
4th Session Second Parliament Trinidad and Tobago
19 Elizabeth II



TRINIDAD AND TOBAGO

Act No. 24 of 1970

[L.S.]

AN ACT to provide for the administration of a system of exchange control and matters incidental thereto.

[Assented to 21st July, 1970]

BE IT ENACTED by the Queen's Most Excellent Majesty, Enactment by and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same as follows:—

1. This Act may be cited as the Exchange Control Act, Short title 1970.

PRELIMINARY

Interpretation

2. (1) In this Act—

“authorised dealer” means in relation to gold or any foreign currency, a person for the time being authorised by the Bank to act for the purposes of this Act as an authorised dealer in relation to gold, or, as the case may be, any foreign currency or currencies;

“authorised depositary” means a person for the time being authorised by the Bank to act as an authorised depositary for the purpose of Part III and any regulations made thereunder;

“bearer certificate” means a certificate of title to securities by the delivery of which (with or without endorsement) the title to the securities is transferable;

“blocked account” has the meaning assigned to it in the Second Schedule;

Second
Schedule

“Central Bank” or “Bank” means the Central Bank established under the Central Bank Act, 1964, and a reference to the Central Bank or the Bank shall be read and construed, unless the context otherwise requires, so as to include a reference to a person designated by the Minister under section 3(1) to be in charge of exchange control;

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“certificate of title to securities” means any document of title whereby a person recognises the title of another to securities issued or to be issued by the first-mentioned person and in the case of any such document with coupons (whether attached or on separate coupon sheets) includes any coupons which have not been detached;

“company” means a body corporate or an unincorporated association and includes a partnership;

“coupon” means a coupon representing dividends or interest on a security;

“currency” includes all coins, currency notes, bank notes, postal orders, money orders, cheques, drafts, travellers cheques, letters of credit, bills of exchange and promissory notes;

“foreign currency” means, subject to subsection (6) any currency other than Trinidad and Tobago currency, and any reference to foreign currency includes a reference to any right to receive foreign currency in respect of any credit or balance at a bank or other institution, except as far as the context otherwise requires;

“gold” means gold coin or bullion;

“Minister” means the member of the Cabinet to whom for the time being responsibility for the subject of Finance is assigned;

“non-resident” means, subject to subsections (7) and (8) a person not resident in Trinidad and Tobago and includes a person whose status as such has been determined by the Bank under section 37(2);

“offshore companies” has the meaning ascribed to it in the First Schedule;

First
Schedule

“person” includes a company;”.

“policy of insurance” means any policy securing the payment of a capital sum or annuity on the occurrence of a specified event which is certain to happen and includes—

(a) any policy by which the payment of money is assured on death (except by an accident policy only) or the happening of any contingency dependent on human life; and

(b) any policy securing the payment of an immediate annuity;

and the reference in this definition to the occurrence of a specified event which is certain to happen, shall include the occurrence, which is certain to happen, of one of specified events none of which by itself is certain to happen;

“resident” means, subject to subsections (7) and (8) a person resident in Trinidad and Tobago and includes a person whose status as such has been determined by the Bank under section 37(2);

“secondary securities” means any letter of allotment which may be renounced, any letter of rights, any warrant conferring an option to

acquire a security, any deposit certificate in respect of securities (but not including a receipt by an authorised depository for any certificate of title deposited in pursuance of Part III), and any other document conferring, or containing evidence of rights as may be prescribed;

“securities” means shares, stocks, bonds, notes (other than promissory notes), debentures, debenture stock, units under a unit trust scheme, shares in an oil royalty, shares in investment trusts, certificates of deposits and treasury bills;

“Trinidad and Tobago currency” means any currency which is or is expressed to be payable in coins and currency notes that are legal tender in Trinidad and Tobago;

“unit” means, in relation to a unit trust scheme, a right or interest (whether described as a unit, as a sub-unit, or otherwise) which may be acquired under the scheme;

“unit trust scheme” means any arrangements made for the purpose or having the effect of providing, for persons having funds available for investment facilities for the participation by them, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of any property whatsoever.

(2) Any provision of this Act (however worded) the effect of which is to prohibit the doing of any act where a person to or by whom the act is to be done or who stands in a specified relation to any property possesses any specified attribute as to residence or otherwise shall, where the act is done to or by two or more persons or, as the case may be, where two or more persons stand jointly in that relation to the property, operate to prohibit the doing of that act if any of those persons possess that attribute; and any provision of this Act imposing an obligation on any person to do an act if he possesses any specified attribute as to residence or otherwise shall, in relation to any act which can only be done by two or more persons jointly—

(a) where all those persons possess that attribute, operate to impose a joint obligation on all of them to do the act; and

(b) where some only of them possess that attribute, operate to impose a separate obligation on each one of them who possesses that attribute to do all he can to secure the doing of the act.

(3) Any power conferred by this Act to prescribe the declarations which are to be furnished on any occasion shall include a power to require that the declarations shall be made by specified persons and shall be verified in a specified manner.

(4) Nothing in this Act shall be construed as requiring the Minister to pay any sum otherwise than in Trinidad and Tobago currency or otherwise than in Trinidad and Tobago, and any provisions of this Act requiring the Minister to pay any sum to any person shall, where that sum is in a foreign currency be construed as a provision that the Minister shall pay to that person the amount in Trinidad and Tobago currency which he would have received for the foreign currency if he had sold it to an authorised dealer in pursuance of an offer made under section 7.

(5) The obligations and prohibitions imposed by this Act or any regulations made thereunder shall subject to any express limitations contained therein apply to all persons notwithstanding that they are not in Trinidad and Tobago and that they are not citizens of Trinidad and Tobago.

(6) The Minister may, in any case where he considers it expedient, by Order published in the *Gazette* exempt any foreign currency from any of the provisions of this Act, and such foreign currency shall thereupon be so exempt to the extent therein specified.

(7) The Minister may, in any case where he considers it expedient, by Notice published in the *Gazette* exclude persons resident in any territory who would otherwise be non-residents for the purposes of different Parts of this Act and persons resident in those territories shall thereupon not be considered non-residents for those purposes.

(8) For the purpose of the definitions of "non-resident" and "resident" in the case of a company that is controlled directly or indirectly by non-residents and carries on a trade or business in Trinidad and Tobago otherwise than through a branch or agency, such a company shall, subject to section 37(2) for all the purposes of this Act other than the provisions of sections 32 and 33, be treated as if it was a resident.

Exchange
Control
Central
Bank

3. (1) The Minister may designate the Central Bank established under the Central Bank Act, 1964, or an officer in his Ministry to be in charge of Exchange Control.

(2) Subject to subsection (1), the Central Bank shall be charged with the general administration of this Act, and in the exercise of its powers and the performance of its duties the Bank shall conform with any general or special directions given to it by the Minister.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Bank may be signified under the hand of the Governor or the Deputy Governor.

Delegation by
Central Bank

4. (1) The Central Bank may, in relation to any particular matter or class of matters by writing delegate to an officer or officers of the Bank or in any Ministry or Agency of the Government any of its powers or functions under this Act, except this power of delegation, so that the delegated powers or functions may be exercised by such officer or officers with respect to the matters or class of matters specified in the instrument of delegation.

(2) Every delegation under this section shall be revocable at will, but a delegation shall not prevent the exercise of any power or function by the Bank.

(3) Any delegation under this section and any act done in pursuance of a delegation may be made subject to a power of review and alteration by the Bank, and the decision given upon such review or alteration shall be deemed to be that of the Bank.

PART I

GOLD AND FOREIGN CURRENCIES

Appointment
and duties of
authorised
dealers

5. (1) The Bank may, by instrument, authorise a person in Trinidad and Tobago to be an authorised dealer in gold or foreign currency and may entrust to such person such duties, functions, powers and obligations as the Bank may consider necessary for the purposes of this Act and any regulations and other instruments under this Act. A list of such authorised dealers shall be published from time to time in the *Gazette*.

(2) The Bank may vary or suspend in whole or in part such authorisations, notwithstanding the provisions in any other enactment, where the circumstances are such as, in the opinion of the Bank, require suspension of such authorisations.

6. (1) Except with the permission of the Bank, no person (other than an authorised dealer), shall in Trinidad and Tobago, and no resident (other than an authorised dealer) shall outside Trinidad and Tobago buy, or borrow any gold or foreign currency from, or sell or lend any gold or foreign currency to, any person other than an authorised dealer.

Transactions
with
authorised
dealers

(2) Where a person buys or borrows any gold or foreign currency in Trinidad and Tobago or, being a resident of Trinidad and Tobago, buys or borrows gold or foreign currency outside Trinidad and Tobago, he shall comply with such conditions as the Bank or authorised dealer may inform him of, relating to the use to which it may be put and the period for which it may be retained.

7. (1) Every person in or resident of Trinidad and Tobago who is entitled to sell or to procure the sale of any gold or any foreign currency and is not an authorised dealer shall offer it or cause it to be offered for sale to an authorised dealer, unless the Bank consents to his retention and use thereof or he disposes thereof to any other person with the permission of the Bank.

Surrender of
gold and
foreign
currency

(2) Where a person who has obtained the consent of the Bank to the retention and use of any gold or foreign currency and has stated in an application for the consent that he requires it for a particular purpose no longer requires it for that purpose, the provisions of subsection (1) shall thereupon apply to him in relation to that gold or foreign currency as if the Bank had revoked its consent to his retention and use thereof.

(3) A person who acquires any gold or foreign currency from an authorised dealer shall be treated, for the purposes of this section, as if the Bank had consented to the retention and use by him of that gold or currency, subject however to any conditions notified to him, under section 6(2) and as if any statement made by him in an application for the gold or currency as to the purpose for which he required it, had been made by him in an application for the Bank's consent for his retention and use thereof.

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1964

(4) Where a person has become bound under this section to offer or cause to be offered any gold or foreign currency for sale to an authorised dealer, he shall not be deemed to comply with that obligation by any offer made or caused to be made by him if the offer is an offer to sell at a price exceeding that determined by the Bank under the Central Bank Act, 1964, without payment of any usual and proper charges of the authorised dealer or otherwise on any unusual terms.

(5) Where a person has become bound under this section to offer or to cause to be offered any gold or foreign currency for sale to an authorised dealer and has not complied with that obligation, the Bank may direct that that gold or foreign currency shall vest in the Minister and it shall so vest free from any mortgage, pledge or charge, and the Minister may deal with it as he sees fit but the Minister shall pay to the person, who would, but for the directions, be entitled to the gold or the foreign currency such sum as that person would have received therefor if he had sold it to an authorised dealer in pursuance of an offer made under this section at the time when the vesting occurred.

(6) In any proceedings in respect of a failure to comply with the provisions of this section it shall be presumed, unless the contrary is shown, that the gold or foreign currency in question has not been offered for sale to an authorised dealer.

Bailees of
gold and
foreign
currency

8. (1) Every person in or resident in Trinidad and Tobago by whom or to whose order (whether directly or indirectly) any gold or any foreign currency is held in Trinidad and Tobago but who is not entitled to sell it or procure its sale, shall notify the Bank in writing that he so holds that gold or currency or that such gold or currency is so held to his order.

(2) The Bank may direct any person in or resident in Trinidad and Tobago by whom or to whose order (whether directly or indirectly) any gold or any foreign currency is held in Trinidad and Tobago, whether or not he is entitled to sell it or to procure its sale, to cause that gold or currency to be kept at all times in the custody of such authorised dealer or other person as may be specified in that direction or to comply with such orders as may be published from time to time.

9. (1) This section applies to any document of a kind intended to enable the person to whom the document is issued to obtain foreign currency from some other person on the credit of the person issuing it, and in particular to any traveller's cheque or other draft or letter of credit so intended. Travellers' cheques, &c.

(2) For the purposes of this Act, the person issuing a document to which this section applies and the person to whom it is issued shall be deemed respectively to sell and buy foreign currency.

(3) Any document to which this section applies which is not expressed in terms of Trinidad and Tobago currency shall be treated for the purposes of this Act as itself being foreign currency, except where such document is expressed in a currency that is exempted from the provisions of this section under section 2(6).

(4) Every person in or resident of Trinidad and Tobago who holds or to whose order there is held any document to which this section applies, being a document expressed in terms of Trinidad and Tobago currency or in terms of such currencies as may have been exempted by Order made under section 2(6) shall encash it or cause it to be encashed in Trinidad and Tobago or such other territories as the Minister may authorise with the person issuing it or with a banker, unless the Bank consents to his retention and use thereof and, where in his application for that consent he has stated that he requires it for a particular purpose, unless also he still requires it for that purpose.

(5) Any person who acquires from an authorised dealer any document to which the last preceding subsection applies shall be treated for the purposes of that subsection as if the Bank has consented to the retention and use by him of that document (subject, however, to any conditions notified to him in accordance with subsection (2) of section 7), and as if any statement made by him in an application for that document as to the purpose for which he requires it had been made by him in an application for the Bank's consent to his retention and use thereof.

10. It shall be unlawful under this Act for any person whether an authorised dealer or otherwise to enter into any transaction which provides for the conversion of Trinidad and Tobago currency into foreign currency or foreign currency into Trinidad and Tobago currency Prohibition on transactions other than at official rates of exchange

at rates of exchange other than those rates for the time being determined by the Central Bank for the purposes or the type of transaction, except that the charging of reasonable commissions and brokerage fees on transactions involving the conversion of Trinidad and Tobago currency into foreign currency or foreign currency into Trinidad and Tobago currency shall not be deemed to constitute an infringement of this section.

PART II PAYMENTS

Payments in
Trinidad
and Tobago

11. Except as may be permitted by the Central Bank, no person shall in Trinidad and Tobago—

- (a) make any payment to or for the credit of a non-resident;
- (b) make any payment to or for the credit of a resident by order or on behalf of a non-resident; or
- (c) place any sum to the credit of a non-resident,

save that where a non-resident has paid a sum in or towards the satisfaction of a debt due from him, paragraph (c) shall not prohibit the acknowledgment or recording of the payment.

Payments
outside
Trinidad
and Tobago

12. (1) Except with the permission of the Central Bank no resident of Trinidad and Tobago shall, subject to the provisions of this section, make any payment outside Trinidad and Tobago to or for the credit of a non-resident.

(2) Nothing in this section shall prohibit the doing of anything otherwise lawful by any person with any foreign currency obtained by him in accordance with the provisions of Part I or retained by him in pursuance of a consent of the Bank.

Compensation
deals

13. (1) Except with the permission of the Central Bank no person shall in Trinidad and Tobago and no resident of Trinidad and Tobago shall outside Trinidad and Tobago make any payment to or for the credit of any resident as consideration for or in association with—

- (a) the receipt by any person of a payment made outside Trinidad and Tobago or such territories the currencies of which are exempt by Order made under section 2(6) from time to time; or

- (b) the acquisition by any person of property which is outside Trinidad and Tobago or such territories the currencies of which are exempt by Order made under section 2(6) from time to time; or
- (c) the transfer to any person or the creation in favour of any person, of a right (whether present or future and whether vested or contingent) to receive a payment outside Trinidad and Tobago or such territories the currencies of which are exempt by Order made under section 2(6) from time to time; or
- (d) the transfer to any person or the creation in favour of any person, of a right (whether present or future and whether vested or contingent) to acquire property which is outside Trinidad and Tobago or such territories the currencies of which are exempt by Order made under section 2(6) from time to time.

(2) Nothing in this section shall prohibit the making of any payment in accordance with the terms of a permission or consent granted under this Act.

14. Where—

- (a) under any provision contained in this Part ^{Blocked Account} the permission of the Bank is required for the making of a payment or the placing of any sum to the credit of any non-resident; or
- (b) any payment falls to be made by an authorised dealer on the sale of any gold or foreign currency by any offshore company, being a sale made to comply with any requirement notified under subsection (2) of section 31,

the Bank may direct that the sum payable or to be credited shall be paid or credited to a blocked account only and, where such a direction is given the provisions of the Second ^{Second Schedule} Schedule shall have effect in relation to the payment or the crediting of the sum.

PART III
SECURITIES

15. (1) In this Part—

- (a) the expression “registered” includes inscribed;

Interpretation
of Part III

- (b) the expressions "registered in Trinidad and Tobago" and "registered outside Trinidad and Tobago" mean, respectively, registered in a register in, and registered in a register outside Trinidad and Tobago;
- (c) the expression "a register" includes any book, file or index in which securities are registered;
- (d) a reference to this Part shall be read and construed so as to include a reference to any regulations made under this Part.

(2) The Central Bank may, by instrument, authorise a person in Trinidad and Tobago to be an authorised depositary and may entrust to such person such duties, functions, powers and obligations as the Bank may consider necessary for the purposes of this Part of this Act and any regulations and other instruments under this Act. A list of such authorised depositaries shall be published from time to time in the *Gazette*.

(3) For the purpose of any provisions of this Part and any regulations relating to the transfer of securities, a person shall be deemed to transfer a security if he executes any instrument of transfer thereof, whether effective or not, and shall be deemed to transfer it at the place where he executes the instrument.

(4) References in this Part to the person holding a certificate of title or coupon shall be construed as references to the person having physical custody of the certificate of title or coupon; except that where the certificate of title or coupon is deposited with any person in a locked or sealed receptacle from which he is not entitled to remove it without the authority of some other person, that other person shall be deemed for the purposes of this provision to have the physical custody thereof.

(5) In this Part "holder"—

- (a) in relation to a security transferable by means of a bearer certificate or to a coupon includes the person holding the certificate or coupon; and
- (b) in relation to a security which is registered in the name of a deceased person, or of any person who, by reason of bankruptcy, unsoundness of mind or any other disability is incapable of transferring the security, mean

the personal representative, trustee in bankruptcy or other person entitled to transfer the security.

(6) The holder of a security or coupon shall be deemed for the purpose of this Part to be a nominee in respect thereof if, as respects the exercise of any rights in respect thereof, he is not entitled to exercise those rights except in accordance with instructions given by some other person, except that a person shall not be deemed to hold a security or coupon as a nominee by reason only that he holds it as trustee if he is entitled to transfer the security or coupon without permission from any other person.

(7) References in this Part to the person for whom the holder of a security or coupon is a nominee shall be construed as references to the person who is entitled to give instructions either directly or through the agency of one or more persons, as to the exercise of any rights in respect of the security or coupon and is not in so doing himself under a duty to comply with instructions given by some other person; except that a person shall not by reason only that he has a controlling interest in a body corporate be deemed for the purposes of this subsection to be entitled to give instructions to that body corporate as to the exercise of rights in respect of any security or coupon of which it is the holder.

(8) A certificate of title shall not for the purposes of this Part be treated as in the custody of an authorised depositary if either—

- (a) the depositary has no notice of the nature of the certificate; or
- (b) the certificate is deposited with him in a locked or sealed receptacle from which he is not entitled to remove it without the authority of some other person.

(9) Where a certificate of title outside Trinidad and Tobago is by this Part required to be kept in the custody of an authorised depositary it shall be deemed to be in the custody of an authorised depositary, if—

- (a) by his direction or with his assent it is in the custody of some other person who holds it on behalf of and to the order of the authorised depositary; and
- (b) the certificate is deposited with that other person in a locked or sealed receptacle from

which he is not entitled to remove it without the authority of a person other than himself.

(10) Where a certificate of title is by virtue of subsection (8) deemed to be in the custody of an authorised depositary, references in this Part to the depositary parting with the certificate or a coupon belonging thereto shall be construed as references to his permitting the person having the actual custody thereof to part with it otherwise than to the depositary, and references to his destroying the certificate or such a coupon shall be construed as references to his permitting it to be destroyed.

Application
of Part III
to Secondary
Securities

16. (1) This Part of this Act shall apply, with such modifications (if any) as may be prescribed by Order, Notice or otherwise in relation to any such document as is mentioned in the following subsection, as if the document created, and were the certificate of title to, a security (hereafter in this Act referred to as a "secondary security").

(2) The documents referred to in the preceding subsection are any letter of allotment which may be renounced, any letter of rights, any warrant conferring an option to acquire a security any deposit certificate in respect of securities (but not including a receipt by an authorised depositary for any certificate of title deposited in pursuance of this Part of this Act), and such other documents conferring, or containing evidence of, rights as may be prescribed.

Issue of
bearer
certificate
and coupons

17. Except with the permission of the Central Bank, no person shall in Trinidad and Tobago and no resident of Trinidad and Tobago shall outside Trinidad and Tobago issue any bearer certificate or coupon or so alter any document that it becomes a bearer certificate or coupon.

Deposit of
certificate
of title

18. (1) This section and any regulations as to the deposit of certificate of title to securities and their custody by an authorised depositary apply to any security other than a security which either—

- (a) is registered in Trinidad and Tobago and is not and cannot without the necessity for an entry in the register in Trinidad and Tobago become, registered outside; or
- (b) is registered both in Trinidad and Tobago and outside but on a transfer cannot without the necessity for an entry in the register in Trinidad and Tobago, become registered outside in the name of the transferee,

and on which none of the dividends or interest is payable on the presentation of a coupon, so, however, that the Minister may prescribe by Order, Notice or otherwise any other security to which this section is not to apply.

(2) In this section and in any regulations referred to in subsection (1), the expressions "security", "certificate of title" and "coupon" mean, respectively, a security to which the said section and the regulations apply, a certificate of title to such security, and a coupon representing dividends or interest on such a security.

(3) It shall be the duty of every person by whom or to whose order (whether directly or indirectly) a certificate of title is held in Trinidad and Tobago, and of every resident by whom or to whose order (whether directly or indirectly) a certificate of title is held outside Trinidad and Tobago, to cause the certificate of title to be kept at all times in the custody of an authorised depository, and nothing in this Act shall prohibit the doing of anything for the purpose of complying with the requirements of this subsection. The Bank may on application made in writing agree otherwise.

19. (1) The Minister may, if in his opinion there are circumstances rendering it necessary or expedient so to do, by Order direct that this section shall apply to such securities as may be prescribed on which capital moneys, dividends or interest are payable in a foreign currency or as respects which the holder has an option to require payment of any capital moneys, dividend or interest thereon in a foreign currency.

Special provisions as to dealings in certain securities

(2) Except with the permission of the Minister, no person shall, in Trinidad and Tobago and no person resident in Trinidad and Tobago shall, outside Trinidad and Tobago transfer or do anything which affects his rights or powers in relation to, any security to which this section applies.

20. The Minister may make regulations generally for the purpose of giving effect to this Part and in particular for providing for—

Minister to make regulations

- (a) the issue of any security in Trinidad and Tobago or which is to be registered in Trinidad and Tobago;
- (b) the transfer in Trinidad and Tobago of any security or the transfer of a security registered in Trinidad and Tobago;

- (c) the substitution, for any security or certificate of title to any security, of a security or certificate of title issued outside Trinidad and Tobago.

Validation of
certain
transfers

21. (1) The title of any person to a security for which he has given value on a transfer thereof, and the title of all persons claiming through or under him, shall, notwithstanding that the transfer, or any previous transfer, or the issue of the security, was by reason of the residence of any person concerned other than the firstmentioned person prohibited by the provisions of this Act and any regulations made thereunder relating to the transfer or issue of securities, be valid unless the firstmentioned person had notice of the facts by reason of which it was prohibited.

(2) Without prejudice to the provisions of subsection (1), the Central Bank may issue a certificate declaring, in relation to a security, that any acts done before the issue of the certificate purporting to effect the issue or transfer of the security, being acts which were prohibited by this Act, are to be, and are always to have been, as valid as if they had been done with the permission of the Bank, and the said acts shall have effect accordingly.

(3) Nothing in this section shall affect the liability of any person to prosecution for any offence against this Act.

PART IV

IMPORT AND EXPORT

Restriction
on import

22. (1) The importation into Trinidad and Tobago of—
- (a) any notes of a class which are or have at any time been legal tender in Trinidad and Tobago;
 - (b) any such other notes as may be specified by order of the Minister, being notes issued by a bank or notes of a class which are or have at any time been legal tender in any country;
 - (c) any certificate of title to any security, including any such certificate which has been cancelled, and any document certifying the destruction, loss or cancellation of any certificate of title to a security,

is hereby prohibited except with the permission of the Bank.

(2) In this section the expression "note" includes part of a note and the expression "security" includes a secondary security.

23. (1) The exportation from Trinidad and Tobago of— Restriction on export
- (a) any gold;
 - (b) any Treasury Bills;
 - (c) any postal orders;
 - (d) any notes of a class which are or have at any time been legal tender in Trinidad and Tobago or in any other country;
 - (e) any of the following documents (including any such document which has been cancelled) that is to say—
 - (i) any certificate of title to a security and any coupon;
 - (ii) any policy of insurance;
 - (iii) any bill of exchange or promissory note expressed in terms of currency other than that of Trinidad and Tobago and payable otherwise than within Trinidad and Tobago;
 - (iv) any document to which section 9 applies not issued by an authorised dealer or in pursuance of a permission granted by the Minister,and any document certifying the destruction, loss or cancellation of any of the documents aforesaid; or
 - (f) any such articles exported on the person of a traveller or in a traveller's baggage as may be prescribed,

is hereby prohibited except with the permission of the Bank.

(2) In this section, the expression "note" includes part of a note, the expression "security" includes a secondary security and the expression "coupon" shall be construed in accordance with the meaning of "security".

24. (1) Except with the permission of the Minister every Payment for exports person in Trinidad and Tobago who proposes to export goods from Trinidad and Tobago to a destination in any

such territory as may be prescribed, shall provide, in respect of each export, evidence to the satisfaction of the Comptroller of Customs and Excise, showing:—

- (a) that payment for the goods has been made to a resident of Trinidad and Tobago in such manner as may be prescribed in relation to goods of that class or description exported to a destination in that territory or is to be made not later than six months after the date of exportation, or such other period as the Minister may direct; and
- (b) that the amount of the payment that has been made or is to be made is such as to represent a return for the goods which is in all the circumstances satisfactory in the national interest.

(2) For the purpose of satisfying himself in the case of any goods as to the matters specified in subsection (1) the Comptroller of Customs and Excise may require the person proposing to export the goods to deliver to him such declarations signed by such persons as he may require and where any such declaration has been required the goods shall not be exported until it has been delivered as aforesaid.

(3) Where the Comptroller of Customs and Excise is not satisfied in the case of any goods as to the matters specified in paragraph (b) of subsection (1) he shall give his reasons to the person proposing to export the goods and shall take into consideration any representations made by him.

(4) Any reference in this section to the destination of any goods includes a reference to the ultimate destination thereof.

PART V

MISCELLANEOUS

Power of
bank to
demand
information

25. The Central Bank may require of any person who has received or has a right, or is entitled, to receive any gold or foreign currency by reason of the sale of goods, the provision of any service or for any other reason, such information as it may require to satisfy itself that all such gold and foreign currency has been received and dealt with in accordance with the provisions of this Act.

26. (1) No resident of Trinidad and Tobago who has a right (whether present or future and whether vested or contingent) to receive any foreign currency or to receive from a non-resident a payment of Trinidad and Tobago currency shall, except with the general or special permission of the Bank do or refrain from doing any act with intent to secure—

- (a) that the receipt by him of the whole or part of that foreign currency or of that payment in Trinidad and Tobago currency is delayed; or
- (b) that the foreign currency or payment ceases in whole or in part to be receivable by him.

(2) Nothing in subsection (1)—

- (a) shall, unless the Bank otherwise directs impose on any person any obligation, in relation to any debt arising in the carrying on of any trade or business, to procure the payment thereof at an earlier time than is customary in the course of that trade or business; or
- (b) shall, unless the Bank otherwise directs, prohibit any transfer to a person resident in Trinidad and Tobago and not elsewhere of any right to receive any foreign currency or payment in Trinidad and Tobago currency.

(3) Where a person has contravened or failed to comply with the requirements of subsection (1) in relation to any foreign currency or payment in Trinidad and Tobago currency, the Bank may give him or to any other person who appears to the Bank to be in a position to give effect thereto (being a person in or resident in Trinidad and Tobago) such directions as appear to be expedient for the purpose of securing the receipt of the foreign currency or payment as the case may be and, without prejudice to the generality of the preceding provisions of this subsection may direct that there shall be assigned to the Minister, or to such persons as may be specified in the directions, the right to receive the currency or payment or enforce any security for the receipt thereof.

Duty not to
delay sale
or importation
of goods

27. (1) Where—

- (a) any permission or consent has been granted under this Act or under any corresponding provisions of the law in force in any territories that may be listed by Notice issued under section 2(7) from time to time subject to a condition providing that, or on the faith of an application stating an intention that, any goods, should be sold outside Trinidad and Tobago or any territories that may be listed as aforesaid; or
- (b) any statement or declaration has been made under any provision of this Act or any such corresponding provision as aforesaid that any goods are to be sold outside Trinidad and Tobago or any territories that may be listed as aforesaid; or
- (c) any currency has been obtained in, or by any person resident in Trinidad and Tobago or any territories that may be listed as aforesaid on the faith of an application stating an intention that any goods should be sold outside Trinidad and Tobago or any territories that may be listed as aforesaid,

then except with the permission of the Bank no resident of Trinidad and Tobago who is entitled to sell or procure the sale of the said goods shall do, or refrain from doing, any act with intent to secure—

- (i) that the said sale is delayed to an extent which is unreasonable having regard to the ordinary course of trade; or
- (ii) that, on the said sale any payment made for the goods is not made in the manner indicated by the condition, statement or declaration as the case may be.

(2) Where—

- (a) any permission or consent has been granted under this Act or under any corresponding provisions of the law in force in any territories that may be listed by Notice issued under section 2(7) from time to time, subject to a condition providing that, or on the faith of an application stating an intention that, any goods should be imported from

outside Trinidad and Tobago or any of the territories that may be listed as aforesaid into Trinidad and Tobago or any of the territories that may be listed as aforesaid; or

- (b) any currency has been obtained in Trinidad and Tobago or any territories the currencies of which are exempted as aforesaid on the faith of an application stating an intention that any goods should be so imported,

then except with the permission of the Bank no resident of Trinidad and Tobago who is entitled to procure the importation of the said goods shall do or refrain from doing, any act with intent to secure that the importation thereof is delayed to an extent which is unreasonable having regard to the ordinary course of trade.

(3) Where in any such case as is specified in paragraph (a), (b) or (c) of subsection (1) or paragraph (a) or (b) of subsection (2)—

- (a) the goods have not been sold or imported as indicated by the condition, statement or declaration within the time thereby indicated or, if no time is thereby indicated a reasonable time, or (in either case) within such further time as may be allowed by the Bank; or

- (b) it appears to the Bank that the goods cannot be sold or imported as indicated by the condition, statement or declaration,

the Bank may give to any resident who appears to the Bank to be in a position to give effect thereto such directions as appear to the Bank to be expedient as to the manner in which the goods are to be dealt with.

(4) Without prejudice to the generality of the provisions of subsection (3) the power conferred thereby on the Bank to give directions shall extend to the giving of directions that the goods shall be assigned to the Minister or to a person specified in the directions.

(5) The powers conferred by subsections (3) and (4) in relation to any goods shall extend to the giving of directions with respect to any goods produced or manufactured therefrom, and, where goods to be sold outside Trinidad and Tobago or any territories the currencies of which are exempt by Order made under section 2(6)

from time to time or to be imported were to be produced or manufactured from other goods, to the giving of directions with respect to those other goods and any goods produced or manufactured from those other goods.

Property
obtained by
infringement
of Act

28. (1) Where a person—

- (a) has made any payment which is prohibited by this Act; or
- (b) being bound under this Act to offer or cause to be offered any foreign currency to an authorised dealer, has otherwise disposed of that currency,

the Bank may direct him to sell or procure the sale of any property which he is entitled to sell or of which he is entitled to procure the sale, being property which represents whether directly, or indirectly, that payment or that currency, as the case may be, and may by the same or a subsequent direction specify the manner in which, the persons to whom and the terms on which the property is to be sold.

(2) Without prejudice to the generality of the provisions of subsection (1), the power conferred thereby on the Bank to give directions shall extend to the giving of directions that the property shall be assigned to the Minister or to a person specified in the directions.

Transfer of
annuities,
policies, &c.

29. (1) Except with the permission of the Central Bank, no resident shall transfer to a non-resident, or to a person who is to be a nominee for a non-resident any right to the sums assured by any policy of assurance, so however, that where the person liable for the sums so assured makes any payment thereof to a resident or with the permission of the Bank makes any payment thereof to any other person—

- (a) he shall not be bound to inquire as to the residence of any person other than the person to whom, and (if it is not the same person) the person to whose order, the payment is made; and
- (b) the payment shall, to the extent of the sums paid, discharge him from his liability under the policy, notwithstanding that the payment is made to or for the order of a person who was not entitled thereto otherwise than

by virtue of a transfer prohibited by this subsection.

(2) Subsections (2) and (3) of section 21 shall apply in relation to any transfer prohibited by this section as they apply in relation to a transfer prohibited by this Act of a security.

(3) In this section, the expression "nominee" has, in relation to any policy, annuity or insurance, the same meaning as the said expression has in Part III in relation to a security.

30. (1) Except with the permission of the Bank, no resident shall settle any property otherwise than by Will so as to confer an interest in the property on a person who, at the time of the settlement is a non-resident. Settlements

(2) Except with the permission of the Bank, no resident shall exercise, otherwise than by Will, any power of appointment, whether created by Will or otherwise, in favour of a person who, at the time of the exercise of the power, is a non-resident.

(3) A settlement or exercise of power of appointment shall not be invalid by reason that it is prohibited by this section, except so far as it purports to confer any interest on any person who, at the time, of the settlement or the exercise of the power is a non-resident.

(4) Subsections (2) and (3) of section 21 shall apply in relation to a settlement or the exercise of a power of appointment permitted by this section as they apply in relation to transfers of securities prohibited by this Act or any regulations made hereunder.

(5) For the purpose of this section—

(a) any reference to settling property includes a reference to the making of any disposition, covenant, agreement or arrangement whereby the property becomes subject to a trust, or (in the case of a re-settlement) to a different trust; and

(b) a person shall be deemed to have an interest in property if he has any beneficial interest therein, whether present or future, and whether vested or contingent, or falls within

- a limited class of persons in whose favour a discretion or power in respect of the property is exercisable; and
- (c) the expression "will" includes any testamentary disposition; and
- (d) the expression "property" includes but is not limited to real estate, royalty, trade mark, licences, patent or manufacturing process.

Offshore
Companies
First Schedule

31. (1) For the purposes of this section and of sections 32 and 33 and of the First Schedule residents or non-residents, as the case may be, shall be deemed to control a company notwithstanding that other persons are associated with them in the control thereof if they can together override those other persons.

(2) Where there is served on any resident a Notice in writing that the Bank wishes any such requirements as are hereinafter mentioned to be complied with by any offshore company, and that person can, by doing or refraining from doing any act,—

- (a) cause the offshore company to comply with any of the requirements; or
- (b) remove any obstacle to the offshore company complying with any of the requirements; or
- (c) render it in any respect more probable that the offshore company will comply with any of the requirements,

then, except so far as permission to the contrary may be given by the Bank, that person shall do or as the case may be, refrain from doing that act. The requirements with respect to which such a Notice may be given are as follows, that is to say, that the offshore company shall—

- (i) furnish to the Bank such particulars as to its assets and business as may be mentioned in the Notice;
- (ii) sell or procure the sale to an authorised dealer of any gold or foreign currency mentioned in the Notice, being gold or foreign currency which it is entitled to sell or of which it is entitled to procure the sale;
- (iii) declare and pay such dividend as may be mentioned in the Notice;

- (iv) realise any of its assets mentioned in the Notice in such manner as may be so mentioned;
- (v) refrain from selling, transferring, or doing anything which affects its rights or powers in relation to, any such Treasury Bills or securities as may be mentioned in the Notice.

32. Except with the permission of the Central Bank, no resident of Trinidad and Tobago shall do any act whereby a company (whether incorporated in Trinidad and Tobago or not) which is by any means controlled (whether directly or indirectly) by residents of Trinidad and Tobago ceases to be controlled by residents of Trinidad and Tobago, so however, that a person who has sought and has obtained the Bank's permission to offer a company's securities and obligations for sale on an approved stock exchange shall, if the permission includes all the company's securities and obligations, be deemed to be exempt from this provision where such change in control derives from the acquisition of such securities.

Transfer of
control of
company

33. (1) A resident may lend money or securities to a non-resident, only with the consent of the Bank, so however, that where the lender after making such inquiries as are reasonable in the circumstances of the case does not know and has no reason to suspect that the company is controlled as aforesaid he shall not be deemed to have contravened the provisions of this section.

Loans to
companies

(2) In this and the two preceding sections the expression "security" includes a secondary security.

34. (1) The Bank may by direction provide that, for such of the purposes of this Act as may be specified in the direction—

Branches

- (a) any transaction with or by a branch of any business, whether carried on by a company or otherwise, shall be treated in all respects as if the branch were a company resident where the branch is situated; and

- (b) the making of any book entry or other statement recording a debt against a branch of any business in favour of any other branch of that business, shall be treated as a payment to that other branch; and
- (c) any property held by or on behalf of the person carrying on the business shall be deemed to be held by such of the branches of the business as may be determined in accordance with the direction,

and any such direction which makes, for any of the purposes of Part III of this Act and any regulations made hereunder such provision as is mentioned in paragraph (c) of this subsection may contain provisions declaring the circumstances in which a branch is to be treated as nominee for any other branch.

(2) Any reference in subsection (1) to a branch of a business shall be deemed to include a reference to the head office of that business.

(3) Subsections (1) and (2) shall apply to any body of persons (whether corporate or unincorporate) carrying on any activity, whether for the purpose of profit or not as they apply in relation to a business.

Contracts,
Legal
Proceedings, &c.

35. (1) It shall be an implied condition in any contract that, where, by virtue of this Act, the permission or consent of the Bank is at the time of the contract required for the performance of any term thereof, that term shall not be performed except in so far as the permission or consent is given or is not required; except that this subsection shall not apply in so far as it is shown to be inconsistent with the intention of the parties that it should apply, whether by reason of their having contemplated the performance of that term in despite of the provisions of this Act or for any other reason.

Ch. 31. No. 5

(2) Notwithstanding anything in the Bills of Exchange Ordinance neither the provisions of this Act, nor any condition whether express or to be implied having regard to those provisions, that any payment shall not be made without the permission of the Bank under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

Third Schedule

(3) The provisions of the Third Schedule shall have effect with respect to legal proceedings, arbitrations,

bankruptcy proceedings, the administration of the estates of deceased persons, the winding up of companies, and proceedings under deeds of arrangement or trust deeds for the advantage of creditors.

36. Where a resident leaves Trinidad and Tobago or any of the territories the currencies of which are exempt by Order made under section 2(6) the Bank may before, at, or after the time he leaves, direct that for such period as may be specified in the direction, payments by him or on his behalf and to him or to his credit and transactions in or in relation to securities or secondary securities in which he is in any way concerned shall, whether or not he continues to be a resident be subject to such restrictions as may be specified in the direction.

Persons
leaving
Trinidad and
Tobago, &c.

37. (1) For the purposes of this Act a personal representative of a deceased person shall, unless the Bank otherwise directs, be treated as resident in the territory where the deceased person was resident for the purposes in question at the time of his death and as not resident elsewhere, so far as relates to any matters in which the personal representative is concerned solely in his capacity as such.

Determination
of residence

(2) Notwithstanding any rule of law to the contrary the Bank may give directions declaring that for all or any of the purposes of this Act and any regulations made thereunder a person is to be treated as resident or not resident in such territories as may be specified in the direction.

38. Any provision of this Act and any regulations made thereunder imposing any obligation or prohibition shall have effect subject to such exemptions as may be granted by Order or otherwise by or on behalf of the Minister and any such exemption may be either absolute or conditional.

Exemptions

39. (1) The provisions of the Fourth Schedule shall have effect for the purposes of the enforcement of this Act and any regulations.

Enforcement and
administration
Fourth Schedule

(2) Persons belonging to the following classes, that is to say—

(a) bankers, authorised dealers, authorised depositories;

(b) persons to whom any powers of the Bank under this Act are delegated;

- (c) persons who with the permission of the Bank are in possession of documents which would, but for the permission have to be in the custody of an authorised depository;
- (d) persons entrusted with the payment of capital moneys dividends, interest or other income in Trinidad and Tobago,

shall comply with such directions as may be given to them respectively by the Bank.

Payment for
goods or
property
assigned or
vested

40. Where, in pursuance of directions given under this Act any right, goods or property is or are assigned to the Minister, or to a person specified in the directions, or any right, goods or property vests or vest in the Minister, the Minister shall pay the net sum recovered by him in respect of the right, goods or property to the person making the assignment or, in the case of any right, goods or property vested in the Minister, to the person who, but for the directions, would be entitled to the right, goods or property.

Other powers

41. (1) Any permission, consent or authority granted under this Act or any Instruments made thereunder—

- (a) may be either general or specific;
- (b) may be revoked or varied by the Bank or the Minister, as the case may be;
- (c) may be absolute or conditional;
- (d) may be limited so as to expire on a specified date, unless renewed; and
- (e) shall be published in such a way as in the opinion of the Bank or Minister, as the case may be, give any person entitled to the benefit of it an adequate opportunity of getting to know of it, unless in his opinion publication is not necessary for that purpose.

(2) Any directions given under any provision of this Act—

- (a) may be either general or specific;
- (b) may be revoked or varied by subsequent directions; and
- (c) shall be given to such persons and in such manner as the Bank or the Minister, as the case may be, thinks appropriate, and if so given shall be valid for all purposes.

(3) Where, under the provisions of this Act or any regulations made thereunder, the Bank has power to give directions that any right to receive any currency or payment in Trinidad and Tobago currency or to enforce any security for the receipt thereof, any goods or any other property shall be assigned to the Minister, the Bank shall also have the power to direct that the right, goods or property shall vest in the Minister, and it or they shall vest in the Minister accordingly free from any mortgage, pledge or charge and the Minister may deal with it or them in such a manner as he considers reasonable.

(4) Notwithstanding paragraph (c) of subsection (2) a person shall not by virtue of any direction given by the Bank or the Minister under this Act not being a direction published by Notice in the *Gazette* be convicted of an offence against this Act unless the direction was served on him or he knew, or avoided getting to know, of the giving thereof, except that where reasonable steps were taken for the purpose of bringing the purport of the direction to his notice it shall be for him to show that he neither knew nor avoided getting to know of the giving thereof.

(5) Any document stating that any permission, consent, authority or direction is given under any of the provisions of this Act by the Bank or the Minister and purporting to be signed on its behalf, shall be evidence of the facts stated in the document.

42. (1) This Act binds the Crown and shall apply to transactions by a Government department or other person acting on behalf of the Crown, and the Bank or the Minister, as the case may be, shall not, by virtue of any contract made by or on behalf of any such department or person in relation to any securities, be under any obligation to grant any permission under this Act or any regulations made under this Act or any exemption from the provisions of this Act or the said regulations.

Application
to the Crown

(2) Nothing in this Act shall apply to any business of the Bank that it is authorised to transact under any provision of the Central Bank Act, 1964.

43. Any expense incurred under or by virtue of this Act by the Minister, the Central Bank or any Government department shall be a charge on the Consolidated Fund and any sums received under or by virtue of this Act

Financial
provisions

by the Minister, the Central Bank or any Government department shall be paid into the Exchequer Account and shall form part of the Consolidated Fund.

Restriction
on disclosure
on information

44. (1) No person who obtains information by virtue of the provisions of this Act shall disclose that information otherwise than in the discharge of his functions under this Act or for the purposes of any criminal proceedings; but nothing in this subsection shall apply to information lawfully received by a member of the public in the course of an ordinary transaction between such person and the Bank.

(2) Any person who contravenes the provisions of this section is guilty of an offence and liable on summary conviction thereof to a fine of five thousand dollars or to imprisonment for one year.

General power
to make
regulations

45. The Minister may make regulations generally for the purpose of giving effect to the provisions of this Act.

Repeal and
saving
No. 12 of 1959.

46. The Defence (Finance) Regulations (Re-enactment and Validation) Ordinance, 1959, is repealed, save that regulation 6 of the Defence (Finance) Regulations, 1942 shall remain in force as if made under the provisions of this Act.

Commencement

47. This Act shall come into force on a day to be appointed by the Governor-General by Proclamation published in the *Gazette*, but the Governor-General may appoint different dates on which different sections or Parts of this Act shall come into force.

FIRST SCHEDULE

(Sections 2 and 31)

OFFSHORE COMPANIES

1. The bodies corporate in question are bodies corporate not incorporated under the laws of Trinidad and Tobago in the case of which any of the following conditions is fulfilled—

- (a) that the body corporate is by any means controlled (whether directly or indirectly) by residents of Trinidad and Tobago;
- (b) that more than one-half of the sums which, on a liquidation thereof, would be receivable by holders of share or loan capital would be receivable directly or indirectly by or for the benefit of residents of Trinidad and Tobago;
- (c) that more than one-half of the assets which, on a liquidation thereof, would be available for distribution after the payment of creditors would be receivable directly or indirectly by or for the benefit of residents of Trinidad and Tobago;
- (d) that more than one-half—
 - (i) of the interest payable on its loans and loan capital, if any; or
 - (ii) of the dividends payable on its preference share capital, if any; or
 - (iii) of the dividends payable on its share capital, if any, not being preference share capital,

is receivable directly or indirectly by or for the benefit of residents of Trinidad and Tobago.

2. Where the identity of the persons by whom or for whose benefit any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by a resident of Trinidad and Tobago of a power of appointment or similar power, the sum, assets, interest or dividends shall, for the purpose of this Schedule, be deemed to be receivable directly or indirectly by or for the benefit of residents of Trinidad and Tobago.

SECOND SCHEDULE

(Sections 2 and 14)

BLOCKED ACCOUNTS

1. In this Schedule, the expression "a blocked account" means an account opened as a blocked account at an office or branch in Trinidad and Tobago in favour of any person by a banker authorised by the Central Bank to open blocked accounts, and the expression "the banker" means, in relation to any person, a banker who opens a blocked account in favour of that person.

2. Where a direction is given that a payment is to be made to a blocked account only, then, subject to paragraph 3—

- (a) the manner in which the payment may be made shall be either—
 - (i) to the banker, with a direction that it is to be credited to a blocked account of that person (which direction may, in the case of payment by means of a cheque or warrant, be made by marking

the cheque or warrant, with the words "blocked account of" (naming the person in question) or words to the same effect); or

- (ii) by a crossed cheque or warrant drawn in favour of that person, marked with the words "payable only to blocked account of payee" or words to the same effect; and

- (b) the sum collected shall be credited by the banker to a blocked account of that person.

3. Where a direction is given that a sum is to be paid or credited to a blocked account only, then, notwithstanding the direction, the sum may, with the consent of the person to whom it is to be paid or credited, and subject to the requirements of Part III of this Act and any regulations be invested instead in the purchase for that person of any such investments as may be prescribed for the purpose of subparagraph (a) of paragraph 4.

4. Any sum standing to the credit of a blocked account shall not be dealt with except with the permission of the Central Bank, except that subject to compliance with the requirements of Part III of this Act and the regulations—

- (a) the whole or any part of any such sum may, at the request of the person in whose name the account stands, be invested through the banker in such investments as may be prescribed; and

- (b) nothing in this Schedule shall be construed as restricting the manner in which the investments acquired may be dealt with.

5. Where—

- (a) a sum is due from any person to any other person but the Bank directs that it shall be paid or credited to a blocked account only; and

- (b) the person to whom the sum is due nominates such an account to the person from whom the sum is due,

the last mentioned person is under a duty to the person to whom the sum is due to cause the sum to be paid or credited to that blocked account, and the crediting of any sum to a blocked account in pursuance of a direction of the Bank shall, to the extent of the sum credited, be a good discharge to the person from whom the sum is due.

In the case of a sum due under a contract, this paragraph shall not apply insofar as it is shown to be inconsistent with the intention of the parties that it should apply.

THIRD SCHEDULE

(Section 35)

LEGAL PROCEEDINGS, ETC.

1. The provisions of Part II of this Act shall apply to sums required to be paid by any judgement or order of any court or by any award as they apply in relation to other sums, and it shall be implied in any judgement or order of any court of Trinidad and Tobago, and in any award given under any law of Trinidad and Tobago that any sum required to be paid by the judgement, order or award (whether as a debt, as damages or otherwise) to which the said provisions apply shall not be paid except with the permission of the Bank.

2. Nothing in this Act shall be construed as preventing the payment by any person of any sum into any court in Trinidad and Tobago but the provisions of Part II of this Act shall apply to the payment of any sum out of court, whether under an order of the court or otherwise, to or for the credit of any non-resident.

3. Without prejudice to the provisions of any enactments relating to the making of rules of court, rules of court—

- (a) enabling any person who is required by any judgement, order or award to pay any sum, if he apprehends that the payment of that sum is unlawful under this Act except with the permission of the Bank, to pay that sum into court; and
- (b) declaring that payment of a sum into court by virtue of subparagraph (a) of this paragraph together with the delivery to the other party concerned of such evidence of the payment as may be prescribed by the rules, shall, to the extent of the payment, be a good discharge to the person making the payment; and
- (c) so regulating the process of execution which may issue in respect of any sum required to be paid by any judgement, order or award as to secure that, unless it is shown, in such manner as may be prescribed by the rules, that the permission of the Bank for the payment of the sum is not required under this Act or has been given without conditions, the proceeds of the execution will be paid into court, and, so far as is necessary for that purpose, varying the form of any writ of execution or other similar document or the duties of the Bailiff or other officer to whom any such writ or other similar document is directed,

may be made, as respects the High Court, or any other court, by such authority as may be designated in that behalf by the Chief Justice.

4. In any proceedings in any court and in any arbitration proceedings, a claim for the recovery of any debt shall not be defeated by reason only of the debt not being payable without the permission of the Bank and of that permission not having been given or having been revoked.

5. (1) In any bankruptcy, in the winding-up of any company or in the administration of the estate of any deceased person (being a bankruptcy, winding-up or administration carried on under the laws of Trinidad and Tobago), a claim for a sum not payable without the permission of the Bank shall, notwithstanding that the permission has not been given or has been revoked, be admitted to proof as if it had been given and had not been revoked.

(2) Nothing in paragraph (1) shall be construed as affecting the application of the provisions of Part II of this Act to payments by any trustee, liquidator, personal representative or other person in any such bankruptcy, winding-up or administration.

(3) The provisions of this Act restricting the making of settlements shall not apply to any deed of arrangement made for the benefit of creditors generally, and the provisions of this paragraph shall apply in relation to proceedings under any deed of arrangements as they apply in relation to proceedings in bankruptcy.

Ch. 6. No. 6

6. A debt for the payment of which the permission of the Bank is required under this Act shall, in other respects it complies with the requirements of section 6 of the Bankruptcy Ordinance, be allowed to be a good petitioning creditor's debt notwithstanding the said requirement, if and to the extent that the debt can be satisfied either by a payment into court or by a payment to a blocked account.

FOURTH SCHEDULE

ENFORCEMENT

(Section 39)

PART I

GENERAL PROVISIONS AS TO EVIDENCE AND INFORMATION

1. (1) Without prejudice to any other provisions of this Act, the Bank may give to any person in or resident in Trinidad and Tobago directions requiring him, within such time and in such manner as may be specified in the directions, to furnish to it, or to any person designated in the directions as a person authorised to require it, any information in his possession or control which the Bank or the person so authorised, as the case may be, may require for the purpose of securing compliance with or detecting evasion of this Act.

(2) A person required by any such directions as aforesaid to furnish information shall also produce such books, accounts or other documents (hereafter in this Part of this Schedule referred to as "documents") in his possession or control as may be required for the said purpose by the Bank or by the person authorised to require the information, as the case may be.

(3) Nothing in the preceding provisions of this paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(4) Where a person is convicted on indictment for failing to give information or produce documents when required so to do under this paragraph, the Court may make an order requiring the offender, within such period as may be specified in the order, to comply with the requirement to give the information or produce the documents.

2. (1) If a Judge is satisfied by information on oath given by a person authorised by the Bank to act for the purposes of this paragraph either—

- (a) that there is reasonable ground for suspecting that an offence against this Act has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information, or in any vehicle, vessel or aircraft so specified; or
- (b) that any documents which ought to have been produced under paragraph 1 of this Part and have not been produced are to be found at any such premises or in any such vehicle, vessel or aircraft,

he may grant a search warrant authorising any constable, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information, or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant, and to search the premises, or, as the case may be, the vehicle, vessel or aircraft.

(2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, vessel or aircraft, may search every person who is found in, or whom he has reasonable ground to believe to have recently left or about to enter, those premises or that vehicle, vessel or aircraft, as the case may be, and may seize any article found in the premises or in the vehicle, vessel or aircraft which he has reasonable ground for believing to be evidence of the commission of any offence against this Act or any documents which he has reasonable ground for believing ought to have been produced under paragraph 1 of this Part, but, so that no female shall, in pursuance of any warrant issued under this paragraph, be searched except by a female.

(3) Where, by virtue of this paragraph, a person has any power to enter any premises, he may use such force as is reasonably necessary for the purpose of exercising that power.

3. (1) Any article coming into the possession of an executive authority (whether in consequence of the seizure of the article under or by virtue of this Act or otherwise) which the executive authority has reasonable ground for believing to be evidence of the commission of an offence against this Act may be retained for a period of three months or, if within that period there are commenced proceedings in respect of such an offence in which the article is or can properly be adduced in evidence, until the final determination of those proceedings.

(2) For the purposes of this paragraph, any person to whom any powers of the Bank under this Act are delegated or on whom any functions are conferred by or by virtue of this Act including any constable, shall be deemed to be an executive authority.

(3) For the purposes of this paragraph, any proceedings shall be deemed not to have been finally determined so long as there is pending any appeal in the matter of the proceedings, and an appeal in that matter shall be deemed to be pending during the ordinary time within which such an appeal may be lodged, and, if such an appeal is duly lodged, the appeal shall be deemed to be pending until it is decided or withdrawn.

(4) The powers conferred by this paragraph in relation to any article shall be in addition to, and not in derogation of, any powers otherwise exercisable in relation thereto.

4. No person in or resident of Trinidad and Tobago shall—

- (a) with intent to evade the provisions of this Act, destroy, mutilate, deface, secrete or remove any documents;
- (b) in furnishing any information for any of the purposes of this Act, make any statement which he knows to be false in a material particular, or recklessly make any statement which is false in a material particular;
- (c) obstruct any person in the exercise of any powers conferred on him by virtue of this Part.

PART II

GENERAL PROVISIONS AS TO OFFENCES

1. (1) Any person in or resident of Trinidad and Tobago who contravenes any restriction or requirement imposed by or under this Act, and any such person who conspires or attempts, or aids, abets, counsels or procures any other person, to contravene any such restriction or requirement as aforesaid, shall be guilty of an offence punishable under this Part:

Provided that an offence punishable by virtue of Part III shall not be punishable under this Part.

(2) Where an offence punishable under this Part has been committed by a body corporate, any 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 contravention 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.

(3) Any person who commits an offence punishable under this Part is liable—

(a) on summary conviction, to imprisonment for three months or to a fine or to both;

(b) on conviction on indictment, to imprisonment for two years or to a fine or to both,

and where the offence is concerned with any currency, any security, any gold, any goods or any other property, the Court may, if they think fit so to do, order the currency, security, gold, goods or property to be forfeited.

(4) Except in the case of a body corporate convicted on indictment, the maximum fine which may be imposed for an offence punishable under this Part is—

(a) on summary conviction two thousand five hundred dollars; and

(b) on conviction on indictment five thousand dollars, so, however, that (in either case) where the offence is concerned with any currency, any security, any payment, any gold, any goods or any other property, and does not consist only of a failure to give information or produce books, accounts or other documents with respect thereto when required so to do under Part I, a larger fine may be imposed not exceeding three times the amount or value of the currency, security, payment, gold, goods or property.

2. (1) No proceedings for an offence punishable under this Part shall be instituted, except by or with the consent of the Attorney General.

(2) Subparagraph (1) shall not prevent the issue or execution of a warrant for the arrest of any person in respect of such an offence, or the remanding in custody or on bail of any person charged with such an offence.

(3) Proceedings against any person in respect of an offence punishable under this Part may be taken before the appropriate Court in Trinidad and Tobago having jurisdiction in the place where that person is for the time being.

(4) Any proceedings under a law establishing summary jurisdiction which may be taken against any person in respect of any offence punishable under this Part may notwithstanding anything to the contrary in that law, be taken at any time within twelve months from the date of the commission of the offence or within three months from the date on which evidence sufficient in the opinion of the Central Bank to justify the proceedings comes to the knowledge of the Bank whichever period last expires, or where the person in question was outside Trinidad and Tobago at the date last mentioned, within twelve months from the date on which he first arrives in Trinidad and Tobago thereafter.

(5) For the purposes of this paragraph a certificate of the Central Bank as to the date on which such evidence as aforesaid came to the knowledge of the Bank shall be conclusive evidence thereof.

3. The maximum period of imprisonment that may be imposed by a Court of summary jurisdiction in respect of the non-payment of a fine adjudged to be paid by a conviction for an offence punishable under this Part shall be in accordance with the following scale, that is to say—

*Where the amount of the fine
adjudged to be paid by the
conviction, as ascertained by the
conviction,—*

*The said period
shall not exceed,—*

Does not exceed one
hundred dollars

Three months.

Exceeds one hundred
dollars but does not exceed
five hundred dollars

Four months

Exceeds five hundred
dollars

Six months.

PART III

IMPORT AND EXPORT

1. (1) The enactments relating to customs shall, subject to such modifications, if any, as may be prescribed to adapt them to this Act, apply in relation to anything prohibited to be imported or exported by any of the provisions of Part IV of this Act and any regulations except with the permission of the Bank and imported or exported without such permission, as they apply in relation to goods prohibited to be imported or exported or under any of the said enactments and any reference in the said enactments to goods shall be construed as including a reference to anything prohibited to be imported or exported by any of the provisions of Part IV of this Act and any regulations except with the permission of the Bank and imported or exported without such permission.

Ch. 36. No. 1

(2) References in this paragraph to the enactments relating to customs shall be taken as including references to the Post Office Ordinance.

Ch. 32. No. 2

2. Any declaration required to be given under Part IV of this Act shall, for the purposes of the Customs Ordinance be deemed to a declaration in a matter relating to customs.

3. If anything prohibited to be exported by any provision of Part IV of this Act is exported in contravention thereof, or is brought to a quay or other place, or water-borne, for the purpose of being so exported, the exporter or his agent shall be liable to the same penalty as that to which a person is liable for an offence to which section 205 of the Customs Ordinance applies.

4. Without prejudice to any of the preceding provisions of this Part, any person who, on any occasion, is about to leave Trinidad and Tobago or arrives in Trinidad and Tobago (which person is hereafter in this paragraph referred to as "the traveller") shall, if on that occasion he is required so to do by an officer of Customs or an Immigration officer—

(a) declare whether or not he has with him anything prohibited to be imported or exported by any of the provisions of Part IV of this Act, except with the permission of the Bank; and

(b) produce any such thing as aforesaid which he has with him,

and the officer may examine or search any article which the traveller has with him for the purpose of ascertaining whether he is conveying or has in his possession any such thing, and, if the officer has reasonable grounds for suspecting that the traveller has about his person any such thing, search him, and may seize anything produced as aforesaid or found upon such examination or search as aforesaid as to which the officer has reasonable ground for suspecting that it is prohibited to be imported or exported by any of the provisions of Part IV of this Act, except with permission of the Bank, but so that no female shall be searched in pursuance of this paragraph except by a female.

5. Subparagraph (2) of paragraph (1) of Part II shall apply also to offences punishable by virtue of this Part.

Passed in the House of Representatives this 12th day of June, 1970.

G. R. LATOUR
Clerk of the House

Passed in the Senate this 23rd day of June, 1970.

J. E. CARTER
Clerk of the Senate