force for such period as may be determined by the Minister acting on the advice of the Commissioner; or
- (b) may, if the Minister thinks fit, upon the expiry of the period determined pursuant to paragraph (a), be renewed upon payment of the prescribed fee, for a period so determined.

(6) In this section—

“relevant authority” means—

- (a) the local authority of the parish in which the quarry is to be operated;
- (b) the Chief Technical Director;
- (c) the Natural Resources Conservation Authority;
- (d) the Permanent Secretary, Ministry of Agriculture;

36/1995
3rd Sch.

- (e) the Water Resources Authority;
- (f) any statutory body or agency appearing to the Minister to have an interest in or to be likely to be affected by the issuing of a licence;

“local authority” means, in relation to the parishes of Kingston and St. Andrew, the Kingston and St. Andrew Corporation and, in relation to any other parish, the Parish Council of that parish.

Grounds for
refusal to
issue licence.

9.—(1) The Minister shall refuse to issue a licence to operate a quarry where, in his opinion, the operation of the quarry would be against the interest of the public, taking into account—

- (a) the preservation of the character of the environment including the fauna and flora;
- (b) the availability of natural environment for the enjoyment of the public;
- (c) the need, if any, for restricting excessively large total quarry output in the locality;
- (d) the traffic density on roads in the area where the quarry is to be operated;
- (e) any possible effect on the water table or surface drainage pattern;
- (f) the nature and location of other land uses that could be affected by the quarry operation;
- (g) the character, location and size of nearby communities;
- (h) danger of pollution to the neighbourhood; and
- (i) any other factors which in the opinion of the Minister will be against the public interest.

(2) Where the Minister proposes to refuse an application for a licence he shall notify the applicant in writing and afford him an opportunity to show cause why the licence should not be refused.

10. A licence may with the consent of the Minister and on payment of the prescribed fee be surrendered at any time to the Minister, so, however, that any liability incurred by the licensee prior to such surrender shall not be affected.

Surrender
of licence.

11.—(1) Subject to the provisions of subsection (2), the Minister may, in writing, suspend or revoke a licence—

Suspension
or revoca-
tion of
licence.

- (a) where he is satisfied that such licence has been obtained as a result of any misleading, false or fraudulent representation, or in consequence of any incorrect information (whether such information be supplied wilfully or otherwise);
- (b) where there has been a contravention of the provisions of this Act or of any regulation made thereunder by the licensee or by his servant or agent;
- (c) where there has been a breach of any of the restrictions or conditions stipulated in the licence;
- (d) where any mineral is discovered within, or in close proximity to, the quarry;
- (e) where he is satisfied that, having regard to any circumstance arising subsequent to the issue of a licence, the operation of the quarry is against the interest of public safety, public order or public health.

25/1994
S. 4.

(2) Prior to the suspension or revocation of a licence the Minister shall serve notice in writing upon the licensee, specifying the reasons for the proposed suspension or revocation and shall afford the licensee an opportunity of making representations to him to show cause within a specified time why a licence should not be suspended or revoked, as the case may be.

(3) In the case of a surrender, suspension or revocation of a licence the Minister shall cause notice of the fact to be published in the *Gazette*, and a copy of such notice shall be sent to the licensee by registered post at his last known address.

Security
for
rehabilita-
tion.

12.—(1) Every licensee shall, for rehabilitation of the land on which a quarry is located, maintain on deposit with the Commissioner such security in such amount and form and subject to such conditions as may be prescribed, so, however, that the Minister may, owing to special circumstances or in special cases, grant exemption in part or in full from such deposit subject to such terms and conditions as he may see fit to impose.

(2) Where such rehabilitation as aforesaid is not carried out in accordance with the requirements of this Act, or of the regulations or of the terms and conditions of the licence, the Minister may—

- (a) forfeit the security deposited under subsection (1); and
- (b) authorize any person to enter upon the premises on which the quarry is situated and perform such work as is necessary for the rehabilitation; and the cost thereof shall be recovered as a debt due by the licensee to the Minister, so, however, that such costs shall, in the first instance, be paid out of the moneys forfeited and the balance (if any) refunded in accordance with regulations.

Licences
not trans-
ferable.

13. A licence issued under this Act is not transferable.

Quarry tax

Power of
House of
Representa-
tives to
impose,
revoke or
vary quarry
tax
25/1994
S. 5 (a).

14.—(1) The House of Representatives may from time to time, by resolution, impose a tax to be known as a quarry tax in respect of each type of quarry material or quarry mineral sold or otherwise disposed of by a licensee and may revoke, reduce, increase or alter any quarry tax and provide for exemptions therefrom.

25/1994
S. 5 (b) (i).

(2) The quarry tax shall be paid to the Commissioner as agent for the Commissioner of Inland Revenue, and shall

be paid within thirty days after the end of each quarterly period or such other period, if any, as may be prescribed. 25/1994
S. 5 (b) (ii).

(3) The amount of tax payable by each licensee shall be calculated by multiplying the total number of tonnes or cubic yards of each type of quarry material or quarry mineral sold or otherwise disposed of by him during each quarterly period by the rate specified for such quarry material or quarry mineral by the resolution of the House of Representatives. 25/1994
S. 5 (c).

15.—(1) Every licensee shall, in respect of each quarterly period, make to the Commissioner, in such form (if any) as may be prescribed, within thirty days after the end of that quarterly period, a return in writing showing the number of tonnes or cubic yards of quarry material or quarry mineral sold or otherwise disposed of by him. Returns. 25/1994
S. 6.

(2) Such return shall also contain any other information in respect of quarry material or quarry mineral as the Commissioner may from time to time require or as may be prescribed.

(3) The Commissioner may enlarge the time for making the return before or after the time for making it.

16.—(1) Where a licensee fails to make a return or to pay quarry tax as required by or pursuant to this Act or if his returns are not substantiated by his records, the Commissioner may make an assessment of the tax payable by such licensee and such assessed amount shall thereupon be deemed to be the tax payable by the licensee. Assessment of tax payable.

(2) Where it appears from an inspection, audit or examination of the books of accounts, records or documents of any licensee that this Act has not been complied with, the person making the inspection, audit or examination shall calculate the tax payable by the licensee in such manner and form and by such procedure as the Commissioner considers adequate and expedient, and the Commissioner shall assess the amount of the tax payable by the licensee.

(3) The Commissioner may, at any time he considers reasonable, assess or re-assess any tax payable by a licensee under this Act, in respect of any period not being earlier than six years prior to the date of such assessment or re-assessment.

(4) Where the Commissioner has made an assessment under this section, he shall send by registered mail or by personal service a notice of assessment to the licensee requiring that the amount of tax due under the assessment be remitted to the Commissioner or otherwise accounted for.

(5) Where notice of an assessment made under this section is sent by registered mail it shall be addressed to the licensee at his last known address.

(6) Liability for tax imposed by this Act shall not be affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(7) The Commissioner shall not be bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act.

(8) An assessment, subject to being varied or vacated on an objection or appeal and subject to a re-assessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

Payment.

17.—(1) Every licensee shall within thirty days from the day of personal service or mailing of the notice of assessment under subsection (4) of section 16, as the case may be, pay the assessed tax then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding.

(2) Where in the opinion of the Commissioner a licensee is attempting to avoid payment of the tax imposed by this Act, the Commissioner may direct that all taxes as set out in the notice of assessment shall be paid forthwith.

18.—(1) Where a licensee objects to an assessment made under section 16, he may, within sixty days from the day of mailing of the notice of assessment or of the date of personal service, as the case may be, serve on the Commissioner a notice of objection, in duplicate, in a form approved by the Commissioner, setting out the reasons for the objection and all relevant facts. Notice of objection.

(2) A notice of objection under this section shall be served by personal service on the Commissioner or by being sent by registered mail addressed to the Commissioner.

(3) Upon receipt of the notice of objection, the Commissioner shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or re-assess, and he shall thereupon notify the licensee of his decision by registered letter.

19.—(1) Where a person who has served notice of objection under subsection (1) of section 18 is dissatisfied with the decision of the Commissioner thereon, he may appeal to the Revenue Court to have the assessment vacated or varied, but, unless Rules of Court otherwise permit, no appeal under this section shall be instituted after expiration of ninety days from the day notice has been mailed to such person under subsection (3) of section 18. Appeal to Revenue Court.

(2) Save as otherwise provided in this Act, appeals to the Revenue Court hereunder shall be regulated by Rules of Court.

(3) The Revenue Court may dispose of the appeal by—

(a) dismissing it;

- (b) allowing it; or
- (c) allowing it and—
 - (i) vacating the assessment;
 - (ii) varying the assessment; or
 - (iii) referring the assessment back to the Commissioner for reconsideration and assessment.

(4) The Revenue Court may, in delivering judgment disposing of an appeal, order payment or refund of tax by the appellant or the Commissioner, as the case may be, and may make such order as to costs as it considers proper.

Enforcement

Investiga-
tions.

20.—(1) The Commissioner, a Medical Officer or any person thereto authorized by the Commissioner for any purpose related to the administration or enforcement of this Act, may at all reasonable times enter, inspect and examine any premises or land on which a quarry is being operated or where quarried material or quarried mineral is stored or any place where books, records or other documents are or should be kept pursuant to this Act and—

- (a) examine into and make inquiry respecting the condition of any quarry and all matters relating to the safety, welfare and health of the persons employed therein;
- (b) inspect and examine the conditions of the external parts of any machine used upon such quarry;
- (c) inspect the storage of explosives on any quarry and direct in what manner they shall be stored;
- (d) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;

- (e) examine the goods described by an inventory or any process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records of the amount of any tax payable under this Act;
- (f) require a licensee and any other person on the premises of such licensee or, if such licensee is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof, to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination, either orally or, if he so requires, in writing, on oath or by statutory declaration, and, for that purpose, require such person to attend with him at any such premises or land as aforesaid; and
- (g) if during the course of an audit or examination it appears to him that there has been a contravention of this Act, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Commissioner or any person authorized thereto by the Commissioner may at all reasonable times enter, inspect and examine any premises or land on which a quarry is being operated or where quarry material is stored for the purpose of determining whether any minerals in economically workable quantities are to be found therein.

(3) The decision of the Commissioner under subsection (2) that any minerals in economically workable quantities have been found in any quarry shall be subject to review by the Minister whose decision thereon shall be final.

(4) The Commissioner may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any licensee or, if any such licensee is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof—

(a) any information or additional information or a return as required under section 15 or a supplementary return; or

(b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as may be stipulated therein.

(5) The Commissioner may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require—

(a) any person who has paid or is liable to pay any amount to a licensee; or

(b) any partner or agent of such person, to produce or produce on oath within such reasonable time as may be specified in the letter or demand, any books, letters, accounts, invoices, statements, (financial or otherwise) or other documents relating to the transaction to which the payment or liability relates.

(6) The Commissioner may, for any purpose related to the administration or enforcement of this Act, with the approval of a Resident Magistrate or Justice of the Peace, which approval the Resident Magistrate or Justice of the Peace is hereby empowered to give, authorize in writing any person, together with such members of the Constabulary Force as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place, for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act and to

seize and to take away any such documents, books, records, papers or things and retain them if they are required for production in any court proceedings.

(7) The Commissioner may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Commissioner's department, to make such inquiry as the Commissioner considers necessary with reference to anything relating to the administration or enforcement of this Act.

(8) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Commissioner's department, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Commissioner or a person thereunto authorized by the Commissioner to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

(9) Any person who hinders or molests or interferes with any person doing anything that he is authorized by this section to do, or who prevents or attempts to prevent any person doing any such thing or who, without reasonable excuse the proof whereof shall be upon him, fails to do anything he is required by this section to do shall be guilty of an offence against this Act.

(10) Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Minister, but any person so specially authorized shall not charge any fee therefor.

25/1994
S. 7 (a).

(11) For the purposes of this Act the Commissioner and officers of the Commissioner's department shall have such powers as the Commissioner of Inland Revenue and officers of the Inland Revenue Department have in relation to the Revenue Administration Act and the Tax Collection Act.

(12) [*Deleted by Act 25 of 1994.*]

Seizure
and for-
feiture of
convey-
ance or
machinery.
25/1994
S. 8.

20A.—(1) If any member of the Security Forces has reasonable cause to suspect that any conveyance or machinery is being used or has been used for the commission of any offence against this Act, he may without a warrant search and, if such search reveals evidence that the conveyance or machinery is being used or has been used for the commission of any offence as aforesaid, seize and detain such conveyance or machinery.

(2) Where any conveyance or machinery is seized pursuant to this section and—

- (a) any person is convicted of an offence against this Act; and
- (b) the Court is satisfied that—
 - (i) the person owns the conveyance or machinery used in the commission of the offence; or
 - (ii) the owner of the conveyance or machinery permitted it to be so used; or
 - (iii) the circumstances are otherwise such that it is just so to do,

the Court may, upon the application of the prosecution, order the forfeiture of the conveyance or machinery.

(3) On the application of the Director of Public Prosecutions before a Resident Magistrate's Court having jurisdiction in the area where a conveyance or machinery is seized pursuant to subsection (1), the Court may, notwithstanding that the conditions mentioned in subsection (2)

have not been satisfied, order the forfeiture of the conveyance or machinery if the Court is satisfied that—

- (a) the conveyance or machinery has been abandoned;
or
- (b) the circumstances in which the conveyance or machinery was seized give reasonable cause to suspect that the conveyance or machinery was being used or has been used for the purpose of committing an offence against this Act.

(4) Where the Director of Public Prosecutions proposes to apply for forfeiture of any conveyance or machinery under subsection (3), he shall give notice of the seizure thereof to any person who, to his knowledge, was the owner thereof at the time of the seizure and notice of the intention, after the expiration of thirty days from the date of the notice, to apply for forfeiture thereof and of the grounds therefor:

Provided that notice shall not be required to be given under this subsection if the seizure was made in the presence of the owner or any of the owners of the conveyance or machinery seized or any servant or agent of the owner.

(5) For the purposes of subsection (4) notification may, without prejudice to any other form of service thereof, be made by publication in a daily newspaper printed and circulated in the Island.

(6) Any person having a claim to any conveyance or machinery seized under this section may appear before the Court on the hearing of the application and show cause why an order for forfeiture should not be made.

(7) Where, on the hearing of an application pursuant to subsection (3) for forfeiture of a conveyance or machinery, no person appears before the Court to show

cause why an order for forfeiture should not be made the Court shall presume that the conveyance or machinery is abandoned.

(8) If, upon the application of any person prejudiced by an order made by the Court under subsection (2) or (3), the Court is satisfied that it is just to revoke such order, the Court may revoke that order upon such terms and conditions as it deems appropriate, and without prejudice to the generality of the foregoing, may require that person to pay in respect of storage, maintenance, administrative expenses, security and insurance of the conveyance or machinery, such charges as may be charged by the Commissioner and approved by the Court, not exceeding one and a half times the value of the conveyance or machinery, as determined by the Court.

(9) An application to the Court under subsection (8) for the revocation of an order shall be made within thirty days of the date of the order or within such longer time (not exceeding six months after that date) as the Court may allow.

(10) For the purposes of subsection (1) "Security Forces" means—

- (a) the Jamaica Constabulary Force;
- (b) the Island Special Constabulary Force;
- (c) the Rural Police.

Disposal
of un-
claimed,
forfeited
or aban-
doned con-
veyance or
machinery.
25/1994
S. 8.

20B.—(1) Where a conveyance or machinery is unclaimed, forfeited or presumed abandoned and remains in the possession of the Commissioner for more than six months, the Commissioner may order the conveyance or machinery—

- (a) to be sold to recover any costs in relation to the storage or maintenance thereof; or

(b) to be otherwise disposed of.

(2) Any sale pursuant to subsection (1) (a) shall be by public auction at such time as the Commissioner thinks necessary, and the person employed to sell the same by auction shall cause the conveyance or machinery to be exposed to public view and an advertisement giving notice of such sale shall be inserted in a daily newspaper printed and circulated in Jamaica at such intervals before the date of the sale as the Commissioner may determine.

(3) Where goods remain unsold after they have been put up for sale at a public auction, the Commissioner may, if he thinks fit, sell those goods by private treaty or cause them to be destroyed or otherwise disposed of as he thinks fit.

(4) The proceeds of any sale conducted pursuant to subsection (1) or (3) shall—

- (a) if the Minister so determines, be applied towards the rehabilitation of the illegally operated quarry; or
- (b) in any other case, be paid into the Consolidated Fund.

21.—(1) Every licensee who fails to pay tax payable by or pursuant to this Act for any quarterly period as specified in section 14, shall pay by way of penalty an amount equal to fifteen per cent of the tax due from him for that period.

Penalty for default in remitting tax, etc.

(2) Every licensee who fails to furnish a return or complete the information required on the return to be delivered under section 15 is liable to a penalty of one per cent of the tax payable by him for the period for which the return was due, but such penalty shall not in any case be less than fifteen thousand dollars or more than thirty thousand dollars.

25/1994
Sch.

(3) Every person who has—

- (a) made, or participated in, assented to or acquiesced

in the making of, false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act;

- (b) evaded payment of a tax imposed by or pursuant to this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of the licensee;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries or omitted, or assented to or acquiesced in the omission, to enter a material particular in records or books of account of a licensee;
- (d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act,

shall be guilty of an offence and liable on summary conviction in a Resident Magistrate's Court to a fine of not more than one thousand dollars plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been declared to be payable or that was sought to be evaded, or to imprisonment for a term of not more than one year.

25/1994
S. 9 (b).

(4) Any person who conspires with another to commit any offence specified in subsection (3) shall be guilty of an offence and liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding forty thousand dollars plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been declared to be payable or that was sought to be evaded, or to imprisonment for a term not exceeding one year.

Interest.

22.—(1) Any amount of tax payable or to be remitted to the Commissioner under this Act bears interest, at the rate of fifteen per cent per annum, or at such other rate as

may be prescribed from the day on which such amount should have been paid or remitted to the Commissioner to the day on which the Commissioner receives payment of the amount.

(2) The amount of tax due as shown by a notice of assessment made under section 16 shall, if it is not paid within thirty days from the day of the service or mailing of the notice of assessment, bear interest, at the rate of fifteen per cent per annum, or such other rate as may be prescribed calculated from thirty days after the day of such service or mailing of the notice of assessment, as the case may be, until the day on which the Commissioner receives payment of the amount.

23. The Tax Collection Act and any Act amending the same, so far as applicable, shall be incorporated and read as one with this Act and all taxes due under this Act save as otherwise prescribed by sections 14 and 17 may be enforced under the provisions of the Tax Collection Act.

Enforcement under the Tax Collection Act.

24. Without prejudice to any other means available for a collection of any amount of tax from any person, the Commissioner may, without limit of amount, sue for and recover any amount of tax in a Resident Magistrate's Court with full costs of suit as for a simple contract debt.

Suit for tax.

25.—(1) If it is proved to the satisfaction of the Commissioner that any amount of tax has been paid in excess of that payable pursuant to this Act, the Commissioner shall cause the amount so paid in excess to be refunded to any person appearing to him to be entitled thereto.

Refund of tax over-paid.

(2) No claim for a refund under this section shall be made after the expiration of a period of six years from the date of the payment in question:

Provided that, where any person satisfies the Commissioner that, in the special circumstances of the case, it was

not reasonably practicable for that person to make his claim within such period therefor as aforesaid, the Commissioner may extend the period as he thinks just.

Offences.

26. Every licensee who has failed to deliver a return as and when required by or pursuant to this Act is guilty of an offence and on summary conviction in a Resident Magistrate's Court is liable to a fine of not more than two thousand dollars for each day during which the default continues.

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Officers,
etc., of
corporation.

27. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction in a Resident Magistrate's Court shall be liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

Remission
of tax.

28. If the Minister is satisfied that it would be just and equitable to do so, he may remit any amount of tax charged or chargeable under this Act.

Safety

Power to
remedy
dangerous
practice,
etc.

29.—(1) If any officer or person specified in section 20 finds in any respect any quarry to be operated in a dangerous or defective manner so as in his opinion to threaten or tend to bodily injury, or to be detrimental to the fauna and flora of the neighbourhood or to the welfare or health of any person, or to the injury of stock, he shall give notice in writing thereof to the person operating such quarry and shall state in such notice the particulars in which he considers such quarry to be dangerous or defective, and shall require it to be remedied either forthwith or within such time as he may specify, and he may order work to be suspended until the danger is removed to his satisfaction.

(2) On receipt of such notice the person operating such quarry shall comply therewith, or, if he objects thereto, he shall immediately state his objection in writing to the Commissioner.

(3) The Commissioner shall with all reasonable despatch consider the objection and give written notice to the objector of his decision which shall be final.

(4) Where the person operating such quarry, states his objection to the Commissioner under subsection (2), he shall cease to operate the quarry and shall withdraw all men from the danger indicated by such officer as aforesaid until such time as the matter is determined by the Commissioner :

Provided that if, in the opinion of the officer or person giving such notice, there is no immediate danger, such officer or person may allow work to proceed during the time the matter is being determined, under such restrictions and upon such conditions to ensure safety as he may consider necessary and may specify in writing.

(5) For the purposes of this section and of section 30 the expression "person operating such quarry" includes any person immediately in charge of such quarry.

30. If the person operating such quarry fails to comply with the requirements of any notice given under section 29, or with the decision of the Commissioner when an objection has been determined, he shall be guilty of an offence against this Act.

Penalty on failure to comply with notices.

31.—(1) Where any accident occurs in a quarry which either—

(a) causes loss of life to a person employed in that quarry; or

Notification of accidents and industrial diseases.

QUARRIES CONTROL

(b) disables any such person for more than one day from the work at which he was employed, the licensee, manager or person having control of the machinery in such quarry shall forthwith report the occurrence of such accident to the Commissioner and in connection therewith he shall furnish such particulars as the Commissioner in any case from time to time may require.

(2) The licensee, manager or person having control of the machinery as aforesaid shall also from time to time in like manner report to the Commissioner—

- (a) all accidental fires and explosions;
- (b) the collapse of any building or structure;
- (c) any industrial disease which may be prescribed by the Commissioner,

which may occur in the quarry.

(3) The Commissioner may, where he considers it expedient so to do, hold or cause to be held a formal investigation in respect of any accident occurring or case of disease contracted or suspected to be contracted in a quarry and of its causes and circumstances and with respect to such investigations the following provisions shall have effect—

- (a) the person or persons holding the investigation (hereinafter in this section referred to as “the court”) shall do so in open court in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the accident or cause of disease;
- (b) the court shall have for the purpose of the investigation all the powers of a Resident Magistrate to summon witnesses, call for the production of books and documents and to examine witnesses and the parties concerned on oath;
- (c) any person summoned to attend or to produce

books or documents under this section, and refusing or neglecting so to do, or, without reasonable excuse the proof whereof shall lie in him, refusing to answer any question put to him by or with the concurrence of the court shall be guilty of an offence against this Act and liable on summary conviction before a Resident Magistrate to a fine not exceeding fifteen thousand dollars and in default of payment to imprisonment for a term not exceeding six months:

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Provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the same privileges to which he would be entitled if giving evidence before a court of justice;

- (d) any witness attending at the request of or upon summons by the Court holding such inquiry, shall, subject to any order made by the court, be entitled to like expenses as if summoned to attend a Resident Magistrate's Court.

Ancillary

32. Any person who contravenes or fails to comply with any of the provisions of this Act, or of any regulations made thereunder, for which no penalty is expressly provided by this Act, shall be guilty of an offence and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding fifteen thousand dollars, and in default of payment, to imprisonment for a term not exceeding six months, or, in case of a continuing offence, shall be liable to a further penalty not exceeding ten thousand dollars for every day upon which such offence continues after such conviction.

General
penalty.

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Any constable may arrest without warrant.

33. Any constable may, without warrant, arrest any person whom he finds committing an offence against this Act or whom he reasonably suspects of having committed such an offence against this Act.

Regulations.

34.—(1) The Minister may make regulations for the better carrying out of the provisions of this Act, and, without prejudice to the generality of the foregoing, such regulations may make provisions in relation to all or any of the following—

- (a) the prescribing of anything required or permitted by this Act to be prescribed;
- (b) the forms to be used for the purposes of this Act and other like matters of procedure;
- (c) prescribing the fees to be paid for the issue of licences;
- (d) the books, accounts and other documents to be kept in relation to business conducted pursuant to the operation of a quarry;
- (e) the furnishing to the Commissioner, or person authorized in that behalf by him, of information in relation to any business conducted as aforesaid;
- (f) registers to be kept for the purpose of this Act;
- (g) the furnishing of documents and information by applicants and appellants, and the procedure on application and appeals;
- (h) the audit of the accounts of licensees;
- (i) prescribing the principles, basis and method of determination or assessment of tax;
- (j) the method of collection and remittance of tax and any condition or requirement affecting such collection or remittance;
- (k) rebate of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such rebates may be made;

- (l) the management and operation of quarries including—
 - (i) the use that shall be made of land set aside for the purpose;
 - (ii) the location, construction and use of buildings on the lands set aside for the purpose;
 - (iii) prescribing the hours during which any class or classes of activity may be carried out on lands set aside for the purpose;
 - (iv) prescribing the sound levels permissible in their operation;
 - (v) prescribing the final slopes, excavation set backs, fencing, warning signs, blasting requirements, roads and exits;
- (m) the rehabilitation of quarries including the stockpiling of soil for the purpose;
- (n) the safety, welfare and health of persons employed in quarries;
- (o) life saving and first aid appliances;
- (p) the safe means of approach or access to any quarry or machinery;
- (q) the sanitation, including lavatory accommodation (having regard to the number of workers employed) at any quarry;
- (r) the provision and maintenance of appropriate facilities for the welfare of persons employed at the quarry.

(2) The Minister may, where in his opinion to do so would not be against the public interest, in writing relieve a licensee from strict compliance with any provision of the regulations subject to such terms and conditions as the Minister may impose.

[The inclusion of this page is authorized by L.N. 79/1996]

SCHEDULE

(Section 6)

Appointment
of members.

1. The Committee shall consist of not more than ten nor less than six members to be appointed by the Minister.

Temporary
appoint-
ments.

2. The Minister may appoint any person to act temporarily in the place of any member of the Committee in the case of the absence or inability to act of such member.

Chairman.

3.—(1) The Minister shall appoint one of the members of the Committee to be the chairman thereof.

(2) In the case of the absence or inability to act at any meeting of the chairman, members of the Committee present at such meeting shall elect one of their number to act as chairman at that meeting.

Tenure of
office.

4.—(1) The appointment of every member of the Committee shall be evidenced by an instrument in writing, and such instrument shall state the period of office of the member which shall not exceed three years.

(2) Every member of the Committee shall be eligible for re-appointment.

Resignation.

5.—(1) Any member of the Committee, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Committee.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

Publication
of member-
ship.

6. The names of all members of the Committee as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Procedure
and
meetings.

7.—(1) The Committee shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Committee shall determine.

(2) The chairman may at any time call a special meeting of the Committee and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the committee.

(3) The chairman or, in the case of the absence or inability to act of the chairman, the person elected to act as chairman in accordance with the provisions of sub-paragraph (2) of paragraph 3 shall preside at the meetings of the Committee, and when so presiding the chairman or the person elected as aforesaid to act as chairman, as the case may be, shall have an original and a casting vote.

(4) The quorum of the Committee shall be not less than one-third of the members of the Committee including the chairman or the person elected to act as chairman as aforesaid.

(5) Subject to the provisions of this Schedule the Committee may regulate its own proceedings.

(6) The validity of any proceeding of the Committee shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

8. There shall be paid to the chairman and other members of the Committee such remuneration whether by way of honorarium, salary or fees and such allowances as the Minister may determine. Expenses.

9. The office of chairman or member of the Committee shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica. Members not public officers.