



Trading with the Enemy Act 1939

1939 CHAPTER 89

Trading with the Enemy and matters relating thereto

1 Penalties for trading with the enemy

(1) Any person who trades 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 penal servitude for a term not exceeding seven years or to a fine or to both such penal servitude 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:

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

Status: This is the original version (as it was originally enacted).

- (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 had been performed before the commencement of the war by reason of which the person from whom the payment was received became 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.
- (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 :

Provided that this subsection shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remanding, in custody or on bail, of any person charged with such an offence, notwithstanding that the necessary consent to the institution of a prosecution for the offence has not been obtained.

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, or
 - (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.
- (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.

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 fifty pounds 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—
 - (a) on conviction on indictment, to penal servitude for a term not exceeding five years or to a fine or to both such penal servitude and a fine, or
 - (b) 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.

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 a court of a State at war with His Majesty, 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.

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 the Companies Act, 1929, 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 securities; and no body corporate by whom the securities were issued or are managed shall have 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 one hundred pounds 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.

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.