

CYPRUS

TRADING WITH THE ENEMY

CHAPTER 99 OF THE LAWS

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1959

CHAPTER 99.

TRADING WITH THE ENEMY.

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A LAW TO IMPOSE PENALTIES FOR TRADING WITH THE ENEMY, TO MAKE PROVISION AS RESPECTS THE PROPERTY OF ENEMIES AND ENEMY SUBJECTS, AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

1949
Cap. 174.

[3rd September, 1939.]

Short title.

1. This Law may be cited as the Trading with the Enemy Law.

PART I.

INTERPRETATION.

Interpre-
tation.

2. (1) In this Law—

“ 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 Her 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 Her Majesty is at war, not being an area in the occupation of Her Majesty or of a Power allied with Her Majesty, and also any area which the Governor may by order direct to be treated for the purpose of this Law as enemy territory. 2 of 21/40.

(2) A certificate of the Governor 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 Law, be conclusive evidence of the facts stated in the certificate.

(3) In considering for the purposes of any of the provisions of this Law 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 Law.

(4) For the purposes of this Law, 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 Law 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 any of the provisions of this Law to make an order shall be construed as including a power, exercisable in the like manner to vary or revoke the order.

PART II.

TRADING WITH THE ENEMY AND MATTERS RELATING
THERE TO.

Penalties for
trading with
the enemy.
2 of 28/40.

3. (1) Any person who trades with or attempts to trade with the enemy within the meaning of this Law shall be guilty of an offence of trading with the enemy, and shall be liable—

- (a) on conviction upon information to imprisonment for seven years or to a fine of two hundred pounds or to both such imprisonment and fine; or
- (b) on summary conviction before a District Court to imprisonment for one year or to a fine of one hundred pounds or to both such imprisonment and 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 Law 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 Law, or

- (b) if he has done anything which, under the following provisions of this Law, is to be treated as trading with the enemy, and any reference in this Law

to an attempt to trade with the enemy shall be construed accordingly:

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 authorized in that behalf by, the Governor or the Accountant-General; 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 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. ^{2 of 15/41.}

(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) 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. ^{2 of 28/40.}

(5) A prosecution for an offence of trading with the enemy shall not be instituted except by, or with the consent of, the Attorney-General:

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.

4. (1) Subject to the provisions of this section, the expression "enemy" for the purposes of this Law means— ^{Definition of enemy.}

(a) any State, or Sovereign of a State, at war with Her 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,

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(d) any body of persons constituted or incorporated in, or under the laws of, a State at war with Her Majesty, and

(e) as respects any business carried on in enemy territory, any individual or body of persons (whether corporate or unincorporate) carrying that business,

but does not include any individual by reason only that he is an enemy subject.

(2) The Governor with the prior approval of the Secretary of State may by order direct that any person specified in the order shall, for the purposes of this Law, be deemed to be, while so specified, an enemy.

Inspection
and super-
vision of
businesses.

5. (1) The Governor, if he thinks it expedient for securing compliance with section 3 of this Law so to do, may by written order authorize a specified person (hereinafter 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 Governor that it is expedient, for securing compliance with section 3 of this Law, that the business should be subject to supervision, the Governor may appoint a person (hereinafter in this section referred to as "a supervisor") to supervise the business, with such powers as the Governor 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 imprisonment for six months or to a fine of twenty-five pounds, or to both such imprisonment and fine.

(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 authorized under this section to inspect, that person shall be liable, on summary conviction, to imprisonment for three

years or to a fine of one hundred pounds, or to both such imprisonment and fine.

3 of 15/41.

6. (1) Where any business is being carried on in the Colony 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 Governor to be associated with enemies, the Governor may, if he thinks it expedient so to do, make—

Power to control and wind up certain businesses.
5 of 28/40.

(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 Governor, if he thinks 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 Governor 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, under any law relating to companies for the time being in force in England, 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 District 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 Governor thinks 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 Governor 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 10 of this Law (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 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 effect the

rights of creditors of, and other persons interested in, the business against the assets of the business in enemy territory.

(6) The Governor 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 him to be interested, by order grant the controller a release, and an order of the Governor under this subsection shall discharge the controller from all 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 Governor 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 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 Governor, but where the business is carried on by a company the Governor may present a petition for the winding up of the company by the District Court, and the making of an order under this section shall be a ground on which the company may be wound up by such 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 Governor, 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.

Transfer of negotiable instruments and choses in action by enemies.

7. (1) No assignment of a chose in action made by or on behalf of an enemy shall, except with the sanction of the Accountant-General, 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 Accountant-General, 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 Colony or a Court having jurisdiction in enemy territory and would be enforced against him by such an order.

4 of 15/41.

(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 District Court 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 any Rules of Court for the time being in force, 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 section 8 applies.

Transfer and allotment of securities.

8. (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 Law are allotted or transferred to, or for the benefit of, an enemy subject without the consent of the Governor, Cap. 113.

then, except with the sanction of the Governor, 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 take any cognizance of, or otherwise act upon, any such transfer except under the authority of the Governor.

(2) No share warrants, share certificates, 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 six months or to a fine of twenty-five pounds or to both such imprisonment and 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 Colony.

9. (1) Purchasing enemy currency shall be treated as trading with the enemy. Purchase of enemy currency.

(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 Her Majesty is at war, not being an area in the occupation of Her Majesty or of a Power allied with Her Majesty, or any such other notes or coins as are for the time being declared by an order of the Accountant-General to be enemy currency.

PART III.

PROPERTY OF ENEMIES AND ENEMY SUBJECTS.

10. (1) With a view to preventing the payment of money to enemies and of preserving enemy property in contemplation of arrangements to be made at the conclusion of Collection of enemy debts and custody of enemy property.

of peace, the Governor may appoint a custodian of enemy property for the Colony (hereinafter called "the custodian"), and may by order—

- (a) require the payment to the custodian of 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, or which would, but for the the provisions of section 7 or section 8 of this Law, be payable to any other person;
- (b) vest in the custodian such enemy property as may be prescribed, or provide for, and regulate, the vesting in the custodian of such enemy property as may be prescribed;
- (c) vest in the custodian the right to transfer such other enemy property as may be prescribed, being enemy property which has not been, and is not required by the order to be, vested in the custodian;
- (d) confer and impose on the custodian and on any other person such rights, powers, duties and liabilities as may be prescribed as respects—
 - (i) property which has been, or is required to be, vested in the custodian by or under the order,
 - (ii) property of which the right of transfer has been, or is required to be, so vested,
 - (iii) any other enemy property which has not been, and is not required to be, so vested, or
 - (iv) money which has been, or is by the order required to be, paid to the custodian;
- (e) require the payment of the prescribed fees to the custodian in respect of such matters as may be prescribed and regulate the collection of and accounting for such fees;
- (f) require any person to furnish to the custodian such returns, accounts and other information and to produce such documents, as the custodian considers necessary for the discharge of his functions under the order,

and any such order may contain such incidental and supplementary provisions as appear to the Governor to be necessary or expedient for the purposes of the order.

(2) Where any requirement or direction with respect to any money or property is addressed to any person by the

custodian and accompanied by a certificate of the custodian that the money or property is money or property to which an order under this section applies, the certificate shall be evidence of the facts stated therein, and if that person complies with the requirement or direction, he shall not be liable to any action or other legal proceeding by reason only of such compliance.

(3) Where, in pursuance of an order made under this section—

- (a) any money is paid to the custodian;
- (b) any property, or the right to transfer any property, is vested in the custodian; or
- (c) a direction is given to any person by the custodian in relation to any property which appears to the custodian to be property to which the order applies,

neither the payment, vesting or direction nor any proceedings in consequence thereof shall be invalidated or affected by reason only that at a material time—

- (i) some person who was or might have been interested in the money or property, and who was an enemy or an enemy subject, had died or had ceased to be an enemy or an enemy subject, or
- (ii) some person who was so interested, and who was believed by the custodian to be an enemy or an enemy subject, was not an enemy or an enemy subject.

(4) Any order under this section shall have effect notwithstanding anything in any other Law passed before this Law.

(5) If any person pays any debt, or deals with any property, to which any order under this section applies, otherwise than in accordance with the provisions of the order, he shall be liable, on summary conviction, to imprisonment for six months or to a fine of twenty-five pounds or to both such imprisonment and fine; and the payment or dealing shall be void.

(6) If any person, without reasonable cause, fails to produce or furnish, in accordance with the requirements of an order under this section, any document or information which he is required under the order to produce or furnish, he shall be liable, on summary conviction, to a fine of ten pounds for every day on which the default continues.

(7) All fees received by the custodian by virtue of an order under this section shall be paid into the general revenue of the Colony.

6 of 28/40.

(8) The rights, powers, duties and liabilities which may be conferred and imposed by the Governor on the custodian of enemy property under subsection (1) of this section shall, where it appears to the Governor that it is expedient that any business should be carried on or continue to be carried on in or from the Colony, include such rights, powers, duties and liabilities as respects the property and money mentioned in paragraph (d) of the said subsection (1) as, in the opinion of the Governor, are necessary or expedient in order to enable that business so to be carried on.

6 of 28/40.

(9) The power of the Governor under subsection (1) of this section shall include power, where the custodian dies or for any other reason ceases to hold office as such, by order to vest in his successor any property or right which was vested in the first mentioned custodian at the time of his dying or ceasing to hold office.

(10) In this section—

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

(b) the expression “property” means movable or immovable property, and includes any estate or interest in movable or immovable property, any negotiable instrument, debt or other chose in action, and any other right or interest, whether in possession or not; and

(c) the expression “prescribed” means prescribed by an order made under this section.

PART IV.

SUPPLEMENTARY PROVISIONS.

False statements and obstruction.

11. (1) If any person, for the purpose of obtaining any authority or sanction under this Law, or in giving any information for the purposes of this Law 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 six months or to a fine of twenty-five pounds or to both such imprisonment and fine.

(2) Every person who wilfully obstructs any person in the exercise of any powers conferred on him by or under this Law shall be liable, on summary conviction, to a fine of twenty-five pounds.

12. Where any offence under this Law 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.

Offences by corporations.

13. Any document stating that any authority or sanction is given under any of the provisions of this Law by the Governor or the Accountant-General, and purporting to be signed on behalf of the Governor or the Accountant-General, or by a person who is empowered by this Law to do anything which may be done thereunder by the Governor, shall be evidence of the facts stated in the document.

Evidence of authority or sanction of Governor or Accountant-General.

14. (1) Where after the coming into force of this section any area ceases to be enemy territory as defined in this Law (whether by reason of the occupation thereof by Her Majesty or a Power allied with Her Majesty or by reason of its no longer being in the occupation of a Power with whom Her Majesty is at war, or for any other reason) that area, shall for the purposes of sections 6, 7, 8 and 10 of this Law and for the purposes of any order made under section 10 of this Law, save as expressly provided by any such order, be treated as if, until such time as the Governor may by order specify, there had been no such cessation.

Transitional provisions as to areas ceasing to be, or to be treated as, enemy territory. 2 of 23/43.

(2) The foregoing provisions of this section shall, as respects anything done or omitted to be done after the coming into force of this section, apply in relation to any area which ceased to be enemy territory as defined in this Law on or after the 10th day of July, 1943, but before the coming into force of this section, as it applies to any area ceasing to be enemy territory, as so defined, after the coming into force of this section.

(3) Where under subsection (1) of section (2) of this Law (which empowers the Government by order to direct an area to be treated for the purposes of this Law as enemy territory) an order has been made directing any area to be treated as enemy territory and that order is, whether before or after the coming into force of this section, revoked or varied so that it no longer applies to that area, the foregoing provisions of this section shall, with the necessary adaptations, apply in relation to that area as if, on the revocation, or, as the case may be, the variation, of the order, the area had ceased to be enemy territory as defined in this Law.

2 of 1/45.

(4) The foregoing provisions of this section shall, as respects any area which, at the date of the coming into force of section 15 of this Law, is an area under the sovereignty of a Power with whom Her Majesty is then at war, not have effect as respects anything done or omitted to be done on or after that date.

Special provisions as to areas under enemy sovereignty.
3 of 1/45.

15. As respects anything done or omitted to be done on or after the date of the coming into force of this section, any area which on the said date is under the sovereignty of a Power with whom Her Majesty is then at war shall be treated for all the purposes of this Law (including the purposes of any order made thereunder) as enemy territory:

Provided that, in the case of an area which, apart from this section would not be treated as enemy territory, the Governor may by order direct that for all the said purposes or such of the said purposes as may be specified in the order the area shall, as from such day as may be so specified, be treated as not being enemy territory and different days may be specified by such orders as aforesaid in relation to different purposes.

Saving of rights of Crown.

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

Date of commencement.

17. This Law shall be deemed to have come into operation on the 3rd day of September, 1939:

Provided that a person shall not, by virtue of this section, be liable to any penalty in respect of anything done by him before that date of the passing of this Law, which, if it had been done in England, would not have been unlawful in common law.