

Distribution of German Enemy Property Act, 1949

12, 13 & 14 GEO. 6. CH. 85

ARRANGEMENT OF SECTIONS

Section

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CHAPTER 85

An Act to provide for the collection and realisation of German enemy property and for the distribution of the proceeds thereof; and for purposes connected with the matters aforesaid. [16th December 1949.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) His Majesty may by Order in Council make provision for the collection and realisation of German enemy property and for the distribution of the proceeds thereof, to such extent as may be prescribed by the Order, to persons who establish claims in respect of German enemy debts. Collection, realisation and distribution of German enemy property.

(2) Without prejudice to the generality of the preceding subsection, an Order in Council under this section may make provision as to the following matters:—

- (a) the appointment by the Board of Trade of an administrator for the purposes of the Order, and the conferring and imposing on that administrator of such powers and duties as may be prescribed by the Order;
- (b) the transfer and vesting of German enemy property to and in the administrator, and the discharge of any person specified in the Order from liability in respect of things done or omitted to be done in relation to property transferred from him to the administrator;
- (c) the manner and time in which claims in respect of German enemy debts are to be put forward, and the furnishing

and verification of information in connection with any such claims, including the production of books and documents;

- (d) the determination, as respects any such claim, of the question whether the claim is established for the purposes of the Order and of the amount of the claim;
- (e) the distribution from time to time of the proceeds of the realisation of German enemy property to persons whose claims in respect of German enemy debts have been established for the purposes of the Order;
- (f) the charging of fees to persons making claims in respect of German enemy debts, and the recovery of those fees by deduction from the amounts to be distributed as aforesaid or otherwise;
- (g) the disposal of sums in the administrator's hands which, by reason of a failure to discover the whereabouts of persons to whom the sums ought to be distributed or for any other reason, it is not practicable to distribute.

(3) The administrator appointed under this section shall be a corporation sole under the name of the Administrator of German Enemy Property, and is in this Act referred to as "the administrator".

(4) Without prejudice to the generality of the preceding provisions of this section, an Order in Council made under this section may—

- (a) exclude from the application of the Order such classes of claims as may be prescribed by the Order;
- (b) differentiate between different classes of claims, as respects the priority in which payments are to be made and the extent of the payments;
- (c) make provision for enabling proceeds of German enemy property which belonged to, or was held or managed on behalf of, a particular person or body of persons to be distributed to persons establishing claims in respect of debts due from that person or body.

(5) The Board of Trade may by order prescribe forms for the purposes of any Order in Council made under this section and in particular for the making of claims and the furnishing of information.

(6) Notwithstanding anything in this section, the Board of Trade may give a direction to the administrator requiring him to transfer to or for the benefit of any person specified in the direction any German enemy property, or the proceeds of any German enemy property, to which that person would have

been entitled but for the operation of the Trading with the Enemy Act, 1939, or any order made thereunder, and the administrator shall comply with any such direction.

(7) Where any German enemy property, on or at any time after the third day of September, nineteen hundred and thirty-nine, belonged to, or was held or managed on behalf of, a German company, and it appears to the Board of Trade that the company was on the said day controlled, directly or indirectly, by a United Kingdom company, the Board may treat that property for the purposes of the last preceding subsection, to such extent as the Board think fit having regard to the extent of the interest of the United Kingdom company in the German company, as property to which the United Kingdom company would have been entitled but for the operation of the Trading with the Enemy Act, 1939 or any order made thereunder.

In this subsection, the expression "German company" means a body incorporated in, or under the laws of, Germany, and the expression "United Kingdom company" means a body incorporated in, or under the laws of, the United Kingdom.

2.—(1) If any person who—

Offences.

- (a) is prohibited by or under an Order in Council made under the preceding section from dealing with any German enemy property otherwise than with the consent of the administrator, or
- (b) is required by or under such an Order to transfer German enemy property to the administrator or otherwise to deal with that property in accordance with the directions of the administrator,

contravenes or fails to comply with the prohibition or requirement, he shall be guilty of an offence under this section.

(2) Any person who—

- (a) without reasonable excuse, fails to comply with any requirement made by or under any such Order to furnish information or to produce books or documents; or
- (b) in giving information for the purpose of any such Order knowingly or recklessly makes a statement which is false in a material particular;

shall be guilty of an offence under this section.

(3) Any person who is guilty of an offence under this section shall be liable—

- (a) on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine; or

- (b) on conviction on indictment to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such imprisonment and such fine.

(4) Where any offence under this section has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

In this subsection the expression "director", in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

Arrangements
for the
resolution of
conflicting
claims to
German
property.

3. Where arrangements have been made by or on behalf of His Majesty's Government in the United Kingdom with the Government of any country outside the United Kingdom or any person acting on their behalf for the resolution of conflicting claims to German enemy property and corresponding property under the control of the Government of that country,—

- (a) the Treasury may, for the purpose of giving effect to those arrangements, direct the administrator to transfer to such person as may be specified in the direction such German enemy property or proceeds thereof as may be so specified, and the administrator shall comply with any such direction; and
- (b) any property transferred in pursuance of those arrangements to any person acting on behalf of His Majesty's Government in the United Kingdom shall be transferred to the administrator and shall be dealt with in like manner as German enemy property.

German
property in
colonies and
other
territories.

4.—(1) Where, in pursuance of arrangements made by or on behalf of His Majesty's Government in the United Kingdom, there is placed at the disposal of that Government any money representing property in—

- (a) any colony,
- (b) any territory under His Majesty's protection in which for the time being His Majesty has jurisdiction, or
- (c) any territory for the time being administered under the trusteeship system of the United Nations by His Majesty's Government in the United Kingdom,

being property which belonged to, or was held or managed on behalf of, German nationals or bodies incorporated or constituted in, or under the laws of, Germany, or bodies controlled by German nationals or such bodies as aforesaid, the money shall be paid to the administrator and shall be dealt with in like manner as German enemy property within the meaning of this Act.

(2) If the Treasury direct that any money transferred to the Custodian of Enemy Property for England under any Order in Council made under the Palestine Act, 1948, as representing German enemy assets held by the Palestine Custodian of Enemy Property shall be paid to the administrator, that money shall be dealt with in like manner as German enemy property within the meaning of this Act.

5.—(1) Any power under this Act to make Orders in Council or orders shall include a power to revoke or vary any Orders in Council or orders made in pursuance of that power. Orders in Council and orders.

(2) All Orders in Council made under section one of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

6. 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. Exercise of powers by the Board of Trade.

7.—(1) The expenses of the Board of Trade under this Act shall be defrayed out of moneys provided by Parliament. Expenses and receipts.

(2) All fees recovered under this Act, and any sums paid by the administrator to any person acting on behalf of His Majesty's Government in the United Kingdom, shall be paid into the Exchequer.

8.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say— Interpretation.

“ German enemy debt ” means—

(a) any sum due at the passing of this Act in respect of an obligation incurred before the third day of September, nineteen hundred and thirty-nine, which on that day was an obligation of any of the following persons—

- (i) the German State;
- (ii) any individual who on that day was a German national resident in Germany;
- (iii) any body of persons (whether corporate or unincorporate) which on that day was a body incorporated or constituted in or under the laws of Germany;

to any of the following persons—

- (iv) His Majesty's Government in the United Kingdom;
- (v) any British subject or British protected person resident or carrying on business on that day in the United Kingdom;
- (vi) any body of persons (whether corporate or unincorporate) which on that day was a body incorporated or constituted under the laws in force in the United Kingdom;

except that where any person or body of persons specified in sub-paragraph (v) or (vi) hereof carried on business on the said day both in and outside the United Kingdom, any sum attributable to the business carried on outside the United Kingdom shall be excluded;

(b) any sum, not included in paragraph (a) hereof, being—

- (i) a sum due at the passing of this Act, in respect of any bond of the German External Loan, 1924, or the German Government International 5½ per cent. Loan, 1930, being a bond enfaced in accordance with the Supplementary Agreement for the execution of Article 2 of the Anglo-German Transfer Agreement of the first day of July, nineteen hundred and thirty-eight;
- (ii) a sum due on the seventh day of May, nineteen hundred and forty-five, in respect of any bond of the Austrian Government International Loan, 1930, or the Austrian Government Credit Anstalt Bonds, 1936, being a bond enfaced as aforesaid;
- (iii) a sum due on the seventh day of May, nineteen hundred and forty-five, in respect of any bond of the Austrian Government International Guaranteed Loan 1933–1953, or the Austrian Government Guaranteed Conversion Loan, 1934–1959, which was in the beneficial ownership of a British holder (within the meaning of Article 4 of the said Anglo-German Transfer Agreement) on the first day of July, nineteen hundred and thirty-eight; or,
- (iv) a sum due at the passing of this Act in respect of any bond of the Konversionskasse 4 per cent. Sterling Bonds.

“German enemy property” means property which, on such day as may be appointed by an Order in Council made under section one of this Act, is, or at any time thereafter becomes, subject to control under section seven of the Trading with the Enemy Act, 1939, being property, or the proceeds or income of property, which on or at any time after the third day of September, nineteen hundred and thirty-nine, belonged to, or was held or managed on behalf of,—

(a) the German State;

(b) any individual who, on the said third day of September, nineteen hundred and thirty-nine, or at any time thereafter, was a German national resident in Germany or in any territory under the sovereignty of a State which on or at any time after the said day was at war with His Majesty;

(c) any individual who was a German national on or at any time after the said day and—

(i) was included among the persons specified in any order made under subsection (2) of section two of the Trading with the Enemy Act, 1939; or

(ii) was a person whose property became subject to control under section seven of the said Act at a time when he was not an enemy within the meaning of the said Act;

(d) any body of persons (whether corporate or unincorporate) which on or at any time after the said day was a body incorporated or constituted in, or under the laws of, Germany; and

(e) any body of persons (whether corporate or unincorporate) which on or at any time after the said day was controlled by any such individual or body as is mentioned in paragraph (b), paragraph (c) or paragraph (d) hereof;

“German national” does not include any person who acquired German nationality by reason of the inclusion in the German State after the first day of March, nineteen hundred and thirty-eight, of any territory not comprised therein on that day.

“Germany” means territory comprised in the German State on the first day of March, nineteen hundred and thirty-eight;

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

(2) For the purposes of this Act, a person who at any time was resident in Germany shall be deemed to have been a German national at that time unless it is proved to the satisfaction of the administrator, within such time and in such manner as may be prescribed by an Order in Council or order made under section one of this Act, that he was not a German national at that time.

(3) For the purposes of this Act, property which, or the right to transfer which, is vested in any custodian of enemy property appointed under section seven of the Trading with the Enemy Act, 1939, and property which, by virtue of any order made under the said section seven, cannot be dealt with without the consent of the Board of Trade, shall be deemed to be subject to control under the said section seven.

(4) Any reference in this Act to the Trading with the Enemy Act, 1939, shall be construed as a reference to that Act as amended by or under any other Act.

Application
to Scotland.

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

Application to
Northern
Ireland.

10. In the application of this Act to Northern Ireland, the expression "summary conviction" means conviction subject to and in accordance with the Petty Sessions (Ireland) Act, 1851, and any Act (including any Act of the Parliament of Northern Ireland) amending that Act.

Provisions as
to Isle of Man
and Channel
Islands.

11.—(1) This Act shall extend to the Isle of Man and the Channel Islands.

(2) References in this Act to the United Kingdom, except where the reference is to His Majesty's Government in the United Kingdom, shall be construed as including references to the Isle of Man and the Channel Islands.

(3) References to the Trading with the Enemy Act, 1939, shall include references to that Act as it extends to the Isle of Man and the Channel Islands.

(4) Section two of this Act shall, in its application to the Isle of Man and the Channel Islands, have effect with such exceptions, adaptations and modifications (if any) as may be specified by Order in Council.

Short title.

12. This Act may be cited as the Distribution of German Enemy Property Act, 1949.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Petty Sessions (Ireland) Act, 1851	14 & 15 Vict. c. 93.
Trading with the Enemy Act, 1939	2 & 3 Geo. 6. c. 89.
Palestine Act, 1948	11 & 12 Geo. 6. c. 27.

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