



# The Hongkong Government Gazette Extraordinary.

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TUESDAY, OCTOBER 27, 1914.

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The following Notification is published,

By command,

CLAUD SEVERN,  
*Colonial Secretary.*

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## LEGISLATIVE COUNCIL.

No. 408.—His Excellency the Governor has given his assent, in the name and on behalf of His Majesty the King, to the following Ordinance passed by the Legislative Council:—

Ordinance No. 28 of 1914.—An Ordinance to provide for the winding up of the affairs of certain alien enemies.

HONGKONG.

No. 28 OF 1914.

An Ordinance to provide for the winding up of the affairs of certain alien enemies.

I assent to this Ordinance.



F. H. MAY,  
*Governor.*

[27th October, 1914.]

WHEREAS it is necessary that certain alien enemies should be ordered to quit the Colony and that certain other alien enemies should be detained :

And whereas it is expedient that provision should be made for the winding up of the affairs of such alien enemies in order to prevent loss to them and to other persons :

BE it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows :—

Short title. 1. This Ordinance may be cited as the Alien Enemies (Winding up) Ordinance, 1914.

Definitions. 2. In this Ordinance :—  
“ Alien enemy ” means an alien whose sovereign or state is at war with His Majesty.  
“ Person ”, except so far as relates to the imposition of the penalty of imprisonment, includes a body corporate and a firm.  
“ Trade ” includes every kind of business, occupation and work.

Onus of proof as to alien enemy character. 3. If any question arises under or in consequence of this Ordinance as to whether any person is or was an alien enemy or not, a certificate under the hand of the Colonial Secretary that in his opinion such person is or was an alien enemy shall be sufficient proof for all purposes that such person is or was an alien enemy as the case may be, and the onus of proving that such person is not or was not an alien enemy shall lie upon the person asserting such to be the case.

Alien enemy not to trade or dispose of property without permission. 4.—(1.) No alien enemy shall carry on any trade, or do any act in furtherance of or in contemplation of any trade, or make any disposition of any property without the permission of the Governor conveyed in writing under the hand of the Colonial Secretary.

(2.) No firm which has an alien enemy partner or an alien enemy manager shall carry on any trade, or do any act in furtherance of or in contemplation of any trade, or make any disposition of any property without the permission of the Governor conveyed in writing under the hand of the Colonial Secretary.

(3.) Any permission referred to in this section may be given subject to such conditions restrictions and limitations as the Governor may think fit.

(4.) All permissions and licences previously given to alien enemies in the Colony shall absolutely cease and determine from the date of coming into operation of this Ordinance.

5.—(1.) When an alien enemy has been ordered to quit the Colony, or has been made a prisoner of war or has been detained for any other reason, or is about to be made a prisoner of war or to be detained for any other reason, or is absent from the Colony, it shall be lawful for the Governor to appoint any person whom he may think fit as liquidator to wind up the affairs of any trade formerly carried on in the Colony by such alien enemy, whether on his own account or on account of himself and a partner or on account of an employer or principal, and to wind up the personal affairs of such alien enemy.

Winding up of trade formerly carried on by alien enemies or on their behalf, and of their personal affairs.

(2.) Such liquidator may be appointed although such alien enemy may have been carrying on such trade wholly or partly on behalf of a person who is not an alien enemy.

(3.) Such liquidator may be appointed although the trade carried on in the Colony by such alien enemy may have been a branch or the head office of a trade carried on also outside the Colony.

(4.) The appointment of any such liquidator shall be made by writing under the hand of the Colonial Secretary, and such writing shall be conclusive evidence of such appointment for all purposes whatsoever until the appointment has been revoked.

(5.) It shall be lawful for the Governor to revoke any such appointment at any moment in his absolute discretion, and upon the communication of such revocation to the liquidator his powers as liquidator shall absolutely cease and determine, without prejudice however to any acts *bonâ fide* done by him as liquidator before the communication of such revocation of such appointment, and without prejudice to the rights of any persons who may *bonâ fide* deal with him without notice of any such revocation.

(6.) The rights and powers of any such liquidator shall take effect from the date of his appointment.

(7.) Any such liquidator shall for all purposes whatsoever have as full rights and powers as if the whole of the business previously carried on by such alien enemy, and all the property of every description previously employed in or in connection with such trade, and all the property in the Colony of such alien enemy, or standing in his name, had been absolutely assigned to such liquidator, and as if all the contracts of such trade, and all the contracts of such alien enemy with regard to his private affairs, had originally been entered into with such liquidator: Provided that no such liquidator shall, as against any third parties, be entitled to insist on the continuance of any partnership or agency or any contract for the performance of any personal service by such alien enemy, otherwise than may be necessary for the purposes of such winding up.

(8.) Any proceedings which if this Ordinance had not come into operation might have been brought in respect of such trade or in respect of the private affairs of such alien enemy may be brought by or against such liquidator: Provided that no liquidator shall incur any liability in respect of any such winding up beyond the assets which may have come to his hand and which shall not have been *bonâ fide* parted with by him in the course of such winding up, and provided that no liquidator shall incur any personal liability in respect of any such winding up except for such acts or defaults as would be criminal in the case of a natural person.

(9.) Any such winding up may be carried out without any authority for any act or omission being required from any person outside the Colony.

(10.) Every such winding up shall, subject to the just rights of any other persons, be carried out as for the benefit of the persons entitled to the profits of such trade, or to any property dealt with by the liquidator, and all proceeds realised by such winding up shall be paid into a bank approved of by the Governor to await the ultimate disposal thereof in accordance with such law as may be enacted, or such directions as may be given by the Governor, in that behalf.

(11.) In case the assets of any such trade, or the personal assets of any such alien enemy, shall be or become insufficient to meet all the corresponding liabilities, such assets shall be applied in the following order of priority:—

Firstly, all sums of money due to secured creditors, up to the value of their respective securities.

Secondly, the expenses incurred by the liquidator in the course of such winding up, including the rent of any business premises formerly occupied by such alien enemy which shall accrue due while such premises are occupied by the liquidator for the purposes of such winding up.

Thirdly, a sum of money equal to two and a half per cent. on the total assets realised or brought to credit by the liquidator, to be retained by him as remuneration for his loss of time and trouble.

Fourthly, the salary or wages of any clerk or servant in respect of services rendered since the 31st day of July, 1914, less any sum of money due by such clerk or servant to such alien enemy, or to the compradore of such alien enemy.

Fifthly, all sums of money due to the Crown.

Sixthly, all other liabilities rateably *pari passu*, whether due to persons within or without the Colony.

(12.) Subject to the provisions of this Ordinance every such liquidator shall conform with any directions which may be given to him by the Governor.

Prohibition against carrying on the trade of an alien enemy.

6.—(1.) No person shall without the permission of the Governor carry on or engage in the trade or any part of the trade previously carried on by any alien enemy.

(2.) Any such permission may be given subject to such conditions limitations and restrictions as the Governor may think fit.

(3.) If any person acts in any way for any former principal of such alien enemy, or corresponds or deals with any person with whom such alien enemy formerly had trade relations, he shall be presumed to be carrying on the trade previously carried on by such alien enemy, unless he shall prove to the satisfaction of the magistrate or the court or the jury as the case may be that he has *bonâ fide* established new trade relations with such principal or person without the intervention or assistance of such alien enemy and that he is not trading in any way on account of or for the benefit of any alien enemy.

Inspection, obtaining of information, and search.

7.—(1.) In any case in which it is suspected that any offence under this Ordinance has been committed by any person and in any case in which it is anticipated that any such offence is about to be committed by any person, a magistrate may on oath being made before him to that effect authorise by warrant under his hand and seal, which may be in the form set forth in Form No. 1 in the Schedule hereto, any person or persons named in the said warrant:—

(a.) To inspect all books and documents belonging to or under the control of any person by whom it is suspected or anticipated that such offence has been or is about to be committed:

(b.) To require any person whom he may consider able to give any information respecting the business or trade of any person by whom it is suspected or anticipated that such an offence has been or is about to be committed to give such information:

(c.) If accompanied by a police officer, or if himself a police officer, to search any premises specified in the information as having been or being used in connection with such business or trade:

(d.) To seize and take possession of all books documents and things discovered in the course of any such inspection or search which may appear to furnish any evidence that any offence under this Ordinance has been or was about to be committed:

(e.) To do all such acts and things as may be reasonably necessary for the purpose of effecting such search.

(2.) In any case in which by reason of the apparent urgency of the occasion it shall appear to be impracticable to obtain such warrant from a magistrate in time, it shall be lawful for the Captain Superintendent of Police, or the Deputy Superintendent of Police, or any Assistant Superintendent of Police, by order in writing under his hand, which may be in the form set forth in Form No. 2 in the Schedule hereto, on such grounds as he may think fit and without any information being laid or sworn, to authorise any person or persons named in such order to do all such acts and things as he or they might have been authorised to do by a warrant issued by a magistrate under sub-section (1) of this section.

(3.) Every person who refuses or neglects to produce any books or documents belonging to or under his control or in his possession or physical custody, or to give any information within his knowledge, on demand, to any person or persons authorised by any such warrant or order in writing aforesaid to inspect such books or documents or to require such information, and every person who obstructs any inspection search or seizure authorised by any such warrant or order in writing aforesaid, shall be deemed to commit an offence against this Ordinance.

8. Every person who commits any offence against this Ordinance shall be deemed to be guilty of a misdemeanour and shall be liable upon conviction either summarily or on indictment to imprisonment for any term not exceeding twelve months and to a fine not exceeding five thousand dollars. Penalty.

9. No prosecution shall be instituted under this Ordinance without the consent of the Attorney General. Consent of Attorney General.

10. Nothing in this Ordinance contained shall be deemed to effect the rights or remedies of any person against any alien enemy, except in so far as the liabilities of such alien enemy may have been discharged towards such person by a liquidator appointed under this Ordinance. Rights against alien enemies not affected.

11. Any powers given under this Ordinance shall be in addition to and not in derogation of any other powers with respect to alien enemies or any other powers of His Majesty. Saving of other powers.

Passed the Legislative Council of Hongkong, this 27th day of October, 1914.

M. J. BREEN,  
*Clerk of Councils.*

Assented to by His Excellency the Governor, the 27th day of October, 1914.

CLAUD SEVERN,  
*Colonial Secretary.*

**SCHEDULE.**

**FORM No. 1.**

**WARRANT.**

*The Alien Enemies (Winding up) Ordinance, 1914, s. 7.*  
Hongkong.

To each and all of the Officers of the Police Force of the Colony of Hongkong and to.....  
.....

Oath having been made before the undersigned a Magistrate of the said Colony that an offence under the Alien Enemies (Winding up) Ordinance, 1914, has been committed (or that it is anticipated that an offence under the Alien Enemies (Winding up) Ordinance, 1914, is about to be

committed) by.....  
of.....Victoria in  
the said Colony namely that the said.....  
unlawfully did on or about the.....day  
of.....1914.....  
.....  
and that the said.....  
uses (or has used) the premises.....  
.....  
in connection with his (or their) business or trade :

These are therefore to authorise you in His Majesty's name :—

- (a.) To inspect all books and documents belonging to or under the control of the said..... :
- (b.) To require any person whom you may consider able to give any information respecting the business or trade of the said..... to give such information :
- (c.) If accompanied by a police officer or if yourself a police officer to search the premises..... :
- (d.) To seize and take possession of all books documents and things discovered in the course of such inspection or search which may appear to furnish any evidence that any offence under the said Ordinance has been or was about to be committed :
- (e.) To do all such acts and things as may be reasonably necessary for the purpose of effecting such inspection search or seizure.

Dated this.....day of .....19.....

[L.S.]

.....  
Magistrate.

FORM No. 2.

ORDER.

*The Alien Enemies (Winding up) Ordinance, 1914, s. 7.*

Hongkong.

To each and all of the Officers of the Police Force of the Colony of Hongkong and to.....

Whereas it has been made to appear to the undersigned that an offence under the Alien Enemies (Winding up) Ordinance, 1914, has been committed (or that it is anticipated that an offence under the Alien Enemies (Winding up) Ordinance, 1914, is about to be committed) by.....  
of.....Victoria in the said Colony  
namely that the said .....  
unlawfully did on or about the.....day of  
.....1914.....  
.....  
and that the said.....  
uses (or has used) the premises .....  
.....  
in connection with his (or their) business or trade :

These are therefore to authorise you in His Majesty's name :—

- (a.) To inspect all books and documents belonging to or under the control of the said.....

- (b.) To require any person whom you may consider able to give any information respecting the business or trade of the said.....  
.....to give such information :
- (c.) If accompanied by a police officer or if yourself a police officer to search the premises.....  
..... :
- (d.) To seize and take possession of all books documents and things discovered in the course of such inspection or search which may appear to furnish any evidence that any offence under the said Ordinance has been or was about to be committed :
- (e.) To do all such acts and things as may be reasonably necessary for the purpose of effecting such inspection search or seizure.

Dated this.....day of.....19.....

.....  
*Captain Superintendent of Police.*  
*Deputy Superintendent of Police.*  
*Assistant Superintendent of Police.*