



TRINIDAD AND TOBAGO.

Published as a Supplement to the Royal Gazette,  
issued on the 7th day of October, 1943.

No. 31—1943.

[L.S.]

I ASSENT,

A. B. WRIGHT,  
*Acting Governor.*  
4th October, 1943.

AN ORDINANCE to make provision to prevent, during the present emergency, excessive charges being made for performing services in relation to goods (including hiring and subjecting to a process).

[7th October, 1943.]

Commencement.

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

1. (1) This Ordinance may be cited as the Services (Charges Control) Ordinance, 1943. Short title and duration.

(2) This Ordinance shall continue in force until such date as the Governor may by proclamation declare to be the date on which the emergency that was the occasion of the passing of this Ordinance came to an end, and shall then expire except as respects things previously done or omitted to be done.

Interpretation.

2. (1) In this Ordinance—

“business”, unless the context otherwise requires, includes a branch of a business;

“performance of a charge-controlled service”, in relation to any business, means the performance in relation to goods of any description of a service for the performance of which, in the course of that business and in relation to those goods, a maximum charge has been fixed by an order for the time being in force under this Ordinance.

(2) References in this Ordinance to the performance of a service in relation to goods include references to the hiring of goods and the subjecting of goods to any process.

(3) References in this Ordinance to a business that includes the performance of a service, or a service of any particular description, in relation to goods, include references to a business which consists wholly of performing a service or a service of that description in relation to goods.

(4) In this Ordinance references to an offer to perform a service or to enter into a transaction shall be construed as including a reference to a notification of the consideration proposed for the service or transaction, whether made before or after the performance of the service or the carrying out of the transaction.

(5) References in this Ordinance to a person carrying on a business include references to a person employed to manage a business by the person carrying it on.

Power to fix maximum charges for service in relation to goods,

3. (1) The Governor in Council may by order fix the maximum charge to be made, in the course of a business of any class set out in the order, for performing, in relation to goods of any description specified in the order, a service of any description so specified; and it shall be unlawful

for any person in the course of any such business to perform, agree to perform, or offer to perform, any such service in relation to any such goods for a charge which exceeds the maximum charge fixed by the order in relation to any such business, and to any such goods.

(2) Any such order may fix different maximum charges to be made in the course of businesses of different classes for the same service in relation to the same description of goods.

(3) Any such order fixing the maximum charge to be made in the course of a business of any class for performing a service may require such steps as may be specified in the order to be taken to bring the said charge to the notice of persons to whom offers are made to perform the service in the course of the business.

(4) Any such order may, instead of specifying the maximum charge to be made in the course of a business of any class for performing any service, direct that that charge shall be computed in such manner and by reference to such matters as may be provided by the order.

(5) Where any such order contains such a direction as is mentioned in the last foregoing subsection as respects the performance of any service in the course of any business, the provisions set out in the next following section hereto shall have effect as respects the rights of a person for whom that service is performed, or with whom an agreement is made to perform the service, in the course of that business in contravention of subsection (1) of this section.

(6) If any person performs, agrees to perform, or offers to perform, any service in contravention of subsection (1) of this section, he shall be guilty of an offence against this Ordinance:

Provided that—

(a) where it is proved that an offer made in contravention of the said subsection has been followed by an agreement so made in pursuance of that offer, or that an agreement so made has been performed in contravention of the said subsection, those transactions together

shall be taken to constitute a single offence ;  
and

- (b) it shall be a defence for a person charged with a contravention of the said subsection to prove that, in relation to the matter in respect of which he is charged, he acted in the course of his employment as a servant or agent of another person on the instructions of his employer or of some other specified person.

(7) If any of the provisions of any order made by virtue of subsection (3) of this section are not complied with as respects any business, the person carrying on the business shall be guilty of an offence under this Ordinance.

Right to  
avoid  
prohibited  
transaction or  
to recover  
excess price.

4. (1) The following provisions of this section shall have effect where an order is made under the last foregoing section of this Ordinance directing that the maximum charge to be made in the course of a business of any class for the performance of a service of any description in relation to goods of any description shall be computed in such manner, and by reference to such matters as may be provided by the order.

(2) Where a prosecution has been instituted in respect of the performance of, or an agreement or offer to perform, any service of a description to which any such direction relates in the course of a business to which any such direction relates for a particular sum, and the person charged has been found guilty, then—

- (a) if the prosecution was in respect of the performance of, or an agreement to perform, a service, the person for whom the service was performed or with whom the agreement was made ; and
- (b) whether the prosecution was in respect of the performance of a service or an agreement or offer to perform a service, any person for whom a similar service was performed, or any person with whom an agreement was made to perform a similar service, for the same or a higher charge in the course of that business in contravention of subsection (1) of the last foregoing section of this Ordinance before the date of the finding ;

shall have the following rights, exercisable, subject as hereinafter provided at his option.

(3) In the case of an agreement to perform a service no part of which has been performed, he shall have the right to treat the agreement as avoided, and to recover from the person who agreed to perform the service, as money received by that person for his use, any amount paid by him a consideration therefor: Provided that he shall not be entitled to exercise the right conferred by this subsection if any rights acquired by a third party would be prejudiced by his so doing, or after the lapse of an unreasonable time from the date of the agreement.

(4) He shall in any case have the right to affirm the performance of the service or the agreement to perform it, but to recover as aforesaid to the extent of any loss sustained by him by reason of the contravention.

(5) Any sum recoverable by virtue of this section shall be recoverable with interest thereon at the rate of six per cent. per annum from the date when it was paid.

(6) The rights conferred by this section shall not be exercisable by a person who is himself liable to punishment by reason of his having aided, abetted, counselled or procured the contravention in question.

5. The illegality by virtue of this Ordinance of any transaction shall not prejudice any rights acquired by any person other than a person who is guilty of a contravention of this Ordinance in respect of the transaction, or who is liable to punishment by reason of his having aided, abetted, counselled or procured, such a contravention. Saving for rights of innocent parties.

6. (1) The Governor shall appoint a charges-regulation committee for the effective enforcement of the provisions of this Ordinance. Charges-regulation Committee.

(2) It shall be the duty of the charges-regulation committee to give advice and assistance to the Governor in Council with regard to the operation of this Ordinance.

(3) The charges-regulation committee shall be constituted in such manner as the Governor may determine.

(4) The Governor may appoint a secretary to the charges-regulation committee, and such committee may employ such officers and servants as the Governor may determine.

(5) Any notice or request issued or made under the provisions of this Ordinance, if purporting to be under the hand of the secretary of the committee, shall, unless the contrary be shown, be deemed to be signed by the said secretary on behalf of the committee and may be proved by the production of a copy thereof purporting to have been so signed.

Inspectors.

7. (1) For the purposes of enforcing the provisions of this Ordinance, the Governor may appoint such number of inspectors, who may be paid such remuneration and expenses as the Governor may determine.

(2) An inspector appointed under this section shall, for the purposes aforesaid, have power at all reasonable times, on production of a certificate of his appointment—

(a) to enter any premises occupied for the purpose of a business which he has reason to believe to include the performance in relation to any goods of any service;

(b) to inspect any goods found on any such premises;

(c) to require any person carrying on or employed in connection with any such business—

(i) to produce to, and allow to be examined by him any accounts, books or other documents in the custody or under the control of the person so required, being documents relating to that business the examination of which he may reasonably require for the purposes of this Ordinance; and

(ii) to furnish to him any information as respects that business which he may reasonably require for the said purposes.

(3) If any person obstructs an inspector in the exercise of the powers conferred upon him by this section, he shall be guilty of an offence under this Ordinance and liable on summary conviction to a fine of two hundred and forty dollars.

8. (1) The Governor may—

- (a) by notice in writing require any person carrying on a business which includes the performance of any charge-controlled service; or
- (b) by order require all persons carrying on businesses which include the performance of any charge-controlled service of a description specified in the order;

to keep such books, accounts and other records in relation to the business, and in such form, and containing such particulars with respect to such matters, as may be specified in the notice or order.

(2) The Governor, or the charges-regulation committee, may by notice in writing require any person carrying on a business which includes the performance in relation to any goods of any service (whether a charge-controlled service or not)—

- (a) to produce to, and allow to be examined by, a person specified in the notice such books, accounts or other documents in the custody or under the control of the person so required as may be specified or described in the notice, being documents relating to that business the examination of which may reasonably be required for the purposes of this Ordinance; and
- (b) to furnish to a person so specified such information as respects that business as may reasonably be required for the purposes of this Ordinance.

(3) If any person makes default—

- (a) in complying with a notice or order given or made under subsection (1) of this section, or
- (b) in producing or furnishing any book, account or other document or any information which he is required under this Ordinance to produce or furnish,

he shall be guilty of an offence under this Ordinance and shall be liable on summary conviction to a fine of two hundred and forty dollars, and if after being so convicted he continues to make the like default, he shall be liable on summary conviction to a fine or two hundred and forty dollars for each day on which the default continues after the first-mentioned conviction, or to imprisonment for six months, or to both such fine and such imprisonment.

(4) If any person—

(a) being required under this Ordinance to produce any book, account or other document, produces with intent to deceive, any book, account or other document which he knows to be false in a material particular, or

(b) being required under this Ordinance to furnish any information, or in reply to any inquiry made by or on behalf of the Governor or a charges-regulation committee with respect to any matter which may affect the exercise of their powers under this Ordinance, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

he shall be guilty of an offence under this Ordinance.

Offences by corporations.

9. Where a person convicted of a contravention of any of the provisions of this Ordinance is a body corporate, every person who, at the time of the contravention, was a director or officer of the body corporate shall be deemed to be guilty of that contravention, unless he proves that the contravention was committed without his consent or connivance and that he exercised all such diligence to prevent the contravention as he ought to have exercised having regard to the nature of his functions as a director or officer of that body and to all the circumstances.

Composite offers.

10. (1) Where a person (hereafter in this subsection referred to as "the offerer") offers in the course of any business to enter into a transaction for a consideration

to be given as a whole both in respect of a matter to which this section applies and in respect of any other matter, any person to whom the offer is made may require the offerer to state to him in writing—

- (a) what part of the consideration the offerer assigns to the matter to which this section applies; or
- (b) if the matters in respect of which the consideration is to be given are or include two or more matters to which this section applies, the several parts of the consideration which the offerer assigns to any one or more of those matters.

The matter to which this section applies is the performance of any charge-controlled service.

(2) A charge-control committee may, at any time within twenty-one days beginning with the day on which any person has offered to enter into such a transaction as aforesaid, by notice in writing require him to make to the committee such a statement as aforesaid.

(3) Where, in pursuance of a requirement made under this section, a person making an offer states what part of the consideration he assigns to the performance of any charge-controlled service, he shall be deemed for all the purposes of this Ordinance, to have offered to perform that service for the part of the consideration so stated.

11. (1) Any person guilty of any offence under this Ordinance for which no other penalty is expressly provided shall be liable—

General provisions as to offences.

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

(2) Where a person, not being a body corporate, is charged with an offence under any provision of this Ordinance which expressly provides that the person carrying on a business shall be guilty of an offence under this Ordinance, it shall be a defence for him to prove that the act or default in respect of which he is charged was committed by some other person without his consent or connivance, and that he exercised all such diligence to prevent the commission of the act or default as he ought to have exercised having regard to all the circumstances.

(3) On the third or any subsequent occasion on which a person is found guilty of an offence under this Ordinance, the court may, on the application of the Attorney General or on the application of the prosecutor made with the consent of the Attorney General, make such order, having effect during such period as the court thinks fit, for preventing the offender from carrying on, or being concerned directly or indirectly in the carrying on of, the business in the course of which the transaction constituting the offence was effected, or any branch of that business, or any business or branch of a business of a similar character; and any person contravening an order made under this subsection shall be guilty of an offence and shall be liable—

(a) on summary conviction, to imprisonment for six months; or

(b) on conviction on indictment, to imprisonment for five years.

(4) Where a person convicted on indictment of any offence under this Ordinance is a body corporate, no provision in this Ordinance limiting the amount of the fine which may be imposed shall apply to the body corporate and the body corporate shall be liable to such fine as the court thinks just.

Restriction on disclosure of information.

**12.** (1) No information with respect to any particular business which has been obtained under this Ordinance shall without the consent of the person carrying on that business, be disclosed otherwise than in connection with the execution of this Ordinance: Provided that nothing in

this section shall apply to a disclosure of information made for the purposes of any criminal proceedings which may be taken whether by virtue of this Ordinance or otherwise, or for the purposes of a report of any such proceedings.

(2) If any person discloses any information in contravention of this section, he shall be liable on summary conviction to imprisonment for three months or to a fine of two hundred and forty dollars or to both such imprisonment and such fine, or on conviction on indictment to imprisonment for two years or to a fine of four hundred and eighty dollars, or to both such imprisonment and such fine.

13. A prosecution for any offence against this Ordinance shall not be instituted without the written consent of one of the Law Officers specified in Part I of the Schedule to Law Officers Ordinance. Sanction for prosecution. Ch. 7. No. 3.

Passed in Council this first day of October, in the year of Our Lord one thousand nine hundred and forty-three.

W. J. BOOS,  
*Clerk of the Council.*

1943  
TRINIDAD AND TOBAGO.  
PRINTED AND PUBLISHED BY A. L. RHODES, M.B.E.,  
GOVERNMENT PRINTER.

(Price 12c.)