



SUPPLEMENT No. 2

TO

THE CYPRUS GAZETTE No. 2893 OF 11TH DECEMBER, 1940.

LEGISLATION.

THE STATUTE LAWS OF CYPRUS

No. 28 of 1940.

A. by

15/1941

A LAW TO AMEND THE TRADING WITH THE ENEMY LAWS,
1939 AND 1940.

W. D. BATTERSHILL,
Governor.

[*4th December, 1940.*]

BE it enacted by His Excellency the Governor and
Commander-in-Chief of the Colony of Cyprus as
follows :—

1. This Law may be cited as the Trading with the Enemy Short title.
(Amendment No. 2) Law, 1940, and shall be read as one
with the Trading with the Enemy Laws, 1939 and 1940, 16 of 1939
(hereinafter referred to as "the principal Law"), and the 21 of 1940
principal Law and this Law may together be cited as the
Trading with the Enemy Laws, 1939 to (No. 2) 1940.

Amendment
of section 3
of the
principal
Law.

2. Section 3 of the principal Law is hereby amended as follows:—

- (a) by the insertion in sub-section (1) after the words “Any person who trades with” (in line 1) of the words “or attempts to trade with”;
- (b) by the insertion in paragraph (b) of sub-section (2) after the words “trading with the enemy” (in lines 2 and 3) of the words “and any reference in this Law to an attempt to trade with the enemy shall be construed accordingly”;
- (c) by the insertion after sub-section (3) of the following sub-section:—

“(3A) In any proceedings for an offence of trading with the enemy, the fact that any document has been despatched addressed to a person in enemy territory shall, unless the contrary is proved, be evidence, as against any person who was a party to the despatch of the document, that the person to whom the document was despatched was an enemy.”

Amendment
of section 4
of the
principal
Law.

3. Sub-section (1) of section 4 of the principal Law is hereby amended as follows:—

- (a) by the deletion from paragraph (c) of the word “or” (in line 4);
- (b) by the insertion in paragraph (d) after the words “His Majesty;” (in lines 2 and 3) of the word “and”;
- (c) by the insertion after paragraph (d) of the following paragraph:—

“(e) as respects any business carried on in enemy territory, any individual or body of persons (whether corporate or unincorporate) carrying on that business;”;

- (d) by the deletion of the words “does not include any person by reason only that he is an enemy subject” and the substitution therefor of the words “does not include any individual by reason only that he is an enemy subject”.

Insertion of
new sub-
section (5) in
section 5 of
the principal
Law.

4.—(1) Section 5 of the principal Law is hereby amended by the insertion after sub-section (4) thereof of the following sub-section:—

“(5) Where the Governor appoints an inspector or supervisor under this section, any remuneration of, and any costs, charges and expenses incurred by, the inspector or supervisor, as the case may be, and any other costs, charges and expenses incurred in connection with the control and supervision of the work of such

R. by sec. 3 27/5/41

inspector or supervisor shall, to such amount as may be certified by the Governor, be defrayed out of the assets of the person or business in respect of whom or of which the inspector or supervisor has been appointed, and, as from the date of the certificate, be charged on those assets in priority to any other charges thereon."

(2) This section shall be deemed to have had effect as from the 31st day of July, 1940.

5. The principal Law is hereby amended by the insertion after section 5 of the following section:—

"Power to control and wind up certain businesses.

5A.—(1) Where any business is being carried on in the Colony by, or on behalf of, or under the direction of, persons all or any of whom are enemies or enemy subjects or appear to the Governor to be associated with enemies, the Governor may, if he thinks it expedient so to do, make—

Insertion of new section 5A in the principal Law.

(a) an order (hereafter in this section referred to as a 'restriction order') prohibiting the carrying on the business either absolutely or except for such purposes and subject to such conditions as may be specified in the order; or

(b) an order (hereafter in this section referred to as a 'winding up order') requiring the business to be wound up,

and the making of a restriction order as respects any business shall not prejudice the power of the Governor, if he thinks it expedient so to do, at any subsequent date to make a winding up order as respects that business.

(2) Where an order under sub-section (1) of this section is made as respects any business, the Governor may, by that or a subsequent order, appoint a controller to control and supervise the carrying out of the order, and, in the case of a winding up order, to conduct the winding up of the business, and may confer on the controller any such powers in relation to the business as are exercisable, under any law relating to companies for the time being in force in England, by a liquidator in the voluntary winding up of a company in relation to the company (including power in the name of the person carrying on the business or in his own name, and by deed or otherwise, to convey or transfer any property, and power

to apply to the District Court to determine any question arising in the carrying out of the order), and may by the order confer on the controller such other powers as the Governor thinks necessary or convenient for the purpose of giving full effect to the order.

(3) Where a restriction order or a winding up order is made as respects any business, the distribution of any assets of the business which are distributed while the order is in force shall be subject to the same rules as to preferential payments as are applicable to the distribution of the assets of a company which is being wound up, and the said assets of the business shall, so far as they are available for discharging unsecured debts, be applied in discharging unsecured debts due to creditors of the business who are not enemies in priority to unsecured debts due to any other creditors, and any balance, after providing for the discharge of all liabilities of the business, shall be distributed among the persons interested in the business in such manner as the Governor may direct :

Provided that the provisions of this sub-section shall, in their application to the distribution of any money or other property which would, in accordance with those provisions, fall to be paid or transferred to an enemy, whether as a creditor or otherwise, have effect subject to the provisions of section 9 of this Law (which relates to the collection of enemy debts and the custody of enemy property) and of any order made under that section.

(4) Where any business for which a controller has been appointed under this section has assets in enemy territory, the controller shall, if in his opinion it is practicable so to do, cause an estimate to be prepared—

- (a) of the value of those assets ;
- (b) of the amount of any liabilities of the business to creditors, whether secured or unsecured, who are enemies ;
- (c) of the amount of the claims of persons who are enemies to participate, otherwise than as creditors of the business, in any distribution of assets of the business made while an order under sub-section (1) of this section is in force as respects the business ;

and, where such an estimate is made, the said liabilities and claims shall, for the purposes of this section, be deemed to have been satisfied out of the said assets of the business in enemy territory, or to have been satisfied thereout so far as those assets will go, and only the balance (if any) shall rank for satisfaction out of the other assets of the business.

(5) Where an estimate has been prepared under the last preceding sub-section, a certificate of the controller as to the value or amount of any assets, claims or liabilities to which the estimate relates shall be conclusive for the purpose of determining the amount of the assets of the business available for discharging the other liabilities of the business and for distribution amongst other persons claiming to be interested in the business :

Provided that nothing in this sub-section shall affect the rights of creditors of, and other persons interested in, the business against the assets of the business in enemy territory.

(6) The Governor may, on an application made by a controller appointed under this section, after considering the application and any objections which may be made by any person who appears to him to be interested, by order grant the controller a release, and an order of the Governor under this sub-section shall discharge the controller from all liability in respect of any act done or default made by him in the exercise and performance of his powers and duties as controller ; but any such order may be revoked by the Governor on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(7) If any person contravenes, or fails to comply with, the provisions of any order made under sub-section (1) of this section, he shall be guilty of an offence of trading with the enemy.

(8) Where an order under sub-section (1) of this section has been made as respects a business carried on by any individuals or by a company, no bankruptcy petition, or petition for sequestration or summary sequestration against the individuals, or petition for the winding up of the company, shall be presented, or resolution for the winding up of the company passed, or

steps for the enforcement of the rights of any creditors of the individuals or company taken, without the consent of the Governor, but where the business is carried on by a company the Governor may present a petition for the winding up of the company by the District Court, and the making of an order under this section shall be a ground on which the company may be wound up by such Court.

(9) Where an order is made under this section appointing a controller for any business, any remuneration of, and any costs, charges and expenses incurred by, the controller, and any other costs, charges and expenses incurred in connection with the control and supervision of the carrying out of the order, shall, to such amount as may be certified by the Governor, be defrayed out of the assets of the business, and as from the date of the certificate, be charged on those assets in priority to any other charges thereon."

Amendment
of section 9 of
the principal
Law.

6. Section 9 of the principal Law is hereby amended by the insertion after sub-section (7) of the following sub-sections, and sub-section (8) shall be re-numbered (10):—

"(8) The rights, powers, duties and liabilities which may be conferred and imposed by the Governor on the custodian of enemy property under sub-section (1) of this section shall, where it appears to the Governor that it is expedient that any business should be carried on or continue to be carried on in or from the Colony, include such rights, powers, duties and liabilities as respects the property and money mentioned in paragraph (d) of the said sub-section (1) as, in the opinion of the Governor, are necessary or expedient in order to enable that business so to be carried on.

(9) The power of the Governor under sub-section (1) of this section shall include power, where the custodian dies or for any other reason ceases to hold office as such, by order to vest in his successor any property or right which was vested in the first mentioned custodian at the time of his dying or ceasing to hold office."

J. V. W. SHAW,

4th December, 1940.

Colonial Secretary.