



# Trading with the Enemy Act

1939 CHAPTER 89 2 and 3 Geo 6

*Trading with the Enemy and matters relating thereto*

## 1 Penalties for trading with the enemy.

- (1) Any person who trades with [<sup>F1</sup>or attempts to trade with] the enemy within the meaning of this Act shall be guilty of an offence of trading with the enemy, and shall be liable—
- (a) on conviction on indictment, to [<sup>F2</sup>imprisonment] for a term not exceeding seven years or to a fine or to both such [<sup>F2</sup>imprisonment] and a fine, or
  - (b) on summary conviction, to imprisonment for a term not exceeding twelve months or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine;

and the court may in any case order that any goods or money in respect of which the offence has been committed shall be forfeited.

- (2) For the purposes of this Act a person shall be deemed to have traded with the enemy—
- (a) if he has had any commercial, financial or other intercourse or dealings with, or for the benefit of, an enemy, and, in particular, but without prejudice to the generality of the foregoing provision, if he has—
    - (i) supplied any goods to or for the benefit of an enemy, or obtained any goods from an enemy, or traded in, or carried, any goods consigned to or from an enemy or destined for or coming from enemy territory, or
    - (ii) paid or transmitted any money, negotiable instrument or security for money to or for the benefit of an enemy or to a place in enemy territory, or
    - (iii) performed any obligation to, or discharged any obligation of, an enemy, whether the obligation was undertaken before or after the commencement of this Act; or
  - (b) if he has done anything which, under the following provisions of this Act, is to be treated as trading with the enemy:

[<sup>F1</sup>and any reference in this Act to an attempt to trade with the enemy shall be construed accordingly.]

*Changes to legislation: There are currently no known outstanding effects for the Trading with the Enemy Act, Cross Heading: Trading with the Enemy and matters relating thereto. (See end of Document for details)*

Provided that a person shall not be deemed to have traded with the enemy by reason only that he has—

- (i) done anything under an authority given generally or specially by, or by any person authorised in that behalf by, a Secretary of State, the Treasury or the Board of Trade, or
- (ii) received payment from an enemy of a sum of money due in respect of a transaction under which all obligations on the part of the person receiving payment [<sup>F3</sup>had already been performed when the payment was received, and had been performed at a time when the person from whom the payment was received was not an enemy.]

- (3) Any reference in this section to an enemy shall be construed as including a reference to a person acting on behalf of an enemy.

[<sup>F4</sup>(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.]

- (4) A prosecution for an offence of trading with the enemy shall not be instituted in England or Northern Ireland except by, or with the consent of, the Director of Public Prosecutions or the Attorney General for Northern Ireland, as the case may be: . . . <sup>F5</sup>

#### Textual Amendments

- F1 Words inserted by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\), Sch. 2 para. 2\(1\)](#)
- F2 Word substituted by virtue of [Criminal Justice Act 1948 \(c. 58\), s.1\(1\)](#), [Criminal Justice Act \(Northern Ireland\) 1953 \(c. 14\), s.1\(1\)](#) and [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 221\(1\)](#)
- F3 Words substituted by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\), Sch. 2 para. 2\(2\)](#)
- F4 [S. 1\(3A\)](#) inserted by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\) Sch. 2 para. 2\(4\)](#)
- F5 Proviso repealed by [Criminal Jurisdiction Act 1975 \(c. 59\), Sch. 6 Pt. I](#)

#### Modifications etc. (not altering text)

- C1 [S.I.](#) excluded by [Patents, Designs, Copyright and Trade Marks \(Emergency\) Act 1939 \(c. 107\), ss. 1\(1\), 4\(1\)\(4\), 5\(2\)](#)

## 2 Definition of enemy.

- (1) Subject to the provisions of this section, the expression “enemy” for the purposes of this Act 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 section, is an enemy, . . . <sup>F6</sup>
- (d) any body of persons constituted or incorporated in, or under the laws of, a State at war with His Majesty; [<sup>F7</sup>and
- (e) as respects any business carried on in enemy territory, any individual or body of persons (whether corporate or unincorporate) carrying on that business;]

but [<sup>F8</sup>does not include any individual by reason only that he is an enemy subject].

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- (2) The Board of Trade may by order direct that any person specified in the order shall, for the purposes of this Act, be deemed to be, while so specified, an enemy.

**Textual Amendments**

- F6** Word repealed by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\), Sch. 2 para. 3\(a\)](#)  
**F7** Words inserted by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\), Sch. 2 para. 3\(a\)](#)  
**F8** Words substituted by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\), Sch. 2 para. 3\(b\)](#)

**3 Inspection and supervision of businesses.**

- (1) The Board of Trade, if they think it expedient for securing compliance with section one of this Act so to do, may by written order authorise a specified person (hereafter in this section referred to as “an inspector”) to inspect any books or documents belonging to, or under the control of, a person named in the order, and to require that person and any other person to give such information in his possession with respect to any business carried on by the named person as the inspector may demand, and for the purposes aforesaid to enter on any premises used for the purposes of that business.
- (2) If, on a report made by an inspector as respects any business, it appears to the Board of Trade that it is expedient, for securing compliance with section one of this Act, that the business should be subject to supervision, the Board may appoint a person (hereafter in this section referred to as “a supervisor”) to supervise the business, with such powers as the Board may determine.
- (3) If any person, without reasonable cause, fails to produce for inspection, or furnish, to an inspector or a supervisor any document or information which he is duly requested by the inspector or supervisor so to produce or furnish, that person shall be liable, on summary conviction, to a fine not exceeding [<sup>F9</sup>level 3 on the standard scale] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.
- (4) If any person, with intent to evade the provisions of this section, destroys, mutilates or defaces any book or other document which an inspector or a supervisor is or may be authorised under this section to inspect, that person shall be liable—
- on conviction on indictment, to [<sup>F10</sup>imprisonment] for a term not exceeding five years or to a fine or to both such [<sup>F10</sup>imprisonment] and a fine, or
  - on summary conviction, to imprisonment for a term not exceeding twelve months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

**Textual Amendments**

- F9** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46, \(S.\) Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G and \(N.I.\) by 1984/703 \(N.I. 3\), arts. 5, 6](#)  
**F10** Word substituted by virtue of [Criminal Justice Act 1948 \(c. 58\), s.1\(1\), Criminal Justice Act \(Northern Ireland\) 1953 \(c. 14\), s.1\(1\) and Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 221\(1\)](#)

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**[<sup>F11</sup>3A Power to control and wind up certain businesses.**

(1) Where any business is being carried on in the United Kingdom 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 Board of Trade to be associated with enemies, the Board of Trade may, if they think it expedient so to do, make—

- (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 Board, if they think it expedient so to do, at any subsequent date to make a winding up order as respects that business.

(2) Where an order under subsection (1) of this section is made as respects any business, the Board of Trade 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 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 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 Board think 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 Board of Trade may direct:

Provided that the provisions of this subsection 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 seven of this Act (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

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business made while an order under subsection (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 subsection, 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 subsection 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 Board of Trade 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 them to be interested, by order grant the controller a release, and an order of the Board under this subsection shall discharge the controller from 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 Board 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 subsection (1) of this section, he shall be guilty of an offence of trading with the enemy.
- (8) Where an order under subsection (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 Board of Trade, but where the business is carried on by a company the Board of Trade may present a petition for the winding up of the company by the court, and the making of an order under this section shall be a ground on which the company may be wound up by the 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 Board of Trade, 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].

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**Textual Amendments**

**F11** S. 3A inserted by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\)](#), [Sch. 2 para. 4](#)

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**Modifications etc. (not altering text)**

**C2** S. 3A applied by [Emergency Laws \(Miscellaneous Provisions Act 1953 \(c. 47\)](#), [Sch. 2 para. 9](#)

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#### 4 Transfer of negotiable instruments and choses in action by enemies.

- (1) No assignment of a chose in action made by or on behalf of an enemy shall, except with the sanction of the Treasury, be effective so as to confer on any person any rights or remedies in respect of the chose in action; and neither a transfer of a negotiable instrument by or on behalf of an enemy, nor any subsequent transfer thereof, shall, except with the sanction of the Treasury, be effective so as to confer any rights or remedies against any party to the instrument.
- (2) The preceding subsection shall apply in relation to any transfer of any coupon or other security transferable by delivery, not being a negotiable instrument, as it applies in relation to any assignment of a chose in action.
- (3) If any person by payment or otherwise purports to discharge any liability from which he is relieved by this section, knowing the facts by virtue of which he is so relieved, he shall be deemed to have thereby traded with the enemy:  
Provided that in any proceedings for an offence of trading with the enemy which are taken by virtue of this subsection it shall be a defence for the defendant to prove that at the time when he purported to discharge the liability in question he had reasonable grounds for believing that the liability was enforceable against him by order of a competent court, not being either a court having jurisdiction in the United Kingdom or [F12 a court having jurisdiction in enemy territory], and would be enforced against him by such an order.
- (4) Where a claim in respect of a negotiable instrument or chose in action is made against any person who has reasonable cause to believe that, if he satisfied the claim, he would be thereby committing an offence of trading with the enemy, that person may pay into the High Court or Court of Session any sum which, but for the provisions of subsection (1) of this section, would be due in respect of the claim, and thereupon that sum shall, subject to rules of court, be dealt with according to any order of the court, and the payment shall for all purposes be a good discharge to that person.
- (5) Nothing in this section shall apply to securities to which the next following section applies.

#### Textual Amendments

F12 Words substituted by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\), Sch. 2 para. 5](#)

#### Modifications etc. (not altering text)

C3 S. 4 applied by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\), sch. 2 para. 9](#)

#### 5 Transfer and allotment of securities.

- (1) If—
  - (a) any securities to which this section applies are transferred by or on behalf of an enemy, or
  - (b) any such securities, being securities issued by a company within the meaning of [F13 the M1 Companies Act 1948], or any corresponding enactment in force in Northern Ireland, are allotted or transferred to, or for the benefit of, an enemy subject without the consent of the Board of Trade;

then, except with the sanction of the Board of Trade, the transferee or allottee shall not, by virtue of the transfer or allotment, have any rights or remedies in respect of the

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securities; and no body corporate by whom the securities were issued or are managed shall take any cognisance of, or otherwise act upon, any such transfer except under the authority of the Board.

- (2) No share warrants, stock certificates or bonds, being warrants, certificates or bonds payable to bearer, shall be issued in respect of any securities to which this section applies, being securities registered or inscribed in the name of an enemy or of a person acting on behalf of, or for the benefit of, an enemy.
- (3) Any person who contravenes the provisions of this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding [<sup>F14</sup>level 3 on the standard scale] or to both such imprisonment and such fine.
- (4) This section applies to the following securities, that is to say, annuities, stock, shares, bonds, debentures or debenture stock registered or inscribed in any register, branch register or other book kept in the United Kingdom.

#### Textual Amendments

**F13** Words substituted by virtue of [Companies Act 1948 \(c. 38\)](#), **s. 459(10)**

**F14** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**, (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) by 1984/703 (N.I. 3), arts. 5, 6

#### Modifications etc. (not altering text)

**C4** [S. 5](#) applied by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\)](#), **Sch. 2 para. 9**

#### Marginal Citations

**M1** [1948 c. 38](#).

## 6 Purchase of enemy currency.

- (1) Purchasing enemy currency shall be treated as trading with the enemy.
- (2) In this section the expression “enemy currency” means any such notes or coins as circulate as currency in any area under the sovereignty 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, or any such other notes or coins as are for the time being declared by an order of the Treasury to be enemy currency.

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