

THE INCOME TAX ACT

ORDERS
(under section 2)

The Income Tax (Approved Public Utility) (The Jamaica Telephone Company Limited) Order, 1970 L.N. 76/70

Similar Orders made in respect of—

The Jamaica Public Service Company Limited L.N. 73/69
Kingston Wharves Limited L.N. 313/65

(For subsequent Orders, please see the Guide to Subsidiary Legislation)

The Income Tax (Recognized Stock Exchange) Order, 1971 L.N. 280/71

The Income Tax (Approved Overseas Organizations) Order, 1976 L.N. 134/76

Other Approved Overseas Organizations
L.Nn. 369A/76, 23C/77, 229V/77, 53B/81

(For subsequent Orders, please see the Guide to Subsidiary Legislation)

The Income Tax (Approved Fund) (Capital Development Fund) Order, 1983 L.N. 130A/83

ORDER
(under section 5 (1) (c), proviso (iv))

The Income Tax (Termination of Employment Payments) Order, 1971 L.N. 454/71

ORDER
(under section 5A(2))

The Income Tax (Concessionary Loans) (Prescribed Rate of Interest) Order, 2003 L.N. 17/2003

ORDERS
(under section 12)

(Omitted)

INCOME TAX

ORDERS
(under section 13(1)(q))

L.N. 414A/76
Vide
L.N. 148/77

The Income Tax (Approved Charitable Organizations) Order, 1976

Other Approved Charitable Organizations

L.Nn. 46/77, 148/77, 201/77, 274/77, 107A/78, 112D/78, 151E/78, 33Y/79, 80/79, 97J/79, 109D/78,
109E/79, 148G/79

**(For subsequent Orders, please see the Guide to Subsidiary
Legislation)**

L.N. 47/77

The Income Tax (Approved Educational Institutions) Order, 1977

Other Approved Educational Institutions

L.Nn. 147/77, 202/77, 336/77, 41/78, 63/78, 82I/79, 97B/79, 97I/79

**(For subsequent Orders, please see the Guide to Subsidiary
Legislation)**

NOTICE
(under section 14A)

L.N. 51/76

**The Income Tax (Relief: Employment of Additional Workers) Notice,
1976**

(Omitted)

ORDERS
(under section 36A and 36B)

ORDERS
(under section 36D (1))

L.N. 92B/83

**The Income Tax (Approved Farmer) (Eastern Banana Estates Limited)
Order, 1983**

Other Approved Farmers

L.N. 115A/83

**(For subsequent Orders, please see the Guide to Subsidiary
Legislation)**

ORDER
(under section 36D (14))

L.N. 128/82
13A/83

The Income Tax (Prescribed Agricultural Activities) Order, 1982

ORDER
(under section 40 (1) (b))

The Income Tax (Deduction of Tax) Order, 1971

L.N. 294/71

NOTICE
(under section 48 (6))

The Income Tax (Island Life Insurance Company Limited) Notice, L.N. 310/74
1974

Similar Notices issued in respect of—

The Caribbean Atlantic Life Insurance Company Limited

L.N. 438/71

The Manufacturers Life Insurance Company

L.N. 437/71

(For subsequent Notices, please see the Guide to Subsidiary Legislation.)

PRESCRIBED FORMS
(under sections 58, 66 and 67)

(Omitted)

ORDER
(under section 79 (1) (b))

The Income Tax (Rate of Interest) Order, 1986

L.N. 951/86

ORDER
(under section 81(2))

The Income Tax (Interest on Excess Payment) Order, 1971

L.N. 248/71

ORDERS
(under section 83) (for income tax)

(Omitted)

ORDERS

(Omitted) (under section 83 and under section 45 of the Transfer Tax Act)
(for transfer tax)

NOTICES

(Omitted) (under section 86)

REGULATIONS

(under section 92)

L.N. 378/64
24/86 The Income Tax (Valuation of Housing Accommodation) Regulations, 1964

RULES

(under section 93)

L.N. 100/55
406/75 The Income Tax (Superannuation Funds) Rules, 1955

L.N. 27/88 The Income Tax (Approved Retirement Schemes) Rules, 1988

REGULATIONS

Second
Schedule to
Act.

(under section 94)

RULES

Second
Schedule to
Act.

(under section 94)

ORDER

(under section 95)

L.N. 92/56 The Income Tax (Commonwealth Territories) Order, 1956

NOTICE

(Omitted) (under paragraph 2 of Part VIII of the First Schedule to the Act)

DECLARATION

(under the Fifth Schedule to the Act)

L.N. 127A/96 The Income Tax (Approved Persons) (Fifth Schedule) Declaration, 1996

DIRECTIONS

(under the Fifth Schedule to the Act)

The Income Tax (Specified Account) (Fifth Schedule) Directions, L.N. 127/1996
1996

ORDERS

(saved by section 80 (now omitted) of Law 59 of 1954) *(Omitted)*

THE INCOME TAX ACT

ORDER
(under section 2)

THE INCOME TAX (APPROVED PUBLIC UTILITY) (THE JAMAICA
TELEPHONE COMPANY LIMITED) ORDER, 1970

(Made by the Minister on the 7th day of April, 1970)

L.N. 76/70.

1. This Order may be cited as the Income Tax (Approved Public Utility) (The Jamaica Telephone Company Limited) Order, 1970.
2. The Jamaica Telephone Company Limited is hereby declared to be an approved public utility for the purposes of paragraph (s) of section 12 of the Act.

[The inclusion of this page is authorized by L.N 286/1976]

THE INCOME TAX ACT

ORDER
(under section 2)

THE INCOME TAX (RECOGNIZED STOCK EXCHANGES) ORDER, 1971

(Made by the Minister on the 31st day of July, 1971)

L.N. 280/71

[1st January, 1970.]

1. This Order may be cited as the Income Tax (Recognized Stock Exchanges) Order, 1971.

2. The stock exchanges set out in the Schedule shall be recognized stock exchanges for the purposes of the Act, in addition to the Jamaica Stock Exchange. Schedule.

SCHEDULE

(Paragraph 2)

The London Stock Exchange
The Zurich Stock Exchange
The American Stock Exchange
The New York Stock Exchange.

THE INCOME TAX ACT

ORDER
(under section 2)

THE INCOME TAX (APPROVED OVERSEAS ORGANIZATIONS) ORDER, 1976

(Made by the Minister on the 20th day of April, 1976)

L.N. 134/76

1. This Order may be cited as the Income Tax (Approved Overseas Organizations) Order, 1976.

2. The Organizations set out in the Schedule shall be approved overseas organizations for the purposes of the Act. Schedule.

SCHEDULE

(Paragraph 2)

Chase Manhattan Bank, Nassau
Chase Manhattan Bank, New York
Canadian Imperial Bank of Commerce, Canada.

THE INCOME TAX ACT

ORDER
(under section 2)

THE INCOME TAX (APPROVED FUND) (CAPITAL DEVELOPMENT FUND)
ORDER, 1983

(Made by the Minister on the 2nd day of November, 1983)

L.N. 130A/83

1. This Order may be cited as the Income Tax (Approved Fund) (Capital Development Fund) Order, 1983.
2. The Capital Development Fund is hereby declared to be an approved fund for the purposes of section 12 of the Act.

THE INCOME TAX ACT

ORDER

(under section 5 (1) (c), proviso (iv))

THE INCOME TAX (TERMINATION OF EMPLOYMENT PAYMENTS)
ORDER, 1971

(Made by the Minister on the 11th day of October, 1971)

L.N. 454/71

1. This Order may be cited as the Income Tax (Termination of Employment Payments) Order, 1971.

2. In this Order "lump sum" means any payment other than a periodical payment.

3. The emoluments falling within paragraph (c) of subsection (1) of section 5 of the Act shall not include so much of any lump sum paid in respect of the termination of employment of a person (whether paid to him or any other person) as satisfies any of the following descriptions, namely—

- (a) a lump sum paid out of an approved superannuation fund in accordance with the rules of the fund on the retirement of that person at the retirement age specified in those rules or at an earlier age on his becoming physically or mentally incapacitated, and not exceeding, except in the case of a person who has acquired rights in the fund before the 11th day of October, 1971, the limit mentioned in paragraph (b) of, or proviso (iv) to subsection (2) of section 44 of the Act (whichever is applicable);
- (b) a lump sum not falling within sub-paragraph (a) paid pursuant to a retirement benefits scheme approved under subsection (1) of section 61 of the Act on the retirement of that person at the specified retirement age or at an earlier age on his becoming physically or mentally incapacitated and not exceeding, except in the case of a person who has acquired rights under the scheme before the 11th day of October, 1971, the limit specified in sub-paragraph (a);
- (c) a lump sum not falling within sub-paragraph (a) or (b) paid out of an approved superannuation fund in accordance with

the rules of the fund or paid pursuant to such schemes as aforesaid and not exceeding the aggregate of the contributions made by that person to the fund or scheme, and not previously returned, together with any interest allowed thereon, provided that in the case of a person who acquired rights before the 11th day of October, 1971, an additional amount not exceeding the aggregate of the contribution to the fund or scheme made by the employer in respect of such person and not previously paid to him may also be included in the lump sum payment;

- (d) a lump sum paid by the employer to or in respect of that person as compensation for his having become physically or mentally incapacitated, where the Commissioner is satisfied by medical evidence that the incapacity is permanent;
- (e) a lump sum paid by the employer to or in respect of that person as a terminal gratuity or severance or redundancy payment, or as compensation for wrongful dismissal, or otherwise as compensation for loss of employment, where—
 - (i) the employment subsisted continuously for not less than three years;
 - (ii) the average emoluments over the last three years of the employment were more than \$7,000 p.a.; and
 - (iii) the lump sum does not exceed two and a quarter times the average annual emoluments of that person over the last three years of the employment where the employment subsisted for not less than thirty-three and one-third years, or a proportionately smaller amount where it subsisted for a shorter period;
- (f) a lump sum paid by the employer to or in respect of that person as a terminal gratuity or severance or redundancy payment, or as compensation for loss of employment—
 - (i) where the employment subsisted continuously for not less than one year;
 - (ii) the average annual emoluments over the last three years or since the commencement of the employment (as the case may be), were \$7,000 p.a., or less; and
 - (iii) the lump sum does not exceed a sum equal to the average basic weekly emoluments of that person over

the last twelve months of the employment for each complete three months of service;

- (g) a lump sum paid by the employer to or in respect of that person as compensation for wrongful dismissal where—
- (i) the employment subsisted continuously for not less than one year;
 - (ii) the average annual emoluments over the last three years or since the commencement of the employment (as the case may be) were \$7,000 or less;
 - (iii) the lump sum does not exceed a sum equal to the average basic weekly emoluments of that person over the last twelve months of the employment for each complete three months of service, where the employer and such person are connected persons:

Provided, however, that where they are not connected persons, the payment shall not exceed the average basic weekly emoluments of that person over the last twelve months of the employment for each complete two months of service.

4. In the case of a person whose employment terminated by reason of redundancy and who, during the twelve months preceding the termination was laid off work for a period or periods amounting to at least six months, then for the purpose of calculating the average basic weekly emoluments of such person, sub-paragraph (f) of paragraph 3 shall apply as if the termination had occurred on the date during that twelve months when he was first laid off work.

5. Where two or more lump sums paid in respect of the same matter to or in respect of the same person each fall within the same sub-paragraph of paragraph 3, they shall be treated as aggregated for the purpose of applying the provisions of this Order.

6. (a) If in respect of the same employment a lump sum is paid to or in respect of a person which falls within any two or more of sub-paragraphs (a) and (b) or (c) of paragraph 3, one only of those sub-paragraphs shall apply to his case, namely, the one which produces the highest tax free sum.
- (b) If in respect of the same employment a lump sum is paid to or in respect of a person which falls within any two or

more of sub-paragraphs (e), (f) or (g) of paragraph 3, one only of those sub-paragraphs shall apply to his case, namely, the one which produces the highest tax free sum.

- (c) If in respect of the same emolument lump sums are paid to or in respect of a person which falls within both sub-paragraphs (a) and (b) of this paragraph, he shall be allowed to aggregate both tax free sums.
- (d) If in respect of the same employment, a lump sum is paid to or in respect of a person which falls within sub-paragraph (d) of paragraph 3, he shall be allowed to aggregate such tax free lump sum, with any other sum which he may be entitled to receive tax free under the preceding sub-paragraphs of this paragraph.

7.—(1) Where a lump sum which would otherwise fall entirely within one of the sub-paragraphs of paragraph 3 exceeds the relevant limit therein imposed the excess shall be treated as emoluments liable to income tax (including, where applicable, surtax) at the rate which would apply if the excess were treated as the highest part of the income of the person in question, however, the person chargeable to tax in respect of the excess may, by notice in writing given to the Commissioner within the period of three months beginning on the date on which the lump sum (less any tax deductible) is paid, elect that, instead of being chargeable to tax as income of the year of assessment in which it is paid request the Commissioner to treat the excess as being earned in four equal proportions in four years being the three years preceding the year in which the payment is made and the year in which the payment is made.

(2) Where the taxable amount was paid before the 11th day of October, 1971, the period of three months mentioned in sub-paragraph (1) shall be taken to begin at that date. This Order applies to sums to which proviso (iv) (B) of paragraph (c) of subsection (1) of section 5 of the Act applies, namely, sums paid on or after 11th June, 1970.

THE INCOME TAX ACT

ORDER
(under section 5A(2))

**THE INCOME TAX (CONCESSIONARY LOANS) (PRESCRIBED RATE OF
INTEREST) ORDER, 2003**

(Made by the Minister on the 10th day of February, 2003)

L.N. 17/2003

[1st October, 2002.]

1. This Order may be cited as the Income Tax (Concessionary Loans) (Prescribed Rate of Interest) Order, 2003.
2. For the purposes of section 5 A(2) of the Act, the rate of interest shall be fourteen per cent.

THE INCOME TAX ACT

ORDER

(under section 13 (1)(g))

THE INCOME TAX (APPROVED CHARITABLE ORGANIZATIONS) ORDER, 1976

*(Made by the Minister on the 22nd day of December, 1976)*L.N. 414A/76
Vide

L.N. 148/77

[1st January, 1977.]

1. This Order may be cited as the Income Tax (Approved Charitable Organizations) Order, 1976.

2. The Charitable organizations set out in the Schedule shall, as from the first day of January, 1977, be approved charitable organizations for the purposes of the Act.

Schedule.

SCHEDULE

(Paragraph 2)

Baptist Women's Federation
Boys' Brigade
Scouts Association of Jamaica
Big Sisters
Brotherhood of St. Andrew
Canadian Save the Children Fund
Churches Advisory Bureau
Child Welfare Association
Daughters of the King
Friendly Societies Council
4-H Clubs
Girls Brigade
Girl Guide Association of Jamaica
Girls' Town
Hyacinth Lightbourne Memorial Association
Home Economics Association
Jamaica Anti-TB League
Jamaica Association for the Deaf
Jamaica Association for Mentally Handicapped Children
Jamaica Association for Mental Health
Jamaica Cancer Society
Jamaica Family Planning Association
Jamaica Federation of Women
Jamaica Save the Children Fund
Jamaica Children's Service Society
Jamaica Society for the Blind
Jamaica Women's League
Jamaica Red Cross Society
Kingston Charity Organization Society
Methodist Women's League
Moravian Men's Association

SCHEDULE, *contd.*

Moravian Women's Fellowship
Mothers' Union
National Children's Home
Operation Friendship
Royal Life Saving Society
Salvation Army
St. John's Ambulance Association and Brigade
St. Andrew Settlement
United Manchester Association
Upward and Onward Society
Women's Auxiliary
Young Men's Christian Association
Young Women's Christian Association
S. O. S. Children's Village
The Heart Foundation of Jamaica
Community Care Limited

THE INCOME TAX ACT

ORDER

(under section 13 (1)(q))

THE INCOME TAX (APPROVED EDUCATIONAL INSTITUTIONS) ORDER, 1977

(Made by the Minister on the 10th day of March, 1977)

L.N. 47/77

1. This Order may be cited as the Income Tax (Approved Educational Institutions) Order, 1977.

2. The educational institutions listed in the Schedule shall be approved educational institutions for the purposes of the Act. Schedule.

SCHEDULE

(Paragraph 2)

St. George's College
Excelsior Educational Centre
Jamaica Theological Seminary
The United Theological College of the West Indies
The U.W.I. Centre for Early Childhood Education
Black River Basic School

THE INCOME TAX ACT

NOTICE
(under section 14A)

THE INCOME TAX (RELIEF: EMPLOYMENT OF ADDITIONAL WORKERS)
NOTICE, 1976

(Made by the Commissioner of Income Tax on the 5th day of March, 1976) L.N. 51/76

1. This Notice may be cited as the Income Tax (Relief: Employment of Additional Workers) Notice, 1976.

2. Factory owners/operators are hereby notified that claim certificates for the deduction of expenses incurred in the employment of additional workers since 1st September, 1975 and in accordance with the above provisions should follow as closely as may be the forms exhibited below—

Particulars of workers employed on the 31st July, 1975 at the factory situated at.....
and operated by.....
.....

Name(s) of Worker(s)	Income Tax Reference No.	Occupation	Rate of Pay
_____	_____	_____	_____

.....
Signature of operator or authorized agent.

Certificate (to be given by registered public accountant)

I certify that the foregoing statement includes the required particulars in respect of each and every worker employed on the 31st day of July, 1975, at the abovementioned factory.

(Signature).....
Registered Public Accountant.

Date.....

YEAR OF ASSESSMENT 197...

Claim for deduction in respect of additional worker(s) pursuant to Section 14A of the Income Tax Act

Address of Factory.....

Name of Operator of factory.....

Period in respect of which claim is made.....

<u>Name(s) of additional worker(s)</u>	<u>Income Tax Ref. No.</u>	<u>Occupation</u>	<u>Date of employment</u>	<u>No. of full working weeks of not less than 40 hours</u>	<u>Amount claimed as deduction</u>
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.....
(Signature of claimant or authorized agent)

Certificate (to be given by Registered Public Accountant)

I certify that the particulars given in the adjoining claim are true and correct, that during the period in respect of which the claim is made the claimant operated a factory (as defined in section 2 of the Factories Act) at the address stated, that the remuneration of each additional worker in respect of whose employment the claim is made, is deductible as an expense under subsection (1) of section 3 of the Income Tax Act, and that no such worker was, on the 31st day of July, 1975 employed in any other factory operated by the claimant or by any person who is a connected person.

Signature.....

Date.....

3. The claims should be certified by a registered public accountant.

THE INCOME TAX ACT

ORDER

(under section 36D (1))

THE INCOME TAX (APPROVED FARMER) (EASTERN BANANA ESTATES LIMITED) ORDER, 1983

(Made by the Minister on the 26th day of January, 1983)

L.N. 918/83

1. This Notice may be cited as the Income Tax (Approved Farmer) (Eastern Banana Estates Limited) Order, 1983.
2. Subject to the conditions set forth in paragraphs 3 and 4, Eastern Banana Estates Limited (hereinafter referred to as the Company) is hereby designated to be an approved farmer for the purposes of the Act.
3. The Company shall be engaged in any or all of the agricultural activities as prescribed by the Minister by order.
4. This Order shall remain in force for a period of twelve years from the 26th day of January, 1983, unless previously revoked in accordance with the provisions of the Act.

THE INCOME TAX ACT

ORDER
(under section 40 (1) (b))

THE INCOME TAX (DEDUCTION OF TAX) ORDER, 1971

(Made by the Minister on the 26th day of August, 1971)

L.N. 294A/71

[1st December, 1970.]

1. This Order may be cited as the Income Tax (Deduction of Tax) Order, 1971.

2. Pursuant to subsection (1) of section 40 of the Act where payment is made to any person who is not resident in the Island by a person resident in the Island in respect of the provision of industrial or commercial information or advice, or management or technical services or similar services or facilities or hire of plant or equipment (otherwise than under a *bona fide* hire purchase agreement as defined in subsection (1) of section 2 of the Hire Purchase Act) the person making the payment shall, as from the 1st December, 1970, deduct thereout a sum on account of income tax at the following rates—

- | | | |
|--|--------|-------------------------|
| (a) in respect of persons resident in the United Kingdom, the United States of America, Canada, Denmark, Sweden and Norway | | 15 cents in the dollar |
| (b) in respect of persons resident in any other country | | 25 cents in the dollar. |

THE INCOME TAX ACT

NOTICE
(under section 28 (6))

THE INCOME TAX (ISLAND LIFE INSURANCE COMPANY LIMITED)
NOTICE, 1974

(Made by the Minister on the 12th day of July, 1974)

L.N. 310/74

[1st January, 1974.]

1. This Notice may be cited as the Income Tax (Island Life Insurance Company Limited) Notice, 1974.

2. Island Life Insurance Company Limited, a body incorporated under the Companies Act, with its registered office at 4 St. Lucia Avenue, New Kingston, Jamaica, is for the purposes of paragraph (a) of subsection (6) of section 28, taking reasonable steps to become Jamaicanized.

THE INCOME TAX ACT

ORDER
(under section 79 (1) (b))

THE INCOME TAX (RATE OF INTEREST) ORDER, 1986

(Made by the Minister on the 14th day of February, 1986)

L.N. 951A/86

[1st April, 1986.]

1. This Order may be cited as the Income Tax (Rate of Interest) Order, 1986.

2. For the purposes of paragraph (b) of subsection (1) of section 79 of the Act, the rate of interest payable on income tax due and payable and which remains unpaid shall be forty *per centum* per annum instead of twenty *per centum* per annum.

THE INCOME TAX ACT

ORDER
(under section 81(2))

THE INCOME TAX (INTEREST ON EXCESS PAYMENT) ORDER, 1971

(Made by the Minister on the 14th day of July, 1971)

L.N. 248/71

1. This Order may be cited as the Income Tax (Interest on Excess Payment) Order, 1971.
2. For the purposes of subsection (2) of section 81 of the Act the rate of interest payable on the amount paid in excess of the income tax properly chargeable shall be four *per centum* per annum.

THE INCOME TAX ACT

REGULATIONS
(under section 92)THE INCOME TAX (VALUATION OF HOUSING ACCOMMODATION)
REGULATIONS, 1964

(Made by the Minister on the 24th day of November, 1964)

L.N. 378/64
Amdt.
L.N. 84/86

[1st January, 1965.]

1. These Regulations may be cited as the Income Tax (Valuation of Housing Accommodation) Regulations, 1964.

2. The Commissioner shall not be precluded from attributing a value to any quarters or residence occupied in connection with any employment by reason only of the fact that such occupation is as representative of the employer and is not on that account beneficial to the occupier or that for any other reason the terms of the occupancy are such that the occupational value of the quarters or residence is not capable of being converted into money or money's worth.

3. In estimating the annual value which should be attributed to quarters or residence occupied in connection with employment, the Commissioner may take into account on the one hand—

- (a) the rent which might reasonably be expected to be obtained on a letting from year to year, at arm's length, of the quarters or residence if the landlord undertook to bear the costs of the repairs, insurance, taxes and any other expenses necessary for maintaining the quarters or residence in a state to command the rent;
- (b) any rent paid by the employer in respect of the quarters or residence.

and on the other hand—

- (c) the extent to which the occupancy is as representative of the employer rather than beneficial to the occupier or is for any other reason on such terms as to be not capable of being converted into money or money's worth;
- (d) any rent paid by the occupier in respect of the quarters or residence;
- (e) any obligation of the occupier to occupy the quarters or residence for the purpose of performing the duties of his employment and the extent to which such obligation would reasonably be expected to cause inconvenience to the occupier;
- (f) the location of the quarters or residence within the compound of any institution or establishment and the extent to which such location would reasonably be expected to cause inconvenience to the occupier;
- (g) the nature of any tenancy agreement by virtue of which the quarters or residence is so occupied and the extent to which the parties thereto were acting at arms length;
- (h) the extent to which any rent paid in respect of the quarters or residence may be regarded as excessive, having regard to the proportion that such rent bears to the total emoluments of the occupier.

THE INCOME TAX ACT

RULES

(under section 93 (1))

THE INCOME TAX (SUPERANNUATION FUNDS) RULES, 1955

(Made by the Governor in Executive Council on the 16th day of
May, 1955)

L.N. 100/55
Amd:
406/75

1. These Rules may be cited as the Income Tax (Superannuation Funds) Rules, 1955.

2. In these Rules, unless the context otherwise requires—

“approved superannuation fund” means a superannuation fund which has been and continues to be approved by the Commissioner in accordance with the provisions of these Rules;

“employee” means an employee participating in a superannuation fund;

“employer” means a person carrying on a trade or undertaking carried on in the Island;

“ordinary annual contribution” means an annual contribution to a superannuation fund, fixed in amount, or computed by reference to the earnings, the contributions or the number of members of the fund;

“rules of the fund” means the special body of rules governing the constitution and administration of a superannuation fund or the enactment under which the fund is established.

3. An application for approval of a superannuation fund shall be made to the Commissioner in writing by the employer in connection with whose trade or undertaking the fund is established, or by the trustees of the fund, and shall be accompanied by a copy of the deed under which the fund is established and by two copies of the rules of the fund and (if available) the accounts of the fund for the last year for which such accounts have been made up, and such further information as the Commissioner may require.

Schedule.

4.—(1) The Commissioner may approve, either as to the whole or as to part only, any superannuation fund which, in his opinion, complies substantially with the conditions set out in the Schedule.

(2) The Commissioner shall give to the applicant for approval of a superannuation fund notice in writing of his approval or, as the case may be, refusal to approve the fund, and where he approves the fund the notice shall specify the date as from which the fund is approved.

5. If any alterations in the rules, constitution or conditions of a superannuation fund are made at any time after the date of an application for approval thereof, the trustees or persons having the management of the fund shall forthwith in writing notify the Commissioner of such alterations, and in default of such notification any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn as from the date on which the alterations had effect.

6.—(1) The Commissioner may at any time withdraw his approval of a superannuation fund which in his opinion no longer complies substantially with the conditions set out in the Schedule.

(2) The Commissioner shall give to the trustees of the fund notice of such withdrawal and of the date from which it is to take effect.

7. An appeal against the refusal of the Commissioner to approve a superannuation fund shall be made within the time and in the manner provided for in the case of an appeal against the decision of the Commissioner or an objection to an assessment, and the provisions of section 76 of the Act shall with necessary modifications apply accordingly.

8. Where an employer deducts from the emoluments paid to an employee, or pays on behalf of that employee, any contributions to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to render under the provisions of regulation 29 of the Income Tax (Employments) Regulations.

9. Where an employer makes a contribution to an approved superannuation fund which is not an ordinary annual contribution, the employer, if he claims pursuant to section 44 of the Act an allowance

of the sum of such contribution as an expense incurred in the year in which the contribution is made, shall certify to the Commissioner the manner in which the benefit of such contribution is to be distributed among all the employed persons entitled to participate in the fund.

10.—(1) The trustees of an approved superannuation fund upon the payment or repayment out of the fund of any sum to an employer who is or was a contributor to the fund shall forthwith notify the Commissioner of such payment or repayment.

(2) The trustees of an approved superannuation fund upon payment out of the fund of any sum by way of pension or annuity (other than a lump sum paid in commutation or in lieu of pension or annuity) to an employed person or any dependent of such person shall render the returns required to be rendered by employers under the Income Tax (Employments) Regulations and deduct income tax in accordance with the provisions of the said Regulations as if the trustees were employers of the person to whom such payment is made.

11. The trustees of an approved superannuation fund and any employer who contributes to such a fund shall, when required by notice from the Commissioner, within thirty days from the date of service of such notice furnish to the Commissioner—

- (a) a return containing—
 - (i) the name and place of residence of every person in receipt of a pension or annuity from the fund;
 - (ii) the amount of pension or annuity payable to each pensioner or annuitant;
 - (iii) particulars of every contribution (including interest on contributions, if any) returned to the employer or to an employee;
 - (iv) particulars of sums paid in commutation or in lieu of pensions or annuities; and
 - (v) particulars of all accumulated balances repaid to employees and of the annual accretions making up such balances;
- (b) a copy of the accounts of the funds up to the last date prior to such notice to which such accounts have been made up; and
- (c) such further information and particulars in connection with the fund as the Commissioner may require.

12. The accounts of an approved superannuation fund shall be maintained in such form and for such periods, and shall contain such particulars, as the Commissioner may direct.

SCHEDULE (Rules 4 (1) and 6 (1))
Conditions

1. The fund shall be held under an irrevocable trust deed.
2. The fund shall be established in the Island in connection with some trade or undertaking carried on in the Island or carried on partly in the Island.
3. The sole purpose of the fund shall be the provision of pensions or annuities for persons employed in the trade or undertaking in connection with which it has been established, either on retirement at a specified age and after completion of a specified period of service or earlier retirement on becoming incapacitated, or on the death of such persons, for their widows, children or dependents.
4. The employer shall be a contributor to the fund.
5. Contributions to the fund by the employer and the employee shall be mutually recognized by both of them as a condition of the employment.
6. The contribution made to the fund respectively by the employer and the employee shall be an ordinary annual contribution and shall not exceed in either case fifteen per cent of the employee's current remuneration (for example, if an employee's remuneration is two hundred dollars per month the employee may contribute thirty dollar per month and the employer may also contribute thirty dollars per month).
- 7.—(1) The maximum pensions or annuities payable shall not exceed two-thirds of the salary of the employee at the date of his retirement.
(2) Where payment of a lump sum is made such lump sum shall not exceed—
 - (a) one-quarter of the sum obtained by multiplying the maximum annual pension of the employee by twelve and one-half; or
 - (b) fifteen thousand dollars,
 whichever is the less.
8. Where retirement is deferred beyond the specified age the commencing date for receipt of a pension or annuity shall be deferred also.
9. Pensions or annuities shall not be paid on retirement before the specified age except in cases of retirement within ten years prior to the specified age due to physical incapacity.
10. Maximum pensions or annuities shall not be paid except on retirement at or after the specified age and upon the completion of twenty-five years or more of service or such other period of service as the Commissioner may approve.
11. Upon the termination of the service of an employee in circumstances in which he is not entitled to a pension or an annuity the contributions paid by him may be refunded to him with or without interest but the contributions paid by the employer shall not be paid to the employee.

THE INCOME TAX ACT

RULES

(under section 93)

THE INCOME TAX (APPROVED RETIREMENT SCHEMES) RULES, 1988

(Made by the Minister on the 29th day of February, 1988.)

L.N. 27/88

1. These Rules may be cited as the Income Tax (Approved Retirement Schemes) Rules, 1988.

2. In these Rules—

“approved retirement scheme” means a retirement scheme which has been and continues to be approved by the Commissioner in accordance with the provisions of these Rules;

“employed person” means a person over the age of eighteen gainfully occupied in employment under a contract of service or apprenticeship written or oral and whether express or implied, and earning not less than the minimum wage as prescribed under the Minimum Wage Act, and who is not a member of an approved superannuation fund or an approved pension scheme;

“ordinary annual contribution” means an annual contribution to an approved retirement scheme computed by reference to the chargeable income of a contributor or fixed in amount;

“rules of the scheme” means the special body of rules governing the constitution and administration of an approved retirement scheme or the law under which it is established;

“self-employed person” means a person gainfully occupied in Jamaica who, in relation to that occupation, is not an employed person;

“specified age” means the age of sixty years or such other age as the Commissioner may approve.

3. An application for approval of an approved retirement scheme shall be made to the Commissioner in writing by the trustees of that scheme and shall be accompanied by a copy of the deed under which the scheme is established and by two copies of the rules of the scheme, and (if available) the accounts of the scheme for the last year for which such accounts have been made up, and such further information as the Commissioner may require.

Schedule.

4.—(1) The Commissioner may approve, either as to the whole or as to part only, any retirement scheme which, in his opinion, complies substantially with the conditions set out in the Schedule.

(2) The Commissioner shall give to the applicant for approval of a retirement scheme notice in writing of his approval, or, as the case may be, refusal to approve the scheme, and where he approves the scheme the notice shall specify the date as from which the scheme is approved.

5. If any alterations in the rules, constitution or conditions of a retirement scheme are made at any time after the date of an application for approval thereof, the trustees or persons having the management of the scheme shall forthwith in writing notify the Commissioner of such alterations, and in default of such notification any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn as from the date on which the alterations had effect.

6.—(1) The Commissioner may at any time withdraw his approval of a retirement scheme which in his opinion no longer complies substantially with the conditions set out in the Schedule.

(2) The Commissioner shall give to the trustees of the scheme notice of such withdrawal and of the date from which it is to take effect.

7. An appeal against the refusal of the Commissioner to approve a retirement scheme shall be made within the time and in the manner provided for in the case of an appeal against the decision of the Commissioner on an objection to an assessment, and

the provisions of section 76 of the Act shall with necessary modifications apply accordingly.

8. Where an employer deducts from the emoluments paid to an employed person or pays on behalf of that employed person, any contributions to an approved retirement scheme, he shall include all such deductions or payments in the return which he is required to render under the provisions of regulation 29 of the Income Tax (Employments) Regulations.

9. Where an employer makes a contribution to an approved retirement scheme which is not an ordinary annual contribution, the employer, if he claims pursuant to section 44A of the Act an allowance of the sum of such contribution as an expense incurred in the year in which the contribution is made, shall certify to the Commissioner the manner in which the benefit of such contribution is to be distributed among all the employed persons entitled to participate in the scheme.

10. Where the trustees make a contribution to an approved retirement scheme which is not an ordinary annual contribution, the trustees, if they claim pursuant to section 44A an allowance of the sum of such contribution as an expense incurred in the year in which the contribution is made, shall certify to the Commissioner the manner in which the benefit of such contribution is to be distributed among all the persons entitled to participate in the scheme.

11.—(1) The trustees of an approved retirement scheme upon payment or repayment out of the scheme of a sum to a person who is or was a member of the scheme shall forthwith notify the Commissioner of such payment or repayment.

(2) The trustees of an approved retirement scheme upon payment out of the scheme of any sum by way of pension or annuity (other than a lump sum paid in commutation or in lieu of pension or annuity) to any person who was a member of the scheme, or any dependent of such person shall render the returns required to be

rendered by employers under the Income Tax (Employments) Regulations and deduct income tax in accordance with the provisions of those Regulations as if the trustees were employers of the person to whom such payment is made.

12. Any employer who contributes to such a scheme shall, when required by notice from the Commissioner, within thirty days from the date of service of such notice furnish to the Commissioner—

(a) a return containing—

- (i) the name and place of residence of every person in receipt of a pension or annuity from the scheme;
- (ii) the amount of pension or annuity payable to each pensioner or annuitant;
- (iii) particulars of every contribution (including interest on contributions, if any) returned to the employer or an employee;
- (iv) particulars of sums paid in commutation or in lieu of pensions or annuities; and
- (v) particulars of all accumulated balances repaid to employees and of the annual accretions making up such balances;

(b) a copy of the accounts of the scheme up to the last date prior to such notice to which such accounts have been made up;

(c) such further information and particulars in connection with the scheme as the Commissioner may require.

13. The accounts of an approved retirement scheme shall be maintained in such form and for such periods, and shall contain such particulars, as the Commissioner may direct.

14. Where a person is a member of one or more approved retirement schemes—

- (a) the aggregate amount of contributions in respect of which relief from income tax may be granted shall not exceed ten per cent of the chargeable income of the contributor or \$6,000, whichever is the less; or
- (b) the aggregate value of retirement benefits in respect of which relief may be granted shall not exceed \$75,000.

15.—(1) Where a member of an approved retirement scheme dies before attaining the specified age, a sum representing the total amount of contributions made by him to the scheme together with interest (if any) on those contributions shall be paid to the personal representatives of such member.

(2) For the purposes of paragraph (1), “personal representatives” means—

- (a) a beneficiary nominated by the member; or
- (b) in the absence of such nomination—
 - (i) the widow or widower of such member; or
 - (ii) if there is no widow or widower the children of the member; or
 - (iii) if there is no such person as referred to in sub-paragraphs (i) and (ii), such person as may appear to the trustees of the scheme, on such evidence as the trustees may deem satisfactory, to be entitled by law to receive payment as aforesaid.

SCHEDULE

(Rules 4(1) and 6(1))

Conditions

1. The Scheme shall be held under an irrevocable trust deed in connection with the provisions of retiring benefits for persons contributing thereto.
2. The sole purpose of the scheme, shall be the provision in any case, for payment of retiring benefits for persons contributing thereto either on the contributor retiring at a specified age or on becoming incapacitated at an earlier age.
3. Contributions to the scheme are by self-employed persons or persons who are employees but who are not contributors to an approved superannuation fund or any other approved pension scheme.
4. The maximum pensions or annuities payable shall not exceed two-thirds of the person's annual income at the date of his retirement, and shall not in any case exceed \$75,000. Where payment of a lump sum is made such lump sum shall not exceed \$75,000.
5. Where retirement is deferred beyond the specified age the commencing date for payment of the pension or annuity shall be deferred also.
6. Pensions and annuities shall not be paid on retirement before the specified age except where such retirement is necessitated by physical or mental incapacity.
7. Maximum pensions and annuities shall not be paid except on retirement at or after the specified age and upon the making of such minimum number of contributions as the Commissioner may approve.
8. The accounts of approved retirement scheme shall be maintained in such form and for such periods and shall contain such particulars as the Commissioner may direct.
9. A person who is a member of a retirement scheme approved in accordance with these Rules, may, with the approval of the Commissioner, have his interest in that scheme transferred to another approved retirement scheme or, as the case may require, to an approved superannuation fund.
10. A person who was a member of an approved superannuation fund but who is no longer an employed person may, with the approval of the Commissioner, have his interest in that superannuation fund transferred to a retirement scheme approved in accordance with these Rules.
11. Contributions made to the scheme shall not be refundable under any circumstances. In the event that a member ceases to be eligible to contribute to the scheme, contributions made by him shall be invested by the trustees of the scheme to provide a pension or annuity for that member on his retirement at the specified age.

THE INCOME TAX ACT

ORDER
(under section 95)

THE INCOME TAX (COMMONWEALTH TERRITORIES) ORDER, 1956

(Made by the Governor in Executive Council on the 9th day of April, 1956) L.N. 92/56

1. This Order may be cited as the Income Tax (Commonwealth Territories) Order, 1956.
2. The territories and the dependencies thereof named in the Schedule shall, for the purposes of the Act, be deemed to be included in the Commonwealth.

SCHEDULE

(Paragraph 2)

Aden
 Anglo-Egyptian Sudan
 Australia
 Bahamas
 Barbados
 Basutoland
 Bechuanaland
 Bermuda
 British Guiana
 British Honduras
 British Solomon Islands
 Brunei
 Canada
 Ceylon
 Channel Islands
 Cyprus
 Falkland Islands
 Federation of Malaya
 Fiji
 Gambia
 Gibraltar
 Gilbert and Ellice Islands
 Gold Coast
 Hong Kong
 India
 Isle of Man
 Jamaica
 Kenya
 Leeward Islands
 Malta
 Mauritius

SCHEDULE, *contd.*

New Hebrides
New Zealand
Nigeria
North Borneo
Northern Rhodesia
Nyasaland Protectorate
Pakistan
St. Helena
Sarawak
Seychelles
Sierra Leone
Singapore
Somaliland Protectorate
Southern Rhodesia
South-West Africa
Swaziland
Tanganyika
Tonga
Trinidad and Tobago
Uganda Protectorate
Union of South Africa
United Kingdom of Great Britain and
Northern Ireland
Windward Islands
Zanzibar

THE INCOME TAX ACT

DECLARATION
(under the Fifth Schedule to the Act)THE INCOME TAX (APPROVED PERSONS) (FIFTH SCHEDULE)
DECLARATION, 1996

(Made by the Bank of Jamaica on the 23rd day of August, 1996)

L.N. 127A/96

1. This Declaration may be cited as the Income Tax (Approved Persons) (Fifth Schedule) Declaration, 1996.

2. The organizations listed in the Schedule are hereby declared to be "approved persons" for the purposes of the Fifth Schedule, and section 12 (ac) and (ad) of the Act. Schedule.

SCHEDULE

(Paragraph 2)

Commercial Banks

1. Bank of Nova Scotia Jamaica Limited
2. CIBC Jamaica Limited
3. Century National Bank Limited
4. Citibank N.A.
5. Citizens Bank Limited
6. Eagle Commercial Bank Limited
7. Island Victoria Bank Limited
8. Mutual Security Bank Limited
9. National Commercial Bank Jamaica Limited
10. Trafalgar Commercial Bank Limited
11. The Workers Bank

Building Societies

1. Jamaica National Building Society
2. Victoria Mutual Building Society

Licensees under the Financial Institutions Act

1. Buck Securities Merchant Bankers Limited
2. CIBC Trust & Merchant Bank Jamaica Limited
3. Capital & Credit Merchant Bank Limited
4. Caribbean Trust Merchant Bank Limited
5. Citifinance Limited
6. Citimerchant Bank Limited
7. Eagle Merchant Bank of Jamaica Limited
8. George & Branday Limited
9. Horizon Merchant Bank Limited
10. Intercontinental Merchant Bank Limited
11. International Trust & Merchant Bank Limited
12. Issa Trust & Merchant Bank Limited

INCOME TAX**SCHEDULE, *contd.***

13. Knutsford Capital Merchant Bank Limited
14. Manufacturers Merchant Bank Limited
15. Mutual Security Merchant Bank & Trust Company Limited
16. N.C.B. Trust & Merchant Bank Limited
17. Pan Caribbean Merchant Bank Limited
18. Scotiabank Jamaica Trust & Merchant Bank Limited
19. The West India Co. of Merchant Bankers Limited.

THE INCOME TAX ACT

DIRECTIONS
(under the Fifth Schedule to the Act)THE INCOME TAX (SPECIFIED ACCOUNT) (FIFTH SCHEDULE)
DIRECTIONS, 1996

(Made by the Bank of Jamaica on the 23rd day of August, 1996)

L.N. 127A/96

1. These Directions may be cited as the Income Tax (Specified Account) (Fifth Schedule) Directions, 1996.

2. For the purpose of the provisions of the Fifth Schedule and section 12 (ac) and (ad) of the Act, a specified account must be either—

- (a) (i) designated as a foreign currency "A" deposit account;
- (ii) denominated in foreign currency;
- (iii) held in the name of and operated by a person not resident in Jamaica;
- (iv) comprised of moneys derived from sources outside of Jamaica; and
- (v) credited and debited in accordance with procedures established by the respective approved person to ensure that the provisions of sub-paragraph (a) (i), (ii), (iii) and (iv) are complied with; or
- (b) (i) designated as a foreign currency "B" deposit account;
- (ii) denominated in Jamaica dollars;
- (iii) held in the name of and operated by a person not resident in Jamaica;
- (iv) comprised of moneys derived from sources outside of Jamaica; and
- (v) credited and debited in accordance with procedures established by the respective approved person to ensure that the provisions of sub-paragraph (b) (i), (ii), (iii) and (iv) are complied with.