

5. Transfer of Negotiable Instruments, &c.

(1) *General Orders and Licence.* | (2) *Specified Countries*, p. 226.

(1) General Orders and Licence

THE TRADING WITH THE ENEMY (TRANSFER OF NEGOTIABLE INSTRUMENTS, ETC.) ORDER, 1946, DATED MARCH 27, 1946, MADE BY THE TREASURY UNDER SECTION 4 OF THE TRADING WITH THE ENEMY ACT, 1939 (2 & 3 GEO. 6. C. 89).

1946 No. 441

The Treasury in pursuance of the powers conferred on them by Section 4 of the Trading with the Enemy Act, 1939 (hereinafter referred to as "the Act") (which renders ineffective except with the sanction of the Treasury the transfer by or on behalf of enemies of negotiable instruments and choses in action) and of all other powers enabling them in that behalf hereby make the following Order:—

1. The Treasury do hereby sanction—

- (a) any assignment of any chose in action,
- (b) any transfer of a negotiable instrument, and
- (c) any transfer of any coupon or other security transferable by delivery not being a negotiable instrument,

being an assignment or transfer made by or on behalf of a person to whom this Order applies other than an assignment or transfer made to any such person as is mentioned in Article 3.

2. Subject to the provisions of Article 3, this Order applies:—

- (a) to any individual resident in territory not being an area which is under the sovereignty of a Power with whom His Majesty is at war.

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- (b) as respects any business carried on in any such territory, to any individual or body of persons (whether corporate or unincorporate) carrying on that business,
- (c) as respects any business carried on in any territory which is neither enemy territory nor an area which is for the time being to be treated as enemy territory for the purposes of Section 4 of the Act in accordance with the provisions of Regulation 6 or Regulation 7 of the Defence (Trading with the Enemy) Regulations, 1940(a), to any body of persons (whether corporate or unincorporate) carrying on that business if and so long as the body is controlled by any individual resident in, or body of persons carrying on business in, any such territory.
3. Nothing in this Order shall apply to any assignment or transfer made by or on behalf of—
- (a) any State or Sovereign of a State at war with His Majesty,
- (b) any individual resident in territory which is under the Sovereignty of a Power with whom His Majesty is at war.
- (c) any body of persons constituted or incorporated in, or under the laws of, a State at war with His Majesty,
- (d) any body of persons (whether corporate or unincorporate) carrying on business in territory which is not under the sovereignty of a Power with whom His Majesty is at war, if and so long as the body is controlled by any such person as is mentioned in paragraphs (a), (b) or (c) of this Article.
- (e) as respects any business carried on in territory which is under the sovereignty of a Power with whom His Majesty is at war, any individual or body of persons (whether corporate or unincorporate) carrying on that business,
- (f) any person who is for the time being deemed by direction of the Board of Trade to be an enemy for the purposes of the Act.

4. In the application of this Order to Scotland "chose in action" means "right of action or incorporeal movable".

5. This Order may be cited as the Trading with the Enemy (Transfer of Negotiable Instruments, etc.) Order, 1946.

Dated this 27th day of March, 1946.

On behalf of the Treasury,
W. Eady,
Second Secretary.

(a) See footnote (b) to p. 151 above.

Transfer of Negotiable Instruments &c. (General Orders)

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport)

Section 4 of the Trading with the Enemy Act renders assignments of choses-in-action, transfers of negotiable instruments, coupons and certain other securities, by or on behalf of "enemies", ineffective except with Treasury sanction, and persons who purport to discharge any liability of which they are relieved (e.g. in discharging a negotiable instrument by payment) are deemed to have traded with the enemy. The present Order gives the necessary sanction to allow the discharge of liabilities on behalf of persons who are or were "enemies" in that they were resident or carrying on business in territory formerly occupied by the enemy.
