



TRINIDAD AND TOBAGO

No. 12—1961

[L.S.]

I ASSENT,

SOLOMON HOCHOY

Governor.

22nd April, 1961.

AN ORDINANCE to implement certain of the provisions contained in the Agreement signed on the 10th day of February, 1961, between the Governments of the Federation of The West Indies and the United States of America, relating to the use and occupation by the United States of America of a Defence Area in Trinidad, and for other purposes arising out of and incidental to the said Agreement.

Commencement

[On Proclamation]

Enactment

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

Short title.

1. This Ordinance may be cited as the United States Defence Area (Agreement) Ordinance, 1961.

2. (1) In this Ordinance—

Interpretation.

- (a) “the Agreement” means the Agreement signed on the 10th day of February, 1961, between the Government of the Federation of The West Indies and the Government of the United States of America concerning the United States Defence Areas in the Federation of The West Indies and published as a supplement to *The West Indies Gazette* of the 24th day of February, 1961;
- (b) “contractor personnel” means employees of a United States contractor who are not ordinarily resident in the Federation and who are there solely for the purposes of the Agreement;
- (c) “defence area” means the area in respect of which the Government of the United States of America (hereinafter called “the United States Government”) is for the time being entitled to have and enjoy, in accordance with the terms and conditions of the Agreement, the right, power and authority described in Article II thereof;
- (d) “dependants” means the spouse and children under twenty-one years of age of a person in relation to whom it is used; and if they are dependent upon him for their support, the parents and children over twenty-one years of age of that person;
- (e) “Federation” means the Federation of The West Indies;
- (f) “members of the United States Forces” means
 - (i) military members of the United States Forces on active duty;
 - (ii) civilian personnel accompanying the United States Forces and in their employ who are not ordinarily resident in the Federation and who are there solely for the purposes of the Agreement; and
 - (iii) dependants of the persons described in (i) and (ii) above;
- (g) “the Territory” means Trinidad and Tobago;
- (h) “United States contractor” means any person, body or corporation ordinarily resident in the United States of America that is in the Territory for the

purposes of the Agreement by virtue of a contract with the United States Government, and includes a sub-contractor;

- (i) "United States Forces" means the land, sea and air armed services of the United States, including the Coast Guard.

(2) References in this Ordinance to any particular Ordinance include references to any regulations made under that Ordinance.

Regulations.

3. (1) The Governor in Council may make regulations for—
- (a) giving effect to the provisions of this Ordinance; and
 - (b) implementing the Agreement as to any matter for which no provision or no sufficient provision is made in this Ordinance.

(2) Without prejudice to the generality of the powers conferred by subsection (1) of this section, regulations made under that subsection may make provision for—

- (a) the arrest of persons found committing or reasonably suspected of having committed an offence against the regulations;
- (b) the seizure of things which are, or which are reasonably suspected of being, things in respect of which or with which an offence against the regulations has been committed, and the disposal (including the forfeiture) of any things so seized;
- (c) the steps which may be taken, and the persons by whom they may be taken, to prevent the commission of any offence against the regulations or to remove from any area persons who, or things which, are in that area in contravention of the regulations;
- (d) the punishment of any person found guilty of any such offence on summary conviction: Provided that provision shall not be made for any punishment greater than a fine of five hundred dollars and six months imprisonment;
- (e) the exclusion, restriction or modification of the application of any law from time to time in force other than the provisions of this Ordinance so far as is necessary for the purposes mentioned in subsection (1) of this section.

(3) Regulations made under this section shall not have any force or effect until confirmed by resolution of the Legislative Council.

(4) The regulations contained in the First Schedule to this Ordinance shall be in force until varied or revoked by regulations made under this section. First Schedule.

4. Sections 5 and 8 of the Immigration (Restriction) Ordinance shall not apply in relation to members of the United States Forces entering the Territory for the purposes of the Agreement. Exemption from certain immigration provisions. Ch. 20. No. 2.

5. Vessels owned or operated by or on behalf of the Government of the United States shall— Exemptions from shipping dues, pilotage, &c.,

(a) not be subject to any dues under the Port Services (Dues, Charges and Management) Ordinance; and Ch. 18. No. 2.

(b) be excepted ships for the purposes of section 16 of the Pilotage Ordinance; and Ch. 18. No. 3.

(c) be exempted from the operation of the Motor Launches Ordinance and the Droghers Ordinance. Ch. 18. No. 6.
Ch. 18. No. 8.

6. (1) Subject to the provisions of this section no import or export duty of customs shall be imposed upon— Customs and Excise exemptions.

(a) materials and equipment imported by or for the use of the United States Forces or United States contractors for the purposes of the Agreement;

(b) the personal effects and household goods (including private motor cars) of members of the United States Forces, United States contractors and contractor personnel, imported by such persons at the time of their first arrival in the Territory or, if they are related to such arrival, within six months thereafter.

(2) The Comptroller of Customs and Excise may require as a condition of the exemption from duty of any goods referred to in subsection (1) of this section the production of a certificate, signed on behalf of the United States Government, that the goods qualify for the exemption claimed.

(3) Subject to the provisions of this section, no excise duty shall be imposed on any goods purchased in the Territory by or for the use of the United States Government for the purposes of the Agreement.

(4) For the purposes of this section "excise duty" includes any duty other than an export duty of customs imposed on any articles manufactured in the Territory.

(5) Any person who without the consent in writing of the Comptroller of Customs and Excise, uses, disposes of, acquires or receives any goods—

- (a) imported free of customs duty under paragraph (a) of subsection (1) of this section, or
- (b) exempted from excise duty under subsection (3) of this section,

otherwise than for the purposes of the Agreement shall be guilty of an offence and shall be liable—

- (i) on summary conviction, to a fine of five times the value of such goods or one thousand five hundred dollars, whichever shall be the greater, or to imprisonment for six months or to both such fine and such imprisonment; or
- (ii) on conviction on indictment, to a fine of five times the value of such goods or five thousand dollars, whichever shall be the greater, or to imprisonment for three years, or to both such fine and such imprisonment.

(6) A certificate in writing signed by or on behalf of the Comptroller of Customs and Excise shall for the purposes of subsection (5) of this section be *prima facie* proof of the value of such goods.

(7) Consent given under subsection (5) of this section may be upon terms and conditions as to payment of duty or otherwise as the Comptroller of Customs and Excise may think fit.

(8) It shall be lawful for the Comptroller of Customs and Excise to accept payment, by any person who admits that he has committed an offence against this section in relation to any goods, of a penalty not greater than the maximum fine which could have been imposed on a conviction for such offence. Acceptance of payment in any such case shall be a bar to any criminal proceedings for the offence.

(9) Sections 197, 198 and 199 of the Customs Ordinance shall apply in regard to goods reasonably suspected to have been the subject of an offence against this section as though

they were prohibited or uncustomed goods and it is hereby declared that on all occasions on which any person who is an Officer for the purposes of the Customs Ordinance, whether acting in pursuance of the above mentioned sections or otherwise, shall come upon any goods reasonably suspected to have been the subject of an offence against this section, it shall be lawful for such Officer to seize such goods together with any documents or exhibits which may go to prove the commission of the offence.

(10) The provisions of the Customs Ordinance shall apply in relation to seizures and forfeitures under this section as though they were seizures or forfeitures under that Ordinance; and where any person is convicted of an offence against this section or is dealt with by the Comptroller of Customs and Excise or other Officer acting under subsection (8) of this section, all goods in respect of which any such offence was committed shall be forfeited and shall be disposed of as the Governor in Council may direct. Ch. 32. No. 2

(11) The Comptroller of Customs and Excise may authorise any person who is an Officer for the purposes of the Customs Ordinance to exercise the powers conferred upon him by this section.

7. (1) Where the legal incidence of any form of taxation depends on residence or domicile in the Territory, periods during which members of the United States Forces, United States contractors or contractor personnel are in the Territory solely by reason of the Agreement shall not be considered as periods of residence or as creating a change of residence or domicile for the purposes of such taxation. Tax exemptions

(2) There shall be exempt from income tax—

- (a) the salary and other emoluments received by members of the United States Forces and contractor personnel as such members or personnel respectively; and
- (b) any income received by United States contractors under a contract with the Government of the United States solely for the purposes of the Agreement; and
- (c) the income of such agencies as are referred to in Article XIV of the Agreement.

(3) Members of the United States Forces, United States contractors and contractor personnel shall not incur liability for any tax, duty, licence or other charge imposed—

(a) in respect of any tangible movable property provided that such property is kept exclusively within the defence area; or

(b) solely by reason of the ownership of any such property, if such property although kept outside the defence area is in the Territory solely by reason of the Agreement.

Exemption of vehicles from registration and insurance
Ch. 16. No. 3.

8. (1) A motor vehicle or trailer while owned by the Government of the United States shall be exempted under section 9 of the Motor Vehicles and Road Traffic Ordinance from the need for registration.

(2) Every such motor vehicle and trailer shall carry in front and at the rear a distinct nationality identification mark in addition to its identification number.

(3) A list of all such motor vehicles and trailers specifying their respective identification numbers shall be supplied by the military authorities of the United States to the Licensing Authority.

Ch. 16. No. 4.

(4) Section 3 of the Motor Vehicles Insurance (Third-party Risks) Ordinance shall not apply in relation to any motor vehicle or trailer owned by the United States Government while it is being used for the purposes of the Agreement.

Exemption from motor vehicles tax.

9. Motor vehicles tax shall not be payable in respect of private motor cars imported by members of the United States Forces free of Customs duty under paragraph (b) of subsection (1) of section 6 of this Ordinance.

Exercise of powers by military authorities of the United States.

10. (1) The military authorities of the United States may exercise over persons subject to their jurisdiction in accordance with this section all such powers as are exercisable by them according to the law of the United States.

(2) Nothing in this section shall be deemed to confer any right on the military authorities of the United States to exercise jurisdiction over persons who belong to or are ordinarily resident in the Federation unless they are military members of the United States Forces.

(3) Where any sentence has, whether within or outside the Territory, been passed by the military authorities of the United States upon a person who immediately before the sentence was passed was subject to the jurisdiction of such authorities in accordance with this section, then for the purposes of any proceedings in any court the sentence shall be deemed to be within the jurisdiction of such authorities and in accordance with the law of the United States, and the due execution thereof shall be deemed to be a lawful act.

(4) Notwithstanding anything in the preceding subsections of this section a sentence of death passed by the military authorities of the United States shall not be carried out in the Territory unless under the laws for the time being in force in the Territory a sentence of death could have been passed by a court in a similar case.

(5) Any person who—

(a) is detained in custody in pursuance of a sentence in respect of which subsection (3) of this section has effect, or

(b) being subject to the jurisdiction of the military authorities of the United States in accordance with this section, is detained in custody pending or during the trial by such a court of a charge brought against him,

shall for the purposes of any proceedings in any court be deemed to be in legal custody.

11. (1) Subject to the provisions of this section, a person charged with an offence against any law for the time being in force in the Territory shall not be liable to be tried for that offence by a court if at the time when the offence is alleged to have been committed he was a member of the United States Forces and—

Restriction as regards certain offences, of trial by courts of military members of United States Forces.

(a) the alleged offence, if committed by him, arose out of any act done in the course of his duty as a member of the United States Forces; or

(b) the alleged offence is an offence against the person, and the person, or, if more than one, each of the persons, in relation to whom it is alleged to have been committed, was at the time thereof a member of the United States Forces; or

- (c) the alleged offence is an offence against property, and the whole of the property in relation to which it is alleged to have been committed (or, in a case where different parts of that property were differently owned, each part of the property) was at the time thereof the property either of the United States or of an authority of the United States, or of a member of the United States Forces :

Provided that this subsection shall not apply if at the time when the offence is alleged to have been committed the alleged offender was not subject to the jurisdiction of the military authorities of the United States in accordance with section 10 of this Ordinance.

(2) In relation to the trial of a person who was not a military member of the United States Forces at the time when the offence is alleged to have been committed, subsection (1) of this section shall not have effect unless it is shown that the case can be dealt with under the military law of the United States.

(3) Nothing in subsection (1) of this section—

- (a) shall prevent a person from being tried by a court in a case where the Attorney General certifies, either before or in the course of the trial, that the military authorities of the United States have notified him that they do not propose to exercise their jurisdiction in that case; or
- (b) shall affect anything done or omitted in the course of a trial unless in the course thereof objection has already been made that by reason of that subsection the court is not competent to deal with the case; or
- (c) shall, after the conclusion of a trial, be treated as having affected the validity thereof if no such objection was made in the proceedings at any stage before the conclusion of the trial.

(4) In relation to cases where the charge (by whatever words expressed) is a charge of attempting or conspiring to commit an offence, or of aiding, abetting, procuring or being accessory to, or of being art and part in, the commission of an offence, paragraphs (b) and (c) of subsection (1) of this section shall have effect as if references in those paragraphs to the alleged offence were references to the offence which the person charged is alleged to have attempted or conspired to commit or,

as the case may be, the offence as respects which it is alleged that he aided, abetted, procured or was accessory to, or was art and part in, the commission thereof; and references in those paragraphs to persons in relation to whom or property in relation to which, the offence is alleged to have been committed shall be construed accordingly.

(5) Nothing in this section shall be construed as derogating from the provisions of any other enactment restricting the prosecution of any proceedings or requiring the consent of any authority to the prosecution thereof.

(6) For the purposes of this section the expressions "offence against the person" and "offence against property" shall be construed in accordance with the provisions of the Second Schedule to this Ordinance.

Second
Schedule.

12. (1) Without prejudice to the operation of section 11 of this Ordinance, where a person has been tried by the military authorities of the United States in the exercise of the powers referred to in subsection (1) of section 10 of this Ordinance, he shall not be tried by a court for the same crime.

Courts not
to try
offenders
tried by
military
authorities
of United
States.

(2) Where a person who has been convicted by the military authorities of the United States in the exercise of the said powers is convicted by a court of this Territory of a different crime, but it appears to the court that the conviction by the said authorities was wholly or partly in respect of acts in respect of which he is convicted by the court, the court shall have regard to the sentence of the said authorities.

13. (1) Neither section 11 nor section 12 of this Ordinance shall affect—

Arrest,
custody &c.,
of offenders.

- (a) any powers of arrest, search, entry, seizure, or custody exercisable by or under any law in force in the Territory with respect to offences committed or suspected to have been committed against any such law; or
- (b) any obligation of any person in respect of a recognisance or bail bond entered into in consequence of his arrest, or the arrest of any other person, for such an offence; or
- (c) any power of any court to remand (whether on bail or in custody) a person brought before the court in connection with such an offence.

Provisions
as to
coroners'
inquests.

14. (1) If a Coroner having jurisdiction to hold an inquest touching a death is satisfied that the deceased person was at the time of his death a member of the United States Forces, then, unless the Attorney General otherwise directs, the Coroner shall not hold the inquest, or, if the inquest has been begun but not completed, shall adjourn the inquest.

(2) If, subject to subsection (1) of this section, on an inquest touching the death of any person, the Coroner is satisfied before the inquest is completed that a member of the United States Forces has been charged by the military authorities of the United States with any offence involving responsibility for the death of the deceased person, or is being detained by the said authorities with a view to his being so charged, then, unless the Attorney General otherwise directs, the Coroner shall adjourn the inquest, and shall furnish the Registrar General with a certificate stating the particulars necessary for the registration of the death so far as they have been ascertained at the inquest.

(3) Where an inquest is adjourned under this section, the Coroner shall not resume it except on the direction of the Attorney General, and, if he does resume it, shall proceed in all respects as if the inquest had not previously been begun, except that it shall not be obligatory on the Coroner to furnish the Registrar General with any certificate or further certificate as the case may be.

(4) Members of the United States Forces shall not be required to give the notice of the death of a member of the United States Forces contemplated by section 4 of the Coroners Ordinance.

Evidence.

15. (1) A certificate issued by or on behalf of the military authorities of the United States stating that at the time specified in the certificate a person so specified either was or was not a member of the United States Forces shall in any court be sufficient evidence of the fact so stated unless the contrary is proved.

(2) A certificate issued by or on behalf of the said authorities stating as regards a person specified in the certificate—

(a) that on a date so specified he was sentenced by the said authorities to such punishment as is so specified,
or

(b) that he is, or was at a time so specified, detained in custody in pursuance of a sentence passed on him by the said authorities or pending or during the trial of a charge brought against him by the said authorities, or

(c) that he has been tried, at a time and place specified in the certificate by the said authorities for a crime so specified,

shall in any court be conclusive evidence of the facts so stated.

(3) A certificate issued by or on behalf of the said authorities stating that a specified case in a court can be dealt with under the military law of the United States shall, for the purposes of subsection (2) of section 11 of this Ordinance be conclusive evidence of that fact.

(4) Where a person is charged in a court with an offence and at the time when the offence is alleged to have been committed he was a member of the United States Forces, a certificate issued by or on behalf of the military authorities of the United States stating that the alleged offence, if committed by him, arose out of any act done in the course of his duty as a member of the United States Forces, shall be conclusive evidence of that fact.

16. Nothing in the Post Office Ordinance shall prevent the establishment and operation of United States Post Offices in accordance with Article XIII of the Agreement.

Post Office
Ordinance
not to apply.
Ch. 36. No. 1.

17. Members of the United States Forces, United States contractors, contractor personnel and their dependants who are the holders of driving permits issued by the United States or a sub-division thereof shall, while such permits remain valid, be exempted from any requirement to hold a driving permit under the Motor Vehicles and Road Traffic Ordinance.

Exemption
from driving
permits.

Ch. 16. No. 3.

18. The United States Bases (Temporary Provisions) Ordinance and the United States Counsel Ordinance are hereby repealed.

Repeal.
Ch. 43. No. 1.
Ch. 43. No. 2.

19. This Ordinance shall come into operation on a day to be fixed by the Governor by proclamation published in the *Royal Gazette*.

Commencement.

(Section 3)

FIRST SCHEDULE

THE UNITED STATES (DEFENCE AREA) REGULATIONS

1. These Regulations may be cited as the United States (Defence Area) Regulations.

2. In these Regulations—

“restricted area” means the area described in sub-paragraph (b) of paragraph (7) of Annex E to the Agreement and includes any area redefined under the said sub-paragraph.

3. (1) Every vessel in the restricted area—

(a) shall remain continuously underway unless prevented from so doing by a breakdown of the machinery propelling such vessel or by some other unavoidable cause;

(b) shall carry between sunset and sunrise at least one white light visible from all points of the horizon for a distance of at least two miles and mounted at least two feet above the gunwale.

(2) Where there is a contravention of sub-paragraph (a) or (b) of paragraph (1) of this regulation the master or person in charge of the vessel shall be guilty of an offence.

4. The master or person in charge of a vessel within the restricted area who fails to comply with any lawful order issued by a member of the United States Forces shall be guilty of an offence.

5. Where there is a contravention of regulation 3 or 4 of these Regulations :—

(a) the vessel and the occupants thereof may be taken into custody by any member of the United States Forces and taken to the mainland of the defence area and there detained for such time as may be necessary for the purpose of committing such vessel and the occupants thereof into the custody of a constable;

(b) the onus of establishing that he is not the master or person in charge of the vessel shall rest upon the person charged.

6. Every person guilty of an offence under these Regulations shall be liable on summary conviction to a fine of one hundred dollars.

(Section 11)

SECOND SCHEDULE

OFFENCES REFERRED TO IN SECTION 11

1. In the application of section 11 of this Ordinance the expression "offence against the person" means any of the following offences, that is to say—

- (a) murder, manslaughter, rape, buggery, and assault; and
- (b) any offence not falling within the foregoing sub-paragraph being an offence punishable under any of the following enactments :—
 - (i) section 65 of the Criminal Procedure Ordinance (which relates to infanticide); Ch. 4. No. 3.
 - (ii) the Offences against the Person Ordinance, (except section 56 thereof which relates to bigamy); Ch. 4. No. 9.
 - (iii) sections 24 and 24A of the Larceny Ordinance (which relate to robbery and attempted robbery); Ch. 4. No. 11.
 - (iv) section 5 of the Summary Offences Ordinance; Ch. 4. No. 17.
 - (v) sections 3 to 8 (inclusive) of the Children Ordinance. Ch. 4. No. 21.

2. In the application of the said section 11 the expression "offence against property" means any offence punishable under any of the following enactments, that is to say—

- (a) section 9 of the Criminal Offences Ordinance; Ch. 4. No. 4.
- (b) the Larceny Ordinance, except sections 24 and 24A thereof; Ch. 4. No. 11.
- (c) the Malicious Damage Ordinance; Ch. 4. No. 13.
- (d) sections 9 to 47 (inclusive) of the Summary Offences Ordinance; Ch. 4. No. 17.
- (e) section 49 of the Motor Vehicles and Road Traffic Ordinance. Ch. 16. No. 3.

Passed in Council this 21st day of April in the year of Our Lord one thousand nine hundred and sixty-one.

G. R. LATOUR
Clerk of the Council.