

**A BILL
ENTITLED**

AN ACT to Make provision for the designation of projects as approved large-scale projects or economic activities as approved pioneer industries; to provide tax relief in relation to projects and activities so designated; to operationalize the tax incentives for large-scale projects and pioneer industries; to establish an Application and Management Committee as part of the process of approving participants of large-scale projects and pioneer industries; to Repeal and Replace the Income Tax Relief (Large-scale Projects and Pioneer Industries) Act, 2013; and to provide for connected matters.

BE IT ENACTED by the Parliament of Jamaica, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:-

- Short title and commencement.**

1. This Act may be cited as the Large-Scale Projects and Pioneer Industries (Tax Relief) Act, 2025, and shall come into operation on a day to be appointed by the Minister, by notice published in the Gazette.
- Interpretation.**

2. – (1) In this Act, unless the context otherwise requires –

“Application and Management Committee” means the Large-Scale Projects and Pioneer Industries Application and Management Committee established under section 7;

“approved large-scale project” means a project designated as an approved large-scale project under section 5;

“approved participant” means a company limited by shares that is registered under the Companies Act and in relation to which a certificate of approval has been granted under section 6;

“approved pioneer industry” means an economic activity designated as an approved pioneer industry under section 5;

“associate”, in relation to an applicant, has the meaning assigned to it

in section 2 of the Companies Act;

“authorized person” means the competent authority or a member of the Jamaica Constabulary Force, an officer of Tax Administration Jamaica, the Financial Investigations Division, the Jamaica Customs Agency; and any person acting in aid of the competent authority, member or officer acting in the execution of his office or duty, shall be deemed to be an authorized person acting in the execution of his office or duty;

“beneficial owner” means –

- (a) the individual who exercises, whether directly or indirectly, ultimate effective control and ultimate ownership of a company;
- (b) if there is no individual exercising both ultimate effective control and ultimate ownership of the company, the individual who exercises, whether directly or indirectly, either ultimate effective control or ultimate ownership;
- (c) the individual who exercises control or ownership in any of the ways stated in paragraph (a) or (b) over a company, body of persons, trust or other legal arrangement, who owns twenty-five percent or more of a company; or
- (d) in the absence of an individual referred to in paragraphs (a) or (b), an individual who is an officer of the company who exercises ultimate effective control of the management of the company;

“certificate of approval” means a certificate of approval granted under section 6;

“commercial application”, in relation to scientific research, means the

application, utilization or exploitation of the results of such scientific research in the manufacture, production, sale, distribution or provision, as the case may be, of goods or services in the course of any trade, business or profession, and includes any business or commercial activity that is necessary for or related to the promotion, development or growth of any such trade, business or profession;

“competent authority” means the Minister responsible for finance;

“control” in relation to an approved participant or any other company, means the power of a person (whether acting alone or jointly with another) who holds or is beneficially entitled to twenty-five percent or more of the votes in the approved participant or other company to secure by means of those voting rights that the affairs of the approved participant or other company are conducted in accordance with the wishes of that person;

“criminal record check” means a search of –

- (a) the register of all persons convicted of a crime in Jamaica, kept pursuant to section 43 of the Criminal Justice (Administration) Act or such other records as may be prescribed in relation to the conviction of a person for a criminal offence under the laws of Jamaica; or
- (b) records, similar to those referred to in paragraph (a), kept pursuant to the laws of another country, state or territory;

“document” means, in addition to a document in writing, anything in which information of any description is recorded;

“relevant Act” means the Constabulary Force Act, the Tax Administration Jamaica Act, the Financial Investigations Division Act, the Customs Act and any other enactment which governs law enforcement or revenue administration;

“scientific research” means any activities in the field of natural or applied science (including the human sciences) for the extension of knowledge and includes activities aimed at discovering new knowledge about products, processes or services and applying that knowledge to create new and improved products, processes or services;

“specified incentive” has the meaning specified in subsection (2);

“subsidiary” has the meaning assigned to it in section 151 of the Companies Act;

“tax expenditure” means revenue forgone by the Government of Jamaica arising from the granting of any specified incentive, to a particular taxpayer or category of taxpayers;

“ultimate effective control” means the control exercised by an individual, through means or mechanisms other than by direct control, who is in a position to determine a company’s policy or to make the final determination as to the decisions made by the company;

“ultimate ownership” means any circumstance in which the ownership of a company, by an individual, is exercised indirectly through a chain of ownership –

(a) through companies, corporations or any other mechanism;

(b) by himself or jointly with another person.

(2) For the purposes of this Act, “capital investment” means expenditure (not including recurring operational expenditure) incurred or proposed to be incurred –

- (a) by or on behalf of a company which is or becomes declared as an approved participant under section 6, in relation to an approved large-scale project;
- (b) wholly and exclusively in respect of a project which is or becomes designated as an approved large-scale project under section 5; and
- (c) on or before the date on which specified incentives shall cease to be granted under this Act in respect of an approved large-scale project,

but, subject to any modification specified by the Minister in any order made under section 5, shall not include expenditure incurred on buildings used as living accommodation, and plant and machinery which was provided wholly or partly for the use of a director, associate or an individual who is a member of the management, administrative or clerical staff of the approved participant;

(3) For the avoidance of doubt, “capital investment”, as defined in subsection (2), shall be construed in accordance with established international accounting standards.

(4) For the purposes of this Act, “specified incentive” means any tax credit as well as any exemptions granted under this Act, in respect of any tax, duty or levy imposed under any enactment except –

- (a) the tax or contribution payable in respect of emoluments paid to employees by an approved participant pursuant to the Income Tax Act, the Education Tax Act, the National Insurance Act, the

National Housing Trust Act and the Human Employment and Resource Training/National Service and Training Act;

- (b) any tax or levy charged to and collected from customers by an approved participant;
- (c) the tax from winnings pursuant to section 34 of the Betting, Gaming and Lotteries Act;
- (d) the lottery winnings levy pursuant to section 59I of the Betting, Gaming and Lotteries Act;
- (e) the production levy pursuant to section 3 of the Bauxite (Production Levy) Act;
- (f) the gross profit tax pursuant to section 61 of the Casino Gaming Act; and
- (g) any other industry specific tax.

(5) For the purposes of sections 3 and 4, core income generating activities may vary according to the specific qualifying activity, but shall mainly consist of those significant functions that drive the business value, which are not exclusively or mostly support activities.

(6) For the purposes of this Act, the following persons shall be treated as being connected with a person under section 3, an applicant or an approved participant (respectively referred to as “A” below) and they with them, and shall be so treated, notwithstanding that at the relevant time, any of the persons in question (not being individuals) had not yet come into existence or had ceased to exist –

- (a) a holding company or subsidiary of A;
- (b) a subsidiary of a holding company of A;
- (c) a holding company of a subsidiary of A;
- (d) a company of which A has control or effective control;

- (e) a company that, whether by itself or jointly with another, has control or effective control of A;
- (f) any company of which A and persons connected with A together have control or effective control;
- (g) any company that together with A constitute a group;
- (h) an individual who is a director, manager or a person who has control of A, or any partner or immediate relative of such director, manager or person;
- (i) the beneficial owner of A, being the individual who exercises ultimate ownership or ultimate effective control over A;
- (j) any other person identified by the Minister to be a person who should be treated as connected to A by virtue of that person's relationship with A.

(7) For the purposes of subsection (6)(g), “group” in relation to a company means that company and –

- (a) any other company which is its holding company or subsidiary;
- (b) any other company which is a subsidiary of the holding company;
- (c) any company which is controlled by a person who directly or indirectly controls or is controlled by any company referred to in paragraph (a) or (b);
- (d) any company which is controlled by a person referred to in paragraph (a), (b) or (c).

(8) For the purposes of subsections (6) and (7), a company is a holding company of any company that is its immediate, intermediate or ultimate subsidiary, whether the holding company holds that other company's shares on trust or is the beneficial owner of such shares.

**Application
for designation
as approved
large-scale
project, etc.**

3. – (1) A person may apply to the Minister for a project to be designated as an approved large-scale project.

(2) An application under subsection (1) shall –

- (a) be in writing, in the prescribed form and containing such prescribed particulars ; and
- (b) be accompanied by the prescribed fee.

(3) The Minister may, in relation to an application under this section, require the applicant to provide such additional information as the Minister considers necessary.

(4) Before making an order to designate a project as an approved large-scale project, pursuant to an application under this section, the Minister, after consultation with the Application and Management Committee, shall be satisfied that the project to be designated is one –

- (a) that is consistent with the strategic priorities of the Government of Jamaica;
- (b) in respect of which the projected amount of capital investment and jobs created in Jamaica will respectively be not less than the amounts prescribed by the Minister for the purposes of this paragraph;
- (c) that is likely to make a substantial contribution to Jamaica's economic growth and national development;
- (d) where its core income-generating activities will be conducted with an adequate number of full-time employees with the necessary qualifications and an adequate amount of operating expenditure, in accordance with the size and nature of the operation.

(5) Before making an order to designate a project as an approved

large-scale project, pursuant to an application under this section, the Minister, after consultation with the Application and Management Committee, shall be satisfied that the applicant or any associate of the applicant and each person connected with the applicant or associate, is a fit and proper person.

(6) In determining whether a person referred to under subsection (5) is a fit and proper person, the Minister shall have regard to –

- (a) whether the applicant and any associate of the applicant who will be involved in the project, is of good repute, taking into account the results of any criminal record check;
- (b) whether the applicant and any associate of the applicant, and any person connected with the applicant or associate, as the case may be, is a person for whom no order for bankruptcy has been made under the Insolvency Act;
- (c) whether the applicant has, or has arranged a transparent ownership structure;
- (d) whether the applicant holds or is able to obtain –
 - (i) financial resources that are adequate to ensure the financial viability of the applicant or any associate of the applicant to be involved in the conduct of the project;
 - (ii) the services of persons who have sufficient experience for the operation of the applicant or any associate to be involved in the project;
- (e) whether the applicant and any associate of the applicant to be involved in the project, have sufficient ability to manage the project;
- (f) whether the applicant and any associate of the applicant to be

involved in the project, or a person connected with the applicant or associate, as the case may be, has a business connection with any person, who, in the opinion of the Minister, is not of good repute, having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;

- (g) whether each director, partner, trustee, executive officer, secretary and any other officer or person determined by the Minister to be connected with the ownership, administration or management of the operations or business of the applicant or any associate to be involved in the project, is a suitable person to act in that capacity; and
- (h) any other matter, that may be prescribed, by order, by the Minister, subject to affirmative resolution.

**Application
for
designation as
approved
pioneer
industry, etc.**

4. – (1) A person may apply to the Minister for an economic activity to be designated as an approved pioneer industry.

(2) An application under subsection (1) shall –

- (a) be in writing, in the prescribed form and containing such prescribed particulars; and
- (b) be accompanied by the prescribed fee.

(3) The Minister may, in relation to an application under this section, require the applicant to provide such additional information as the Minister considers necessary.

(4) Before making an order to designate an economic activity as an approved pioneer industry, pursuant to an application under this section, the Minister, after consultation with the Application and Management Committee, shall be satisfied that the economic activity to be designated is one –

- (a) that is consistent with the strategic priorities of the Government of Jamaica;
- (b) that is not being carried out in Jamaica on a substantial commercial basis and that involves or is intended to involve the commercial application of the results of scientific research;
- (c) for which there are favourable prospects of it being developed so as to have a positive transformational impact on the economy of Jamaica;
- (d) where its core income-generating activities will be conducted with an adequate number of full-time employees with necessary qualifications and an adequate amount of operating expenditure, in accordance with the size and nature of the operation.

(5) Before making an order to designate an economic activity as an approved pioneer industry, pursuant to an application under this section, the Minister, after consultation with the Application and Management Committee, shall be satisfied that the applicant or any associate of the applicant and each person connected with the applicant or associate, is a fit and proper person.

(6) In determining whether a person referred to under subsection (5) is a fit and proper person, the Minister shall have regard to –

- (a) whether the applicant and any associate of the applicant who will be involved in the economic activity, is of good repute, taking into account the results of any criminal record check;
- (b) whether the applicant and any associate of the applicant, and any person connected with the applicant or associate, as the case may be, is a person for whom no order for bankruptcy has been made under the Insolvency Act;

- (c) whether the applicant has, or has arranged a transparent ownership structure;
- (d) whether the applicant holds or is able to obtain –
 - (i) financial resources that are adequate to ensure the financial viability of the applicant or any associate of the applicant to be involved in the conduct of the economic activity;
 - (ii) the services of persons who have sufficient experience for the operation of the applicant or any associate to be involved in the economic activity;
- (e) whether the applicant and any associate of the applicant to be involved in the economic activity, have sufficient ability to manage the economic activity;
- (f) whether the applicant and any associate of the applicant to be involved in the economic activity, or a person connected with the applicant or associate, as the case may be, has a business connection with any person, who, in the opinion of the Minister, is not of good repute, having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;
- (g) whether each director, partner, trustee, executive officer, secretary and any other officer or person determined by the Minister to be connected with the ownership, administration or management of the operations or business of the applicant or any associate to be involved in the economic activity, is a suitable person to act in that capacity; and
- (h) any other matter, that may be prescribed, by order, by the Minister, subject to affirmative resolution.

**Ministerial
order
designating**

5. – (1) Subject to the provisions of this Act, the Minister may make an

**project or
activity or
granting
incentives.**

order –

(a) designating –

(i) a project as an approved large-scale project; or

(ii) an economic activity as an approved pioneer industry; and

(b) subject to subsection (4) –

(i) prescribing the specified incentives in respect of a project

or industry that is designated under paragraph (a), that may

be granted consequent on an application made under

section 3 or 4, as the case may be, in addition to, or in place

of, any other fiscal incentives that are applicable, or would

otherwise be applicable, in respect of that project or

industry; and

(ii) imposing, as appropriate, conditions for the designation of

a project or economic activity or the granting of specified

incentives in relation thereto.

(2) The specified incentives referred to in subsection (1)(b), in respect of an approved large-scale project or an approved pioneer industry, shall only be granted for a non-renewable period, not exceeding fifteen years, commencing from the date of designation, such specified incentives being apportioned on an annual basis.

(3) Any unused portion of an annual allotment of a specified incentive shall not be carried forward to subsequent years.

(4) An order under subsection (1) –

(a) is subject to affirmative resolution; and

(b) shall, when it is tabled in Parliament for affirmation be

accompanied by a cost-benefit analysis of any specified

incentives that are to be granted under the order.

(5) In this section “fiscal incentive” means any exemption or relief, in respect of any tax, duty, fee, levy or other impost, that is granted under any enactment.

**Declaration
of approved
participant.**

6. – (1) A company which is desirous of being declared an approved participant in respect of an approved large-scale project or, as the case may be, an approved pioneer industry, shall apply, in writing, to the Minister, in such form and containing such particulars as may be prescribed.

(2) An application under subsection (1) shall be accompanied by the prescribed fee.

(3) The Minister may, in relation to an application under this section, require the applicant to provide such additional information as the Minister considers necessary to enable the Minister to decide whether or not to make a declaration under this section.

(4) The Minister may, (after consultation with the Application and Management Committee and subject to section 9, and to such terms and conditions as the Minister thinks fit), declare the company as an approved participant and issue such company with the requisite certificate of approval.

(5) Before an applicant is declared an approved participant, the Minister shall be satisfied that the applicant and each person connected with the applicant is a fit and proper person to be concerned in or associated with the management or operation of the applicant.

(6) In determining whether the applicant or a person connected with the applicant is a fit and proper person, the Minister shall consider whether –

(a) the applicant is of good repute;

- (b) the person connected to the applicant is of good repute, having a character of honesty and integrity, taking into account the results of any criminal record check;
- (c) the applicant or the person connected to the applicant, as the case may be, is a person for whom no order for bankruptcy has been made under the Insolvency Act;
- (d) the applicant has, or has arranged, a transparent ownership structure;
- (e) the applicant holds or is able to obtain –
 - (i) financial resources that are adequate to ensure the financial viability of the applicant to conduct its proposed activities in relation to the approved large-scale project or approved pioneer industry, as the case may be;
 - (ii) the services of persons who have sufficient experience for the operation of the applicant to conduct its proposed activities in relation to the approved large-scale project or approved pioneer industry, as the case may be;
- (f) the applicant has sufficient ability to manage its proposed activities in relation to the large-scale project or pioneer industry;
- (g) each director, partner, trustee, executive officer, secretary and any other officer or person determined by the Minister to be connected with the ownership, administration or management of the operations or business of the applicant is a suitable person to act in that capacity;
- (h) any person proposed to be engaged or appointed to manage the large-scale project or pioneer industry is a suitable person to act in that capacity;

- (i) the applicant is compliant with all tax obligations in Jamaica and any other jurisdiction in which the applicant is a registered taxpayer; and
- (j) there is any other matter, that may be prescribed, by order, subject to affirmative resolution.

Establishment and functions of Large-Scale Projects and Pioneer Industries Application and Management Committee. Schedule.

7. - (1) There is hereby established for the purposes of this Act, the Large-Scale Projects and Pioneer Industries Application and Management Committee to be called the Application and Management Committee.

(2) The provisions of the Schedule shall have effect with respect to the constitution and operations of the Application and Management Committee and otherwise in relation thereto.

(3) The Application and Management Committee shall consult with and make recommendations to the Minister in relation to the applications made under sections 3, 4 and 6 for a designation as an approved large-scale project or an approved pioneer industry or a declaration as an approved participant, respectively, and the periodic review of the administration of approved participants, and to this end, the Application and Management Committee shall –

- (a) receive, review and evaluate applications under sections 3, 4 and 6;
- (b) consider and evaluate applications for the amendment of a certificate of approval by an approved participant;
- (c) advise that the competent authority procure the relevant technical expertise in order to carry out the required evaluations under this subsection;
- (d) monitor an approved participant in order to ensure compliance

with this Act and any conditions of approval;

- (e) investigate or authorize investigations to be undertaken with regard to any applicant, any information provided in an application or any approved participant;
- (f) advise the Minister on any matter concerning applications –
 - (i) for the designation of approved large scale projects and approved pioneer industries under sections 3 and 4 respectively; and
 - (ii) for the making of declarations and the grant of certificates of approval, under section 6; and
- (g) carry out such other functions as may be assigned to the Application and Management Committee by or under this Act or any other enactment or by the Minister.

(4) A member of the Application and Management Committee shall be a fit and proper person within the meaning of subsection (5).

(5) In determining whether a person is a fit and proper person to be appointed as a member of the Application and Management Committee, the Minister shall have regard to whether the person –

- (a) has adequate academic qualifications and technical competencies and experience commensurate with the nature of the matters to be considered by the Application and Management Committee;
- (b) is of good repute, having regard to the person's character, honesty and integrity, taking into account the results of any criminal record check on the person;
- (c) is a person for whom no order for bankruptcy has been made under the Insolvency Act;
- (d) has any business association with a person, who, in the opinion of

the Minister, is not of good repute, having regard to the person's character, honesty and integrity;

- (e) has any business association or any potential conflict of interest with regard to any applicant, potential applicant or associate.

Conditional approval.

8. – (1) The Minister may, after consultation with the Application and Management Committee, grant conditional approval of an application under section 6, and such conditional approval shall be subject to the favourable outcome of any required environmental or other regulatory review.

(2) Where there is an unfavourable outcome of any required environmental or other regulatory review, the Minister shall withdraw the conditional approval granted under subsection (1) and shall notify the applicant within thirty days of being notified of the outcome of the review by the applicant or the regulatory authority.

(3) Where there is a favourable outcome of any required environmental or other regulatory review, the Minister shall grant a certificate of approval under section 6 within thirty days of being notified of the outcome of the review by the applicant or the regulatory authority.

Restrictions on Minister's power to grant certificates and make orders and tax expenditure factors.

9. – (1) Notwithstanding the provisions of sections 5 and 6, as applicable, the Minister shall not at any time during the financial year make an order under section 5 or make a declaration and grant a certificate of approval under section 6, if the Minister is satisfied that the likely effect of the declaration and certificate or order will cause the estimated aggregate tax expenditure incurred during that financial year ("the base year") or any other financial year, to exceed the specified limit.

- (2) The validity of an order under section 5 or a declaration and

certificate of approval under section 6, or of any entitlement pursuant thereto, is not affected if, at any time subsequent to the making of the order or the making of the declaration and the granting of the certificate of approval or any such entitlement, it is determined that the tax expenditure, arising from the entitlement caused the estimated aggregate tax expenditure for the base year or any other financial year to exceed the specified limit.

(3) In this section –

“estimated aggregate tax expenditure” in relation to any financial year

means the tax expenditure, as determined in the prescribed

manner, attributable to orders made under section 5 or

declarations and certificates of approval granted under section 6;

“specified limit” means the amount equivalent to 0.25 percent of the

Gross Domestic Product of Jamaica for the financial year

immediately preceding the base year or such other amount as the

Minister may prescribe by order subject to affirmative resolution

of the House of Representatives.

**Restrictions
on engaging
in other
business
activities.**

10. An approved participant shall not, without the prior written approval of the Minister, engage in other business activities, unless such other business activities are directly connected to the business of the approved large-scale project or approved pioneer industry.

**Major change
and minor
change to
approved
participant.**

11. – (1) In this section –

“major change”, in the circumstances of an approved participant

means –

(a) a change in relation to the control of the approved participant; or

(b) any action taken by the approved participant which

results in a change in the financial position of the approved participant that will amount to a decrease of twenty percent or more of the value of the assets, liabilities and equity of the business; or

- (c) any other change which is of a class or description prescribed as major, by order by the Minister, subject to affirmative resolution for the purposes of this section;

“minor change” in the circumstances of an approved participant,

means –

- (a) any action taken by the approved participant which results in a change in the financial position of the approved participant that will amount to an increase of twenty percent or more of the value of the assets, liabilities and equity of the business;
- (b) a change which results in a person becoming an associate of the approved participant;
- (c) a change of the person engaged or appointed to manage or operate the approved participant; or
- (d) any change in the circumstances that is prescribed, by order, subject to affirmative resolution, as a minor change, for the purposes of this section.

(2) An approved participant shall not make a major change to the approved participant unless the approved participant applies, in such form and containing such particulars, as required, for the written approval of the Minister.

(3) An application under subsection (2) shall be accompanied by the prescribed fee.

(4) The Minister, after consultation with the Application and Management Committee, may consider an application under subsection (2) and within six months of receipt of such application –

- (a) approve the major change, in writing, and grant a continuation of the certificate of approval, with or without amendment of the terms and conditions of the certificate; or
- (b) refuse to grant approval for a major change.

(5) For the avoidance of doubt –

- (a) where an approval for a major change is refused under subsection (4)(b), the original certificate of approval remains valid and continues without amendment to its terms and conditions;
- (b) an approved participant shall be in receipt of a continuation of the certificate of approval under subsection (4) before making a major change to the approved participant;
- (c) where an approved participant is granted a written approval to make a major change to the approved participant, such approval shall not affect the duration of the specified incentives granted under section 5(1).

(6) Where an approved participant makes a major change to the approved participant before receiving the continuation of the certificate of approval under subsection (4), the approved participant commits an offence and shall be liable, on conviction on indictment in the Supreme Court, to a fine not exceeding ten million dollars.

(7) An approved participant shall not make a minor change to the approved participant unless the approved participant notifies the Minister of the proposed change, within sixty days before the proposed change and furnishes to the Minister, such information requested by the Minister

within the period specified.

(8) An approved participant who contravenes subsection (7) commits an offence.

**Inspection;
audit
examination
of approved
participant.**

12. – (1) A member of the Application and Management Committee or an authorized person may, for the purposes of exercising any power under this Act, enter during office hours, the business premises of an approved participant and may –

- (a) carry out, alone or jointly with another person or public body authorized under a relevant Act, an audit or examination of any documents relating to the operations or other activities of that approved participant;
- (b) inspect any property or goods described in the inventory of the business and any other assets which, in the opinion of the member of the Application and Management Committee or an authorized person, as the case may be, are relevant to the purposes of, the power being exercised as aforesaid.

(2) Any person who is responsible for the operations of an approved participant in relation to which entry on the premises is made under this section shall, when required by a member of the Application and Management Committee or an authorized person –

- (a) furnish that member of the Application and Management Committee or authorized person with such information, within such time, not being less than seven days, and in such form as may be specified; or
- (b) produce or cause to be produced to that member of the Application and Management Committee or authorized person for inspection, any documents relating to the operations of the

business and, if so required, permit the member of the Application and Management Committee or authorized person to make copies of, or extracts from the documents.

(3) A person who contravenes subsection (2) commits an offence.

(4) An approved participant shall, on the prescribed date, in relation to the previous financial year, make a report with the prescribed information required by the competent authority.

**Amendment
of certificate of
approval.**

13. – (1) An approved participant may apply to the Minister, in writing, for a certificate of approval to be amended.

(2) An application under subsection (1) shall be accompanied by the prescribed fee.

(3) The Minister may, after consultation with the Application and Management Committee, amend a certificate of approval, if the Minister considers it appropriate to do so.

**Cancellation
of certificate
of approval.**

14. – (1) Where an approved participant –

(a) fails to comply with the requirements under subsection 11(2); or

(b) knowingly contravenes, or fails to comply with, any term or condition applicable to that approved participant, under a certificate of approval, the Minister may allow the approved participant –

(i) to explain the circumstances which gave rise to the failure to comply with section 11(2) or any term or condition applicable to that approved participant under a certificate of approval; and

(ii) a period of thirty days, or such longer period as the Minister may determine, to conduct remedial activities in relation to the non-compliance.

(2) Where the approved participant fails to give a reasonable explanation for the failure to comply with section 11(2) or any term or condition applicable to that approved participant under a certificate of approval and fails to conduct adequate remedial activities in relation to the non-compliance, the Minister may, after consultation with the Application and Management Committee, cancel the certificate of approval, after thirty days' notice in writing.

(3) If the Minister is satisfied that the certificate of approval was granted on an application which was based on a representation which was false in a material particular and which was made with an intent to deceive and was otherwise not made in good faith, and that such representation substantially influenced the decision to grant the certificate of approval, the Minister may, after consultation with the Application and Management Committee, cancel a certificate of approval, after thirty days' notice, in writing.

(4) If a breach of a provision of this Act results in the cancellation of a certificate of approval, the approved participant shall be liable to a penalty of double the tax credit or exemption granted under this Act which shall be considered a tax payable to the Collector of Taxes in accordance with the Tax Collection Act.

Records and accounts to be kept by approved participant.

15. – (1) An approved participant shall keep or cause to be kept, in Jamaica, accurate records in respect of an approved large-scale project or an approved pioneer industry, as the case may be, including business correspondence, accounting records and other records.

(2) An approved participant shall ensure that the records kept pursuant to subsection (1) are –

(a) in the English language; and

(b) retained for at least seven years from the date of the making of the record.

(3) The accounts of an approved participant shall be audited annually, in accordance with established international accounting standards, by an external auditor appointed by the approved participant, who shall not be an officer or employee of the approved participant and who is a registered public accountant as defined in section 2 of the Public Accountancy Act.

(4) An approved participant shall not knowingly appoint an auditor or firm of auditors as its external auditor and an auditor or firm of auditors shall not consent to be appointed as the external auditor for the approved participant if the auditor or any of the partners or employees of the firm of auditors, who is involved in the audit of the approved participant –

- (a) has any direct or indirect interest in that approved participant, including an interest in ten percent or more of its shares or is not independent of the approved participant;
- (b) is a connected person within the meaning of section 2(6); or
- (c) is in any business relationship with the approved participant that, in the opinion of the Minister, is not at arm's length or is likely to result in a conflict of interest.

Obligation to secrecy.

16. – (1) Every person having an official duty or being employed in the administration of this Act shall –

- (a) regard and deal with as secret and confidential, all documents or information obtained by the person, in the course of the performance of their duties under this Act; and
- (b) make and subscribe a declaration to that effect before a Justice of

the Peace.

(2) The obligation as to secrecy and confidentiality imposed by this section, in relation to any documents or information obtained under this Act continues to apply to a person despite the person having ceased to have an official duty, be employed or otherwise concerned in the administration of this Act.

(3) Every person referred to in subsection (1), having possession of or control over any documents or information, who at any time communicates or attempts to communicate such information or anything contained in such documents to any person –

(a) other than to the Minister or any other person to whom he is authorized by the Minister to communicate it, pursuant to any other law; or

(b) otherwise than for the purposes of this Act, commits an offence and is liable, on summary conviction in a Parish Court, to a fine not exceeding one million dollars, or to imprisonment for a term not exceeding nine months, or to both such fine and imprisonment.

**Report to
Parliament
on tax
expenditure.**

17. – (1) The Minister shall cause to be included in the Tax Expenditure Statement required to be tabled in the House of Representatives under section 48F of the Financial Administration and Audit Act, a report as specified in subsection (2).

(2) The report shall contain, in relation to the period specified in paragraph (a)(i) of section 48F(1) of the Financial Administration and Audit Act, namely the calendar year preceding the previous financial year, details of the certificates of approval granted and the orders made under this Act during that calendar year, and the aggregate tax

expenditure in that calendar year incurred thereby.

**Publication
in Gazette.**

18. The Minister shall cause to be published in the Gazette, the grant and the amendment or cancellation, of a certificate of approval.

Offences.

19. – (1) Where an approved participant improperly obtains a specified incentive or uses a specified incentive in contravention of the terms and conditions of a certificate of approval or the provisions of this Act, the approved participant commits an offence and shall be liable, on conviction on indictment in the Supreme Court, to a fine not exceeding three times the value of the specified incentive obtained or used.

(2) A person who commits an offence under this Act (other than an offence in respect of which some other penalty is specially provided for by this Act or regulations made hereunder) shall be liable, on summary conviction in a Parish Court, to a fine not exceeding three million dollars.

Regulations.

20. – (1) The Minister may make regulations generally giving effect to the provisions of this Act, and without limiting the generality of the foregoing, the regulations may –

- (a) provide for the procedure for making and processing applications for approval under this Act;
- (b) provide for information to be furnished for the purpose of applications for the designation of approved large-scale projects and approved pioneer industries and certificates of approval;
- (c) provide for returns to be submitted by approved participants;
- (d) prescribe fees payable in respect of applications processed or other services provided under this Act;
- (e) provide for the information to be furnished in a report by an approved participant to the competent authority;
- (f) prescribe other matters required by this Act to be prescribed.

(2) Regulations made under subsection (1) shall be subject to affirmative resolution.

(3) Notwithstanding section 29(b) of the Interpretation Act, regulations made under subsection (1) may provide, in respect of a breach of any provision thereof, for the imposition of penalties of a fine not exceeding three million dollars, or of imprisonment for a term not exceeding twelve months, or of both such fine and imprisonment.

Power of Minister to amend monetary penalties and Schedule.

21. The Minister may by order, subject to affirmative resolution amend –

- (a) any monetary penalty imposed by this Act or regulations made under this Act; and
- (b) the Schedule to this Act.

Repeal of Income Tax Relief (Large-scale Projects and Pioneer Industries) Act, 2013 and transitional provisions.

22. – (1) The Income Tax Relief (Large-scale Projects and Pioneer Industries) Act, 2013, (hereinafter referred to as “the repealed Act”) is repealed.

(2) Any declaration made, or certificate of approval or specific incentive granted under the repealed Act or any agreement to that effect which is valid and in force immediately before the appointed day, shall remain valid and in force as if declared or granted under this Act, to the extent that it is consistent with this Act.

(3) In this section, “appointed day” means the day appointed for the coming into operation of this Act.

Savings.

23. Notwithstanding the repeal of the Income Tax Relief (Large-scale Projects and Pioneer Industries) Act, 2013, a reference in any enactment to specific provisions of the Income Tax Relief (Large-scale Projects and Pioneer Industries) Act, 2013, shall be construed as a reference to the equivalent provisions of this Act.

**Amendment
of General
Consumption
Tax Act.**

24. Section 26 of the General Consumption Tax Act is amended by inserting next after subsection (4) the following –

“ (5) Notwithstanding subsection (4), an approved participant declared under section 6 of the Large-Scale Projects and Pioneer Industries (Tax Relief) Act, may make an application under this section within thirty-six months before the commencement of the taxable activity of that approved participant.”.

SCHEDULE

(Section 7)

Application and Management Committee

**Constitution of
Application
and
Management
Committee.**

1. – (1) The Application and Management Committee shall consist of the following members appointed by the Minister –

- (a) a representative nominated by the Financial Secretary;
- (b) a representative from Tax Administration Jamaica;
- (c) a representative from Jamaica Customs Agency;
- (d) a representative nominated by the Minister of Industry, Investment and Commerce;
- (e) a representative from Jamaica Promotions Corporation;
- (f) a representative from the Planning Institute of Jamaica; and
- (g) two representatives from the private sector.

(2) The Minister shall appoint one of the members of the Application and Management

Committee to be the chairman.

Tenure of office.

2. – (1) Subject to the provisions of this Schedule, the appointment of every member of the Application and Management Committee shall be evidenced by an instrument in writing.

(2) The instrument shall specify the period of office of the member, which shall not exceed three years.

(3) Every member of the Application and Management Committee shall be eligible for re-appointment, however, no member shall be permitted to serve longer than two consecutive terms.

Publication of membership.

3. The names of the members of the Application and Management Committee, as first constituted, and every change in the membership of the Application and Management Committee, shall be published in the Gazette.

Resignations.

4. A member of the Application and Management Committee may resign his appointment by notice, in writing, to the Minister and the resignation shall take effect on the date specified in the notice.

Revocation of appointment.

5. – (1) The Minister may, by notice, in writing, revoke the appointment of any member of the Application and Management Committee if the member –

- (a) fails to attend three consecutive meetings of the Application and Management Committee

without the approval of the chairman of the Application and Management Committee;

- (b) is suffering from a mental disorder as defined in the Mental Health Act, or if the member is, by reason of ill health, permanently unable to discharge any function as a member;
- (c) becomes bankrupt within the meaning of the Insolvency Act;
- (d) is convicted and sentenced to a term of imprisonment or death;
- (e) has engaged in misconduct or has breached a duty of care, whether individually or with any or all of the other members of the Application and Management Committee.

(2) Notwithstanding subparagraph (1)(a), the Minister may give a member of the Application and Management Committee an opportunity to provide an explanation for the failure of such member to attend the meetings of the Application and Management Committee, before making a decision to revoke the appointment of that member.

Filling of vacancies.

6. – (1) Where there is a vacancy in the membership of the Application and Management Committee, the chairman of the Application and Management Committee shall notify the Minister of the vacancy.

(2) A vacancy in the membership of the

Application and Management Committee shall be filled in the same manner, and subject to the same requirements, as apply to an original appointment of a member.

(3) For the avoidance of doubt, where an appointment of a member is made to fill a vacancy that occurred before the completion of a three-year term, that member shall, in the first instance, be appointed to serve for the remainder of the period of that three-year term.

**Procedure
and meetings.**

7. – (1) Subject to the provisions of this Schedule, the Application and Management Committee shall regulate its own proceedings.

(2) The chairman shall preside at meetings of the Application and Management Committee.

(3) Pursuant to subparagraph (2), in the absence or inability of the chairman to preside at a meeting of the Application and Management Committee, the members of the Application and Management Committee present shall elect one of their number to preside at the meeting.

(4) The Application and Management Committee shall meet at such times as are necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days and utilizing such modalities as the Application and Management Committee determines.

(5) The chairman may, at any time, summon a meeting of the Application and Management Committee, within seven days of receiving a request for the purpose addressed to the chairman by at least three members of the Application and Management Committee.

(6) A majority of the members of the Application and Management Committee present at a meeting constitutes a quorum.

(7) The decisions of the Application and Management Committee shall be by a majority of votes of the members present and constituting a quorum, but where in any case the voting is equal, the chairman or other person presiding at the meeting shall have, in addition to an original vote, a casting vote.

(8) The validity of any proceedings of the Application and Management Committee shall not be affected by any vacancy amongst the members or by any defect in the appointment of a member.

(9) Minutes in the proper form of each meeting of the Application and Management Committee shall be kept by such persons as the Application and Management Committee appoints for the purpose, and shall be confirmed by the members of the Application and Management Committee as soon as practicable at a subsequent meeting.

Disclosure.

8. – (1) A member of the Application and Management Committee who is interested in any matter being considered by the Application and Management Committee –

- (a) shall as soon as possible after that fact comes to the attention of the member, disclose (either in person or by notice, in writing) at a meeting of the Application and Management Committee, the nature of the interest; and
- (b) shall not be present during the deliberations, or take part in the decision, of the Application and Management Committee, in respect of the matter.

(2) The disclosure of interest by a member, pursuant to this paragraph, shall be recorded in the minutes of the meeting at which the disclosure is made.

(3) For the avoidance of doubt, a disclosure that is made in person shall be made in writing, within three to five days of the disclosure.

(4) Where a member of the Application and Management Committee fails to disclose an interest in a matter, pursuant to this paragraph, the Minister shall, by notice in writing, revoke the appointment of that member.

Remuneration of members.

9. There may be paid to the chairman and other members of the Application and Management

Committee, such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister with responsibility for the Public Service may determine.

Protection of members of Application and Management Committee.

10. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Application and Management Committee in respect of any act done *bona fide* in pursuance of or execution or intended execution of this Act.

Office of chairman or member not a public office.

11. The office of chairman of the Application and Management Committee or member of the Application and Management Committee shall not be a public office for the purpose of Part V of the Constitution of Jamaica.

MEMORANDUM OF OBJECTS AND REASONS

The Income Tax Relief (Large-scale Projects and Pioneer Industries) Act, 2013 (“the Act”) was enacted to create a new standard with respect to the treatment of fiscal incentives, applying a responsible approach to tax expenditures and the use of targeted tax credits, rather than wholesale tax holidays.

In order to attain its intended purpose, the Act permits the Government of Jamaica to have some flexibility in attracting beneficial investments for the country; however, this flexibility must be exercised within prescribed strictures.

This Bill seeks to repeal and replace the Act in order to bolster existing measures and introduce new and additional measures to ensure

the use of fiscal incentives in a fair, transparent and responsible manner.

The Bill aims to regulate the number of incentives offered in one year by reference to the country's Gross Domestic Product, and by imposing safeguards like the Large-Scale Projects and Pioneer Industries Application and Management Committee (the Application and Management Committee) to provide technical and other support to the Minister to assist in decision making, so that prior to designating a project as an approved large-scale project, or an economic activity as an approved pioneer industry, the Minister considers key components targeted at ensuring the interests of Jamaica. In exercising its functions under the Act, the Application and Management Committee is required to do so with the requisite professionalism and confidentiality.

The opportunity is also taken to consequentially amend the General Consumption Tax Act to allow an approved participant to apply for provisional registration under that Act, within a period before the date of commencement of the taxable activity of the approved participant.

Fayval Williams
Minister of Finance and the Public Service