

WESTERN PACIFIC HIGH COMMISSION.

No. 1 of 1916



[L.S.]

EYRE HUTSON,

Acting High Commissioner.

7th April, 1916.

KING'S REGULATION

TO PROVIDE FOR THE DISPOSAL IN CERTAIN
CASES OF THE TRADE OF ALIEN ENEMIES.

Made by His Britannic Majesty's Acting High Commissioner
for the Western Pacific under the provisions of the
Pacific Order in Council, 1893.

In the name of His Majesty, George the Fifth, by the
Grace of God of the United Kingdom of Great
Britain and Ireland and of the British Dominions
beyond the Seas King, Defender of the Faith,
Emperor of India.

[4th May, 1916.]

1. This Regulation may be cited for all purposes as the SHORT TITLE.
Tonga (Alien Enemy Trade Disposal) Regulation 1916.

2. In this Regulation, unless the context otherwise INTERPRETATION.
requires—

“ Alien enemy ” means an alien whose sovereign or
state is at war with His Britannic Majesty, and
includes any naturalized British or Tongan sub-
ject who previous to naturalization was a subject
of any sovereign or state now at war with His
Britannic Majesty and any person who, under
the provisions of any Ordinance or enactment in
force in Tonga, has been or may hereafter be
deported or required to reside and remain within
any specified area place or district, and also
includes every body corporate incorporated in
enemy territory.

“ Enemy territory ” means territory belonging to
or in the occupation of any sovereign or state
that now is or hereafter may be at war with His
Britannic Majesty.

“ Person,” except so far as relates to the imposition of the penalty of imprisonment, includes a body corporate and a firm.

“ Consul ” means His Britannic Majesty’s Agent and Consul in Tonga.

“ Tonga ” means the Kingdom of Tonga.

ALIEN ENEMY
CHARACTER—
HOW PROVED.

3. If any question arises as to whether any person is an alien enemy or not, or whether any body corporate is incorporated in enemy territory or not, it shall be incumbent upon the person alleging that he is not an alien enemy or that such body corporate is not incorporated in enemy territory to prove the same to the satisfaction of the Consul whose decision thereon shall be final and binding.

POWER OF
CONSUL TO
APPOINT
LIQUIDATOR.

4. When the Consul is satisfied, in respect of any person carrying on business in Tonga, that any alien enemy, whether resident in Tonga or elsewhere, is interested in that business, or bears, or at any time since the commencement of the present war with Germany, has borne such a relation to any other person being or carrying on business in enemy territory, as to render, in his opinion, the exercise of the powers herein conferred expedient, the Consul may, by writing under his hand, appoint a liquidator of such person as aforesaid, under this Regulation.

Any such appointment may be at any time in like manner revoked.

DUTIES OF
LIQUIDATOR.

5. It shall be the duty of the liquidator so appointed to take and retain possession of all property whatsoever then and thereafter belonging to such person, and of all premises occupied by him, and to collect, receive, and retain all moneys payable to such person : provided that the liquidator shall do no new business, and shall be empowered to disclaim all current contracts : provided nevertheless that he may accept shipments of goods to such person actually made before the date of the coming into force of this Regulation.

CONDUCT OF
BUSINESS FOR
PURPOSES OF
LIQUIDATION.

6. The liquidator may, if and so far as he thinks fit, carry on the business of such person as aforesaid, or allow such business to be carried on by the directors, agents and servants of such person, under his control and supervision, for the purpose of the liquidation of the business of such person.

RESTRICTION OF
POWERS OF
DIRECTORS &c.
OF COMPANY.

7. While the liquidator remains in office under this Regulation no director, agent, or servant of the person as aforesaid shall continue to act as such save with the permission of the liquidator, and so far as such permission extends.

PAYMENT BY
LIQUIDATOR OF
LIABILITIES OF
COMPANY

8. The liquidator may, out of the moneys of the person as aforesaid received by him pay and discharge any debts or liabilities of such person on such evidence as seems to him sufficient : provided that enemy creditors shall not be allowed to claim and no provision by way of dividend or otherwise shall be made for them, but the said moneys shall be used only in the discharge of debts or liabilities due to non-enemy creditors (enemy subjects in Tonga being deemed to be non-enemies for this purpose).

DAMAGES BY
REASON OF
DISCLAIMER OF
CONTRACT.

9. In the event of any liquidator disclaiming any contract as hereinbefore provided, the other contracting party may prove in liquidation for any damage actually foreseen at the time of such disclaimer. Any such damage shall be assessed by the Consul, whose decision thereon shall be final and binding.

10. The liquidator appointed under this Regulation shall effect the sale of the existing stocks in trade, and the collection of the book debts of the person as aforesaid, but he shall not sell the goodwill of the business of such person nor his lands, buildings, or trade marks.

SALE OF STOCK
&c. OF COM-
PANY.

11. No director, agent or servant of the person as aforesaid, and no other person shall in any manner obstruct or interfere with the liquidator, or with any agent, servant, or representative of the liquidator in the exercise or performance of any of his powers, duties or authorities under this Regulation.

OBSTRUCTION
OF LIQUIDATOR
BY AGENT OF
COMPANY.

12. No director, agent, or servant of the person as aforesaid, and no person who has at any time since the commencement of the present war with Germany, been or acted as a director, agent or servant as aforesaid shall withhold from the liquidator any information relating to the business of such person as aforesaid, on being required by the liquidator to supply such information.

OBLIGATION ON
DIRECTORS &c.
TO GIVE
INFORMATION TO
LIQUIDATOR.

13. So long as a liquidator remains in office under this Regulation, no person shall directly or indirectly pay any money to or for the benefit of the person as aforesaid, or be in any manner knowingly concerned in the payment of any money to or for the benefit of such person, otherwise than through the liquidator.

NO PAYMENTS
TO COMPANY
EXCEPT
THROUGH
LIQUIDATOR.

14. All powers conferred upon the liquidator by this Regulation may be exercised by him either personally or through such agent, servant or other representative as he may think fit to appoint in that behalf.

POWER OF
LIQUIDATOR TO
APPOINT AGENT.

15.—(1) All moneys of any person received by the liquidator shall be paid on deposit into a bank to await the disposal thereof in accordance with any such Regulation as may be made, or any such direction as may be given from time to time by the Consul in that behalf, including the payment out of such deposit of such allowance to any alien enemy for the support of himself and his family as may be deemed expedient in the circumstances of each particular case.

DISPOSAL OF
PROCEEDS OF
LIQUIDATION.

(2) Such moneys shall be charged with all expenses incurred by the liquidator in the exercise of his powers under this Regulation including the remuneration, approved by the Consul, of the liquidator and of any agent, servant, or representative appointed by the liquidator as aforesaid.

16. The liquidator may exercise in the name and on behalf of the person as aforesaid, all rights of action from time to time vested in such person.

EXERCISE OF
RIGHTS OF
ACTION BY THE
LIQUIDATOR.

17. If the Consul is satisfied, in respect of any person carrying on business in Tonga that any alien enemy, whether resident in Tonga or elsewhere, is interested in that business, and that the person is carrying on business under any name, description or representation calculated to mislead the public as to the persons interested in that business or as to the nature of that business, or as to the relationship between such person and alien enemies, the Consul may by notice in the Tonga Government Gazette prohibit that person from continuing to carry on business in Tonga under the same name, description or representation after a date to be specified in the notice as aforesaid.

POWER OF
CONSUL TO CLOSE
BUSINESS IN
CERTAIN CASES
BY NOTICE.

18. After the date specified in such notice the person therein referred to shall not carry on business in Tonga under the name, description, or representation so specified

PROHIBITION
AGAINST CON-
TINUING BUSI-
NESS AFTER
NOTICE.

in the notice, or under any other name, description, or representation which is a colourable imitation thereof, or is otherwise equivalent thereto ; and no person shall act as the agent, servant, or partner of that person in respect of the carrying on of business in manner aforesaid.

ACTS DONE FOR
WINDING UP
BUSINESS NOT
TO BE DEEMED
"CARRYING ON."

19. Acts done merely for the purpose of winding up or discontinuing the business of the person shall not be deemed to be the carrying-on of business within the meaning of clauses seventeen and eighteen hereof.

PENALTY.

20. Any person who commits any breach of any of the provisions of this Regulation shall be liable, on summary conviction, to imprisonment for any term not exceeding twelve months or to a fine not exceeding one hundred pounds or to both such fine and imprisonment.

COMMENCEMENT
OF REGULATION.

21. This Regulation shall take effect from and after the date of its publication in the Western Pacific High Commission Gazette.

Published and exhibited in the Public Office of the High Commissioner for the Western Pacific this seventh day of April, one thousand nine hundred and sixteen.

By Command,

A. L. AYTON,

Acting Secretary to His Britannic Majesty's
High Commissioner for the Western Pacific.

Suva, Fiji: Printed by S. BACH,

Printer to the Government of His Britannic Majesty's High Commission for the Western Pacific.
[Price, 1s.]

1916.