

ACT NO. XVII OF 1918.

[PASSED BY THE INDIAN LEGISLATIVE COUNCIL.]

(Received the assent of the Governor General on the 20th  
September, 1918.)

An Act to restrict temporarily the persons who may engage in business connected with certain non-ferrous metals and metallic ores.

WHEREAS it is expedient to restrict temporarily the persons who may engage in business connected with certain non-ferrous metals and metallic ores; It is hereby enacted as follows:—

Short title,  
extent,  
commence-  
ment and  
duration.

1. (1) This Act may be called the Indian Non-ferrous Metal Industry Act, 1918;

(2) It extends to the whole of British India, including British Baluchistan;

(3) It shall come into force on the first day of October, 1918; and

(4) It shall be in force during the continuance of the present war, and for a period of five years thereafter.

Definitions.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "Indian company" means a company as defined in section 2 of the Indian Companies Act, 1913.

VII of 1913.

(b) "Licence" means a licence granted under this Act, and "licensed" and "licensee" have corresponding meanings.

(c) "Prescribed"

(c) "Prescribed" means prescribed by rules made under this Act.

(d) The expression "share warrants to bearer" includes any bearer securities which confer on the holder thereof any voting power with respect to the management of the company.

3. The metals and ores to which this Act applies are zinc, copper, tin, lead, nickel and aluminium and any other non-ferrous metals and ores to which this Act may be applied by the Governor General in Council by notification in the Gazette of India : Metals and ores to which the Act applies.

Provided that the expression "metal" shall not include metal which has been subjected to any manufacturing process, except such as may be prescribed; and that the expression "ore" shall include concentrates, mattes, precipitates and other intermediate products.

4. (1) It shall not be lawful for any person, after the expiration of six months from the commencement of this Act or such longer period as the Governor General in Council may generally or in any particular case allow, to carry on the business of winning, extracting, smelting, dressing, refining or dealing by way of wholesale trade in metal or metallic ore to which this Act applies, unless licensed to do so in accordance with the provisions of this Act : Prohibition against dealing in certain metals without a licence.

Provided that the purchase or sale of metal shall not be deemed to be dealing in such metal where such purchase or sale is incidental only to the trade carried on by the purchaser or seller :

Provided further that no licence shall be required when the winning, extracting, smelting, dressing, refining, or dealing is carried on wholly outside India.

(2) In the case of a person with respect to whom any of the conditions set forth in the Schedule apply, or who is controlled by a person in respect of whom any such conditions apply, no licence shall be granted, unless the Governor General in Council is of opinion that the grant of a licence is expedient.

(3) Save

(3) Save as provided in sub-section (2), any person carrying on or proposing to carry on a business to which sub-section (1) applies shall, on making application to the Local Government in the prescribed manner, and on furnishing such information and allowing inspection of such books and documents as the Local Government require, and on payment of the prescribed fee which shall not exceed rupees fifteen, be entitled to a licence.

(4) A licence shall remain in force unless and until it is suspended or revoked.

(5) The Governor General in Council may revoke or suspend any licence granted in accordance with sub-section (2) if he is satisfied that such a course is expedient, or any licence granted under sub-section (3) if he is satisfied, on grounds not before the Local Government at the time the licence was granted, that the licensee is or has become subject to any of the conditions set forth in the Schedule.

(6) The decision of the Governor General in Council shall be final on the following questions, namely:—

(a) whether or not the business carried on by any person is such as to require a licence or not; or

(b) whether or not any of the conditions set forth in the Schedule apply in respect of any person; or

(c) whether or not any person is controlled by a person in respect of whom any such conditions apply.

(7) The Local Government shall publish in the prescribed manner the name of any person to whom a licence has been granted, or whose licence has been suspended or revoked under this Act.

Power to  
require  
information  
and inspection  
of documents.

5. (1) The Governor General in Council or the Local Government may, by order in writing, require the applicant for a licence or a licensee, or any person who, being a director, partner, manager or officer of, or the holder of or a person interested in shares or securities

securities of, any company, or firm, which has applied for the grant of a licence, or to which a licence has been granted under this Act, or by which the applicant or licensee is controlled, or being the manager of the business carried on by an individual applicant or licensee, is able to give any information as to the constitution, control or management of the company or firm, or the business carried on by the company, firm, or individual, or the beneficial interest of any person in such business or in any shares or securities of the company or firm, to furnish such information within such time as may be specified in the order.

(2) Any person authorised by the Governor General in Council or the Local Government in this behalf may, for the purpose of verifying or obtaining information of the nature referred to in sub-section (1), inspect any books and documents belonging to or under the control of such company, firm or individual, the inspection of which may reasonably be required for the said purpose.

6. (1) An Indian company carrying on any business to which section 4 (1) applies which has issued share warrants to bearer may give notice requiring the holders of such share warrants to surrender the same for cancellation, and to have their names entered in the register of members in respect of the shares included in such warrants.

Provisions as to share warrants to bearer.

(2) Such notice shall be given by advertisement in the Gazette of India and by any other method by which notices to or for the information of holders of share warrants to bearer are required to be given by the regulations of the company or the conditions of issue of such warrants.

(3) Where notice has been given under this section, no person shall, as holder of a share warrant, be entitled to attend or vote at any meeting of the company, and any dividends or interest which may become payable in respect of any shares represented by share warrants shall be retained by the company until such share warrants have been surrendered for cancellation.

7. (1) An

Provisions as to declarations by share-holders.

7. (1) An Indian company carrying on any business to which section 4 (1) applies may give notice requiring a share-holder or debenture-holder to make a declaration in writing duly signed with his usual signature as to the beneficial ownership of the shares or debentures standing in his name and as to the nationality of such beneficial owner.

(2) Such notice shall be given by any method by which notices to or for the information of holders of shares or debentures are required to be given by the regulations of the company or the conditions of issue of the debentures.

(3) Where notice has been given under this section, no person shall, as holder of a share, be entitled to attend or vote at any meeting of the company, and any dividends or interest which may become payable in respect of any shares or debentures shall be retained by such company until the share-holder or debenture-holder shall have made such declaration as aforesaid.

(4) For the purposes of this section the expressions "shares" and "debentures" include stock and debenture stock, and "share-holder" and "debenture-holder" have corresponding meanings.

8. No information as to any person or business obtained in accordance with the provisions of section 5 or section 7 shall be published or disclosed, except for the purposes of a prosecution under this Act.

Information obtained under the Act not to be disclosed.

Penalties.

9. (1) Any person who—

(a) carries on the business of winning, extracting, smelting, dressing, refining or dealing in any metal or metallic ore in contravention of this Act; or

(b) refuses or neglects to furnish any information which by an order under section 5 is required to be furnished, within the time specified in such order, or knowingly furnishes any such information which is false in any material particular; or

(c) having the custody of any book or document which a person is authorised to inspect under

- under section 5 refuses or neglects to produce the book or document for inspection ; or
- (d) fraudulently uses or permits to be fraudulently used any licence issued under this Act ; or
  - (e) makes a declaration in compliance with a notice under section 7 which is false, and which he either knows or believes to be false or does not believe to be true ; or
  - (f) in contravention of section 8 knowingly publishes or discloses any information obtained in accordance with the provisions of this Act,

shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(2) Where the person guilty of an offence under this Act is a company, every director, manager, secretary, and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment.

10. No Court shall take cognisance of any offence punishable under this Act, unless the Local Government has by order in writing consented to the initiation of the proceedings. Cognisance of offences against the Act.

11. (1) The Governor General in Council shall make rules for the purpose of carrying into effect the provisions of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules shall provide for—

- (a) the levying of fees in respect of licences issued under this Act ;
- (b) excluding from dealings by way of wholesale trade within the meaning of this Act, dealings in quantities below such limits as may be specified generally or in respect of any particular metal or metallic ore ; and
- (c) any

(c) any matter which under this Act may be prescribed.

## SCHEDULE.

### *Interpretation.*

In this Schedule, "capital" in relation to a company means any shares or securities issued by the company which carry or would, if necessary formalities were complied with, carry any voting power with respect to the management of the company, and shall also include debentures and debenture stock and money lent to the company ;

"hostile foreigner" means a subject of a State which is now at war with His Majesty ;

"association under hostile control" means any association—

- (a) where the majority of the directors, partners, managing agents or the persons occupying any of these positions by whatever name called are hostile foreigners ; or
- (b) where the majority of the voting power is in the hands of persons who are hostile foreigners or who exercise their voting powers directly or indirectly on behalf of persons who are hostile foreigners ; or
- (c) where the control is by any means whatever in the hands of persons who are hostile foreigners ; or
- (d) where the executive is an association falling within any of clauses (a), (b), or (c) of this definition, or where the majority of the executive are appointed by such an association.

### *Conditions.*

1. That the person or the manager or principal officer employed by him, or where the person is a company or firm, that any director or partner or manager

manager or other principal officer thereof is or has been a hostile foreigner, or an association under hostile control.

2. That, in the case of a company, any capital of the company is or was at any time after the 1st of October, 1918, held by or on behalf of a hostile foreigner, or an association under hostile control :

Provided that any stock or shares of the company vested in a custodian or other person by virtue of any order made under the Trading with the Enemy Acts, 1914 to 1916, or the Enemy Trading Act, 1915, or the Enemy Trading Act, 1916, or any like enactment in force in any part of His Majesty's dominions shall be deemed to be so held.

3. That the person is or was at any time after the 1st October, 1918, party to any agreement, arrangement or understanding which enables or enabled a hostile foreigner or an association under hostile control to influence the policy or conduct of the business.

4. That the person is or was after the 1st of October, 1918, interested, directly or indirectly, to the extent of one-fifth or more of the capital, profits or voting power in any undertaking, whether or not in British India, engaged in any business to which section 4 (1) applies in which hostile foreigners or an association or associations under hostile control are also interested, directly or indirectly, to the extent of one-fifth or more of the capital, profits or voting power.

5. That the person is by any means whatever subject, directly or indirectly, in the conduct of his business to the influence of a hostile foreigner or an association under hostile control.

6. That in the case of a company, the company has issued share warrants to bearer and has not given notice requiring the holders of such share warrants to surrender the same for cancellation.

4 & 5 Geo. 5,  
Ch. 87;  
5 Geo. 5,  
Ch. 12;  
5 & 6 Geo. 5,  
Ch. 79;  
5 & 6 Geo. 5,  
Ch. 98;  
5 & 6 Geo. 5,  
Ch. 105;  
6 & 7 Geo. 5,  
Ch. 32;  
6 & 7 Geo. 5,  
Ch. 52.  
XIV of 1915.  
X of 1916.