

THE TRADING WITH THE ENEMY (CUSTODIAN) (No. 2) ORDER, 1946, DATED DECEMBER 14, 1946, MADE BY THE BOARD OF TRADE UNDER SECTION 7 OF THE TRADING WITH THE ENEMY ACT, 1939 (2 & 3 GEO. 6. C. 89).

1946 No. 2141

[*This Order (S.R. & O. 1946, I, p. 1690) is printed as amended by the Order dated May 19, 1948 (S.I. 1948 (No. 1047), I, p. 4381).*]

The Board of Trade in exercise of the powers conferred upon them by Section 7 of the Trading with the Enemy Act, 1939, (hereinafter called "the Act") and of all other powers enabling them in that behalf do hereby make the following Order:—

1. Without prejudice to the effect of any Order made by the Board of Trade prior to the date of this Order, there shall vest in the Custodian—

- (a) the right to transfer all securities of the following descriptions, that is to say, annuities, stock, shares, bonds, coupons, debentures or debenture stock registered or inscribed in any register, branch register or other book kept in the United Kingdom or transferable by delivery of any document situate in the United Kingdom, belonging to or held at the date of this Order on behalf of any enemy;
- (b) the beneficial interest of any enemy in all such securities as aforesaid at the date of this Order, and
- (c) gold coin or gold bullion belonging to or held at the date of this Order on behalf of any enemy.

Provided nevertheless that if in any case the vesting in the Custodian of any such right or interest as aforesaid would cause a forfeiture or determination of such right or interest as aforesaid then in any such case this Order shall not have the effect of vesting the same in the Custodian.

2. The Custodian is to be at liberty to transfer the said securities or any of them into his own name to be held by him as such Custodian or into the name or names of any other person or persons whether on the occasion of a sale or otherwise and to take possession of the said securities, gold coin or gold bullion or any of them and subject to such terms and conditions (if any) as may be required by him and shall do so as and when requested by the Board of Trade.

3. The Custodian (whether the said securities or any of them shall be transferred into his own name or not) shall sell all or any of the said securities, gold coin or gold bullion as and when requested so to do by the Board of Trade with power for that purpose to employ such brokers and agents as he shall think fit.

4. The Custodian shall exercise the voting and other rights carried by the said securities in such manner as may from time to time be directed by the Board of Trade and subject to any such directions may exercise the rights in such manner as he may from time to time think fit.

4A. Any person shall, within twenty-eight days after service on him of a notice by the Custodian requiring him so to do, furnish to the Custodian such returns, accounts and other information as are specified therein and produce such documents as are so specified being returns, accounts, information and documents, the furnishing or production of which the Custodian considers necessary for the discharge of his functions under this Order.(a)

5. Out of pocket payments duly made by the Custodian in relation to the receiving, collecting, vesting, management, holding or disposing of the said securities, gold coin or gold bullion and dividends, interest and other payments shall be reimbursed to the Custodian out of any of such dividends, interest and other payments as aforesaid or out of the proceeds of any of such securities, gold coin or gold bullion as aforesaid and shall be chargeable accordingly.

6.—(1) Any security, gold coin or gold bullion which is the subject of this Order shall not be liable to be attached or otherwise taken in execution.

(2) No person shall, without the consent of the Board of Trade, save as directed by this Order, transfer part with or otherwise deal with any security, gold coin or gold bullion or dividend interest or other payment which is the subject of this Order.

(3) The receipt of the Custodian or any person duly authorised by him to sign receipts on his behalf for any dividend, interest or other payment paid to him under this Order shall be a good discharge to the person paying the same.

(4) Proceedings may be taken by the Custodian in the name of the Custodian of Enemy Property and no action brought shall abate or be affected by any change in the person nominated as Custodian.

7.—(1) The Interpretation Act, 1889, shall apply to this Order as if it were an Act of Parliament. 52 & 53 Vict.
c. 63.

(2) In this Order the expression “ enemy ” means:—

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

(a) Para. 4A added by S.I. 1948 No. 1047.

TRADING WITH THE ENEMY

- (b) any individual resident in any area which was on 3rd September, 1939, under the sovereignty of a Power with whom His Majesty is at war not being an area occupied before the 10th July, 1943, by His Majesty or by a Power Allied with His Majesty,
 - (c) any body of persons constituted or incorporated under the laws of a State at war with His Majesty,
 - (d) any body of persons (whether corporate or unincorporate) carrying on business in any place, if and so long as the body is controlled by any State, Sovereign, individual or body of persons as aforesaid, and
 - (e) as respects any business carried on in any such area as aforesaid any individual or body of persons (whether corporate or unincorporate) carrying on that business in such territory.
- (3) References to "the Custodian" shall be construed as references to the Custodian for that part of the United Kingdom in which the relevant register, branch register or other book is kept, or, in the case of any security transferable by delivery of a document, in which the relevant document is situate, and if in any case any doubt shall arise then to such Custodian as the Board of Trade shall direct.

8. In the application of this Order to Scotland "attached or otherwise taken in execution" means arrested in execution or in security or otherwise affected by diligence.

9. This Order may be cited as the Trading with the Enemy (Custodian) (No. 2) Order, 1946.

Dated this 14th day of December, 1946.

G. H. Shreeve,
An Assistant Secretary of the Board of Trade.

EXPLANATORY NOTE

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

This Order vests in the Custodian all rights relating to the transfer of, and the beneficial interest in, securities belonging to or held on account of persons resident or carrying on business in countries with which His Majesty is at war or controlled by such persons and all gold coin or gold bullion belonging to or held for them. The intention is to ensure that the control of the Custodian over any property which has been or should have been vested in him, or of any income deriving therefrom, does not automatically revert to the former owner by change of allegiance or of residence, or by the termination of a state of war between His Majesty and an enemy Government. Existing provision for the removal of control or for the final disposal of vested property is not modified by the Order.