

See: Enemy Custodian Order, 1939.
(1940/201-)

Reference: Enemy Custodian Order 6.

No. 353.

THE TRADING WITH THE ENEMY LAW, 1939.

191/41.

ORDER MADE BY THE GOVERNOR UNDER SECTION 9.

W. D. BATTERSHILL,
Governor.

I, the Governor, in exercise of the powers conferred by section 9 of the Trading with the Enemy Law, 1939, do hereby order as follows:—

1. This Order may be cited as the Trading with the Enemy (Custodian) Order, 1940; and shall come into operation on the date of its publication in the *Gazette*.

Citation and date of coming into operation.

2. In this Order, unless the context otherwise requires,—

Interpretation.

“company” includes—

- (a) every company formed and registered under the provisions of the Companies (Limited Liability) Laws, 1922 to 1940, and carrying on business in the Colony, and
- (b) every company incorporated outside the Colony and having established a place of business in the Colony and carrying on business in the Colony;

18 of 1922
16 of 1931
4 of 1934
20 of 1938
17 of 1940

“Custodian” means the person appointed by the Governor to be custodian of enemy property for the Colony under the provisions of section 9 (1) of the Law;

“enemy” means—

- (a) any State, or Sovereign of a State, at war with His Majesty,
(b) any individual resident in enemy territory,
(c) any body of persons (whether corporate or unincorporate) carrying on business in any place, if and so long as the body is controlled by a person who, under this definition, is an enemy,
(d) any body of persons constituted or incorporated in, or under the laws of, a State at war with His Majesty,

but does not include any person by reason only that he is an enemy subject;

“enemy property” means any property for the time being belonging to or held or managed on behalf of an enemy or an enemy subject;

“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;

“property” means movable or immovable property, and includes any estate or interest in movable or immovable property, any negotiable instrument, debt or chose in action, and any other right or interest, whether in possession or not.

Payment of debts, dividends, bonus or interest, share of profits or securities, etc., payable to enemy.

(1) 3.—(1) Any 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, and any money which is to be deemed for the purposes of the Law to be money which would, but for the existence of a state of war, be so payable, shall be paid to the Custodian.

(2) Without prejudice to the generality of the foregoing paragraph, there shall be paid to the Custodian in particular any 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, by way of :

- (a) dividends, bonus or interest, in respect of any shares, stock, debentures, debenture stock, bonds or other securities, issued by any company or government, or any municipal or other authority ;
- (b) payment of any securities which have become payable on maturity or by being drawn for payment or otherwise ;
- (c) interest or other payment in respect of any loan or deposit whether secured or unsecured ;
- (d) profits or share of profits in any business, syndicate or other mercantile enterprise or adventure ;
- (e) debt, including money in possession of any bankers, whether on deposit or current account or whether held in trust or in custody for or for the benefit of an enemy ;
- (f) money due under or in respect of any policy of assurance ;
- (g) rent or other payment reserved out of or payable in respect of property or any interest therein ;
- (h) payment in respect of any requisitioned property ;
- (i) payment arising under any trust, will or settlement.

(3) Any money which would, but for the provisions of section 6 or section 7 of the Law be payable to any purported assignee, transferee or allottee, shall be paid to the Custodian.

(4) Any money required to be paid under the foregoing paragraphs of this clause to the Custodian, shall be paid :

- (a) within fourteen days after the coming into operation of this Order, if the money has become payable or would, but for the existence of a state of war, have become payable before the coming into operation of this Order ; or
- (b) within fourteen days after the day on which a person becomes an enemy, if the money is required to be paid to the Custodian by reason of that person being an enemy and the money has become payable or would, but for the existence of a state of war, have become payable before the day on which that person becomes an enemy ; or
- (c) in any other case, within fourteen days after the day on which the money becomes payable or would, but for the existence of a state of war, become payable ;
- (d) in cases in which money would, but for the existence of a state of war, be payable in a foreign currency to or for the benefit of a person who is an enemy (other than cases in which money is

payable under a contract in which provision is made for a specified rate of exchange), in English currency at the middle rate of exchange for telegraphic transfers in London on the date on which the payment became due to that person, or if there was no such rate on that date at such rate as the Treasurer may determine as appropriate for ascertaining the value in English currency of the money payable on that date.

1914. (5) 4.—(1) The Governor, in any case where it appears to him to be expedient to do so, may by order vest in the Custodian such enemy property as may be prescribed or the right to transfer such other enemy property as may be prescribed. Any order so made by the Governor is hereinafter referred to as "Vesting Order".

Vesting
enemy
property
in the
Custodian.

(2) The Custodian shall, except in so far as may be otherwise prescribed by the Vesting Order, have such powers with regard to the enemy property or the right to transfer enemy property vested in him by a Vesting Order as are prescribed by this Order.

(3) A Vesting Order as respects property of any description shall be sufficient to vest in the Custodian any property or the right to transfer any property as provided by the Vesting Order without the necessity of any further registration, assurance or document.

(4) If the benefit of an application made by or on behalf or for the benefit of an enemy or enemy subject for the registration of any patent is by an order made under the Law vested in the Custodian, the certificate of registration may be issued to the Custodian as patentee and any privileges and rights thus conferred under the Patents Law, 1924, shall be deemed to be property vested in the Custodian by such order as aforesaid.

12 of 1924

1914. (5) 5.—(1) The Custodian shall, subject to the provisions of the next succeeding paragraph and except in so far as the Governor either generally or in any specified case may otherwise direct or order, hold any money paid to him under this Order and any property or the right to transfer any property vested in him under any Vesting Order until the termination of the present war, and shall thereafter deal with the same in such manner as the Governor shall direct.

Custodian to
hold money
paid to him
or property
vested
in him.

(2) The Custodian, acting under a general or special direction of the Governor, may at any time pay over any particular money paid to him under this Order or transfer any particular property in respect of which a Vesting Order has been made to or for the benefit of the person who would have been entitled thereto but for the operation of the Law or any Order made thereunder or to any person appearing to the Custodian to be authorized by such person to receive the same.

(3) Any money paid to the Custodian under this Order and any property in respect of which a Vesting Order has been made shall not be liable to be attached or otherwise taken in execution.

(4) The receipt of the Custodian or any person duly authorized by him to sign receipts on his behalf for any money paid to him under this Order shall be a good discharge to the person paying the same.

6. No person shall, without the consent of the Governor, save as directed by this Order, transfer, part with or otherwise deal with the property of any enemy.

Not to
transfer
property of
enemy
without
consent of
Governor.

Duty to notify the Custodian.

(5) 7.—(1) Any person who holds or manages for or on behalf of an enemy any property shall, within fourteen days after the coming into operation of this Order (or, if the property comes into his possession or under his control after the coming into operation of this Order or the person for or on behalf of whom property is held or managed, becomes an enemy after that date, then within fourteen days after the time when the property comes into the possession or under the control of the first mentioned person or the person for or on behalf of whom the property is held or managed becomes an enemy, as the case may be), by notice in writing communicate the fact to the Custodian, and shall furnish the Custodian with such returns, accounts and other information, and produce for inspection such documents in relation thereto, as the Custodian may require.

(2) Any enemy subject who holds or manages any property or any person who holds or manages any property for or on behalf of an enemy subject shall furnish the Custodian with such returns, accounts and other information, and produce for inspection, such documents in relation thereto, as the Custodian may require.

inserted in the history of every company which is a subsidiary of a share transfer to the Custodian 191/41.

(3) Every company shall, within fourteen days after the coming into operation of this Order, by notice in writing communicate to the Custodian full particulars of all shares, stock, debentures, and debenture stock, bonds or other securities issued by the company which are held by or for the benefit of an enemy; and, if any shares, stock, debentures or debenture stock, bonds or other securities issued by any company are held by or for the benefit of any person who becomes an enemy after the coming into operation of this Order, the company shall, within fourteen days after the day on which that person becomes an enemy, by like notice communicate to the Custodian the like particulars in regard to that person.

(4) Every partner of every firm, any partner of which has, at any time before the coming into operation of this Order, become an enemy, or to which money has been lent for the purpose of the business of the firm by a person who so became an enemy, shall, within fourteen days after the coming into operation of this Order, by notice in writing communicate to the Custodian full particulars as to any share of profits or interest due to such enemy; and every partner of every firm, any partner of which becomes an enemy after the coming into operation of this Order, or to which a person who becomes an enemy has lent money for the purpose aforesaid before the day on which that person becomes an enemy, shall, within fourteen days after the day on which the partner or person concerned becomes an enemy, by like notice communicate to the Custodian the like particulars in regard to that partner or person.

Power of company to buy shares or stock of its capital sold by the Custodian.

(6) 8.—(1) Where, in exercise of the powers conferred upon him, the Custodian purposes to sell any shares or stock forming part of the capital of any company, or any securities issued by the company, in respect of which a Vesting Order has been made, then any law or any regulation of the company to the contrary notwithstanding, the company may, with the consent of the Governor, purchase the shares, stock or securities, and any shares, stock or securities so purchased may from time to time be re-issued by the company.

(2) Where the Custodian executes a transfer of any shares, stock or securities which he is empowered to transfer by a Vesting Order, the company or other body in whose books the shares, stock or securities are registered shall, upon the receipt of the transfer so executed by the Custodian and upon being required by him so to do, register the shares,

stock or securities in the name of the Custodian or other transferee notwithstanding any regulation or stipulation of the company or other body, and notwithstanding that the Custodian is not in possession of the certificate, script or other document of title relating to the shares, stock or securities transferred ; but such registration shall be without prejudice to any lien or charge in favour of the company or other body, or to any other lien or charge of which the Custodian has notice.

9.—(1) There shall be retained by the Custodian fees equal to five per centum of—

Custodian fees.

(a) the amount of moneys paid to him, and

(b) the value at the date of vesting of any property which is vested in him or of which the right of transfer is vested in him.

(2) The value of any property for the purpose of assessing the fees shall be the price which in the opinion of the Governor such property would fetch if sold in the open market. The fees in respect of such property may be retained out of any proceeds of the sale or transfer thereof or out of any income accrued therefrom.

by virtue of the general provisions of the Act
for the amount
of the proceeds of the sale
of the property
to be retained
out of the proceeds
of the sale or transfer
thereof or out of any income
accrued therefrom.
 2/5/46

10. Sub-section (2) of section 11 of the Interpretation Law, 1935, (which relates to the effect of repeals) shall apply with respect to revocation by this Order or any provisions of any previous order as it applies to the repeal by any law passed after the commencement of that law or any other enactment.

Sub-section (2) of section 11 of Law 26 of 1935 to apply to this Order.

11. The Custodian of Enemy Property Orders, 1939 and 1940, are hereby revoked.

Revocation. Gazette Supplement No. 3: 20.9.1939 4.5.1940

Made at Nicosia, this 3rd day of September, 1940.

(M.P. 108/39.)

No. 354.

THE DEFENCE REGULATIONS, 1940 TO (No. 2) 1940.

ORDER MADE BY THE GOVERNOR UNDER REGULATION 45.

W. D. BATTERSHILL,
Governor.

I, the Governor, in exercise of the powers conferred by Regulation 45 of the Defence Regulations, 1940 to (No. 2) 1940, do hereby order as follows :—

1. This Order may be cited as the Navigation Order, 1940.
2. A person authorized under this Order may give directions to prohibit or restrict the entrance or departure of ships or of any ship to or from any port in the Colony or to restrict the movements of ships or of any ship within the area of or the approaches to any port in the Colony.
3. The following persons are authorized to act under this Order :—
 The Naval Control Service Officer, Famagusta.
 The Comptroller of Customs and Inland Revenue.
4. Any directions given under this Order shall cease to have effect seven days after the time at which they are given unless in the meantime they have been confirmed by the Governor.

Made at Nicosia, this 7th day of September, 1940.

(M.P. 66/39.)