

COMMONWEALTH ACT No. 108

AN ACT TO PUNISH ACTS OF EVASION OF THE LAWS ON THE NATIONALIZATION OF CERTAIN RIGHTS, FRANCHISES OR PRIVILEGES

Be it enacted by the National Assembly of the Philippines

Section 1. Penalty — In all cases in which any constitutional or legal provisions requires Philippine or any other specific citizenship as a requisite for the exercise or enjoyment of a right, franchise or privilege, any citizen of the Philippines or of any other specific country who allows his name or citizenship to be used for the purpose of evading such provision, and any alien or foreigner profiting thereby, shall be punished by imprisonment for not less than five nor more than fifteen years, and by a fine of not less than the value of the right franchise or privilege, which is enjoyed or acquired in violation of the provisions hereof but in no case less than five thousand pesos.

The fact that the citizen of the Philippines or of any specific country charged with a violation of this Act had, at the time of the acquisition of his holdings in the corporations or associations referred to in section two of this Act, no real or personal property, credit or other assets the value of which shall at least be equivalent to said holdings, shall be evidence of a violation of this Act.¹

Section 2. Simulation of minimum capital stock — In all cases in which a constitutional or legal provision requires that, in order that a corporation or association may exercise or enjoy a right, franchise or privilege, not less than a certain per centum of its capital must be owned by citizens of the Philippines or of any other specific country, it shall be unlawful to falsely simulate the existence of such minimum stock or capital as owned by such citizens, for the purpose of evading said provision. The president or managers and directors or trustees of corporations or associations convicted of a violation of this section shall be punished by imprisonment of not less than five nor more than fifteen years, and by a fine not less than the value of the right, franchise or privilege, enjoyed or acquired in violation of the provisions hereof but in no case less than five thousand pesos.²

Section 2-A. Unlawful use, Exploitation or enjoyment — Any person, corporation, or association which, having in its name or under its control, a right, franchise, privilege, property or business, the exercise or enjoyment of which is expressly reserved by the Constitution or the laws to citizens of the Philippines or of any other specific country, or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens, permits or allows the use, exploitation or enjoyment thereof by a person, corporation or association not possessing the requisites prescribed by a the Constitution or the laws of the Philippines; or leases, or in any other way, transfers or conveys said right, franchise, privilege, property or business to a person, corporation or association not otherwise qualified under the Constitution, or the provisions of the existing laws; or in any manner permits or allows any person, not possessing the qualifications required by the Constitution, or existing laws to acquire, use, exploit or enjoy a right, franchise, privilege, property or business, the exercise and enjoyment of which are expressly reserved by the Constitution or existing laws to citizens of the Philippines or of any other specific country, to intervene in the management, operation, administration or control thereof, whether as an officer, employee or laborer therein with or without remuneration except technical personnel whose employment may be specifically authorized by the Secretary of Justice, and any person who knowingly aids, assists or abets in the planning consummation or perpetration of any of the acts herein above enumerated shall be punished by imprisonment for not less than five nor more than fifteen years and by a fine of not less than the value of the right, franchise or privilege enjoyed or acquired in violation of the provisions hereof but in no case less than five thousand pesos: Provided, however, That the president, managers or persons in charge of corporations, associations or partnerships violating the provisions of this section shall be criminally liable in lieu thereof: Provided, further, That any person, corporation or association shall, in addition to the penalty imposed herein, forfeit such right, franchise, privilege, and the property or business enjoyed or acquired in violation of the provisions of this Act: And provided, finally, That the election of aliens as members of the board of directors or governing body of corporations or associations engaging in partially nationalized activities shall be allowed in proportion to their allowable participation or share in the capital of such entities.³

Section 2-B. Any violation of the provisions of this Act by the spouse of any public official, if both live together, shall be cause for the dismissal of such public official.⁴

Section 2-C. The exercise, possession or control by a Filipino citizen having a common-law relationship with an alien of a right, privilege, property or business, the exercise or enjoyment of which is expressly reserved by the Constitution or the laws to citizens of the Philippines, shall constitute a prima facie evidence of violation of the provisions of Section 2-A hereof.⁵

Section 3. Any corporation or association violating any of the provisions of this Act shall, upon proper court proceedings, be dissolved.

Section 3-A. Reward to informer. — In case of conviction under the provisions of this Act, twenty-five per centum of any fine imposed shall accrue to the benefit of the informer who furnishes to the Government original information leading to said conviction and who shall be ascertained and named in the judgment of the court. If the informer is a dummy, who shall voluntarily take the initiative of reporting to the proper authorities any violation of the provisions of this Act and assist in the prosecution, resulting in the conviction of any person or corporation profiting thereby or involved therein, he shall be entitled to the reward hereof in the sum equivalent to twenty-five per centum of the fine actually paid to or received by the Government, and shall be exempted from the penal liabilities provided for in this Act. 6

Section 4. This Act shall take effect upon its approval.

Approved, October 30, 1936.

Footnotes

*As amended by RA 421, RA 134, RA 6084, and PD 715.

¹Words in bold in the text above are amendments introduced by RA 134, section 1, approved June 14, 1947.

Statutory History of section 1:

Original text —

SEC. 1. In all cases in which any constitutional or legal provision requires Philippine or [United States] citizenship as requisite for the exercise or enjoyment of a right, franchise or privilege, any citizen of the Philippines or [the United States] who allows his name or citizenship to be used for the purpose of evading such provision, and any alien or foreigner profiting thereby, shall be punished by imprisonment for not less than [two] nor more than [ten] years, and by, fine of not less than [two thousand nor more than ten thousand pesos.]

The fact that the citizen of the Philippines or of [the United States] charged with, violation of this Act had, at the time of acquisition of his holdings in the corporations or association referred to in section two of this Act, no real or personal property, credit or other assets the value of which shall at least be equivalent to said holdings, shall be admissible as circumstantial evidence of, violation of this act. (Ed. Note: Words in brackets were deleted in RA 134, *supra*)

²Words in bold in the text above are amendments introduced by RA 134, section 1, approved June 14, 1947.

Statutory History of section 2:

Original text

SEC. 2. In all cases in which a constitutional or legal provisions requires that, in order that a corporation or association may exercise or enjoy a right, franchise or privilege, not less than

a certain per centum of its capital must be owned by citizens of the Philippines or [the United States, or both.] It shall be unlawful to falsely simulate the existence of such minimum of stock or capital as owned by such citizens of the Philippines [or the United States or both,] for the purpose of evading said provision. The president or managers and directors or trustees of corporations or associations convicted of a violation of this section shall be punished by imprisonment [for] not less than [two] nor more than [ten] years, and by a fine of not less than [two thousand nor more than ten thousand pesos.] (Ed. Note: Words in brackets were deleted in RA 134, *supra*.)

³Words in bold in the text above are amendments introduced by PD 715, section 1, promulgated May 28, 1975.

Statutory History of section 2-A:

a) Original text — (inserted by CA 421)

SEC. 2-A. Any person, corporation or association which, having in its name or under its control, a right, franchise, privilege, property or business, the exercise or enjoyment of which is expressly reserved by the constitution or the laws [of the Philippines] to citizens of the Philippines or of [the United States,] or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens, permits or allows the use, exploitation or enjoyment thereof by a person, corporation or association not possessing the requisites prescribed by the Constitution or the laws of the Philippines; or leases, or in any other way transfers or conveys said right, franchise, privilege, property or business to a person, corporation or association not otherwise qualified under the Constitution, or the provisions of the existing [Acts,] any person who knowingly aids, assists, or abets in the planning, consummation or perpetuation of any of the acts herein above enumerated, shall be punished by imprisonment for not less than [two] nor more than [ten] years, and by a fine of not less than [two thousand nor more than ten thousand pesos:] Provided, however, That presidents, managers, or persons in charge of corporations, associations or partnerships violating the provisions of this section shall be criminally liable in lieu thereof. (Ed, Note: Words in brackets were deleted in RA 134, *infra*.)

b) Words in bold in the next immediately following are amendments introduced by RA 134, section 2, approved June 14, 1947.

SEC. 2-A. Any person, corporation, or association which, having in its name or under its control, a right franchise, privilege, property or business, the exercise or enjoyment of which is expressly reserved by the Constitution or the laws to citizens of the Philippines or of any other specific country, or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens, permits or allows the use, exploitation or enjoyment thereof by a person, corporation or association not possessing the requisites prescribed by the Constitution or the laws of the Philippines; or leases, or in any other way transfers or conveys said right, franchise, privilege, property or business to a person, corporation or association not otherwise qualified under the constitution, or the provisions of the existing laws; or in any manner permits or allows any person, not possessing the qualifications required by the Constitution or existing laws to acquire, use, exploit or enjoy a right, franchise, privilege, property or business, the exercise and enjoyment of which are expressly reserved by the constitution or existing laws to citizens of the Philippines or of any other specific country, to intervene in the management, operation, administration or control thereof, whether as an officer, employee or laborer therein, with or without remuneration except technical personnel whose employment may be specifically authorized by the [President of the Philippines upon recommendation of the Department Head concerned, if any,] and any person who knowingly aids, assists or abets in the planning, consummation or perpetration of any of the acts hereinabove enumerated shall be punished by imprisonment for not less than five nor more than fifteen years and by a fine of not less than the value of the right, franchise, or privilege enjoyed or acquired in violation of the provisions hereof but in no case less than five thousand pesos: Provided, however, That the president, managers, or persons in charge of corporations, associations, or partnerships violating the provisions of this section shall be criminally liable in Lieu thereof: Provided further, That any person, corporation or association shall, in addition to the penalty imposed herein, forfeit such right,

franchise, privilege, and the property or business enjoyed or acquired in violation of the provisions of this Act. (Ed. Note: Words in brackets were deleted in PD 715, supra.)

⁴Inserted by CA 421, section 1, approved May 31, 1939.

⁵Inserted by RA 6084, section 1, approved August 4, 1969.

⁶. Inserted by RA 134, section 3, approved June 14,¹⁹⁴⁷.