

## TRINIDAD AND TOBAGO.

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No. 37—1935.

I ASSENT,

[L.S.]

A. C. HOLLIS,

*Governor.*

14th December, 1935.

1st January, 1936.

AN ORDINANCE to impose Trade Licences for the purpose of raising revenue to be applied towards a subsidy for the relief of the Cocoa industry of the Colony.

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

Short title.  
Commence-  
ment.

1. This Ordinance may be cited as the Trade Licensing Ordinance, 1935, and shall commence on the first day of January, 1936.

Interpretation.

2. In this Ordinance—

“Business” includes any trade, industry or occupation for gain or reward but does not include the practice of a profession or the business of a planter, farmer, stock-raiser, market gardener or dairyman who deals only in the produce of his own estate.

- “Commercial Agent” means any person selling or seeking orders for goods to or from persons who are dealers therein or who are consumers or users thereof, but shall not include any clerk selling in a shop and any huckster or pedlar.
- “Commission Agent” means any person who buys or sells goods, wares and merchandise for others in consideration of a commission or other remuneration agreed upon.
- “Drogherage Company” means any person or persons corporate or unincorporate, either as principal or agent, owning any vessel employed in the lading or unloading of a ship, or in the coasting trade of the Colony whether in the conveyance of passengers or cargo.
- “Factory” means any premises in which any manufacturing, refining, distilling, or other similar business is carried on.
- “House Agent” includes any person who acts as an agent for the collection of rents or for the sale, purchase or hire of houses, tenements, or immovable property.
- “Insurance Company” includes any person or persons corporate or unincorporate carrying on the business of insurance in the Colony either as principal or agent.
- “Licensing Authority” means—
- (a) In the City of Port-of-Spain—The Treasurer.
  - (b) In San Fernando and Tobago—The Sub-Treasurer.
  - (c) Elsewhere—The Warden of each County or Ward.
- “Occupier” means the person in actual occupation of any shop, factory or other premises as owner, agent or attorney in respect of the trade or business therein carried on.
- “Rateable Value” or “Rental Value” means the true annual value of the premises in which any business shall be carried on and shall be the full and just yearly rent at which such premises are really and *bona fide* worth to be let.

“Shop” means any premises in which trading is carried on other than a factory.

“Trade” or “Trading” means the selling or the exposing for sale of goods for purposes of profit, or the carrying on of any business for profit including any manufacturing, refining, distilling, or other similar business.

“Trader” means any person carrying on or engaged in a trade as herein defined.

“Trading licence” means a licence granted under the provisions of this Ordinance.

Limitation of Ordinance.

3. Nothing in this Ordinance contained shall be taken as entitling the holder of a trading licence to carry on any trade in respect of which a specific licence is by any other law required, but the holder of such specific licence before carrying on any such trade shall, save as otherwise provided for in this Ordinance, take out a trading licence.

Scope of Ordinance. By whom licence is payable.

4. (1) Every occupier of a factory or shop, save as otherwise provided for in section 5 hereof, shall take out a trading licence and pay the annual licence fee set forth in Part I of Schedule A hereto.

(2) Every person enumerated in Part II of Schedule A hereto shall take out a trading licence and pay the annual licence fee set forth in such Schedule.

Exemptions from payment of licence.

5. (1) Any occupier of a factory or shop or premises wherein the trades or businesses enumerated in Part I of Schedule B hereto are carried on shall not in respect merely of such factory or shop or premises be liable to take out a trading licence: Provided, however, that such exemption shall be limited in respect of the articles sold under any specific licence and such other articles as may be mentioned in such Schedule.

(2) Nothing in this Ordinance contained shall require an artificer or any other person who is the occupier of a shop to take out a trading licence provided that the earnings from the trade of such artificer or other person result only from the manual labour of himself or any assistant or assistants employed by him and that goods are not sold or exposed for sale in such shop unless the stock-in-trade at no time exceeds fifty dollars in value.

(3) Any occupier of any shop or establishment enumerated in Part II of Schedule B shall not be liable to take out a trading licence.

6. (1) The Licensing Authority is hereby empowered and required to assess the rateable value of every premises in which any trade or business shall be carried on and in respect of which a trading licence is required to be taken out under this Ordinance: Provided that the Licensing Authority may in its discretion accept the annual value at which premises situated in Port-of-Spain, San Fernando and Arima are assessed for the time being for municipal rates under the respective Ordinances regulating such assessment, and in the case of premises situated elsewhere in the Colony the annual value at which they are assessed for the time being under the Lands and Buildings Taxes Ordinance.

Assessment of rateable value.

(2) Any person aggrieved by the assessment of the Licensing Authority may appeal by way of petition to the Governor in Executive Council whose decision shall be final and conclusive.

7. Trading licences under this Ordinance shall be dated on the day on which they are granted, and shall not continue in force beyond the thirty-first day of December in the year in which they are granted: Provided that the Licensing Authority may issue a licence to any person applying for the same on or after the first day of July in any year at half the appropriate rate specified in Schedule A hereto.

Duration of licence.

8. Every licence shall be issued in such Form as the Treasurer may from time to time approve: Provided that such licence shall designate the name and residence of the licensee and his agent, if any, the nature of the licence, the amount of licence duty, the period for which it is issued, and in the case of a business licence, the place at which such business is to be carried on.

Form of licence

9 A licence issued to any occupier of a factory or shop shall only authorize such occupier to carry on such factory or shop in one set of premises to be specified in the licence.

Licence to apply to one set of premises only

10. Where two or more persons carry on in partnership any trade, they shall not be required to take out in any year more than one licence for each set of premises in which the trade is carried on: Provided any of such premises does not constitute a separate branch of such trade.

Partnership.

Procedure on  
application for  
licence.

**11.** Every applicant for a trading licence shall submit to the Licensing Authority an application in the form set out in Schedule C and shall subscribe his name to the declaration certifying to the truth thereof subjoined to the form on which he makes his application.

Lost or  
destroyed  
licence.

**12.** In the event of a licence under this Ordinance being lost or destroyed, the Licensing Authority may, on being satisfied of such loss or destruction, issue a duplicate licence to the licensee on payment of a fee of one shilling.

Transfer of  
licence.

**13.** (1) The Licensing Authority shall on cause shown :

- (a) Allow a trading licence issued to an occupier of a factory or shop to be transferred from such occupier to any other person: Provided that any such transfer shall not involve a change of premises and shall be subject to any law governing the trade carried on at such shop;
- (b) Allow an occupier of a factory or shop to have his licence transferred so as to apply to other premises within the same district than those in respect of which it was granted: Provided that where the occupier desires to transfer his licence so as to apply to other premises for which a different duty is payable, he shall, if such duty is higher than the duty already paid be required to pay a proportionate part of the difference between the higher duty and the duty already paid, and shall, if the duty is lower than the duty already paid be refunded a proportionate part of the difference between such lower duty and the duty already paid; such proportionate part shall be calculated on the basis of the number of months in the year applicable to each licence.

(2) Any licence holder desirous of transferring his licence to any other party or to other premises within the same district shall notify his desire to do so in writing to the Licensing Authority and the party to whom the licence is to be transferred shall subscribe on the notification his acceptance of such transfer.

(3) There shall be payable to the Licensing Authority a fee of one dollar and twenty cents on granting any such permission to transfer, and the Licensing Authority shall endorse upon the licence a memorandum specifying the nature of the transfer.

(4) A licence issued to any person under the provisions of section 4 (2) hereof shall not be transferable.

14. (1) Every licence holder transferring his licence, and every person accepting a transferred licence or trading in virtue of a licence transferred, otherwise than in conformity with the provisions of this Ordinance, shall be guilty of an offence under this Ordinance. Illegal transfers.

(2) Nothing contained in this Ordinance shall prevent any trader from leaving his licence in the possession or control of any clerk or employee.

15. Any person who—

- (a) fraudulently obtains a duplicate licence, or
- (b) fraudulently uses a duplicate licence, or
- (c) forges or alters any licence or duplicate, or
- (d) utters, uses or is found in possession of such a forged or altered licence or duplicate,

Forged or altered licence.

shall be guilty of an offence under this Ordinance.

16. (1) Upon the death of any occupier of a factory or shop to whom a licence has been issued under this Ordinance the licence may be transferred by endorsement by the Licensing Authority to the executor, administrator, or the widow or child of the deceased person or the Administrator-General or any person appointed by him for the purpose without payment of any additional duty thereon. Continuation of business after death of a trader.

(2) No penalty shall be incurred by the executor or administrator or the widow or child of any licensed person who dies before the expiration of his licence, or by the trustee of any person who is adjudged bankrupt, or whose affairs are liquidated by arrangement, before the expiration of his licence in respect of any trading under such licence for the residue of the term granted, provided that such trading does not extend over a longer period than ninety days after the death of the said licensed person, or the appointment of a trustee in the case of his bankruptcy or the liquidation of his affairs by arrangement.

Conspicuous  
sign.

17. Every set of premises occupied by a trader to whom a licence has been issued under this Ordinance shall bear on a conspicuous part of the building the name of the person holding a licence in respect thereof, the nature of such licence, and the number assigned to such licence.

Inspection.

18. (1) Every licence issued under this Ordinance to any occupier of a factory or shop shall be retained on the premises in respect of which it was issued: Provided that a licence may be taken out of the premises for the purposes of sections 13, and 16 of this Ordinance.

(2) The Licensing Authority, an Officer of Customs and Excise, or a member of the Constabulary Force, shall have free access to the premises of any factory or shop for the purpose of inspecting any licence or where no licence has been issued in respect thereof then for the purpose of ascertaining whether the value of the stock in trade kept on such premises exceeds fifty dollars.

(3) Every licence issued to a Commercial Agent, a Commission Agent, a House Agent, or an Insurance Agent shall be carried by such Agent unless he has a permanent office, in which case the licence may be kept at such office. It shall be lawful for any constable in uniform, any Licensing Authority, or any officer of Customs and Excise to enter the premises of such agent or to stop him on a public road and require him to produce his licence for inspection.

(4) If any person shall obstruct or prevent or attempt to obstruct or prevent any person duly authorized under this Ordinance from having access to the premises of any factory or shop or office or shall refuse or fail to produce his licence as herein required without reasonable excuse or within a reasonable time or if he shall refuse to permit any such licence to be read or copied by any such duly authorized person he shall be guilty of an offence under this Ordinance.

Penalties.

19. (1) Any person trading without a trading licence or otherwise committing a breach of any of the provisions of this Ordinance shall be guilty of an offence and liable on summary conviction before a Magistrate,

(a) on first conviction to a fine not exceeding one hundred dollars,

(b) on a second or subsequent conviction to a fine not exceeding two hundred and fifty dollars.

(2) Upon any conviction under this section the Magistrate, in addition to any other punishment which may be inflicted, shall order the convicted person to pay into court to the credit of the Treasurer of the Colony the amount of the duty which would have been payable had the person so convicted taken out a licence at the proper time, and in default of payment of such sum such convicted person shall be liable to imprisonment with or without hard labour for a term not exceeding three months.

(3) Provided that before a complaint or summons is filed against a defaulter it shall be lawful for the Licensing Authority with the approval of the Governor and the consent of the defaulter to issue a licence to such defaulter upon payment of the licence duty together with a surcharge not exceeding fifty per cent. thereon as the Governor shall fix, and such licence shall be a bar to any prosecution under this Ordinance.

(4) Provided that no prosecution shall be instituted against a person for any offence under this Ordinance without the written consent of the Treasurer having been first obtained.

**20.** Every person who shall wilfully and knowingly make a false declaration in respect of any matter falling within the scope of this Ordinance shall be guilty of an offence under this Ordinance. if false declarations.

**21.** (1) Any trader who shall employ in his factory or shop or place of business any agent or clerk shall be answerable for the acts of such agent or clerk in so far as they concern the business of such trader; and if such agent or clerk commit any act or thing which shall be an offence against the provisions of this Ordinance, such trader and his agent or clerk shall be jointly and severally liable to the penalties thereby incurred. Liability of trader for acts of his agent or clerk

(2) The trader shall not be allowed to plead as a bar to the proceedings taken against him that any such agent or clerk who may have committed such offence did so without his authority, or was not acting in the capacity of an agent or clerk.

Evidence in  
case of illegal  
practice of  
calling, trade,  
&c.

**22.** (1) In any prosecution under this Ordinance charging any person with trading without a trading licence, the charges shall be held to be proved if it be shown to the satisfaction of the Court that the accused did actually trade or carry on business, unless the accused produce his licence or show to the satisfaction of the Court that such licence was duly taken out.

(2) The Court before whom any prosecution is instituted under this Ordinance may determine the fact of trading without any positive or direct evidence of money or other valuable consideration having been given or received, and a single act of trading shall be held as sufficient evidence of trading for the purposes of this Ordinance.

(3) Whenever this Ordinance prohibits or punishes the carrying on of any trade or business, except upon the performance or existence of certain conditions, any act in such trade or business shall be as unlawful as the carrying on of such trade or business in the case of non-performance or non-existence of the said conditions or any of them; and any penalty incurred for such unlawful carrying on of a trade or business, shall be incurred for any such act aforesaid.

Proof of  
licence.

**23.** (1) Whenever any person shall be charged under this Ordinance with having carried on any trade or business, without having been duly licensed so to do, the burden of proof as to his having taken out a proper licence shall rest with him. If he declares that he had such licence and has lost it, reference shall be made to the Treasurer to ascertain whether the licence was taken out or not.

Onus of proof  
of payment or  
exemption.

(2) Whenever in any proceedings under this Ordinance the defendant claims that he has duly paid any duty or claims any exemption from liability, the burden of proving such payment or exemption shall be on the defendant and no proof in relation to such claim shall be required on the part of the complainant.

Certificate of  
Treasurer  
*prima facie*  
evidence.

**24.** (1) A certificate in writing purporting to be signed by the Treasurer to the effect that a person is or is not licensed to carry on any trade or business of any kind

requiring a licence shall be *prima facie* evidence before the Court of the fact that such person was licensed or not, as the case may be, at the time specified in such certificate.

(2) Such certificate shall be received as evidence without requiring to be stamped.

(3) For the purposes of this Ordinance the Court shall take judicial notice of the signature of the Treasurer.

25. The Governor may authorize the issue of a special licence for the exercise of any trade for such period not exceeding six months and on payment of such licence duty and under such other conditions as may be stipulated.

Governor may authorize issue of special licence.

26. The Governor shall have power to remit the whole or any part of any licence duty, surcharge, fine, or costs payable under this Ordinance.

Governor may remit licence duty, fine, &c.

27. (1) The Governor in Executive Council may make regulations for the better carrying into effect of the provisions of this Ordinance and may prescribe penalties for the breach of any such regulations.

Power to make regulations.

(2) The Governor in Executive Council may by Regulation amend the Schedules hereto by adding to Schedule A any other trade, factory, or shop, and fixing the licence duty therefor, or by altering the amount of duty specified in the said schedule, or by adding to Schedule B any trade, factory, shop, or establishment.

(3) Regulations made under this section shall not have any force or effect until they have been approved by the Legislative Council, and when so approved by resolution shall be published in the *Royal Gazette* and as from the date of such publication or other date specified in the resolution shall have the same force and effect as if they were contained in and formed part of this Ordinance.

28. All moneys received for licences, and all penalties recovered under this Ordinance, shall be paid to the Treasurer to be applied towards a subsidy for the relief of the Cocoa industry of this Colony.

Appropriation of money.

## SCHEDULE A.

## PART I.

## Section 4 (1).

When the rateable value of the shop or factory.	The annual licence fee shall be :	
	For every shop.	For every factory.
Does not exceed \$120 per annum .. Provided that where the stock-in-trade of a shop at no time exceeds \$50 in value no licence shall be required	\$10	Nil.
Exceeds \$120 but does not exceed \$216 per annum .. .. .	\$25	\$25
Exceeds \$216 but does not exceed \$480 per annum .. .. .	\$50	\$50
Exceeds \$480 but does not exceed \$960 per annum .. .. .	\$75	\$75
Exceeds \$960 per annum .. .. .	\$100	\$200

Provided that in the case of Drug shops the amount of the licence fee payable under the Medical Board Ordinance shall be deducted from the amount payable for Trade Licence.

## PART II.

## Section 4 (2).

	<i>Fee per annum,</i>
(1) Every person or company carrying on in the colony—	
(a) Any Life and/or Motor Insurance business ..	\$100.
(b) Any Fire Insurance business .. .. .	\$ 50.
(c) Any other Insurance business .. .. .	\$ 15.
(2) Every person who acts as any or all of the following : Commission Agent or Commercial Agent (unless he is the owner of a shop licensed under this Ordinance),	
(a) In the case of a resident person .. .. .	\$ 15.
(b) In the case of a non-resident person .. .. .	\$ 50.
(3) Every House Agent carrying on business—	
(a) In Port-of-Spain or San Fernando .. .. .	\$ 15.
(b) In any other part of the Colony .. .. .	\$ 5.
(4) Every Drogherage Company operating—	
(a) Less than 11 droghers .. .. .	\$ 10.
(b) From 11 to 25 do. .. .. .	\$ 25.
(c) From 26 to 50 do. .. .. .	\$ 50.
(d) More than 50 do. .. .. .	\$100.

## SCHEDULE B.

## PART I.

Section 5 (1).

(1) The following are exempt from taking out a trading licence but subject to the limitations specified herein :

	<i>Limitations.</i>		
Hotel Spirit	}	The exemption shall be limited to the sale of articles permitted to be sold under the provisions of Ordinance No. 31 of 1933, and to the sale of cigars, cigarettes, matches, and aerated waters	
Restaurant			
Special Hotel			
Spirit Dealer			
Spirit Grocer			
Spirit Retailer			
Wine and Beer Retailer			
Auctioneer	Limited to operations under	Cap. 251.	
Banker	do.	do.	Ord. 40 of 1932.
Cinemas	do.	do.	Cap. 253
Distillers	do.	do.	Ord. 30 of 1933.
Ganja	do.	do.	Ord. 28 of 1928.
Moneylenders	do.	do.	Ord. 42 of 1932.
Pawnbroker	do.	do.	Cap. 268
Produce Dealer	do.	do.	Cap. 273
Theatres and Dance Halls	do.	do.	Ord. 39 of 1934.
Wine Merchant	do.	do.	Ord. 31 of 1933

## PART II.

Section 5(3)

The following shall not be liable to take out a trading licence :

- (1) Shops in which are sold only fresh fish, fresh fruit, fresh milk, firewood, charcoal, ice by retail, vegetables, meat, poultry, eggs, quinine.
- (2) Schools and Colleges.
- (3) Markets legally established.
- (4) Constabulary and Military Canteens.
- (5) Shops used for bazaars or sales, the proceeds of which are to be devoted exclusively to religious, charitable, educational, or philanthropic purposes.
- (6) Such other shops or establishments as may from time to time be exempt by Regulations made by the Governor in Executive Council.

SCHEDULE C.

Section 11.

APPLICATION FOR A TRADING LICENCE.

- 1. Name of Applicant.....  
(State whether trading for himself under his own name or as an agent for or in partnership with anyone else.)
- 2. Name of the business.....
- 3. Nature of the business .....
- 4. Address of the business.....
- 5. Dimensions of the premises and yards to be used for the purposes of the trade .....
- 6. Rental Value .....
- (Receipt for the rent paid is to be submitted to the Licensing Authority.)
- 7. Name of the person to whom rent is paid.....  
(In cases where the applicant is the owner of the premises assessment notices from the Rating Authorities must be submitted.)

I apply for a trading licence for the business described above and I declare that the foregoing statements are true.

.....  
*Signature of applicant or duly authorised attorney.*

Passed in Council this sixth day of December, in the year of Our Lord one thousand nine hundred and thirty-five.

J. O'CONNOR,  
*Clerk of the Council.*