

ABILL

ENTITLED

AN ACT to Amend the Quarries Control Act.

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BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Quarries Control (Amendment) Act, 2015, and shall be read and construed as one with the Quarries Control Act (hereinafter referred to as the "principal Act") and all amendments thereto.

Short title
and
construction.

2. Section 2 of the principal Act is amended by inserting in the correct alphabetical sequence, the following definitions—

Amendment
of section 2
of principal
Act.

"applicant" means a person applying for a licence under section 8;

"licence" means a quarry licence granted under section 8.

Amendment
of section 5
of principal
Act.

3. Section 5 of the principal Act is amended—

(a) in subsection (3), by deleting—

- (i) the words “A person” and substituting therefor the words “Subject to subsection (3C), a person”;
- (ii) from paragraph (a) the words “thirty thousand” and substituting therefor the words “one million”;
- (iii) from paragraph (b) the words “fifty thousand” and substituting therefor the words “two million”;
- (iv) the semi-colon and the word “and” at the end of paragraph (b) and substituting therefor a full-stop; and
- (v) paragraph (c);

(b) by inserting next after subsection (3), the following as subsections (3A), (3B) and (3C)—

“ (3A) Subject to subsection (3C), a person who engages in the extracting, purchasing, stockpiling, transporting or disposing of quarry material or quarry mineral, in the course of, or obtained by means, of illicit quarrying, commits an offence, and shall be liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(3B) Subject to subsection (3C), a person who aids and abets another person in—

- (a) the commission of an offence under subsection (3) or (3A);
- (b) illicit quarrying; or
- (c) extracting, purchasing, stockpiling, transporting or disposing of quarry material or quarry mineral, in the course

of, or obtained by means of, illicit quarrying,

commits an offence, and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(3C) Where an offence referred to under this section involves the use of any mechanical motorized equipment (including tractors, loaders and draglines) the person convicted thereof shall be liable on summary conviction in a Resident Magistrate's Court—

- (a) in the case of a first conviction, to a fine not exceeding one million five hundred thousand dollars or to imprisonment for a term not exceeding eighteen months or to both such fine and imprisonment; or
- (b) in the case of a second or subsequent conviction, to a fine not exceeding two million five hundred thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.”.

4. The principal Act is amended by inserting next after section 5, the following as section 5A—

“ Require-
ment for
authoriza-
tion of
adjoining
landowner
or agent.

5A. Subject to the provisions of this Act, no person shall operate a quarry within fifteen metres from the boundary between the land on which the quarry is located and any other land, except with the written authorization of the owner or lawful occupier of that other land.”.

Insertion of
new section
5A in
principal
Act.

Amendment
of section 8
of principal
Act.

5. Section 8 of the principal Act is amended by—

- (a) inserting next after subsection (1), the following as subsections (1A), (1B), (1C), (1D) and (1E)—

“ (1 A) An application submitted under subsection (1) shall—

- (a) have the quarry material or quarry mineral (whichever applies) in relation to which an application to operate a quarry is submitted, tested and certified as to its quality in writing by a laboratory approved by the Commissioner; and
- (b) include the certificate as to quality as determined under paragraph (a).

(1B) An applicant shall sign a written declaration certifying as to the origin of the samples.

(1C) The Commissioner may supervise the extraction of the samples for the purpose of verifying their origin or may engage an independent person to do so and the related cost shall be borne by the applicant.

(1D) An applicant who submits a false declaration or certificate, with respect to the origin, or the physical, chemical or other similar characteristics of a sample, or otherwise provides false information in connection with an application under this section, commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court—

- (a) in the case of a first conviction, to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment; or

- (b) in the case of a second or subsequent conviction, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(1E) The Committee, in determining whether to recommend the granting of an application for a licence under this section, shall consider the intended use of the quarry material or quarry mineral based on its physical, chemical or other similar characteristics and its fitness for purpose.”;

- (b) inserting next after subsection (4), the following as subsection (4A)—

“ (4A) A licensee who acts in contravention of, or fails to comply with any term, condition or restriction stipulated in the licence, commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars.”;

- (c) deleting paragraph (b) of subsection (5) and substituting therefor the following as paragraph (b)—

“ (b) may be renewed in accordance with subsection (6);”;

- (d) renumbering subsection (6) as subsection (7) and deleting paragraph (b) of the definition of “relevant authority” in subsection (7), as renumbered; and

- (e) inserting next after subsection (5), the following as subsection (6)—

“ (6) An application for renewal of a licence granted under this section shall be—

- (a) made to the Minister not later than four months before the date of expiration thereof; and

- (b) accompanied by the prescribed fee and such other documents as may be required by the Minister.”.

Insertion of new section 8A in principal Act.

6. The principal Act is amended by inserting next after section 8, the following as section 8A—

“ Quarry may continue to operate pending renewal of licence.

8A. Where a licence granted under section 8 has expired and an application for renewal thereof is made in accordance with section 8(6), the applicant may continue to operate the quarry pending receipt of the renewed licence, unless it is communicated to the applicant in writing by the Minister that the application for renewal is refused.”.

Insertion of new sections 11A and 11B in principal Act.

7. The principal Act is amended by inserting next after section 11, the following as sections 11A and 11B—

“ Receipt and dispatch voucher.

11A.—(1) An operator of a quarry shall issue—

- (a) a receipt for each payment by way of purchase of quarry material or quarry mineral; or
- (b) a dispatch voucher where quarry material or quarry mineral is removed from the quarry otherwise than pursuant to a sale for cash,

which shall state the quantity of the quarry material or quarry mineral to which the receipt or dispatch voucher relates and shall contain such other information as may be prescribed.

(2) Any person who knowingly issues a receipt or dispatch voucher that reflects misleading information, commits an offence, and shall be liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(3) Any person who contravenes subsection (1), commits an offence, and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(4) Every transporter or retailer of quarry material or quarry mineral or of both, shall, upon request by—

- (a) the Commissioner or any person authorized by him; or
- (b) a member of the Jamaica Constabulary Force or the Rural Police,

show to the person so requesting the receipt or dispatch voucher, as the case may be, in relation to the quarry material or quarry mineral.

(5) Any person found in possession of quarry material or quarry mineral, shall, upon request by any person referred to in subsection (4) (a) or (b), produce a receipt or dispatch voucher for the quarry material or quarry mineral or the licence granted pursuant to section 8.

(6) Any person who contravenes subsection (4) or (5), commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

Commissioner
may conduct
random
sampling.

11B.—(1) The Commissioner may conduct random sampling of quarry material or quarry mineral found on a quarry.

(2) For the purposes of subsection (1), the Commissioner or a person duly authorized by the Commissioner may enter any quarry to extract therefrom a sample of quarry material or quarry mineral for testing, and the cost of such extraction shall be borne by the applicant.”.

Repeal and replacement of section 13 of principal Act.

8. Section 13 of the principal Act is repealed and the following substituted therefor—

“ Licences etc., not transferable.

13.—(1) The holder of a licence or of an interest therein shall not transfer the licence or interest or any part or share thereof or create any interest whatsoever therein without first obtaining the consent in writing of the Minister.

(2) A licence or interest therein referred to in subsection (1), shall not take effect unless the prescribed fee has been paid.”.

(3) A transfer or creation of an interest contrary to subsection (1), shall be void.”.

Insertion of new sections 29A and 29B in principal Act.

9. The principal Act is amended by inserting next after section 29, the following as sections 29A and 29B—

“ Certifica- tion required for manage- ment of certain quarries.

29A.—(1) With effect from such date as the Minister may appoint by notice published in the *Gazette*, every quarry exceeding the prescribed size shall be managed by a person who—

- (a) has successfully completed the prescribed course of study for certification for quarry management; and
- (b) is the holder of a quarry management certificate issued by—
 - (i) the Commissioner; or
 - (ii) any person so authorized by the Commissioner.

(2) An application for a quarry management certificate under this section shall be made to the Commissioner in the prescribed form and shall be accompanied by the prescribed fee.

(3) Where the Commissioner is satisfied after considering an application under subsection (2) that the requirements for certification under this section are met, the Commissioner shall issue to the applicant a quarry management certificate in the prescribed form.

(4) A certificate issued under this section shall be valid for a period of five years and may be renewed upon application in the prescribed manner.

Prescribed course of study, certification form and fees for quarry managers.

29B. For the purpose of section 29A, the Commissioner shall propose to the Minister—

- (a) the course of study to be prescribed;
- (b) the form to be prescribed for certification for quarry managers;
- (c) the fees to be prescribed for processing applications for certification as a quarry manager.”.

10. Section 32 of the principal Act is amended by deleting—

- (a) the word “fifteen” and substituting therefor the words “five hundred”; and
- (b) the comma and all the words appearing after the words “six months”.

Amendment of section 32 of principal Act.

11. Section 34 of the principal Act is amended in subsection (1) by—

- (a) re-lettering paragraphs (d) to (r) as paragraphs (e) to (s) and inserting next after paragraph (c), the following as paragraph (d)—

Amendment of section 34 of principal Act.

“(d) prescribing fees to be charged by the Commissioner, for services provided;”;

(b) inserting next after subsection (2) the following as subsection (3)—

“ (3) Notwithstanding the provisions of section 29 of the *Interpretation Act*, regulations made under this Act may prescribe, in respect of a breach of any of the provisions thereof, greater monetary penalties than those specified in that section, so however, that the maximum monetary penalty that may be imposed shall be a fine not exceeding five hundred thousand dollars or imprisonment for a term not exceeding six months or of both such fine and imprisonment.”.

Insertion of new section 35 in principal Act.

12. The principal Act is amended by inserting next after section 34, the following as section 35—

“ Minister may amend monetary penalties by order.

35. The Minister may, by order subject to affirmative resolution, amend the monetary penalties specified in this Act.”.

Consequential amendments to *Proceeds of Crime Act*.

13. The Second Schedule to the *Proceeds of Crime Act* is amended by renumbering items 11 to 17, as items 12 to 18, and inserting next after item 10, the following as item 11—

“ 11. An offence under the Quarries Control Act.”.

Passed in the House of Representatives this 28th day of October, 2014.

MICHAEL A. PEART
Speaker.

Passed in the Senate this 1st day of May, 2015 with three (3) amendments.

FLOYD E. MORRIS
President.

MEMORANDUM OF OBJECTS AND REASONS

The Quarries Control Act was passed in 1983. Since then, the increasing problems of illicit quarrying have highlighted the need for more effective regulation of the quarrying industry.

This Bill, therefore, seeks to amend the Quarries Control Act in order to—

- (a) provide realistic penalties that are a deterrent to the practice of illicit extraction of quarry material or quarry mineral or both by the use of motorized equipment such as tractors and drag lines;
- (b) require quarry operators to issue receipts and dispatch vouchers for quarry material or quarry mineral removed from quarries;
- (c) require persons transporting or purchasing quarry material or quarry mineral to show proof of source of purchase upon request;
- (d) require persons employed in the management of certain quarries to be certified by the Commissioner after satisfactorily completing a prescribed course of study;
- (e) increase generally the penalties for breaches of the Act to more realistic levels.

Provision is also made empowering the Minister to increase the monetary penalties by order subject to affirmative resolution.

PHILLIP PAULWELL
Minister of Science, Technology,
Energy and Mining

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ANACT to Amend the Quarries Control Act.

As passed in the Honourable House of Representatives.

As passed in the Honourable Senate.

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SECTION 5 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

5.—(1) No person shall open, establish or operate a quarry for the purpose of extracting quarry material or quarry mineral except under and in accordance with a licence granted for the purpose under this Act:

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

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

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

- (a) in the case of a first conviction for such offence, be liable to a fine not exceeding thirty thousand dollars or imprisonment for a term not exceeding twelve months or in both such fine and imprisonment; and
- (b) in the case of a second or subsequent conviction for such offence, be liable to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding one year, and in default of payment, to imprisonment for a further term not exceeding one year, such further term to run consecutively; and
- (c) in any event, if the offence continues (whether or not without interruption) after any such conviction, to a fine not exceeding ten thousand dollars for each day on which the contravention continues after conviction or to a term of imprisonment not exceeding two years.

SECTION 8 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

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

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

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

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

(5) A licence granted under this section—

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

(6) In this section—

“relevant authority” means—

- (a) the local authority of the parish in which the quarry is to be operated;
- (b) the Chief Technical Director;
- (c) the Natural Resources Conservation Authority;
- (d) the Permanent Secretary, Ministry of Agriculture,
- (e) the Water Resources Authority;
- (f) any statutory body or agency appearing to the Minister to have an interest in or to be likely to be affected by the issuing of a licence;

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

... ..

SECTION 11 OF THE PRINCIPAL ACT WHICH IT IS PROPOSED TO AMEND

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

- (a) where he is satisfied that such licence has been obtained as a result of any misleading, false or fraudulent representation, or in consequence of any incorrect information (whether such information be supplied wilfully or otherwise);

- (b) where there has been a contravention of the provisions of this Act or of any regulation made thereunder by the licensee or by his servant or agent;
- (c) where there has been a breach of any of the restrictions or conditions stipulated in the licence;
- (d) where any mineral is discovered within, or in close proximity to the quarry;
- (e) where he is satisfied that, having regard to any circumstance a rising subsequent to the issue of a licence, the operation of the quarry is against the interest of public safety, public order or public health.

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

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

SECTION 13 OF THE PRINCIPAL ACT WHICH IT IS PROPOSED TO REPEAL AND REPLACE

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

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

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

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

(4) Where the person operating such quarry, states his objection to the Commissioner under subsection (2), he shall cease to operate the quarry and

shall withdraw all men from the danger indicated by such officer as aforesaid until such time as the matter is determined by the Commissioner;

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

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

SECTION 32 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

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

SECTION 34 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

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

- (a) the prescribing of anything required or permitted by this Act to be prescribed;
- (b) the forms to be used for the purposes of this Act and other like matters of procedure;
- (c) prescribing the fees to be paid for the issue of licences;
- (d) the books, accounts and other documents to be kept in relation to business conducted pursuant to the operation of a quarry;
- (e) the furnishing to the Commissioner, or person authorized in that behalf by him, of information in relation to any business conducted as aforesaid;
- (f) registers to be kept for the purpose of this Act;

- (g) the furnishing of documents and information by applicants and appellants, and the procedure on application and appeals;
- (h) the audit of the accounts of licensees;
- (i) prescribing the principles, basis and method of determination or assessment of tax;
- (j) the method of collection and remittance of tax and any condition or requirement affecting such collection or remittance;
- (k) rebate of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such rebates may be made;
- (l) the management and operation of quarries including—
 - (i) the use that shall be made of land set aside for the purpose;
 - (ii) the location, construction and use of buildings on the lands set aside for the purpose;
 - (iii) prescribing the hours during which any class or classes of activity may be carried out on lands set aside for the purpose;
 - (iv) prescribing the sound levels permissible in their operation;
 - (v) prescribing the final slopes, excavation set backs, fencing, warning signs, blasting requirements, roads and exits:
- (m) the rehabilitation of quarries including the stock-piling of soil for the purpose;
- (n) the safety, welfare and health of persons employed in quarries;
- (o) life saving and first aid appliances;
- (p) the safe means of approach or access to any quarry or machinery;
- (q) the sanitation, including lavatory accommodation (having regard to the number of workers employed) at any quarry;

SECTION 34 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND, CONTD.

- (r) the provision and maintenance of appropriate facilities for the welfare of persons employed at the quarry.

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

SECOND SCHEDULE TO THE PROCEEDS OF CRIME ACT
WHICH IT IS PROPOSED TO AMEND

10. An offence under any of the following provisions of the Sexual Offences Act—

- (a) section 15—Abduction of child under sixteen;
- (b) section 17—Forcible abduction;
- (c) section 18—Procuration;
- (d) section 19—Procuring violation of person by threats or fraud or administering drugs;
- (e) section 20—Abduction of child with intent to have sexual intercourse, *etc.*;
- (f) section 21—Unlawful detention with intent to have sexual intercourse, *etc.*;
- (g) section 23—Living on earnings of prostitution.

“11. An offence under Part II of the Cybercrimes Act.

12. An offence under either of the following provisions of the Larceny Act—

- (a) section 36—Obtaining credit by fraud;
- (b) section 46—Receiving stolen property.

13. An offence of conspiracy to defraud.

14. An offence under the provisions of the Law Reform (Fraudulent Transactions) (Special Provisions) Act.

15. An offence under section 14(1) and (5) of the Corruption Prevention Act.

16. An offence under section 4 of the Trafficking in Persons (Prevention, Suppression and Punishment) Act.

17. An offence of—

- (a) attempting, conspiring or inciting, as the case may be, the commission of any of the offences specified in any of paragraphs 1 to 16;
- (b) aiding, abetting, counselling or procuring the commission of any such offence.”.