



# Enemy Property Act 1953

## 1953 CHAPTER 52

### PART I

#### GENERAL PROVISIONS AS TO ENEMY PROPERTY AND PROPERTY TREATED AS ENEMY PROPERTY

#### **1 Circumstances in which ss. 2 and 3 are to apply**

- (1) The two next following sections shall have effect as respects the making or withholding of payments as therein mentioned, and as respects other dealings with property as therein mentioned, at a time within the period beginning with the third day of September, nineteen hundred and thirty-nine and ending with the passing of this Act, where the payment was so made or withheld, or the property was so dealt with, either—
  - (a) by a competent authority acting in good faith and purporting to act under the Trading with the Enemy Act, 1939 (hereinafter referred to as "the Act of 1939") or orders made thereunder, or by such an authority acting in good faith and with intent to give effect, so far as practicable, to the purposes of section seven of that Act (which relates to the collection of enemy debts and custody of enemy property) or to prevent that Act from being contravened, or
  - (b) by any person acting in good faith and in purported compliance with a restriction or obligation imposed by or under the Act of 1939, or
  - (c) by any person acting in good faith and in pursuance of a direction or request given or made by a competent authority purporting to act under the Act of 1939 or orders made thereunder, or given or made by a competent authority acting with such an intent as is mentioned in paragraph (a) of this subsection.
- (2) For the purposes of those sections anything done by a competent authority, or by any person in purported compliance with a restriction or obligation imposed by or under the Act of 1939 or in pursuance of a direction or request of a competent authority, shall be deemed to have been done in good faith unless the contrary is proved.

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## **2 Provisions as to making of certain payments and withholding of payments**

- (1) Where at a time within the period mentioned in the foregoing section—
- (a) a payment was made by or on behalf of any person to a competent authority, or
  - (b) a payment was withheld (whether by way of refusal or of omission to make the payment) by or on behalf of any person, or
  - (c) a payment was made by a competent authority to or for the benefit of a person as being the person who, but for the Act of 1939 or any order made thereunder, would have been entitled thereto,

then, if the payment was made or withheld in the circumstances specified in paragraph (a), (b) or (c) of subsection (1) of the foregoing section, it shall be deemed to have been authorised by the Act of 1939 notwithstanding that apart from this section it was not so authorised, and, in the case of a payment made as mentioned in paragraph (a) of this subsection, the making thereof shall be deemed to have operated, so far as the amount thereof extended, as a release of the person by or on whose behalf it was made.

- (2) Where, in the case of a payment made as mentioned in paragraph (a) or (c) of the last foregoing subsection, the payment (apart from that subsection) was not authorised by or under the Act of 1939—
- (a) if the payment was a payment to a competent authority as mentioned in the said paragraph (a), nothing in that subsection shall be construed as preventing that authority from paying the amount thereof, or any part of that amount, to or for the benefit of any person to or for whose benefit the amount or part could lawfully have been paid apart from this section ;
  - (b) if the payment was a payment by a competent authority as mentioned in the said paragraph (c), nothing in that subsection shall prevent that authority from exercising any right of recovery in respect of the payment, being a right exercisable apart from this section.

## **3 Provisions as to other dealings with property**

- (1) Where at a time within the period mentioned in section one of this Act any property was dealt with in any way other than the making or withholding of a payment as mentioned in the last foregoing section, and, whether by reason that the property was not enemy property at that time or for any other reason, the person who so dealt with the property was not empowered, as against all persons interested in the property, to deal with it in that way, then, if the property was so dealt with in the circumstances specified in paragraph (a), (b) or (c) of subsection (1) of section one of this Act, the person who so dealt with it shall be deemed, as against all persons interested therein, to have been empowered by the Act of 1939 to deal with it in that way:

Provided that in a case falling within either of the two next following subsections the property shall not be deemed to have vested in the transferee otherwise than as mentioned in those subsections.

- (2) If the dealing in question purported to be a transfer of the property on a sale thereof, the property shall be deemed to have vested in the transferee in accordance with the terms of the purported transfer, subject however to any incumbrances to which it would have been subject in his hands if it had then been lawfully transferred to him in those terms on a sale by the person entitled to the property.

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- (3) If the dealing purported to be a transfer of the property by a custodian to or for the benefit of a person as being the person who, but for the Act of 1939 or any order made thereunder, would have been entitled thereto, subsection (1) of this section shall have effect subject to the provisions of subsection (5) thereof; but subject to the said subsection (5) the property shall be deemed to have vested in the transferee as mentioned in the last foregoing subsection.
- (4) If at the time of the dealing the property was not enemy property—
  - (a) nothing in the foregoing provisions of this section or in subsection (3) of section seven of the Act of 1939 (which subsection validated certain dealings with property erroneously treated as enemy property) shall operate in relation to that dealing so as to prevent a person from recovering the property or any proceeds thereof from a competent authority who for the time being has the property or proceeds in his possession or under his control, and
  - (b) nothing in the foregoing provisions of this section shall defeat any right of recovering the property or any proceeds thereof from an administrator of enemy property, being a right exercisable in accordance with any of the post-war enactments relating to enemy property.
- (5) Where the dealing was one falling within subsection (3) of this section, nothing in that subsection or in subsection (1) of this section shall affect any right of recovery from the transferee of property remaining vested in him, or of recovery from the transferee or his personal representatives of damages in respect of any dealing with the property, being a right which would be exercisable apart from this section; and if immediately before the dealing there subsisted in respect of the property a trust of which the person to or for whose benefit the transfer purported to be made was a trustee, nothing in the said subsection (1) or subsection (3) shall be construed as affecting that trust or any right or interest thereunder.
- (6) If at the time of the dealing the property was enemy property, and in consequence of the dealing the property or any proceeds thereof came into the possession or under the control of a custodian, then for the purposes of the post-war enactments relating to enemy property the property or proceeds shall be deemed thereupon to have become vested in the custodian by virtue of section seven of the Act of 1939, and to have continued to be so vested while remaining in his possession or under his control.

#### **4 Income from moneys invested by custodian**

- (1) Subject to the provisions of this section, any income received by a custodian from the investment of moneys coming into his hands (whether in pursuance of the Act of 1939 or otherwise) in his capacity as custodian, being income received by way of discount on the purchase by him of Treasury Bills or by way of interest on other loans made by him to the Treasury or on moneys placed by him in his name on deposit or current account at a bank, shall belong to the Crown and be paid into the Exchequer.
- (2) The last foregoing subsection shall be deemed to have had effect as from the coming into operation of the Trading with the Enemy (Custodian) Order, 1939, so however that it shall not be construed as authorising or requiring the repayment of any sums paid by a custodian before the passing of this Act otherwise than into the Exchequer.
- (3) Where a custodian, whether after or before the passing of this Act, pays or has paid to any person a capital sum on the footing that—

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- (a) it represents or represented money which was paid to the custodian as being money due to an enemy, but which was not in fact money due to an enemy, or
- (b) it represents or represented the proceeds of property which was transferred to the custodian as being enemy property, but Which was not in fact enemy property,

the person to whom the capital sum is or was paid shall be entitled to receive from the custodian interest thereon at the rate of three-quarters of one per cent. per annum from the date on which the custodian received the money referred to in paragraph (a) of this subsection or the proceeds referred to in paragraph (b) thereof, as the case may be, to the date of payment of the capital sum:

Provided that—

- (i) where the payment of the capital sum was made before the passing of this Act, the right to interest thereon under this subsection shall not arise unless a claim for it in writing is made to the custodian within one year from the date of the passing of this Act and there is produced to the custodian such evidence in support of the claim as the custodian may reasonably require ; and
  - (ii) where in such a case the person to whom the capital sum was paid has since died, or any other event has occurred whereby the right to the interest, if vested in him immediately before that event, would thereupon have vested in some other person, the right to claim the interest shall be treated as having devolved as if that right had been vested in him immediately before his death or immediately before that event, as the case may be, and, if the right is duly exercised, the interest shall be paid to the persons claiming under him accordingly.
- (4) For the purpose of making payments of interest under the last foregoing subsection a custodian who at the passing of this Act has in his hands, or thereafter receives, any income such as is mentioned in subsection (1) of this section shall set aside out of that income such sums as the Treasury may from time to time direct; and out of any sums so set aside the custodian shall pay any interest becoming payable by him under the last foregoing subsection and shall pay the balance thereof (if any) into the Exchequer.
- (5) In this section the expression " money due to an enemy " means money which would, but for the existence of a state of war, have been payable to or for the benefit of a person who was an enemy within the meaning of the Act of 1939.

## 5 Interpretation of Part I and provisions as to evidence

- (1) In this Part of this Act the following expressions have the meanings hereby assigned to them respectively, that is to say:—
- " administrator of enemy property " means an administrator appointed under any of the post-war enactments relating to enemy property ;
  - " competent authority " means the Board of Trade, the Treasury or any person appointed by the Board of Trade or the Treasury to discharge any function under the Act of 1939 ;
  - " custodian " means a custodian of enemy property appointed under section seven of the Act of 1939 ;
  - " dealing ", in relation to any property, includes the taking of any step, or any omission or refusal to take a step, in relation to the property;
  - " enemy property " means any property for the time being belonging to or held or managed on behalf of an enemy or an enemy subject, and for the

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purposes of this definition the expressions " enemy " and " enemy subject" have the same meanings as for the purposes of the Act of 1939;

" the post-war enactments relating to enemy property " means the Treaties of Peace (Italy, Roumania, Bulgaria, Hungary and Finland) Act, 1947, the Distribution of German Enemy Property Act, 1949, and the Japanese Treaty of Peace Act, 1951, and any Order in Council made under any of those Acts ; and

" transfer " includes conveyance and assignment, and " transferee " shall be construed accordingly.

- (2) References in this Part of this Act to the payment of money or transfer of property by an authority to or for the benefit of a person include references to the payment or transfer thereof by that authority to a person appearing to that authority to be authorised by the said person to receive it.
- (3) For the purposes of this Part of this Act a certificate issued by or on behalf of the Board of Trade or the Treasury, stating—
- (a) that, in the case of a specified payment or dealing with property by a specified authority, that authority was acting with such intent as is mentioned in paragraph (a) of subsection (1) of section one of this Act, or
  - (b) that a specified payment or dealing with property by a specified person was a payment or dealing in pursuance of a direction or request of a specified authority and that the direction or request was given or made as mentioned in paragraph (c) of subsection (1) of that section, or
  - (c) that a specified payment or transfer of property by a specified authority was made to or for the benefit of a specified person as being the person who would have been entitled to the property but for the Act of 1939 or any order made thereunder,

shall in any proceedings be sufficient evidence of the facts so stated except to any extent to which the certificate is shown to be incorrect.