

ASPHALT INDUSTRY REGULATION ACT

CHAPTER 87:50

Act
10 of 1906
Amended by
19 of 1948
45 of 1979

Current Authorised Pages

<i>Pages</i> <i>(inclusive)</i>	<i>Authorised</i> <i>by L.R.O.</i>
1-17	..

Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note on Adaptation

Certain fees in this Chapter were increased by the Commission under paragraph 4 of the Second Schedule to the Law Revision Act (Ch. 3:03). Where this occurs, a marginal reference in the form normally indicating an amendment is made to LN 51/1980 (the Legal Notice by which the President's approval was signified).

CHAPTER 87:50

ASPHALT INDUSTRY REGULATION ACT

ARRANGEMENT OF SECTIONS

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FIRST SCHEDULE.

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CHAPTER 87:50

ASPHALT INDUSTRY REGULATION ACT

1950 Ed.
Ch. 26, No. 10.

10 of 1906.

Commencement.

An Act to regulate the carrying on of the Asphalt Industry.

[11TH MAY 1906]

Short title.

1. This Act may be cited as the Asphalt Industry Regulation Act.

Application of Act.

2. This Act shall apply to the Island of Trinidad.

Interpretation.
[45 of 1979].

3. In this Act—

“agent” means any person appointed as the representative of the owner, notification of such appointment having been given in writing by the owner to the Inspector;

“Inspector” means a public officer appointed as such by the Minister by Notification for the purposes of this Act;

“owner” means any person or body corporate who is the immediate proprietor or lessee or occupier of any asphalt-bearing land, and does not include a person or body corporate who receives a royalty, rent or fine from or is the proprietor of such land subject to any lease or grant for the working thereof, or is the owner of the soil and not interested in the asphalt thereof;

First Schedule.

“regulations” means the regulations contained in the First Schedule or any regulations made under section 6, and for the time being in force.

Powers of Inspector.

4. The Inspector shall have power to do all or any of the following things:

(a) to make such examination and enquiry as may be necessary to ascertain whether the provisions of this Act and the regulations are complied with;

(b) to enter, inspect and examine any land upon or in which any digging operations are being carried

on under this Act at all reasonable times by day and night, but so as not to impede or obstruct such digging operations;

- (c) to exercise such powers as may be necessary for carrying this Act and the regulations into effect;
- (d) to delegate any of the powers exercisable by him under this Act to assistants duly appointed hereunder.

5. Every person who wilfully obstructs the Inspector or any of his assistants in the execution of his or their duty, and every owner, agent or servant who refuses or neglects to furnish to the Inspector or his assistants the means necessary for the making of any entry, inspection, examination or enquiry in relation to any diggings being carried on under this Act is guilty of an offence. Obstructing Inspector.

6. (1) Subject to affirmative resolution of Parliament, the Minister may make Regulations for carrying into effect the provisions of this Act and, without prejudice to the generality of this provision, may prescribe the procedure for the application for, and the granting of, permits under section 10 and regulate the manner of digging of asphalt. Regulations. [45 of 1979].

(2) The Regulations contained in the First Schedule and the forms contained in the Second Schedule shall have effect as if they were made and prescribed under subsection (1). First Schedule. Second Schedule.

7. The costs and expenses of the inspection and control hereby authorised, shall be defrayed out of moneys provided by Parliament. Expenses of working Act.

8. The President may declare any land within Trinidad to be asphalt-bearing land; any land so declared shall be described in such declaration. The term “asphalt-bearing land”, when used in this Act, shall signify the land or any part of the land so described. President may declare asphalt-bearing land.

9. (1) No excavations or digging operations shall be begun or carried on in asphalt-bearing land save after notice to commence, in writing, given to the Inspector and in accordance with the terms of such No digging without notice.

notice. Such notice when received by the Inspector shall be entered in the Mining Register, shall bear date as of the day when it is so entered, and shall be given by the owner of the land in which the digging operations are to be carried on or by his agent, and not otherwise.

Such notice shall not be deemed in any Court whatever to be presumptive evidence of ownership of the land therein specified.

The commencement or carrying on of excavations or digging operations in contravention of this section is an offence against this Act.

Certificate of entry of notice. [51/1980].

(2) The owner or his agent who gives notice to commence may at any time obtain from the Inspector a certificate of the entry of such notice in the Mining Register and of the date of such entry. However, the Inspector shall not be required to issue any such certificate in respect of any notice which may have been determined by notice of termination of the digging operations, or may have been cancelled in the Register; also the Inspector shall not be required to issue more than one such certificate in respect of any one notice, save upon payment of a fee of ten dollars (payable in stamps) in respect of every such certificate in addition to the first.

Particulars to be given in notice.

(3) Such notice to commence shall describe the land to be excavated, and shall certify that the boundaries within which the operations are to be confined have been duly marked out, and shall fix the period within which digging shall be commenced, which period shall be not less than thirteen and not more than twenty-one clear days after the date of the notice, unless, for good cause shown, the Inspector thinks fit to shorten the period.

Revocation of notice.

(4) Such notice to commence may, at any time before digging operations are begun, be revoked by the owner of the land or his agent; or if the notice relates to more than one parcel of land owned in severalty, the notice may be revoked by any one of the several owners or his agent so far as his parcel of land is concerned.

Lapse of notice.

(5) Where either such notice to commence is revoked or the time for the commencement for digging operations has expired before such operations have been commenced, the notice shall be deemed to have lapsed and an entry thereof shall be made in the Mining Register.

Termination of notice.

(6) The owner or agent who has given notice to commence as mentioned above may, within seven days after completing digging operations, give in writing notice of termination to the

Inspector. Upon receiving notice of termination the Inspector shall forthwith enter the same in the Mining Register, and the entry shall determine the notice to commence in respect of the digging in question. So long as any notice to commence remains undetermined and unrevoked, the giver of the notice shall, for all purposes and in all Courts, be deemed to be continuing digging operations. A certificate of entry of notice of termination may be obtained in like manner as a certificate of entry of notice to commence.

(7) The notices and certificates provided for in this section shall be in the forms 1, 2, 3, and 4 in the Second Schedule.

Forms of notice,
etc.
Second Schedule.

10. Any owner of asphalt-bearing land or his agent may at any time apply to the Inspector for a permit to dig asphalt in accordance with the provisions of this Act. Such application shall be according to Form 5 and such permit if granted shall be according to Form 6 in the Second Schedule, and such applications and permits shall be made and issued under the Regulations, which shall be observed by every person digging by virtue of a permit and by all persons employed by him or under his superintendence.

Application for
permit.

Forms 5,6.

Second
Schedule.

11. (1) Not less than seven days after the termination of each and every digging operation conducted by virtue of a permit, the holder of the permit shall give notice in writing of the termination of the digging to the Inspector. The notice shall specify the date upon which the digging operations have terminated.

Notice of
termination of
digging.

(2) Entry of such notice shall be made in the Mining Register, and a certificate of the entry shall be obtainable in like manner as described in section 9.

(3) All issues and determinations of permits shall be published in the *Gazette*.

12. Any owner or agent of asphalt-bearing land out of which material, whether asphalt or other constituent of the soil, passes in consequence of any excavation, whether conducted by virtue of a permit or otherwise, may apply to the Inspector for a certificate of the quantity of material lost to such complaining owner by reason

Application for
certificate of
loss of material.
[51/1980].

of the excavation, as provided below. Every such application shall be made not later than thirty days after the date of the termination of the digging, and, unless made by an officer of the State in respect of State lands, shall bear stamps to the value of one hundred dollars.

Notice of application for certificate of loss.

13. The complaining owner or his agent shall, at a date not later than six days from the date of his application for such a certificate as mentioned above, give notice in writing of the application to the person affected thereby. The notice may be sent by post, and shall be deemed to be duly given, if within the space of six days hereby limited a prepaid letter containing the notice and directed to such person at his registered address is delivered to the Post Office. The High Court may, at any time for good cause shown, extend the time for giving the notice. No proceedings shall be taken on any such application unless and until notice thereof has been given to the person to be charged in such proceedings.

Procedure for granting certificate of loss.

14. The Inspector, upon receiving an application as mentioned above, shall appoint the earliest convenient day for the consideration of the same and shall give notice of the appointment to the applicant and to the person affected thereby, and he may, by notice to the parties, from time to time adjourn the consideration or vary the appointment at his discretion. The Inspector or a member of the Petroleum Ministry deputed by him in that behalf shall visit and inspect the land in question and shall measure up and determine the volume of depression, if any depression is caused. The Inspector may, if he considers it necessary, hear the parties in difference before arriving at his decision, but no costs of attendance before the Inspector shall in any case be awarded to any party.

Issue and effect of certificate of loss. [51/1980].

15. The Inspector, if he is satisfied that the digging operations complained of have unduly depleted any asphalt-bearing land, shall issue a certificate to that effect, notice of which shall be given to the parties in difference, and which certificate shall contain a statement of the quantity of material which has been lost to the complaining owner by the undue depletion, and of the properties into which it has so passed. The certificate when issued shall have the same effect as an award by an arbitrator upon a

submission in which the allegation that the land claimed by the complaining owner is asphalt-bearing land, the allegation that the disturbance complained of was caused by the operations of the owner complained against or his agent, and the quantity of the material lost to the complaining owner were matters in question between the parties, and on these points the certificate, when granted, shall be final and conclusive between the parties. The complaining owner in whose favour such a certificate is granted shall be entitled, subject to establishing his title to the land specified in the certificate as the land from which the material has been caused to pass, to recover a quantity of good merchantable asphalt equal to the quantity of material so certified, to be delivered to him free of cost at such place at La Brea, within reasonable distance of the excavation, as the Inspector or the High Court may direct, or he may, at his option, recover payment for the same at the current price of asphalt at La Brea.

However, the Court may order the payment of damages in respect of the disturbance complained of instead of the restitution of asphalt in kind. If the complaining owner recovers under any such certificate a sum of not less than one hundred dollars or asphalt to that value at the least, he shall be entitled to recover, in addition thereto, the further sum of one hundred dollars by way of reimbursement in respect of stamps, unless an order to deprive him thereof is specially made by the Court. But in any other case he shall not recover anything in respect of the stamps affixed to its application as mentioned above.

16. No injunction shall be granted nor any proceedings had upon any injunction heretofore granted by the High Court to restrain any digging or removal of asphalt from land, which digging or removal is carried on by virtue of a permit, unless it is proved that the digging has been conducted in contravention of the permit.

No injunction to restrain digging, etc., under permit.

17. No action for loss of asphalt or other constituent of the soil resulting from digging operations, conducted in accordance with a permit, shall lie unless founded upon a certificate issued by the Inspector under section 15.

No action for loss of asphalt due to operations under permit.

Saving certain rights of action.

18. Nothing contained in this Act shall be construed to deprive any person of any right of action accruing to him—

- (a) by reason of any excavation unlawfully conducted on the land of such person; or
- (b) in respect of any damages or loss occasioned to him by reason of any excavation in land adjacent to or in the neighbourhood of his land, conducted otherwise than in accordance with the provisions of this Act.

Proceedings under State Lands Act. Ch. 57:01.

19. No proceedings shall be taken under the State Lands Act against any person in respect of any digging operations conducted under the provisions of this Act.

Applicant for permit to enter into bond.

20. (1) Any owner of asphalt-bearing land or his agent desiring to obtain a permit shall enter into a bond with one or more sureties to be approved by the Comptroller of Accounts in the sum of one thousand two hundred dollars for the due observance of this Act and of the regulations in respect of all diggings to be carried on by him or under his authority by virtue of the permit.

(2) Such bond shall be given to the Inspector and his assigns and may be enforced by him by action brought in his official name, and shall be in the Form 7 in the Second Schedule.

Form 7. Second Schedule.

(3) Whenever, by reason of the death, departure from Trinidad and Tobago, or bankruptcy of any party to any bond given as mentioned above, the bond shall, in the opinion of the Comptroller of Accounts (to be signified in writing to the Inspector), become an insufficient or unsatisfactory security, the Inspector may thereupon, by notice in writing, require the owner or his agent to enter into a new bond by a date to be limited in the notice, and if such new bond is not given accordingly the permit shall, upon the expiration of the time so limited, be suspended until the notice is complied with.

(4) The owner or his agent may at any time give notice of his desire that the bond should be discharged. From the date of the notice any permit held by virtue of the bond shall lapse, and thirty days thereafter the bond may be discharged, and shall

be so discharged unless complaint has been laid of loss of asphalt or other constituent of the soil in respect of any digging by virtue of the permit. If any such complaint has been laid, the bond shall remain in force until the complaint in question has been decided.

21. There shall be kept at the office of the Inspector a book called the Mining Register, wherein shall be entered—

Mining Register.

- (a) entry of all notices required by this Act and the regulations;
- (b) dates of receipt of notices;
- (c) addresses of owners and agents;
- (d) particulars of permits.

22. Every person who is guilty of an offence under this Act or the Regulations is liable on summary conviction to a fine of one thousand dollars for each offence.

Penalties for offences.

23. The Rules Committee established by the Supreme Court of Judicature Act, may make Rules of Court prescribing any matter of procedure that is necessary or expedient for the purposes of any of the provisions of this Act.

Rules of Court.
Ch. 4:01.

24. The plan prepared by H. J. Massy under and in accordance with the provisions of the La Brea Survey Ordinance 1905, dated 31st July 1907, and approved by the then Legislative Council on 1st February 1909, and any copy thereof certified to be a true copy by the Director of Surveys, shall be admissible in evidence in all Courts, and shall be conclusive evidence of the boundaries of the lots and the lines of the roads and streets shown thereon.

Plan of La Brea.

25. The provisions of this Act shall not apply to the area of the Pitch Lake leased by deed of Concession dated 12th July 1888, and made between Her Majesty the Queen of the one part and Joseph Weedon Previt , Henry Alfred Greig, and the New York and Trinidad Asphalt Company of the other part, during the continuance of such lease or of any extensions thereof, but shall apply thereto immediately after the expiration or sooner

Application to Pitch Lake.

determination thereof. [NOTE.—*Lease extended by Deed dated 19.2.1925 in favour of Trinidad Lake Asphalt Limited, for a term expiring on 31.1.1951.—Registered No. of Deed, 503 of 1925; and further extended by Deed registered No. 99 of 1946 for a term expiring on 31.1.1956*].

Deed registered No. 3572 of 1949 assigned to The Trinidad Lake Asphalt Company (1949) Limited the residue of the term then unexpired and also extended the term to expire on 31st January 1956. The Lease was further extended by Deed registered No. 6498 of 1950 for a term expiring on 31st January 1986.

Section 6.

FIRST SCHEDULE

REGULATIONS

The following regulations shall apply to all diggings conducted by virtue of a permit issued under section 10 of this Act:

Excavations
must be marked.

1. (1) All proposed excavations must be marked out on the ground before any digging operations are commenced, and the marks approved by the Inspector. The extreme line shall in no case be within two feet of the limit of the boundaries of the property within which the excavation is to be made; and for this purpose adjacent lots shall, when they are in the possession for the purpose of excavation of one owner or his agent, be deemed to be one property.

(2) Any person who knowingly removes any marks placed for the purpose of marking out any digging after they shall have been approved by the Inspector is guilty of an offence against this Act.

Application for
permit to dig.

2. (1) Any owner or his agent may make his application to the Inspector for a permit to dig, upon a printed form in which the terms and conditions of the proposed permit shall be clearly set out, that is to say, the application shall state—

- (a) the boundaries of the land on which the excavation is to be made;
- (b) the boundaries of the proposed excavation, such boundaries having been previously marked out by means of pegs not less

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than 3 inches in diameter, and projecting not less than 18 inches above the surface of the soil and penetrating 18 inches below the surface of the soil;

- (c) the depth to which the proposed excavation is to be carried;
- (d) the approximate total weight of material proposed to be extracted from the said property;
- (e) the date, not being less than fourteen days from the date of application, at which the applicant is to be at liberty to commence operations, and the time within which he will undertake to finish operations under the permit; and
- (f) any special terms which the applicant desires to have inserted in the permit.

(2) The application shall contain a general notice that persons interested in opposing the issue of the permit may lodge with the Inspector notice of their opposition and the grounds thereof, within seven days of the date of the receipt of the application by the Inspector.

(3) The application shall be drawn up in the Form 1 in the Second Schedule, or in such other form as the Inspector may approve, and shall be furnished in duplicate to the Inspector, one of such duplicate forms at least being signed by the applicant.

(4) The Inspector shall forthwith, on receipt of the application, cause to be entered the date of its receipt by him upon the two copies thereof, and shall cause one copy of the application to be affixed for public notice in a conspicuous place for that purpose provided at La Brea.

(5) If no opposition is notified, the Inspector, immediately upon the expiration of seven days from the date on which the application was received by him, shall proceed to settle the terms upon which the permit shall be granted, or if he decides to refuse the said permit, he shall give notice to the applicant to that effect and of his reasons for the refusal. In such case the permit or notice of its refusal shall be given to the applicant at most within three days from the expiration of the said seven days.

(6) If opposition is notified, the Inspector may, in his discretion, issue a permit on such terms as he considers fit, or he may refuse the permit on the grounds of the said opposition, or he may appoint a time for hearing the applicant and the opponent or opponents, such appointed time to be not later than seventeen days from the date of the receipt of the application.

(7) After hearing the parties, the Inspector shall forthwith, and in any case within three days, decide upon the issue or refusal of the permit, and shall issue or refuse it accordingly.

(8) No refusal of any application shall be held to prejudice the consideration of a fresh application in respect of the same property by the same or by any other applicant.

(9) A permit when issued shall be in writing, and may be in the Form 6 in the Second Schedule. Until the issue or refusal of such a permit, no digging

operations or excavations shall be commenced on the land for which a permit has been applied for. The Inspector may, for good cause shown, extend the time within which the digging operations shall be concluded.

Boundary of excavation.

3. The permit given for any excavation may specify at the discretion of the Inspector a starting line for the excavation, which line shall form part, or, as the case may be, the whole, of the boundary of the excavation. The boundary face of the excavation shall in no case be pared off or worked under the permit after it has been dug.

Quantity of material to be extracted.

4. Every permit shall specify the maximum quantity of material to be extracted from the excavation. To secure the observance of the limit thus set, the owner or his agent shall, once a week or from time to time when required, submit to the Inspector a properly verified list or account of material removed from the excavation. The removal of any substantial excess of material beyond the quantity permitted shall be deemed a breach of these Regulations. The Inspector shall have power to determine in every case what excess amounts to a substantial excess within the meaning of this regulation.

Angle to dig.

5. The Inspector, if he thinks fit, shall have power to add to the permit the angle at which the gradient through superincumbent soil is to be maintained. If no angle is mentioned, the digger may dig at any angle through the superincumbent soil.

Depth of excavation.

6. In cutting through asphalt, a gradient shall be maintained at such angle as specified in the permit and shall in no case be steeper than 85° to the horizontal. The depth of every excavation shall be such as may be prescribed in the permit.

Breach of Regulations.

7. Any transgression of the permit shall be deemed to be a breach of these Regulations, and as from the date of the transgression the permit shall be deemed to have been cancelled.

Section 9.

SECOND SCHEDULE

FORMS

No. 1

Notice to Commence

I, *A.B.*, hereby give notice, in accordance with the terms of the Asphalt Industry Regulation Act, that I propose to excavate the parcel or lot of land situate at

(a) The said parcel or lot of land is bounded as follows:

N.	S.
E.	W.

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- (b) The boundaries of the excavation shall be maintained as follows:
- (c) The excavation shall not exceed _____ feet in depth.
- (d) No more than _____ tons of material shall be extracted from the excavation. The owner or his agent shall submit to the Inspector a verified report of the quantity of soil and asphalt respectively removed every _____ days.
- (e) Operations shall commence on _____ day of _____, 20____, and shall be concluded before _____ day of _____, 20____.
- (f) Special terms (if any).

(Signed)

Date

Inspector.

No. 7

Section 20.

Bond

Know all men by these presents that we _____ and _____ and _____ (sureties) of _____, are held and firmly bound jointly and severally unto _____, Inspector, and his assigns in the sum of one thousand two hundred dollars (\$1,200) to be paid to the said Inspector or his assigns for which payment to be well and truly made we jointly and severally bind ourselves firmly by these presents:

Whereas the said _____ has applied for a permit under the Asphalt Industry Regulation Act, in respect of a parcel of land bounded as follows: [*Here describe as in application*].

And whereas the said _____ and _____ have agreed to join with the said _____ in the above-written bond or obligation subject to the conditions hereinafter specified as sureties for the due fulfilment of the said conditions:

Now therefore, the condition of the above-written bond or obligation is such that if the said _____ shall from time to time and at all times during the continuance of the said permit duly observe the provisions of the said Act and the Regulations for the time being in force thereunder in respect of all digging operations carried on by virtue of the said permit then the above-written bond or obligation shall be void otherwise shall remain in full force and effect.

Dated this _____ day of _____ 20____.

Signed and delivered by the above-named _____ in the presence of _____