

CHAPTER 4.

ALIENS.

3 of 1925.
22 of 1949.
10 of 1950.

AN ORDINANCE TO DECLARE THE LAW AS TO ALIENS.

Short title.

1. This Ordinance may be cited as the Aliens Ordinance.

Part I.

[31st December, 1949.]

Definitions.
10 of 1950.

2. In this Part of this Ordinance, unless the context otherwise requires—

“Alien” means a person who is neither a British subject, a British protected person, a citizen of India, nor a citizen of the Republic of Ireland.

“Deportation order” means an order made pursuant to section 3 of this Ordinance.

Deportation
Orders.

3. (1) The Governor in Council may make a deportation order subject to such conditions as he may think fit in respect of any alien

(a) if it is certified by the Judge or a magistrate that he has been convicted of an offence punishable by imprisonment without the option of a fine and it was recommended that a deportation order should be made either in addition to or in lieu of the sentence; or

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(b) if he is a prohibited immigrant as defined by the Immigration Ordinance, or is convicted of an offence under that Ordinance or any regulation made thereunder; or

(c) if it is deemed to be conducive to the public good to do so.

[*Note.* This Ordinance is declared to be in force in the Dependencies by the Application of Colony Laws Ordinance, Cap. 1 (D.S.).]

(2) The Governor in Council may at any time revoke any deportation order.

4. (1) An alien in respect of whom a deportation order is in force, or in respect of whom the Judge or a magistrate has certified that it is recommended that a deportation order should be made, may be detained in such manner as may be directed by the Governor and may be placed on a ship about to leave the Colony, and, while so detained and until the ship finally leaves the Colony, shall be deemed to be in legal custody.

Detention
pending
deportation.
10 of 1950.

(2) No person shall be detained under subsection (1) of this section for a period exceeding sixty days and, if at the expiration of such period he has not been deported as aforesaid, the deportation order shall cease to have effect.

5. The master of any ship calling at any port outside the Colony who, upon being required by the Governor or Chief Constable to give a passage to that port and accommodation and maintenance during the passage to an alien against whom a deportation order has been made and his dependents, fails without reasonable excuse, to give such passage as aforesaid shall commit an offence.

Master of
ship.

6. The Governor may apply any money or property of an alien against whom a deportation order has been made in payment of the cost of deportation and the maintenance until departure of such alien and his dependents.

Expenses of
deportation.

7. Any person who commits an offence under this part of this Ordinance shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding six months and on a second or subsequent conviction to imprisonment for a term not exceeding twelve months.

Offences.

8. (1) The Governor in Council may make regulations for carrying out the provisions of this part of this Ordinance.

Power to
make
regulations.
10 of 1950.

(2) Any such regulation may provide that the contravention thereof shall be an offence punishable on conviction with such fine, not exceeding £100, or with such imprisonment not exceeding six months, as may be prescribed in such regulation.

Part II.

[1st August, 1925.]

LANDHOLDING.

Definitions.
10 of 1950.

9. In this part of this Ordinance the word "alien", unless the context otherwise requires, means a person who is neither a British subject, a British protected person, a citizen of India nor a citizen of the Republic of Ireland, and includes a company registered in the Colony or in any other part of His Majesty's dominions, if it is under alien control, and also every corporation incorporated in a foreign country, but shall not include any of the subjects or citizens of a foreign State upon whom there has been conferred by treaty the right to hold land in the Colony;

the word "land" includes tenements and hereditaments, both corporeal and incorporeal, and every interest therein, but does not include money charged on land;

the word "company" includes partnership, or any association of persons joined together for the purposes of trade or mutual profit;

the word "mortgage" includes every instrument creating a mortgage or charge on land;

the words "unlicensed alien" mean an alien who does not hold a licence granted under this part of this Ordinance.

Forfeiture of
land and
mortgages
held by un-
licensed
aliens.

10. (1) Subject to the provisions of this part of this Ordinance neither land in the Colony nor a mortgage on land in the Colony shall be held by an unlicensed alien, and any land or mortgage so held shall be forfeited to the Crown.

(2) Provided that—

(a) Land may be acquired and held by an unlicensed alien on an annual tenancy or for any less interest, for the purposes of his residence, trade or business, but an unlicensed alien shall not hold more than five acres of land in all.

(b) Land acquired by an unlicensed alien under a will or on an intestacy shall not be forfeited if, within one

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year from the death of the testator or intestate, or within such extended time (if any) as the Governor may decide to be reasonable, the land is sold or the alien obtains a licence to hold the land.

- (c) A mortgage acquired by an unlicensed alien under a will or on an intestacy shall not be forfeited; but the alien shall not, unless he obtains a licence to hold the mortgage, be entitled to foreclose or enter into possession of the mortgaged land.
- (d) Nothing in this part of this Ordinance shall affect the interest of a judgment creditor in the land of his judgment debtor, but the debtor's land shall not be acquired by an unlicensed alien.
- (e) Nothing in this part of this Ordinance shall affect the estate or interest of an alien in any land or mortgage held by him on the first day of August, 1925.

11. (1) The Governor may, if he thinks fit, from time to time, grant to any alien a licence to hold land as owner or tenant or mortgagee for any estate or interest either subject to any conditions or not:

Licenses for
aliens to hold
land or
mortgages.

Provided that a licence shall be operative only as to the land described and as to the estate or interest specified therein, and shall be of no force or effect until registered in the office of the Registrar-General.

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Sec. 4.

(2) On breach of any condition in a licence to hold land as owner or tenant or mortgagee, the estate and interest of the alien in the land or mortgage held under the authority thereof and also the estate and interest of the said alien in any other land in the Colony or mortgage thereon shall be forfeited to the Crown.

12. (1) Land or a mortgage, forfeited under this part of this Ordinance, shall not vest in the Crown unless and until a judgment is obtained declaring the forfeiture; but on such judgment being obtained the title of the Crown shall relate back to and commence at the time when the forfeiture took place.

Effect of
forfeiture.

3 of 1925.
Sec. 5.

(2) A judgment declaring a forfeiture of land shall operate to vest in the Crown all the estate and interest of the alien in the forfeited land.

(3) A judgment declaring a forfeiture of a mortgage shall operate to vest in the Crown all the estate and interest of the alien in the mortgaged land, subject to any right of redemption subsisting therein, and also to vest in the Crown the right to recover and receive and to enforce all securities for the mortgage money.

Proof of
alien control.

13. For the purposes of this part of this Ordinance a company shall be deemed to be under alien control if shown to be under alien control to the satisfaction of the Governor and so declared by order:

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Sec. 7.

Provided that no such order shall be issued unless due notice has been given to such company of the intention of taking its status into consideration for the purpose of this part of this Ordinance, and it shall be competent for the said company to make representations to the Governor in Council in person or by attorney as may be allowed by the Governor.

Restrictions
on trusts in
favour of an
alien.

14. (1) This section applies to the following property only, namely, land situate in the Colony or any interest, title or estate in such land.

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Sec. 8.

(2) With a view to preventing evasion of the foregoing provisions of this part of this Ordinance, no person, partnership or company shall, without the licence of the Governor, hold any property to which this section applies in trust for an alien, and any such property so held shall be forfeited to the Crown.

(3) In this section the expression "trust" includes any arrangement whether written or oral, express or implied, and whether legally enforceable or not, whereby any property or any interest therein or any rights attached thereto is or are held for the benefit of or to the order at the disposal of an alien; but does not include:

- (a) The duties incident to a mortgage;
- (b) The duties of a satisfied mortgagee to the mortgager, if within three months after satisfaction of the mortgage the mortgaged property is revested in the mortgagee or his interest therein is extinguished;
- (c) The duties of a vendor to the purchaser pending payment of the purchase money, or after payment

of the purchase money, if within three months after such payment the property sold is vested in the purchaser or his interest therein is extinguished;

- (d) The duties of a trustee in bankruptcy to the bankrupt or his creditors; or
- (e) The duties of a trustee for the purposes of any composition or scheme of arrangement for the payment of debts to the debtor or his creditors.

(4) Nothing in this section shall apply to a trust subsisting on the 1st day of August, 1925.

15. (1) The Colonial Secretary shall send a copy of every licence, issued to an alien, to such alien and to the Registrar-General.

Transmission
of licence.
3 of 1925.
Sec. 9.

(2) Subject to the provisions of this part of this Ordinance, the Registrar-General shall record on the deeds registered or submitted for registration, in respect of land or any interest in land held by an alien, the licence by virtue of which such alien holds, under the provisions of this part of this Ordinance, his interest in the said land.

Licenses to
be recorded
on deeds.

16. For the purpose of establishing a forfeiture under this part of this Ordinance, the Colonial Secretary may apply to the Supreme Court for a declaration that any right, title or interest sought to be effected is forfeited to the Crown.

Procedure.
3 of 1925.
Sec. 10.

17. (1) Without prejudice to any other right to discovery, the Colonial Secretary may, in proceedings for establishing a forfeiture under this part of this Ordinance, administer interrogatories to and obtain discovery of documents from a defendant as to any matter or document tending to prove his alienage or the alienage of any other person, or to discover any land, mortgage, share or debentures held by him or in trust for him or as to any relevant matter or document.

Discovery.
3 of 1925.
Sec. 11.

(2) It shall not be a valid ground for refusing to answer any such interrogatory, or to disclose or produce any document that the answer or document might or would expose the defendant or any other person to the risk of a prosecution under this Ordinance:

Provided that in the prosecution of a defendant under this Ordinance the fact that he has disclosed any matter in answer to an interrogatory administered under this

section and disclosed or produced any document in compliance with an order for discovery obtained under this section, shall not be admissible in evidence.

Fee.

3 of 1925.
Sec. 12.

18. The fee of 10/- shall be payable by any licensed alien for the registration of his licence.

Regulations.

19. The Governor in Council may make regulations for carrying out the provisions of this part of this Ordinance.