

(3) Order of 1945, as amended

THE TRADING WITH THE ENEMY (CUSTODIAN) ORDER, 1945,
DATED JANUARY 20, 1945, MADE BY THE BOARD OF
TRADE UNDER SECTION 7 OF THE TRADING WITH THE
ENEMY ACT, 1939 (2 & 3 GEO. 6. C. 89).

1945 No. 43

*[This Order (S.R. & O. 1945, I, p. 1224 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. There shall vest in the Custodian the right to transfer all securities of the following descriptions, 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 United Kingdom or transferable by delivery of any document situate in the United Kingdom belonging to or held on behalf of any enemy.

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 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 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 and dividends, interest and other payments shall be reimbursed to the Custodian out of such dividends, interest and other payments as aforesaid or out of the proceeds of such securities as aforesaid and shall be chargeable accordingly.

6.—(1) Any security 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 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,

(b) any individual resident in any area 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,

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

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- (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) Order, 1945, and shall come into force on the 25th day of January, 1945.

Dated the 20th day of January, 1945.

E. H. Hodgson,

A 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 of Enemy Property all rights relating to the transfer of securities belonging to, or held on account of, persons resident or carrying on business in areas under the sovereignty of a Power with whom His Majesty is at war or controlled by such persons. The intention of the Order is to ensure that these securities shall still continue under the control of the Custodian in the event of their owners' establishing residence in neutral countries and thereby ceasing to come within the definition of "enemy" contained in the Trading with the Enemy Act, 1939.
