



Trading with the Enemy Act 1939

1939 CHAPTER 89

General and Supplementary Provisions

8 Provisions with respect to money payable to, or received by, a Clearing Office under 24 and 25 Geo. 5. c. 31

(1) Nothing in this Act shall affect the operation of section one of the Debts Clearing Offices and Import Restrictions Act, 1934, or of any order under that section, in so far as the said section or order relates to the payment to, and collection by, a Clearing Office of debts to which such an order applies ; but—

(a) notwithstanding anything in subsection (6) of the said section or in any such order as aforesaid, any sum received by a Clearing Office by virtue of such an order, being—

(i) a sum which is so received at a time when the Sovereign Power of the country with respect to which the order has been made is at war with His Majesty, or

(ii) a sum which has been so received before the commencement of the war between that Power and His Majesty and has not, before the commencement of that war, ceased to be in the possession or under the control of the Clearing Office,

shall be retained by the Clearing Office, subject to any order which may be made under this Act requiring the Clearing Office to pay that sum to a custodian of enemy property, and subject to the provisions of subsections (4) and (6) of the said section with respect to overpayments made to the Clearing Office ; and

(b) any sum which a Clearing Office is required by paragraph (a) of this subsection to retain subject as aforesaid, shall, except in so far as it represents an overpayment made to the Clearing Office, be deemed for the purposes of this Act to be money which would, but for the existence of a state of war, be payable to or for the benefit of a person who is an enemy.

(2) There may be retained by a Clearing Office out of any sum which, by virtue of any order under this Act, is payable by that office to a custodian of enemy property such reasonable commission, not exceeding two per cent. of that sum, as the Treasury think

fit; and the amount of any commission so retained by a Clearing Office shall be paid into the Exchequer' of the United Kingdom.

9 False statements and obstruction

- (1) If any person, for the purpose of obtaining any authority or sanction under this Act, or in giving any information for the purposes of this Act or of any order made thereunder, knowingly or recklessly makes a statement which is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.
- (2) Every person who wilfully obstructs any person in the exercise of any powers conferred on him by or under this Act shall be liable on summary conviction to a fine not exceeding fifty pounds.

10 Offences by corporations

Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

11 Expenses of, and exercise of powers by, Board of Trade

- (1) The expenses incurred for the purposes of this Act by the Board of Trade shall be defrayed out of moneys provided by Parliament.
- (2) Anything required or authorised under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board.

12 Evidence of authority or sanction of Secretary of State, Treasury or Board of Trade

Any document stating that any authority or sanction is given under any of the provisions of this Act by a Secretary of State, the Treasury or the Board of Trade, and purporting to be signed on behalf of the Secretary of State, the Treasury or the Board of Trade, or by a person who is empowered by this Act to do anything which may be done thereunder by the Board, shall be evidence of the facts stated in the document.

13 Application to Scotland

In the application of this Act to Scotland, " chose in action " means " right of action or incorporeal moveable," " defendant " means " person accused," and " real or personal property " means " heritable or moveable property."

14 Extension of Act to colonies, and c

His Majesty may by Order in Council direct that the provisions of this Act other than this section shall extend, with such exceptions, adaptations and modifications, if any, as may be prescribed by or under the Order—

- (a) to the Isle of Man or any of the Channel Islands,
- (b) to Newfoundland or any colony,
- (c) to any British protectorate,
- (d) to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty, and is being exercised by His Majesty's Government in the United Kingdom, and
- (e) (to the extent of His Majesty's jurisdiction therein) to any other country or territory being a foreign country or territory in which for the time being His Majesty has jurisdiction.

15 Interpretation

- (1) In this Act the following expressions have the meanings hereby respectively assigned to them:—

" enemy subject " means—

- (a) an individual who, not being either a British subject or a British protected person, possesses the nationality of a State at war with His Majesty, or
- (b) a body of persons constituted or incorporated in, or under the laws of, any such State; and

" enemy territory " means any area which is under the sovereignty of, or in the occupation of, a Power with whom His Majesty is at war, not being an area in the occupation of His Majesty or of a Power allied with His Majesty.

- (2) A certificate of a Secretary of State that any area is or was under the sovereignty of, or in the occupation of any Power, or as to the time at which any area became or ceased to be under such sovereignty or in such occupation shall, for the purposes of any proceedings under or arising out of this Act, be conclusive evidence of the facts stated in the certificate.
- (3) In considering for the purposes of any of the provisions of this Act whether any person has been an enemy or an enemy subject, no account shall be taken of any state of affairs existing before the commencement of this Act.
- (4) For the purposes of this Act, a person shall be deemed to be a director of a body corporate if he occupies in relation thereto the position of a director, by whatever name called; and, for the purposes of the provisions of this Act relating to offences by bodies corporate, a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of that body act:

Provided that a person shall not, by reason only that the directors of a body corporate act on advice given by him in a professional capacity, be taken to be a person in accordance with whose directions or instructions those directors act.

- (5) Any power conferred by the preceding provisions of this Act to make an Order in Council or an order shall be construed as including a power, exercisable in the like manner, to vary or revoke the Order in Council or order.

16 Saving of rights of Crown

This Act shall be without prejudice to the exercise of any right or prerogative of the Crown.

17 Short title, commencement and repeal

- (1) This Act may be cited as the Trading with the Enemy Act, 1939.
- (2) This Act shall, if His Majesty by Order in Council so directs, be deemed to have come into operation on such day as may be specified in the Order:

Provided that a person shall not, by virtue of an Order in Council under this subsection, be liable to any penalty in respect of anything done by him before the date of the passing of this Act which was not unlawful at common law.

- (3) The enactments mentioned in the first and second columns of the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule :

Provided that (without prejudice to the operation of subsection (2) of section thirty-eight of the Interpretation Act, 1889) the repeal of the said enactments by this subsection shall not affect the operation of any Order in Council or rules made under section five of the Trading with the Enemy Amendment Act, 1914, and shall not be taken to affect the operation of those enactments as applied or amended by any Order in Council made under the Treaty of Peace Act, 1919, the Treaty of Peace (Austria and Bulgaria) Act, 1920, the Treaty of Peace (Hungary) Act, 1921, or the Treaty of Peace (Turkey) Act, 1924.