

**THE HUMAN EMPLOYMENT AND RESOURCE
TRAINING ACT**

ARRANGEMENT OF SECTIONS

1. Short title.

Preliminary

2. Interpretation.

The H.E.A.R.T. Trust

3. Establishment of H.E.A.R.T. Trust.
4. Functions of the Trust.
5. Establishment of Board of Directors.
6. Power of Minister to issue general directions on matters of policy.
7. Resources of the Trust.
8. [*Deleted by Act 28 of 2003, S. 2.*]
9. Recovery of debts.
10. Borrowing powers.
11. Power of Minister to guarantee loans to Trust.

Contributions

12. Source of funds.
13. Relief for emoluments paid to trainees.
14. Treatment of employer's contributions for purposes of income tax.
15. General regulations as to payment and collection of contributions, etc.
16. Power of Minister to remit contributions.

General

17. Register of trainees.
18. Eligibility for selection as a trainee.

19. Designation of inspectors.
20. Power of inspectors.
21. Interest payable on overdue contributions.
22. Proceedings against inspectors under this Act.
23. Power to conduct proceedings.
24. Offences and penalties.
- 24A. Designation of responsible officer by companies.
25. Regulations.

SCHEDULES

THE HUMAN EMPLOYMENT AND RESOURCE
TRAINING ACT

Acts
13 of 1982,
8 of 19 86,
3 of 1989,
26 of 1994,
12 of 1998,
28 of 2003
S. 2.

[1st September, 1982.]

1. This Act may be cited as the Human Employment and Resource Training Act. Short title.

Preliminary

2. In this Act—

Interpreta-
tion.

“appointed day” means, subject to the provisions of any regulations, the 1st day of September, 1982;

“approved employment” means employment approved by the Minister in respect of a trainee;

“the Board” means the Board of Directors of the Trust;

“Chairman” means the Chairman of the Board or any person for the time being performing the functions of the Chairman;

“Commissioner” means the Commissioner of Inland Revenue;

L.N.
165/1999.

“contribution” means a contribution payable pursuant to this Act;

“contribution year” means—

(a) the period of 52 weeks beginning with the appointed day;

(b) any subsequent period of 52 or 53 weeks, as the case may be, commencing on the Monday of the week in which the anniversary of the appointed day occurs and ending with the Sunday immediately before the Monday of the week in which the next anniversary of the appointed day occurs;

“emoluments” means any emoluments assessable to income tax pursuant to paragraph (c) of section 5 of the Income Tax Act (other than allowances payable in respect of past services in any office or employment of profit and such other categories of emoluments as may be prescribed) being emoluments from which income tax is deductible pursuant to the Income Tax (Employments) Regulations, whether or not tax in fact falls to be deducted therefrom;

“employer” means any person paying emoluments, whether on his own account or on behalf of another person;

“employee” means any person in receipt of emoluments;

“functions” includes powers and duties;

“income tax” means income tax payable pursuant to the Income Tax Act;

“inspector” means an officer designated as such pursuant to section 19;

“trainee” means any person who is selected for training pursuant to section 18;

“wages” includes salary or any other remuneration.

The H.E.A.R.T. Trust

Establishment
of H.E.A.R.T.
Trust.

3.—(1) For the purposes of this Act there shall be established a body to be known as the Human Employment and Resource Training Trust (hereinafter referred to as “the Trust” or “the H.E.A.R.T. Trust”) which shall be a body corporate to which section 28 of the Interpretation Act shall apply.

(2) The Trust shall establish a Fund (hereinafter referred to as "the H.E.A.R.T. Fund") for the purposes of this Act.

(3) The provisions of the First Schedule shall have effect as to the constitution of the Trust and otherwise in relation thereto. First
Schedule.

- 4.—(1) The functions of the Trust shall be— Functions
of the
Trust.
- (a) to develop, encourage, monitor and provide finance for, training schemes for employment of trainees;
 - (b) to provide employment opportunities for trainees;
 - (c) to direct or assist in the placement of persons seeking employment in Jamaica;
 - (d) to promote employment projects;
 - (e) to ensure that there is in the Island an adequate number of persons trained for employment in the technical and vocational fields; 26/1994
S. 3.
 - (f) to take such steps as it considers necessary to establish and maintain high standards in technical and vocational education and training; 26/1994
S. 3.
 - (g) to co-operate with other organizations and bodies in matters relating to technical and vocational education and training; 26/1994
S. 3.
 - (h) to approve and certify courses to be pursued by persons desirous of obtaining technical and vocational education and training; 26/1994
S. 3.
 - (i) to certify persons as instructors in the field of technical and vocational education and training; 26/1994
S. 3.
 - (j) to approve and accredit institutions offering technical and vocational education and training and to keep a register of all such institutions; 26/1994
S. 3.
 - (k) to institute, review and maintain a system of 26/1994
S. 3.

assessments in relation to persons trained in the technical and vocational fields;

26/1994
S. 3.

(l) to grant certificates and other awards or distinctions and to make reports on persons who are assessed pursuant to paragraph (k);

26/1994
S. 3.

(m) to deprive persons for cause of any certificates, awards or other distinctions granted by the Trust;

26/1994
S. 3.

(n) to appoint such committees as the Trust thinks fit, consisting wholly or partly of members of the Trust to—

(i) undertake research or assist persons in undertaking research into matters relating to technical and vocational education and training;

(ii) advise the Trust on all aspects of technical and vocational education and training;

(iii) apply or make arrangements for tests and other methods of ascertaining standards of efficiency to be achieved by trainees.

(2) In the exercise of its functions the Trust shall have power—

(a) to provide finance for employment projects promoted or sponsored by the Trust;

(b) to administer and invest the moneys of the Trust;

(c) to enter into arrangements with such bodies as it thinks suitable with regard to the establishment, implementation, monitoring and financing of training or employment programmes;

(d) to furnish, on such terms as may be agreed, equipment and finance to persons who, after training pursuant to this Act, require assistance in establishing a trade or business on their own account;

(e) to receive and administer funds donated or entrusted to the Trust by any agency or organization

for any purpose relating to the training or employment of persons;

- (f) to make refunds of contributions on such terms and conditions as may be prescribed; and
- (g) to do such other things as may be necessary or expedient for or in connection with the proper performance of its functions under this Act.

5.—(1) For the purposes of this Act there shall be established a Board of Directors which shall be responsible for the policy and general administration of the affairs of the Trust.

Establishment of Board of Directors.

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

Second Schedule.

6. The Minister may, after consultation with the Chairman, give to the Board such directions of a general character as to the policy to be followed by the Board in the performance of its functions as appear to the Minister to be necessary, and the Board shall give effect thereto.

Power of Minister to issue general directions on matters of policy.

7.—(1) The resources of the Trust shall comprise—

Resources of the Trust.

- (a) all contributions and any interest thereon payable by virtue of the provisions of this Act by employers;
- (b) all other moneys and other property which may in any manner become payable to or vested in the Trust;
- (c) all investment or other income derived from the assets of the Trust;
- (d) such sums as may from time to time be appropriated by Parliament for the purposes of the Trust.

(2) The funds of the Trust, save in so far as they may be invested or utilized pursuant to this Act, shall be held by the Bank of Jamaica or any bank approved by the Board in which public funds may lawfully be deposited.

8. [*Deleted by Act 28 of 2003, S. 2.*]

Recovery of debts.

9. Without prejudice to any other method of recovery, all debts due to the Trust may be recovered without limit of amount, in a Resident Magistrate's Court as a civil debt.

Borrowing powers.

10.—(1) Subject to the provisions of subsection (2), the Trust may borrow such sums as may be required by it for discharging any of its functions.

26/1994
S. 5.

(2) The power of the Trust to borrow shall, as to amount, as to the source of borrowing, and as to the terms on which the borrowing may be effected, be exercisable only with the approval of the Minister responsible for finance, and any such approval may be either general or limited to a particular borrowing or otherwise, and may be either conditional or subject to conditions.

(3) In this section "borrow" includes obtaining advances.

Power of Minister to guarantee loans to Trust.
26/1994
S. 6.

11.—(1) With the approval of the House of Representatives signified by resolution, the Minister responsible for

finance may guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal and the payment of interest and charges on any authorized borrowings of the Trust.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys guaranteed under the provisions of this section or in the payment of interest or charges so guaranteed he shall direct the repayment or, as the case may be, the payment, out of the Consolidated Fund of the amount in respect of which there has been such default and any such repayment or payment shall be a charge on the Consolidated Fund.

26/1994
S. 6.

(3) The Trust shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister responsible for finance may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

26/1994
S. 6.

26/1994
S. 6.

Contributions

12.—(1) Subject to the provisions of this Act, contributions to the Trust shall be payable by employers in respect of emoluments paid to their employees and shall be collected by the Commissioner of Inland Revenue and paid into the H.E.A.R.T. Fund.

Source of
funds.

8/1986
S. 3.

(2) The rates, terms and conditions applicable to the payment of contributions shall be prescribed by the Minister responsible for finance by regulations.

12/1998
S. 2 (a).

(3) Any regulations made pursuant to subsection (2) shall be subject to affirmative resolution of the House of Representatives.

(4) An employer shall not be entitled to deduct from the emoluments of any person employed by him, or otherwise to recover from such person, the contributions payable by the employer; and any employer who deducts or recovers or attempts to deduct or recover the whole or any part of such contributions in contravention of this subsection shall be guilty of an offence against this Act.

(5) The following shall not be liable to pay contributions under this Act—

(a) a Ministry or department of Government;

(b) subject to subsection (5A)—

(i) a statutory body or authority;

(ii) a company registered under the Companies Act, being a company in which the Government or an agency of Government holds not less than fifty-one *per centum* of the ordinary shares;

(c) any Parish Council;

(d) the Kingston and St. Andrew Corporation;

(e) any employer whose average monthly payments of emoluments to employees during the period of twelve months immediately preceding the appointed day and during any subsequent contribution year, does not exceed the prescribed amount;

(f) any independent school as defined in the Education Act which is registered finally in the Register of Independent Schools in accordance with section 25 (7) of that Act.

3/1989
S. 2 (a).

12/1998
S. 2 (b)(i).

(5A) Every statutory body or authority and every company in which the Government or any agency thereof holds not less than fifty-one *per centum* of the ordinary shares, being a body, authority or company for the time being specified in the Fourth Schedule, shall be liable for the payment of contributions under this Act.

3/1989
S. 2(b).

Fourth
Schedule.

(5B) The Minister responsible for finance may, from time to time by order published in the *Gazette*, amend the Fourth Schedule.

3/1989
S. 2(b).
12/1998
S. 2(c).

(5C) An order under subsection (5B) shall be subject to affirmative resolution.

3/1989
S. 2(b).

(6) Subject to the provisions of this Act and except in so far as regulations otherwise provide, the provisions of the Income Tax Act or any regulations thereunder concerning payment, collection and recovery of income tax and the enforcing of payment shall apply to contributions in the same way as they apply to income tax; and no obligation as to secrecy imposed by statute or otherwise on persons employed in relation to income tax shall prevent information obtained in connection with the assessment or collection of income tax from being disclosed by or under the authority of the Commissioner in connection with the operation of this Act or regulations made thereunder relating to the calculation or collection of contributions under this Act.

13. An employer (hereinafter referred to as a "specified employer") who pays emoluments to a trainee for any month shall be entitled to relief from contributions for that month equivalent to the amount of the emoluments so paid up to such limit as may be prescribed.

Relief for
emoluments
paid to
trainees.

14. For the purposes of section 13 of the Income Tax Act, contributions made under this Act shall be treated as expenses wholly or exclusively incurred in acquiring income and, in relation to a specified employer, the aggregate

Treatment
of employ-
er's contri-
butions for
purposes
of income
tax.

[The inclusion of this page is authorized by L.N. 146/1999]

of contributions paid by him and the amount of emoluments paid by him to trainees, subject to such limit as may be prescribed, shall be so treated.

General regulations as to payment and collection of contributions, etc.

15. Regulations may provide—

- (a) for the payment and collection of contributions under this Act;
- (b) for the return of contributions paid in error;
- (c) (without prejudice to any other remedy) for the recovery, on prosecutions brought under or by virtue of this Act, of contributions;
- (d) for calculating or estimating, in such manner and on such basis as may be prescribed, the amount of a person's emoluments for any period and the rate of a person's emoluments;
- (e) for such ancillary matters as the Minister thinks necessary or desirable.

Power of Minister to remit contributions.

16. The Minister may remit the whole or any part of the contributions payable by any employer if he is satisfied that it would be just and equitable to do so; and notice of such remission shall be published in the *Gazette*.

General

Register of trainees.

17.—(1) The Board shall cause to be kept a register of the names, addresses, qualifications and such other particulars as may be prescribed, of all persons who are selected as trainees.

(2) The Board shall cause to be issued to every person selected as a trainee under this Act a certificate in the prescribed form.

Eligibility for selection as a trainee.

18. Any person who—

- (a) applies to the Board in the prescribed form; and

(b) satisfies the Board that he possesses the prescribed qualifications,
shall be eligible for selection as a trainee under this Act.

19. The Board may designate such persons as it thinks fit to be inspectors for the purpose of giving effect to the provisions of this Act. Designation
of
inspectors.

20.—(1) An inspector shall, for the purposes of this Act or the regulations, have power to do all or any of the following— Power of
inspectors.

- (a) enter at all reasonable times any premises or place (other than a private dwelling-house, not used by, or by permission of, the occupier for the purpose of a trade or business) where he has reasonable grounds for supposing that any trainees are employed or are undergoing training;
- (b) to make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Act or the regulations are being or have been complied with in such premises or place;
- (c) to exercise such other powers as may be necessary for carrying this Act or the regulations into effect.

(2) The occupier of any such premises or place and any other person who is or has been providing training for or employing any trainee, the servants and agents of any such occupier or other person, and any trainee shall furnish to an inspector all such information and shall produce for inspection all such documents as the inspector may reasonably require.

(3) Any person who—

- (a) wilfully delays or obstructs an inspector in the exercise of any power under this section; or
- (b) without lawful excuse, refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this section; or
- (c) conceals or attempts to conceal any person or attempts to prevent any person from appearing before or being questioned by an inspector,

shall be guilty of an offence against this Act.

(4) Every inspector shall be furnished with a form of identification, and on applying for admission to any premises or place for the purposes of this Act or the regulations shall produce such identification.

Interest payable on overdue contributions.

21.—(1) All sums due to the Trust by way of contributions unless regulations otherwise provide, shall bear interest at the rate of twenty per cent per annum (or such other rate and from such date as may be prescribed) and shall be recoverable as debts due to the Trust.

(2) A certificate of a Collector of Taxes that any sum due to the Trust or interest thereon is payable under this Act and that payment has not been made to the Trust, or, to the best of his knowledge and belief, to any person acting on behalf of the Trust, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is

due to the Trust, and any document purporting to be such a certificate as is mentioned in this subsection shall be deemed to be such a certificate unless the contrary is proved.

22. In any action or other legal proceedings brought against any inspector in respect of any act done in pursuance or execution or intended execution of this Act or the regulations, the plaintiff shall not recover unless he alleges in his pleading and proves at the trial that such act was done either maliciously or without reasonable and probable cause.

Proceedings
against
inspectors
under this
Act.

23. An inspector or other person may be authorized by the Board to institute or conduct proceedings for an offence against this Act or the regulations, which is triable summarily.

Power to
conduct
proceedings.

24.—(1) If any employer has failed or neglected—

- (a) to pay any contributions which under this Act or the regulations he is liable to pay; or
- (b) to comply with the requirements either of this Act or the regulations relating to the payment and collection of such contributions and the furnishing of information relating thereto,

Offences
and
penalties.

such employer shall be liable on summary conviction in a Resident Magistrate's Court to pay any amount of contributions outstanding at the date of conviction and in addition a fine not exceeding five thousand dollars or treble the amount of contribution which is unpaid, whichever is the greater, and in default of such payment to imprisonment with or without hard labour for a period not exceeding twelve months.

8/1986
S. 4(a)

* (2) If any person—

- (a) practises or is concerned in any fraudulent act, contrivance or device with intent to defraud the Trust of contributions; or
- (b) for the purpose of obtaining any allowance, relief, benefit or payment under this Act or the regula-

tions, whether for himself or some other person, or for any other purpose connected with this Act—

(i) knowingly or recklessly makes any false statement or false representations;

(ii) produces or furnishes or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five thousand dollars or treble the amount of the contribution in respect of which payment is sought to be evaded, and in default of payment to imprisonment with or without hard labour for a term not exceeding twelve months.

(3) Where a person convicted of an offence under subsection (1) is a body corporate every person who at the time of the commission of the offence was a director or officer of the body corporate shall, unless he proves that it was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof, be guilty of the offence.

(4) Any sum, other than a fine, payable under the foregoing provisions of this section shall be paid into the H.E.A.R.T. Fund.

(5) Nothing in this section shall be construed as preventing the Trust from recovering by means of civil proceedings any sum due to the Trust.

(6) Every person having any official duty in relation to, or is employed in, the administration of this Act shall regard and deal with as secret and confidential all documents, information, returns, assessment lists or copies of such lists obtained from the Commissioner and relating to the income or items of income of any person and shall make and subscribe a declaration to that effect before a Justice of the Peace.

(7) Every such person as is referred to in subsection (6) having possession of or control over any such documents, information, returns or assessment lists or copies of such lists relating to the income or items of income of any person, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, lists or copies of such lists to any person—

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

(b) otherwise than for the purpose of this Act, shall be guilty of an offence against this Act and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five thousand dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding twelve months.

8/1986
S. 4(c).

(8) If any person is guilty of any contravention of any of the requirements of this Act or the regulations in respect of which no special penalty is provided, he shall for each offence be liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars or to imprisonment with or without hard labour for a period not exceeding six months and where such offence is continued after conviction such person shall be guilty of a continuing offence and in respect of each day during which such offence continues shall be liable to a fine not exceeding five hundred dollars.

8/1986
S. 4(d).

24A.—(1) Where an employer liable to pay contributions is a company incorporated or registered under the Companies Act and is liable to make contributions under this Act, such employer shall designate an officer of that company (hereafter in this section referred to as the "responsible officer") who shall be—

Designation of responsible officer by companies. 8/1986 S. 5. 3/1989 S. 3(a), (b).

(a) answerable for doing all such acts, matters and things as are, by virtue of this Act or the regulations, required to be done by the company in relation to the payment of contributions; and

- (b) responsible for making payment to the Trust of all contributions due to the Trust by the company in accordance with the provisions of this Act or the regulations relating to the payment of such contributions.

(2) The company shall give written notice to the Collector of Taxes of any designation made pursuant to subsection (1) and shall also notify the Collector of any change in that designation.

(3) In the absence of any designation pursuant to subsection (1), the person who is the managing director of the company or, as the case may be, the person who (by whatever name called) performs in Jamaica the duties normally carried out by a managing director or, if there is no such person, the person in Jamaica appearing to the Collector of Taxes to be primarily in charge of the company's affairs shall for the purposes of this section be deemed to be the responsible officer.

(4) A responsible officer shall, within fifteen days after the end of each month, notify the Collector of Taxes of any outstanding balances of contributions payable to the Trust by the company as at the end of that month and any responsible officer who fails to do so shall be guilty of an offence under this Act.

(5) A responsible officer who fails or neglects to carry out his duties in accordance with this section shall—

- (a) in the event of a failure or neglect to make payment of contributions as required by this section, be jointly and severally liable together with the company for all contributions and any penalty in relation thereto;
- (b) in any other case, be liable for any penalties under this Act,

unless he satisfies the Collector that—

- (i) there were *bona fide* reasons for the failure or

neglect and that payment could not have been made in the circumstances; or

- (ii) he was overruled by the board of directors of the company (hereinafter referred to as the board) or was otherwise prevented by the board or by any director thereof from carrying out his duties under this section.

(6) If the Collector is not satisfied as to the matters referred to in subsection (5), he shall advise the responsible officer in writing of his decision.

(7) Where the responsible officer satisfies the Collector pursuant to subsection (5) that he was overruled or prevented as mentioned in that subsection, each director of the company shall be jointly and severally liable (together with the company) for all contributions and any penalty in relation thereto unless he proves that—

- (a) there were *bona fide* reasons for overruling the responsible officer or preventing payment and that payment of contributions could not have been made in the circumstances; or
- (b) he was neither a party to the decision of the board to overrule the responsible officer nor a party to any action by the board or any other director to prevent payment.

(8) A person who is designated a responsible officer shall not be liable in respect of contributions which became payable—

- (a) prior to the date of his designation; or
- (b) during any period when, consequent on notification to the Collector, he is not the responsible officer.

25.—(1) The Minister may make regulations—

Regulations.

- (a) required by this Act to be made; or
- (b) for the purpose of modifying or affecting the operation of any provision of this Act expressed (in

whatever terms) to be subject to the provisions of any regulations; or

- (c) as the Minister may consider necessary or desirable generally for the better carrying into effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) the Minister may by such regulations provide for—

- (a) the submission of annual reports or returns by employers containing such information as the Minister may require;
- (b) the keeping of such records by employers as the Minister may require for any purpose connected with the provisions of this Act;
- (c) the submission by employers at such intervals and in such manner as may be prescribed, of returns of persons employed or provided with training by them;
- (d) the qualifications required for persons to be selected as trainees;
- (e) the levels of remuneration to be paid to trainees;
- (f) the procedures for the selection of trainees;
- (g) the terms and conditions of training, and the employment of trainees by employers.

(3) If any person fails to comply with any provision of the said regulations requiring him to furnish a return or other information or to give any certificate or to produce wages sheets or other documents or records, he shall be guilty of an offence and liable on summary conviction in a Resident Magistrate's Court to a penalty not exceeding one thousand dollars and in the case of a continuing offence to a further penalty of the like amount for every day during which the failure continues after conviction.

(4) Notwithstanding the provisions of section 29 of the *Interpretation Act*, regulations under this Act may provide in respect of a breach of any of the provisions thereof

that the offender shall be liable to such fine not exceeding one thousand dollars or to such term of imprisonment with or without hard labour not exceeding six months or to both such fine and imprisonment as may be therein prescribed.

(5) Any power conferred thereby to make regulations may be exercised—

(a) either in relation to all cases to which the power extends or in relation to all those cases subject to specified exceptions or in relation to any specified cases or classes of case; and

(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

(ii) the same provision for all cases in relation to which the power is exercised or different provision for different cases or classes of case or different provision as respects the same case or class of case for different purposes of this Act;

(iii) any such provision either unconditionally or subject to any specified condition.

(6) Any regulations under this Act may contain such incidental or supplementary provisions as appear to the Minister to be expedient for the purposes of the regulations.

(7) Until other provision is made pursuant to this Act the Regulations set out in the Third Schedule shall have effect.

Third
Schedule.

FIRST SCHEDULE

(Section 3)

The H.E.A.R.T Trust

Authenti-
cation of
seal and
documents.

1.—(1) The seal of the Trust shall be authenticated by the signatures of the Chairman or a member of the Board authorized to act in that behalf and an officer of the Trust so authorized.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Trust may be signified under the hand of the Chairman or any member of the Board authorized to act in that behalf or an officer of the Trust so authorized.

Power to
appoint
officers
and
servants.

2.—(1) The Trust may, subject to sub-paragraph (2), appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a Managing Director of the Trust and such other officers, agents and servants as it thinks necessary for the proper carrying out of its functions:

Provided that no appointment shall be made to a post carrying a salary in excess of the rate of twelve thousand dollars per annum without the prior approval of the Minister.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of Jamaica to any office with the Trust and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and to other rights as a public officer, be treated as continuing in the service of Government.

Expenses
of the
Trust.

3.—(1) The expenses of the Trust (including the remuneration of the staff thereof and members of the Board) shall be defrayed out of the income of the Trust or from sums provided for the purpose by Parliament.

(2) In this paragraph "income" means interest or dividends earned or obtained on loans or investments made by the Trust.

Accounts,
audit and
estimates.

4.—(1) The Trust shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister.

(2) The accounts of the Trust shall be audited annually by the Auditor-General or by any auditor appointed annually by the Trust and approved by the Minister.

(3) The Trust shall, on or before the 28th day of February in each year, submit to the Minister for approval an estimate of the operational expenses and income in respect of the financial year commencing the 1st day of April next following.

(4) In addition to the provisions of sub-paragraph (3), the Trust shall on or before the 28th day of February in each year, submit to the Minister for approval estimates in respect of the financial year

commencing on the 1st day of April next following, showing estimated receipts by the Trust arising from contributions, loan repayments, payments in respect of investments and similar sources.

5. The Trust shall submit to the Minister for approval, by the 28th day of February in each year, an operating plan as to projects to be promoted or sponsored or both, by the Trust, the operational framework within which the Board shall carry out its functions, and such other matters as the Minister may require. Operating plan.

6.—(1) The Trust shall, within six months after the end of each financial year, cause to be made and transmit to the Minister— Annual report.

(a) a statement of its accounts audited in accordance with paragraph 4 (2); and

(b) a report dealing generally with the policy and proceedings of the Trust during the financial year.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be laid on the respective tables of both Houses of Parliament.

7. The Trust shall furnish the Minister with such return, accounts and other information as he may require with respect to the activities of the Trust, and shall afford him facilities for verifying such information in such manner and at such times as he may reasonably require. Power of Minister to require returns.

8. At the end of each financial year the Minister shall review the operations of the Trust with a view to determining— Minister to review operations of the Trust.

(a) whether the Trust has operated in accordance with the operating plan approved by the Minister pursuant to paragraph 5;

(b) whether the assets of the Trust are sufficient to meet the liabilities of the Trust having regard to expenses expected to arise during the next ensuing year.

SECOND SCHEDULE

(Section 5)

The Board of Directors of the Trust

1. The Board shall consist of such number of persons, not being less than seven nor more than twenty, as the Minister may from time to time appoint. Constitution of Board.

2.—(1) The appointment of a member of the Board shall, subject to the provisions of this Schedule, be for a period not exceeding three years, and such member shall be eligible for reappointment. Tenure of office of members.

(2) The Minister may at any time revoke the appointment of any member of the Board.

- Temporary appointments. 3. The Minister may appoint any person to act temporarily in the place of any member of the Board in the case of the absence or inability to act of such member.
- Chairman. 4. The Minister shall appoint one of the members of the Board to be Chairman thereof.
- Resignations. 5.—(1) Any member of the Board other than the Chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of the receipt by the Minister of such instrument, such member shall cease to be a member of the Board.
- (2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt by the Minister of such instrument.
- Filling of vacancies. 6. If any vacancy occurs in the membership of the Board such vacancy shall be filled by the appointment of another member.
- Publication of membership. 7. The names of all the members of the Board as first constituted and every change in membership thereof shall be published in the *Gazette*.
- Procedure and meetings. 8.—(1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Board may determine.
- (2) The Chairman may at any time call a special meeting of the Board and shall call a special meeting within fourteen days of the receipt of a written request for that purpose addressed to him by any two members of the Board.
- (3) The Chairman shall preside at meetings of the Board, and in the case of the absence of the Chairman from a meeting, the members present and constituting a quorum shall elect one of their number to preside at that meeting.
- (4) The quorum of the Board shall be five.
- (5) The decision of the Board shall be by a majority of votes, and in addition to an original vote the Chairman or other person presiding at a meeting shall have a casting vote in any case in which voting is equal.
- (6) Minutes in the proper form of each meeting of the Board shall be kept.
- (7) The validity of the proceedings of the Board shall not be affected by any vacancy or by any defect in the appointment of a member thereof.

9. There shall be paid to the Chairman and other members of the Board such remuneration, whether by way of honorarium, salary or fees and such allowances as the Minister may determine. Remuneration of members.

10.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act. Protection of members.

(2) Where any member of the Board is exempt from liability by reason only of the provisions of this paragraph, the Trust shall be liable to the extent that it would be if the member was a servant or agent of the Trust.

11.—The office of Chairman or other member of the Board shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica. Office of Chairman or member of Board not public office.

THIRD SCHEDULE (Sections 12, 15 and 25)

The Human Employment and Resource Training (Contributions) Regulations, 1982

1. These Regulations may be cited as the Human Employment and Resource Training (Contributions) Regulations, 1982.

2. In these Regulations—

“appointed day” has the meaning assigned to it in section 2 of the Act;

“Collector” means the Collector of Taxes for the parish in which the payment of contributions is made;

“contribution year” has the meaning assigned to it in section 2 of the Act;

“employee” and “employer” have the meanings assigned to those expressions, respectively, in section 2 of the Act;

“trainee” has the meaning assigned to it in section 2 of the Act.

3.—(1) These Regulations shall not apply to any employer who establishes to the satisfaction of the Collector that his average monthly payments of emoluments to employees during the period of twelve months immediately preceding the appointed day and any subsequent contribution year does not exceed fourteen thousand four hundred and forty-four dollars. L.N.
9D/1993.

(2) Without prejudice to section 21 of the Act (which relates to interest on contributions) where an employer is unable to furnish evidence of payments of emoluments as referred to in paragraph (1) the Collector may have regard to estimates of the employer's payroll furnished by the employer.

4. Contributions payable by an employer under the Act shall be at a rate of three per cent of the total amount of emoluments paid in any contribution year by such employer to employees in his employment.

5.—(1) Within fourteen days after the end of each month an employer shall pay to the Collector such amount of contributions as is payable by him under the Act in respect of emoluments paid by him to his employees during that month.

(2) The Collector shall give the employer a receipt in a form approved by the Minister for the total amount of contributions so paid.

(3) If the employer has paid to the Collector on account of contributions under this regulation an amount which he was not liable so to pay, the amount of the overpayment may be recovered from any subsequent amount which he is liable to pay during the same contribution year or may, if necessary, be refunded by the Collector.

6.—(1) If at the expiration of fourteen days after the end of any month—

(a) the employer has paid no amount of contributions to the Collector under regulation 4 in relation to that month, and the Collector is unaware of the amount, if any, which the employer is liable to pay; or

(b) the Collector is not satisfied that the amount paid is the full amount that the employer is liable to pay to him for that month,

the Collector may give notice to the employer requiring him to render, within the time limited in the notice, a return showing the name of every employee and trainee to whom he made any payment of emoluments in the period from the preceding first day of January to the day limited by the notice, together with such particulars with regard to each such employee or trainee as the notice may require, being particulars of—

(i) the payments of emoluments made to him during that period; and

(ii) the total amount of contributions that the employer was liable to pay during that period and any matter affecting the calculation of such amounts.

(2) The Collector shall ascertain and certify the amount of contributions which the employer is liable to pay to him in respect of the month in question.

(3) Where a notice given by the Collector under paragraph (1) extends to two or more consecutive months, the provisions of these Regulations shall have effect as if those months were one month.

7. The enactments relating to the recovery of income tax shall apply to the recovery of any amount of contributions that an employer is liable to pay to the Collector for any month under regulation 4 as if that amount had been income tax that the employer was liable to pay to the Collector for that month.

8. If at the end of twenty-one days after the end of any contribution year an employer has failed to pay to the Collector the total amount of contributions that he is liable to pay, the Collector may prepare and serve on the employer a demand certificate showing the amount of contributions remaining unpaid for that year.

9.—(1) Every employer, whenever called upon to do so by an inspector or by any officer authorized by the Collector, shall produce to the inspector (or such other officer, as the case may be) for inspection at the employer's premises—

- (a) all wage sheets, particulars of emoluments and other documents and records relating to the calculation or payment of emoluments to his employees in respect of the years or any months specified by such inspector or officer, or to the contributions payable under the Act; or
- (b) such of those wage sheets, particulars of emoluments or other documents and records as may be specified by such inspector or officer.

(2) The Collector, by reference to the information obtained from an inspection of the documents and records produced under paragraph (1), may on the occasion of each inspection, prepare a certificate showing—

- (a) the amount of contributions which it appears from the documents and records so produced that the employer is liable to pay to the Collector for the year or the months covered by the inspection; and
- (b) any amount of such contributions which has not been paid to him.

(3) The production of such a certificate shall be sufficient evidence that the employer is liable to pay to the Collector in respect of the years or months mentioned in the certificate the amount shown therein pursuant to sub-paragraph (b) of paragraph (2), and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

10. Anything that is authorized or required under this Act to be done by the Collector may be done by the Collector or by such other officer authorized by him in that behalf.

11. If an employer dies anything that he would have been liable to do under this Act shall be done by his personal representatives or, in the case of an employer who paid emoluments on behalf of another person,

by the person succeeding him or, if no person succeeds him, the person on whose behalf he paid emoluments.

12. Where an employer pays emoluments to a trainee the maximum relief from contributions for the purposes of section 13 of the Act and section 13 (1) (s) of the Income Tax Act shall be at the rate of one hundred and fifty dollars per week per trainee.

L.N.
9D/1993.

3/1989
S. 4.

FOURTH SCHEDULE

(Section 12)

*Statutory Bodies and Authorities and Government-
controlled Companies which are liable for the
payment of Contributions*

Air Jamaica Limited
Airports Authority of Jamaica
Jamaica Commodity Trading Company Limited
Jamaica International Telecommunications Limited
Jamaica Merchant Marine Limited
Jamaica Public Service Company Limited
Jamaica Railway Corporation
Jamaica Telephone Company Limited
National Hotels and Properties Limited
National Housing Corporation
National Housing Trust
National Sugar Company Limited
National Water Commission
Petrojam Limited
Petroleum Corporation of Jamaica
Port Authority
Sugar Industry Authority
Urban Development Corporation