

CHAPTER 364

THE TRADING WITH THE ENEMY ACT.

Arrangement of Sections.

Section

1. Interpretation.

Trading with the enemy and matters relating thereto.

2. Penalties for trading with the enemy.
3. Definition of enemy.
4. Inspection and supervision of businesses; related offences and penalties.
5. Transfer of negotiable instruments and choses in action by enemies.
6. Transfer and allotment of securities.
7. Purchase of enemy currency.

Property of enemies and enemy subjects.

8. Collection of enemy debts and custody of enemy property.

General and supplementary provisions.

9. False statements and obstruction.
10. Offences by corporations.
11. Exercise of powers.
12. Evidence of authority or sanction.
13. Saving.

CHAPTER 364

THE TRADING WITH THE ENEMY ACT.

Commencement: 3 September, 1939.

An Act to impose penalties for trading with the enemy, to make provision as respects the property of enemies and enemy subjects, and for purposes connected with the matters aforesaid.

1. Interpretation.

(1) In this Act, the following expressions have the meanings respectively assigned to them—

- (a) “enemy subject” means—
 - (i) an individual who possesses the nationality of a State at war with the Republic of Uganda; or
 - (ii) a body of persons, possessing the nationality of a State at war with the Republic of Uganda, constituted or incorporated in Uganda or a body of persons constituted or incorporated in or under the laws of any such State;
- (b) “enemy territory” means any area which is under the sovereignty of, or in the occupation of, a Power with which the Republic of Uganda is at war, not being an area in the occupation of the Republic of Uganda or of a Power allied with the Republic of Uganda.

(2) A certificate of the President that any area is or was under the sovereignty of, or in the occupation of any Power, or as to the time at which any area became or ceased to be under such sovereignty or in such occupation shall, for the purposes of any proceedings under or arising out of this Act, be conclusive evidence of the facts stated in the certificate.

(3) In considering for the purposes of any of the provisions of this Act whether any person has been an enemy or an enemy subject, no account shall be taken of any state of affairs existing before the commencement of the war by reason of which the person became an enemy or an enemy subject.

(4) For the purposes of this Act, a person shall be deemed to be a director of a body corporate if he or she occupies in relation to the body corporate the position of a director, by whatever name called; and, for the

purposes of the provisions of this Act relating to offences by bodies corporate, a person shall be deemed to be a director of a body corporate if he or she is a person in accordance with whose directions or instructions the directors of that body act; but a person shall not, by reason only that the directors of a body corporate act on advice given by him or her in a professional capacity, be taken to be a person in accordance with whose directions or instructions those directors act.

Trading with the enemy and matters relating thereto.

2. Penalties for trading with the enemy.

(1) Any person who trades with the enemy within the meaning of this Act commits an offence of trading with the enemy and is liable on conviction to imprisonment for a term not exceeding seven years or to a fine not exceeding fifteen thousand shillings or to both such imprisonment and fine, and the court may in any case order that any goods or money in respect of which the offence has been committed shall be forfeited.

(2) For the purposes of this Act, a person shall be deemed to have traded with the enemy—

- (a) if he or she has had any commercial, financial or other intercourse or dealings with, or for the benefit of, an enemy, and, in particular, but without prejudice to the generality of the foregoing provision, if he or she has—
 - (i) supplied any goods to or for the benefit of an enemy, or obtained any goods from an enemy, or traded in, or carried, any goods consigned to or from an enemy or destined for or coming from enemy territory;
 - (ii) paid or transmitted any money, negotiable instrument or security for money to or for the benefit of an enemy or to a place in enemy territory; or
 - (iii) performed any obligation to, or discharged any obligation of, an enemy, whether the obligation was undertaken before or after the commencement of the war by reason of which the person became an enemy or an enemy subject; or
- (b) if he or she has done anything which, under the following provisions of this Act, is to be treated as trading with the enemy, except that a person shall not be deemed to have traded with the enemy by reason only that he or she has—
 - (c) done anything under an authority given generally or specially by,

or by any person authorised for that purpose by, the Government; or
(d) received payment from an enemy of a sum of money due in respect of a transaction under which all obligations on the part of the person receiving payment had been performed before the commencement of the war by reason of which the person from whom the payment was received became an enemy.

(3) Any reference in this section to an enemy shall be construed as including a reference to a person acting on behalf of an enemy.

(4) A prosecution for an offence of trading with the enemy shall not be instituted except by, or with the consent of, the Director of Public Prosecutions; but this subsection shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of that offence, or the remanding, in custody or on bail, of any person charged with that offence, notwithstanding that the necessary consent to the institution of a prosecution for the offence has not been obtained.

3. Definition of enemy.

(1) Subject to this section, “enemy” for the purposes of this Act means—

- (a) any State, or Sovereign or Head of State, at war with the Republic of Uganda;
 - (b) any individual resident in enemy territory;
 - (c) any body of persons, whether corporate or unincorporate, carrying on business in any place, if and so long as the body is controlled by a person who, under this section, is an enemy; or
 - (d) any body of persons constituted or incorporated in, or under the laws of, a State at war with the Republic of Uganda,
- but does not include any person by reason only that he or she is an enemy subject.

(2) The President may by statutory order direct that any person specified in the order shall, for the purposes of this Act, be deemed to be, while so specified, an enemy.

4. Inspection and supervision of businesses; related offences and penalties.

(1) The President, if he or she thinks it expedient for securing compliance with section 2 so to do, may by written order authorise a specified person (hereafter in this section referred to as “an inspector”) to inspect any books or documents belonging to, or under the control of, a person named in the order, and to require that person and any other person to give such information in his or her possession with respect to any business carried on by the named person as the inspector may demand, and for those purposes to enter on any premises used for the purposes of that business.

(2) If, on a report made by an inspector as respects any business, it appears to the President that it is expedient, for securing compliance with section 2, that the business should be subject to supervision, the President may appoint a person (hereafter in this section referred to as “a supervisor”) to supervise the business, with such powers as the President may determine.

(3) If any person, without reasonable cause, fails to produce for inspection, or furnish, to an inspector or a supervisor any document or information which he or she is duly requested by the inspector or supervisor so to produce or furnish, that person commits an offence and is liable on conviction to a fine not exceeding one thousand five hundred shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(4) If any person, with intent to evade the provisions of this section, destroys, mutilates or defaces any book or other document which an inspector or a supervisor is or may be authorised under this section to inspect, that person commits an offence and is liable on conviction to imprisonment for a term not exceeding seven years or to a fine not exceeding fifteen thousand shillings or to both such imprisonment and fine.

5. Transfer of negotiable instruments and choses in action by enemies.

(1) No assignment of a chose in action made by or on behalf of an enemy shall, except with the sanction of the President, be effective so as to confer on any person any rights or remedies in respect of the chose in action; and neither a transfer of a negotiable instrument by or on behalf of an enemy, nor any subsequent transfer of the negotiable instrument, shall, except with

the sanction of the President, be effective so as to confer any rights or remedies against any party to the instrument.

(2) Subsection (1) shall apply in relation to any transfer of any coupon or other security transferable by delivery, not being a negotiable instrument, as it applies in relation to any assignment of a chose in action.

(3) If any person by payment or otherwise purports to discharge any liability from which he or she is relieved by this section, knowing the facts by virtue of which he or she is so relieved, he or she shall be deemed to have thereby traded with the enemy; but in any proceedings for an offence of trading with the enemy which are taken by virtue of this subsection, it shall be a defence for the defendant to prove that at the time when he or she purported to discharge the liability in question he or she had reasonable grounds for believing that the liability was enforceable against him or her by order of a competent court, not being either a court having jurisdiction in Uganda or a court of a State at war with the Republic of Uganda, and would be enforced against him or her by such an order.

(4) Where a claim in respect of a negotiable instrument or chose in action is made against any person who has reasonable cause to believe that, if he or she satisfied the claim, he or she would by satisfying the claim be committing an offence of trading with the enemy, that person may pay into the High Court any sum which, but for subsection (1), would be due in respect of the claim, and upon payment that sum shall, subject to rules of court, be dealt with according to any order of the court, and the payment shall for all purposes be a good discharge to that person.

(5) Nothing in this section shall apply to securities to which section 6 applies.

6. Transfer and allotment of securities.

(1) If—

- (a) any securities to which this section applies are transferred by or on behalf of an enemy; or
- (b) any such securities, being securities issued by a company within the meaning of the Companies Act, are allotted or transferred to, or for the benefit of, an enemy subject without the consent of the President,

then, except with the sanction of the President the transferee or allottee shall

not, by virtue of the transfer or allotment, have any rights or remedies in respect of the securities; and no body corporate by whom the securities were issued or are managed shall take any cognisance of, or otherwise act upon, any such transfer except under the authority of the President.

(2) No share warrants, stock certificates or bonds, being warrants, certificates or bonds payable to bearer, shall be issued in respect of any securities to which this section applies, being securities registered or inscribed in the name of an enemy or of a person acting on behalf of, or for the benefit of, an enemy.

(3) Any person who contravenes this section commits an offence and is liable on conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding one thousand five hundred shillings or to both such imprisonment and fine.

(4) This section applies to the following securities: annuities, stock, shares, bonds, debentures or debenture stock registered or inscribed in any register, branch register or other book kept in Uganda.

7. Purchase of enemy currency.

(1) Purchasing enemy currency shall be treated as trading with the enemy.

(2) In this section, “enemy currency” means any such notes or coins as circulate as currency in any area under the sovereignty of a Power with which the Republic of Uganda is at war, not being an area in the occupation of the Republic of Uganda or of a Power allied with the Republic of Uganda, or any such other notes or coins as are for the time being declared by an order of the President to be enemy currency.

Property of enemies and enemy subjects.

8. Collection of enemy debts and custody of enemy property.

(1) With a view to preventing the payment of money to enemies and of preserving enemy property in contemplation of arrangements to be made at the conclusion of peace, the President may appoint custodians of enemy property and may by statutory order—

(a) require the payment to the prescribed custodian of money which

would, but for the existence of a state of war, be payable to or for the benefit of a person who is an enemy, or which would, but for section 5 or 6, be payable to any other person;

- (b) vest in the prescribed custodian such enemy property as may be prescribed, or provide for, and regulate, the vesting in that custodian of such enemy property as may be prescribed;
- (c) vest in the prescribed custodian the right to transfer such other enemy property as may be prescribed, being enemy property which has not been, and is not required by the order to be, vested in the custodian;
- (d) confer and impose on the custodians and on any other person such rights, powers, duties and liabilities as may be prescribed as respects—
 - (i) property which has been, or is required to be, vested in a custodian by or under the order;
 - (ii) property of which the right of transfer has been, or is required to be, so vested;
 - (iii) any other enemy property which has not been, and is not required to be, so vested;
 - or (iv) money which has been, or is by the order required to be, paid to a custodian;
- (e) require the payment of the prescribed fees to the custodians in respect of such matters as may be prescribed and regulate the collection of and accounting for such fees;
- (f) require any person to furnish to the custodian such returns, accounts and other information and to produce such documents as the custodian considers necessary for the discharge of his or her functions under the order,

and any such order may contain such incidental and supplementary provisions as appear to the President to be necessary or expedient for the purposes of the order.

(2) Where any requirement or direction with respect to any money or property is addressed to any person by a custodian and accompanied by a certificate of the custodian that the money or property is money or property to which an order under this section applies, the certificate shall be evidence of the facts stated in it, and if that person complies with the requirement or direction, he or she shall not be liable to any action or other legal proceeding by reason only of that compliance.

- (3) Where, in pursuance of an order made under this section—

- (a) any money is paid to a custodian;
- (b) any property, or the right to transfer any property, is vested in a custodian; or
- (c) a direction is given to any person by a custodian in relation to any property which appears to the custodian to be property to which the order applies,

neither the payment, vesting or direction nor any proceedings in consequence of the payment, vesting or direction shall be invalidated or affected by reason only that at a material time—

- (d) some person who was or might have been interested in the money or property, and who was an enemy or an enemy subject, had died or had ceased to be an enemy or an enemy subject; or
- (e) some person who was so interested, and who was believed by the custodian to be an enemy or an enemy subject, was not an enemy or an enemy subject.

(4) Any order under this section shall have effect notwithstanding anything in any enactment passed before this Act.

(5) If any person pays any debt, or deals with any property to which any order under this section applies, otherwise than in accordance with the order, he or she commits an offence and is liable on conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding one thousand five hundred shillings or to both such imprisonment and fine; and the payment or dealing shall be void.

(6) If any person, without reasonable cause, fails to produce or furnish, in accordance with the requirements of an order made under this section, any document or information which he or she is required under the order to produce or furnish, he or she commits an offence and is liable on conviction to a fine not exceeding two hundred shillings for every day on which the default continues.

(7) All fees received by any custodian by virtue of an order under this section shall be paid into the Consolidated Fund.

(8) In this section—

- (a) “enemy property” means any property for the time being belonging to or held or managed on behalf of an enemy or an enemy subject;
- (b) “prescribed” means prescribed by an order made under this

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

General and supplementary provisions.

9. False statements and obstruction.

(1) If any person, for the purpose of obtaining any authority or sanction under this Act, or in giving any information for the purposes of this Act or of any order made under this Act, knowingly or recklessly makes a statement which is false in a material particular, he or she commits an offence and is liable on conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding one thousand five hundred shillings or to both such imprisonment and fine.

(2) Every person who wilfully obstructs any person in the exercise of any powers conferred on him or her by or under this Act commits an offence and is liable on conviction to a fine not exceeding one thousand shillings.

10. Offences by corporations.

Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate, he or she, as well as the body corporate, shall be deemed to have committed that offence and is liable to be proceeded against and punished accordingly.

11. Exercise of powers.

Anything required or authorised under this Act to be done by, to or before the President may be done by any person authorised for that purpose by the President.

12. Evidence of authority or sanction.

Any document stating that any authority or sanction is given under any of the

provisions of this Act by the President and purporting to be signed on behalf of the President or by a person who is empowered by this Act to do anything which may be done thereunder by the President shall be evidence of the facts stated in the document.

13. Saving.

This Act shall be without prejudice to the exercise of any right of the Government.

History: Cap. 324; S.I. 135/1968, s. 1.

Cross Reference

Companies Act, Cap. 110.