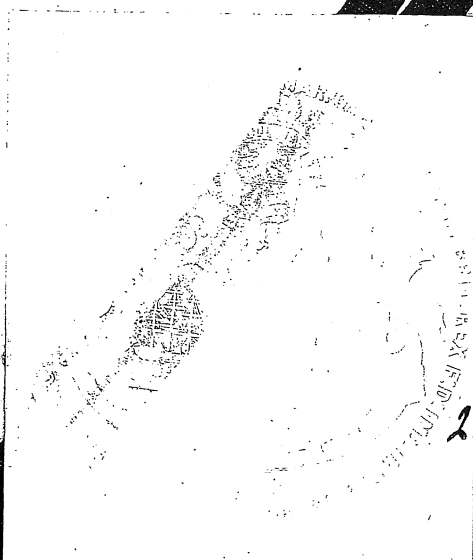


TRINIDAD AND TOBAGO.

No. 36.—1921.



I ASSENT,

*J. R. Chancellor*

Governor.

23<sup>rd</sup> May, 1921.

AN ORDINANCE to regulate the holding of land by Aliens and Companies under Alien control.

[1st July, 1921.]

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Aliens (Land- Short title. holding regulation) Ordinance, 1921.

2. In this Ordinance, unless the context otherwise Definitions. requires—

The expression "alien" means a person who is not a British subject, and includes a company incorporated in the Colony or in any other part of His Majesty's dominions if it is under alien control as hereinafter explained, and also every corporation incorporated in a foreign country ;

[Price 6d.]

but shall not include any of the subjects or citizens of a foreign state upon whom there has been conferred by treaty the right to hold land within the Colony ;

The expression "debenture" includes every mortgage or charge by a company, whether floating or otherwise, on any of the company's property or on its undertaking or on its uncalled capital, and also every obligation by the company (not being a bill of exchange or promissory note) for the payment of a debt or the repayment of money lent or to be lent, and also debenture stock ;

The expression "land" includes tenements and hereditaments, both corporeal and incorporeal, and every interest therein, but does not include money charged on land ;

The expression "member of a company" includes any person entitled under the memorandum or articles or any resolution of the company to participate in its assets or in its divisible profits. But a servant or agent of the company shall not be deemed to be a member by reason only that the amount of his emoluments depends wholly or partially on the amount of the company's profits ;

The expression "mortgage" includes every instrument creating a mortgage or charge on land, except a debenture ;

The expression "share" includes stock, and, in the case of a company not having a share capital, the interest of a member in the assets of the company ;

The expression "unlicensed alien" means an alien who does not hold a licence granted under this Ordinance.

*Restrictions on the holding of Land and Mortgages  
by Aliens.*

3.—(1.) Subject to the provisions of this Ordinance, neither land in the Colony nor a mortgage on land in the Colony shall, after the commencement of this Ordinance, be held by an unlicensed alien, and any land or mortgage so held shall be forfeited to His Majesty. Forfeiture of land and mortgages held by unlicensed aliens.

(2.) Provided that

(a.) Land may be acquired and held by an unlicensed alien on an annual tenancy or for any less interest for the purposes of his residence, trade, or business, but an unlicensed alien shall not so hold more than five acres of land in all.

(b.) Land acquired by an unlicensed alien under a will or on an intestacy shall not be forfeited if, within one year from the death of the testator or intestate or within such extended time (if any) as the Governor may decide to be reasonable, the land is sold or the alien obtains a licence to hold the land.

(c.) A mortgage acquired by an unlicensed alien under a will or on an intestacy shall not be forfeited; but the alien shall not unless he obtains a licence to hold the mortgage, be entitled to foreclose or enter into possession of the mortgaged land.

(d.) Nothing in this Ordinance shall affect the interest of a judgment creditor in the land of his judgment debtor, but the debtor's land shall not be acquired by an unlicensed alien.

(e.) Nothing in this Ordinance shall affect the estate or interest of an alien in any land or mortgage held by him at the commencement of this Ordinance.

Licenses for  
aliens to hold  
land or  
mortgages.

4.—(1.) The Governor may, if he thinks fit, from time to time, grant to any alien a licence to hold land as owner or tenant or mortgagee for any estate or interest either subject to any conditions or not.

Provided that a licence shall be operative only as to the land described and as to the estate or interest specified therein, and shall be of no force or effect until registered in the office of the Registrar-General.

(2.) On breach of any condition in a licence to hold land as owner or tenant or mortgagee, the estate and interest of the alien in the land or mortgage held under the authority thereof shall be forfeited to His Majesty.

Effect of  
forfeiture.

5.—(1.) Land or a mortgage forfeited under this Ordinance shall not vest in His Majesty unless and until a judgment is obtained declaring the forfeiture; but on such judgment being obtained the title of His Majesty shall relate back to and commence at the time when the forfeiture took place.

(2.) A judgment declaring a forfeiture of land shall operate to vest in His Majesty all the estate and interest of the alien in the forfeited land.

(3.) A judgment declaring a forfeiture of a mortgage shall operate to vest in His Majesty all the estate and interest of the alien in the mortgaged land subject to any right of redemption subsisting therein, and also to vest in His Majesty the right to recover and receive and to enforce all securities for the mortgage money.

*Provisions as to Companies under alien control.*

Companies  
under alien  
control.

6.—(1.) For the purposes of this Ordinance, a company shall be deemed to be under alien control—

(a.) If any of its directors is an unlicensed alien,

(b.) If more than one-third of the votes exercisable at any meeting of the company or which would be exercisable if a meeting of the company was held are vested in unlicensed aliens, or

(c.) In the case of a company having a share capital, if more than one-third of the nominal amount of its issued shares are held by unlicensed aliens, or

- (d.) In the case of a company not having a share capital, if more than one-third in number of its members are unlicensed aliens, or
- (e.) If the amount paid or payable in any period of twelve months as dividends to those members of the company who are unlicensed aliens exceeds one-third of the total amount paid or payable by the company as dividends in the same period, or
- (f.) If more than one-third of the nominal value of the outstanding debentures of the company are held by unlicensed aliens, or
- (g.) If the annual interest on the debentures of the company for the time being held by unlicensed aliens exceeds one-third of the annual interest on all the debentures of the company for the time being outstanding.

(2.) A company which is under alien control and is a member of another company shall, for the purpose of deciding the status of that other company, be treated as an alien notwithstanding that its representative (if any) appointed under section 68 of the Companies Ordinance, 1913, may not himself be an alien.

But a company which is a member of another company shall not, for the purpose aforesaid, be treated as an alien by reason only that its representative appointed as aforesaid is an alien.

7. Notwithstanding anything contained in any law relating to companies, or in the memorandum or articles of association of the company, or in any debenture, or in any instrument for securing any issue of debentures, a company incorporated in the Colony holding or intending to acquire more than five acres of land in the Colony may

Power for a company to restrict the holding by aliens of its shares and debentures.

- (1.) Restrict or prohibit the issue or transfer of its shares or debentures to aliens;
- (2.) Restrict or prohibit the holding by aliens of share warrants and of debentures transferable by delivery;

- (3.) Refuse to register an alien as a member or as the holder of a debenture ;
- (4.) Require such evidence as it may think fit as to the nationality of any person desiring to be registered as a member or as the holder of a debenture, and as to the nationality of the holder of a share warrant or debenture transferable by delivery or of a coupon or other document entitling the bearer to payment of any dividend or interest.

Licenses for  
aliens to hold  
directorships  
shares, or  
debentures.

8.—(1.) The Governor may, if he thinks fit, from time to time grant licences, either subject to conditions or not, for all or any of the following matters, that is to say—

- (a.) For an alien to be a director of a company,
- (b.) For an alien to vote at meetings of a company,
- (c.) For an alien to hold shares or debentures, and
- (d.) For an alien to be a member of a company having no share capital.

Provided that a licence shall be operative only as to the company named therein and as to the number of votes, shares, or debentures specified therein.

(2.) On breach of any condition in a licence granted under this section, the licensee shall forthwith cease to be a director of the company and to be entitled to vote at any meeting of the company, and all shares and debentures in the company held by the licensee shall be forfeited to His Majesty.

Effect of  
forfeiture of  
shares.

9.—(1.) A judgment declaring that a share or debenture has become forfeited under this Ordinance shall operate to vest in the Governor the right to transfer that share or debenture and to recover and receive dividends or income thereof as from the time when the forfeiture took place.

(2.) A share or debenture which has been declared to be forfeited under this Ordinance shall be sold or otherwise dealt with for the benefit of the Colony as the Governor may direct.

10. The Colonial Secretary shall send a copy of every licence to the company concerned at its registered office. Transmission of licence to company.

11.—(1.) A company shall cause a copy of every licence received by it to be recorded in the company's register of members or debenture holders (as the case may require) opposite the name of the licensee, and to be endorsed on every share certificate or debenture issued in respect of any share or debenture held by the licensee. Registration of licence by company.

(2.) If a company makes default in complying with the requirements of this section it shall be liable on summary conviction by a magistrate to a fine not exceeding £5 for every day during which the default continues, and every director, manager and officer of the company who knowingly and wilfully authorises or permits the default shall be liable on summary conviction to a like penalty.

12.—(1.) A company shall not without the consent of the Governor issue a share warrant or debenture transferable by delivery in respect of any share or debenture held by an alien under a licence granted under this Ordinance. Restriction on the issue of share warrants or debentures to bearer to licensed aliens.

(2.) If a company issues a share warrant or a debenture transferable by delivery in breach of the provisions of this section, it shall be liable on summary conviction by a magistrate to a fine not exceeding £100 in respect of each share specified in the warrant and in respect of each debenture, and every director, manager, and officer of the company who knowingly and wilfully authorises or permits such issue shall be liable on summary conviction by a magistrate to a like penalty.

13.—(1.) A transfer without the consent of the Governor of a share or debenture held by an alien under a licence and any entry in the Company's register of members or debenture holders of the transferee specified in any such transfer shall be void and of no effect. Transfers of shares or debentures held under licence.

(2.) The Governor shall not refuse his consent to such a transfer except on the ground that the share or debenture specified in the transfer has become forfeited under this Ordinance.

*Restriction on Trusts in favour of Aliens.*

Restrictions  
on trusts in  
favour of  
aliens.

14.—(1.) This section applies to the following property only, namely, land situate in the Colony, mortgages of such land, and shares and debentures of any company incorporated in the Colony.

(2.) With a view to preventing evasion of the foregoing provisions of this Ordinance, no person shall, without the licence of the Governor, hold any property to which this section applies in trust for an alien, and any such property so held shall be forfeited to His Majesty.

(3.) Any person who intentionally contravenes the provisions of this section shall be guilty of a misdemeanour punishable summarily by a magistrate or on indictment. Provided that the punishment on summary conviction shall not exceed a fine of £20.

(4.) Nothing in this Ordinance shall apply to a trust in favour of an alien subsisting at the commencement of this Ordinance.

(5.) In this section the expression "trust" includes any arrangement, whether written or oral, express or implied, and whether legally enforceable or not, whereby any property to which this section applies or any interest therein or any rights attached thereto is or are held for the benefit of or to the order or at the disposal of an alien; but does not include—

- (a.) The duties incident to a mortgage;
- (b.) The duties of a satisfied mortgagee to the mortgagor, if within three months after satisfaction of the mortgage the mortgaged property is revested in the mortgagor or his interest therein is extinguished;
- (c.) The duties of a vendor to the purchaser pending payment of the purchase money, or after payment of the purchase money, if within three months after such payment the property sold is vested in the purchaser or his interest therein is extinguished;



- (d.) The duties of a trustee in bankruptcy to the bankrupt or his creditors; or
- (e.) The duties of a trustee for the purposes of any composition or scheme of arrangement for the payment of debts to the debtor or his creditors.

15. The provisions of this Ordinance as to licences and the effect of breach of a condition in a licence shall apply to land, mortgages, shares, and debentures intended to be held or held in trust for an alien in like manner as it applies to land, mortgages, shares, or debentures intended to be held or held by an alien.

Licences to hold property in trust for aliens.

#### *Procedure and Evidence.*

16. For the purpose of establishing a forfeiture under this Ordinance the Attorney-General may, in accordance with the procedure provided by the Crown Suits Ordinance, 1913, apply to the Supreme Court for a declaration that any right title or interest sought to be affected is forfeited to the Crown.

Procedure.

17.—(1.) Without prejudice to any other right to discovery, the Attorney-General may in proceedings for establishing a forfeiture under this Ordinance administer interrogatories to and obtain discovery of documents from a defendant as to any matter or document tending to prove his alienage or the alienage of any other person or to discover any land, mortgage, share or debentures held by him or in trust for him or as to any relevant matter or document.

Discovery.

(2.) It shall not be a valid ground for refusing to answer any such interrogatory or to disclose or produce any document that the answer or document might or would expose the defendant or any other person to the risk of a prosecution under this Ordinance.

(3.) Provided that in the prosecution of a defendant under this Ordinance the fact that he has disclosed any matter in answer to an interrogatory administered under this section and disclosed or produced any document in compliance with an order for discovery obtained under this section shall not be admissible in evidence.

*Supplemental.*

Stamp duty.

18. Every licence granted under this Ordinance shall be subject to a stamp duty of ten shillings, which shall be paid by the licensee in accordance with the provisions of the Stamp Duty Ordinance, 1908.

Repeal.

19. Section 6 of the Landlord and Tenant Ordinance, No. 97, is hereby repealed.

Commence-  
ment.

20. This Ordinance shall commence on the first day of July, 1921.

Passed in Council this twentieth day of May, in the year of Our Lord one thousand nine hundred and twenty-one.

  
Clerk of the Council.