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TRINIDAD AND TOBAGO

No. 4—1955

[L.S.]

I ASSENT,

H. E. RANCE  
*Governor.*

8th February, 1955.

AN ORDINANCE to provide for the distribution of German  
Enemy Property, and for purposes connected therewith.

[10th February, 1955.]

Commencement

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

1. This Ordinance may be cited as the Distribution of Short title  
German Enemy Property Ordinance, 1955.

Interpretation

2. (1) In this Ordinance the following expressions have the meanings hereby respectively assigned to them, that is to say—

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“Custodian” means the Custodian of enemy property for the Colony appointed under section 9 of the Trading with the Enemy Ordinance;

“German enemy debt” means—

(a) any sum due at the passing of this Ordinance in respect of an obligation incurred before the third day of September, nineteen hundred and thirty-nine, which on that day was an obligation of any of the following persons—

(i) the German State;

(ii) any individual who on that day was a German national resident in Germany;

(iii) any body of persons (whether corporate or unincorporate) which on that day was a body incorporated or constituted in or under the laws of Germany;

to any of the following persons—

(iv) the Government of the Colony;

(v) any British subject or British protected person resident or carrying on business on that day in the Colony;

(vi) any body of persons (whether corporate or unincorporate) which on that day was a body incorporated or constituted under the laws in force in the Colony;

except that where any person or body of persons specified in sub-paragraph (v) or (vi) hereof carried on business on the said day both in and outside the Colony, any sum attributable to the business carried on outside the Colony shall be excluded;

(b) any sum, not included in paragraph (a) hereof, being—

(i) a sum due at the prescribed day, in respect of any bond of the German External Loan, 1924, or the German

Government International 5½ per cent. Loan, 1930, or the City of Saarbruecken 6 per cent. Sterling Loan of 1928, being a bond enfaced in accordance with the Supplementary Agreement for the execution of Article 2 of the Anglo-German Transfer Agreement of the first day of July, nineteen hundred and thirty-eight;

(ii) a sum due on the seventh day of May, nineteen hundred and forty-five, in respect of any bond of the Austrian Government International Loan, 1930, or the Austrian Government Credit Anstalt Bonds, 1936, being a bond enfaced as aforesaid;

(iii) a sum due at the prescribed day in respect of any bond of the issues described in the Schedule to this Ordinance.

“German enemy property” means property which at the passing of this Ordinance is subject to control under section 9 of the Trading with the Enemy Ordinance, Ch. 42. No. 7 being property, or the proceeds or income of property, which on or at any time after the third day of September, nineteen hundred and thirty-nine, belonged to, or was held or managed on behalf of—

(a) the German State;

(b) any individual who, on the said third day of September, nineteen hundred and thirty-nine, or at any time thereafter, was a German national resident in Germany or in any territory under the sovereignty of a State which on or at any time after the said day was at war with His Late Majesty;

(c) any individual who was a German national on or at any time after the said day and—

(i) was included among the persons specified in any order made under subsection (2) of section 3 of the Trading with the Enemy Ordinance; Ch. 42. No. 7  
or

- (ii) was a person whose property became subject to control under section 9 of the said Ordinance at a time when he was not an enemy within the meaning of the said Ordinance;
- (d) any body of persons (whether corporate or unincorporate) which on or at any time after the said day was a body incorporated or constituted in, or under the laws of, Germany; and
- (e) any body of persons (whether corporate or unincorporate) which on or at any time after the said day was controlled by any such individual or body as is mentioned in paragraph (b), paragraph (c) or paragraph (d) hereof;

“German national” does not include any person who acquired German nationality by reason of the inclusion in the German State after the first day of March, nineteen hundred and thirty-eight, of any territory not comprised therein on that day;

“Germany” means territory comprised in the German State on the first day of March, nineteen hundred and thirty-eight;

“property” means real or personal property, and includes any estate or interest in real or personal property, any money, any negotiable instrument, debt or other chose in action, and any other right or interest whether in possession or not.

(2) For the purposes of this Ordinance, a person who at any time was resident in Germany shall be deemed to have been a German national at that time unless it is proved to the satisfaction of the Custodian, within such time and in such manner as may be prescribed, that he was not a German national at that time.

Ch. 42. No. 7 (3) For the purposes of this Ordinance, property which, or the right to transfer which, is vested in the Custodian and property which, by virtue of any order made under section 9 of the Trading with the Enemy Ordinance, cannot be dealt with without the consent of the Governor, shall be deemed to be subject to control under the said section 9.

(4) Any reference in this Ordinance to the Trading with the Enemy Ordinance shall be construed as a reference to that Ordinance as amended by or under any other law.

3. (1) The Governor in Council may by order make provision for the distribution of German enemy property, to such extent as may be prescribed by the order, to persons who establish claims in respect of German enemy debts.

Distribution  
of German  
property

(2) Without prejudice to the generality of subsection (1) of this section, an order made under this section may make provision as to the following matters—

- (a) the conferring and imposing on the Custodian of such powers and duties as may be prescribed by the order;
- (b) the manner and time in which claims in respect of German enemy debts are to be put forward, and the furnishing and verification of information in connection with any such claim, including the production of books and documents;
- (c) the determination, as respects any such claim, of the question whether the claim is established for the purposes of the order and of the amount of the claim;
- (d) the distribution of German enemy property to persons whose claims in respect of German enemy debts have been established for the purposes of the order;
- (e) the charging of fees to persons making claims in respect of German enemy debts, and the recovery of those fees by deduction from the amounts to be distributed as aforesaid or otherwise;
- (f) the disposal of sums in the Custodian's hands which by reason of a failure to discover the whereabouts of persons to whom the sums ought to be distributed or for any other reason, it is not practicable to distribute;
- (g) the forms to be used for the purposes of any such order, and in particular for the making of claims and the furnishing of information.

(3) Without prejudice to the generality of the preceding provisions of this section, an order made under this section may—

- (a) exclude from the application of the order such classes of claims as may be prescribed by the order;
- (b) differentiate between different classes of claims, as respects the priority in which payments are to be made and the extent of the payments;

- (c) make provision for enabling German enemy property which belonged to, or was held or managed on behalf of, a particular person or body of persons to be distributed to persons establishing claims in respect of debts due from that person or body;
- (d) prescribe anything which under this Ordinance is to be or may be prescribed.

(4) An order made under this section shall have no force or effect until it has been approved by resolution of the Legislative Council.

(5) Notwithstanding anything in this section, the Governor may give a direction to the Custodian requiring him to transfer to or for the benefit of any person specified in the direction any German enemy property, or the proceeds of any German enemy property, to which that person would have been entitled but for the operation of the Trading with the Enemy Ordinance, or any order made thereunder, and the Custodian shall comply with any such direction.

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(6) Where any German enemy property, on or at any time after the third day of September, nineteen hundred and thirty-nine, belonged to, or was held or managed on behalf of a German company, and it appears to the Governor that the company was on the said day controlled, directly or indirectly, by a local company, the Governor may treat that property for the purposes of subsection (5) of this section, to such extent as the Governor thinks fit having regard to the extent of the interest of the local company in the German company, as property to which the local company would have been entitled but for the operation of the Trading with the Enemy Ordinance or any order made thereunder.

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In this subsection, the expression "German company" means a body incorporated in, or under the laws of, Germany, and the expression "local company" means a body incorporated in, or under the laws of, the Colony.

Disposal of surplus of German enemy property after payment of claims

4. (1) After distributing German enemy property in accordance with the provisions of section 3 of this Ordinance and of any orders made thereunder, the Custodian shall transfer any surplus thereof remaining to the Accountant General who shall hold the same in a special account.

(2) The said surplus shall be used to finance such schemes of development and welfare in the Colony as the Governor in Council with the approval of the Legislative Council shall direct.

5. (1) Any person who—

Offences

- (a) without reasonable excuse, fails to comply with any requirement made by or under any order made under section 3 of this Ordinance to furnish information or to produce books or documents; or
- (b) in giving information for the purpose of any such order knowingly or recklessly makes a statement which is false in a material particular;

shall be guilty of an offence under this section.

(2) Any person who is guilty of an offence under this section shall be liable—

- (a) on summary conviction to a fine of five hundred dollars or to imprisonment for a term of three months or to both such imprisonment and such fine; or
- (b) on conviction on indictment to a fine of twenty-four hundred dollars or to imprisonment for a term of two years or to both such imprisonment and such fine.

(3) Where any offence under this section has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

In this subsection the expression "director", in relation to any body corporate established by or under any enactment for the purpose of carrying on any undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

6. (1) The expenses incurred under this Ordinance shall be defrayed out of moneys provided by the Legislative Council.

Expenses and receipts

(2) All fees recovered under this Ordinance, and any sums payable by the Custodian to any person acting on behalf of the Government, shall be paid into the Treasury.

Passed in Council this twenty-first day of January, in the year of Our Lord one thousand nine hundred and fifty-five.

T. F. FARRELL

*Clerk of the Council*