

CHAPTER 250.

ENEMY PROPERTY.

[No. XIX of 1917.]

[13th October, 1917.]

Short title.

1. This Ordinance may be cited as the Enemy Property Ordinance.

Constitution of office of custodian of enemy property.

2.—(1) The Governor may appoint the Public Trustee or some other person to act as custodian of enemy property (hereinafter referred to as “ the custodian ”) for British Guiana for the purpose of receiving, holding, preserving, and dealing with any property paid to or vested in him in pursuance of this Ordinance.

(2) The custodian shall, in relation to all property held by him in his capacity of custodian, have the like status as the Public Trustee has in England under section one of the Trading with the Enemy (Amendment) Act, 1914, and his accounts shall be audited by the Auditor in the manner prescribed by the Public Trustee Rules, 1910.

Disposal of moneys.

3. The custodian may place on deposit with any bank, or invest in any securities, approved by the Governor in Council any moneys paid to him under this Ordinance or received by him from property vested in him under this Ordinance, and any interest or dividends received on account of those deposits or investments shall be dealt with as directed by the Governor in Council.

Payment of moneys payable to enemy.

4.—(1) Any sum which, had a state of war not existed, would have been payable and paid to or for the benefit of an enemy by way of dividends, interest, or share of profits, shall be paid, by the person, firm, or company by whom it would have been payable, to the custodian to hold subject to the provisions of this Ordinance, and the payment shall be accompanied by the particulars prescribed by the Governor in Council, or, if so authorised by the Governor in Council, required by the custodian.

(2) Any payment required to be made under the preceding sub-section to the custodian shall be made within fourteen days after it would have been paid had a state of war not existed.

(3) Where before the existence of a state of war any sum aforesaid has been paid into an account with a bank, or has been paid to another person in trust for an enemy, the person, firm, or company by whom the payment was made shall, within fourteen days after the existence of a state of war, by notice in writing, require the bank or person to pay the sum over to the custodian to hold as aforesaid, and shall furnish the custodian with the particulars aforesaid, and the bank or other person shall, within one week after the receipt of the notice, comply with the requirement and be exempt from all liability for having done so.

(4) If anyone fails to make, or require the making of, any payment, or to furnish the prescribed particulars within the time mentioned in this section, he shall, on summary conviction under the Summary Jurisdiction (Offences) Ordinance, be liable to a fine not exceeding five hundred dollars, or to imprisonment with or without hard labour for a term not exceeding six months, or to both the fine and imprisonment, and, in addition, to a further fine not exceeding two hundred and fifty dollars for every day during which the default continues, and every director, manager, secretary, or officer of a company, or any other person who is knowingly a party to the default, shall on the like conviction be liable to the like penalty.

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5.—(1) Anyone who holds or manages for or on behalf of an enemy any property, real or personal (including rights, whether legal or equitable, in or arising out of property, movable or immovable), shall, within one month after the existence of a state of war, or, if the property comes into his possession or under his control after the existence of a state of war then within one month after the time when it comes into his possession or under his control, by notice in writing communicate the fact to the custodian and furnish the custodian with the particulars in relation thereto required by the custodian, and if anyone fails to do so he shall, on summary conviction under the Summary Jurisdiction (Offences) Ordinance, be liable to a fine not exceeding five hundred dollars, or to imprisonment with or without hard labour for a term not exceeding six months,

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or to both the fine and imprisonment, and, in addition, to a further fine not exceeding two hundred and fifty dollars for every day during which the default continues.

(2) Every company incorporated in the colony, and every company which, though not incorporated in the colony, has a share transfer or share registration office therein, shall, within one month after the existence of a state of war, by notice in writing communicate to the custodian full particulars of all shares, stock, debentures, and debenture stock, and other obligations of the company held by or for the benefit of an enemy; and every partner of every firm, one or more partners of which on the commencement of war became enemies or to which money had been lent for the purpose of the business of the firm by a person who so became an enemy, shall, within one month after the existence of a state of war, by notice in writing communicate to the custodian full particulars as to any share of profits and interest due to those enemies or that enemy; and, if any company or partner fails to comply with the provisions of this sub-section, the company, on summary conviction under the Summary Jurisdiction (Offences) Ordinance, shall be liable to a fine not exceeding five hundred dollars, and in addition to a further fine not exceeding two hundred and fifty dollars for every day during which the default continues, and the partner, and every director, manager, secretary, or officer of the company, who is knowingly a party to the default shall on the like conviction be liable to the like fine, or to imprisonment with or without hard labour for a term not exceeding six months, or to both the imprisonment and fine.

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Power to
vest enemy
property in
custodian.

6.—(1) The Supreme Court or a judge thereof may, on the application of anyone who appears to the Court to be a creditor of an enemy or entitled to recover damages against an enemy, or to be interested in any property movable or immovable (including any rights, whether legal or equitable in or arising out of property movable or immovable) belonging to, or held or managed for or on behalf of, an enemy, or on the application of the custodian or a government department, by order vest in the custodian any movable or immovable property aforesaid, if the Court or the judge is satisfied that the vesting is expedient for the purposes of this Ordinance, and may by the order confer on the custodian any powers of selling, managing, and otherwise dealing with the property to the Court or judge seeming proper.

(2) The Court or judge before making any order under this section may direct that any notices (whether by way of advertisement or otherwise) shall be given which the Court or judge thinks fit.

(3) A vesting order under this section as respects property of any description shall be of the like purport and effect as a vesting order as respects property of the same description made under the Trustee Act, 1893.

7.—(1) The custodian shall, except so far as the Governor otherwise directs, and subject to the provisions of the next succeeding sub-section, hold any money paid to and any property vested in him under this Ordinance until the termination of the then existing war, and shall thereafter deal with the money and property in the manner directed by the Governor in Council.

Holding and dealing with property by custodian :

(2) The property held by the custodian under this Ordinance shall not be liable to be attached or otherwise taken in execution, but the custodian may, if so authorised by an order of the Supreme Court or a judge by whose order any property belonging to an enemy was vested in the custodian under this Ordinance, or of any court in which judgement has been recovered against an enemy, pay out of the property paid to him in respect of that enemy the whole or any part of any debts due by that enemy and specified in the order :

Provided that before paying any of those debts the custodian shall take into consideration the sufficiency of the property paid to or vested in him in respect of the enemy in question to satisfy that debt and any other claims against that enemy of which notice verified by statutory declaration has been served upon him.

Proviso.

(3) The receipt of the custodian, or any person duly authorised to sign receipts on his behalf, for any sum paid to him under this Ordinance shall be a good discharge to the person paying the sum as against the person or body of persons in respect of whom the sum was paid to the custodian.

(4) The custodian shall keep a register of all property held by him under this Ordinance and the register shall be open to public inspection at all reasonable times free of charge.

8.—(1) No one shall, by virtue of any assignment of any debt or other chose in action, or delivery of any coupon or other security transferable by delivery, or transfer of any

Invalidity of certain assignments, deliveries, or transfers, by enemies :

other obligation, made or to be made in his favour by or on behalf of an enemy, whether for valuable consideration or otherwise, have any rights or remedies against the person liable to pay, discharge, or satisfy the debt, chose in action, security, or obligation, unless he proves that the assignment, delivery, or transfer was made by leave of the Governor in Council or was made before the commencement of the then existing war, and anyone who knowingly pays, discharges, or satisfies, any debt, or chose in action to which this sub-section applies shall be deemed to be guilty of the offence of trading with the enemy :

Proviso :

Provided that this sub-section shall not apply where the person to whom the assignment, delivery, or transfer was made, or some person deriving title under him, proves that the transfer, delivery, or assignment, or some subsequent transfer, delivery, or assignment, was made before the date of the commencement of the then existing war in good faith and for valuable consideration, nor shall this sub-section apply to any bill of exchange or promissory note.

(2) No one shall by virtue of any transfer of a bill of exchange or promissory note, made or to be made in his favour by or on behalf of an enemy, whether for valuable consideration or otherwise, have any rights or remedies against any parties to the instrument unless he proves that the transfer was made before the date of the commencement of the then existing war, and any party to the instrument who knowingly discharges the instrument shall be deemed to be guilty of trading with the enemy :

Proviso.

Provided that this sub-section shall not apply where the transferee, or some subsequent holder of the instrument, proves that the transfer, or some subsequent transfer, of the instrument was made before that date in good faith and for valuable consideration.

(3) Nothing in this section shall be construed as validating an assignment, delivery, or transfer which would be invalid apart from this section or as applying to securities within the meaning of this section.

Right to pay into court sums due on coupons suspected of being enemy property.

9. Where during the continuance of war any coupon or other security transferable by delivery is presented for payment to any company, municipal authority, or other body or person, and the company, body, or person has reason to suspect that it is so presented on behalf or for the benefit of an enemy, or that since the commencement of the then existing war it has been held by or for the benefit of an

enemy, the company, body, or person may pay the sum due in respect thereof into the Supreme Court, and subject to rules of court the sum shall be dealt with according to the orders of the Court, and the payment shall be for all purposes a good discharge to the company, body or person.

10.—(1) No transfer made after the commencement of war by or on behalf of an enemy of any securities shall confer on the transferee any rights or remedies in respect thereof, and no company, or municipal authority, or other body, by whom the securities were issued or are managed shall, except as hereinafter appears, take any cognisance of or otherwise act upon any notice of the transfer.

Invalidity of transfers of securities.

(2) No entry shall hereafter, during the continuance of war, be made in any register, or branch register, or other book, kept in the colony, of any transfer of securities therein registered, inscribed, or standing in the name of an enemy, except by leave of a court of competent jurisdiction or of the Governor in Council.

(3) No share warrants payable to bearer shall be issued during the continuance of war in respect of any shares or stock registered in the name of an enemy.

(4) If any company or body contravenes the provisions of this section, the company or body shall be liable on summary conviction to a fine not exceeding five hundred dollars, and every director, manager, secretary, or other officer, of the company or body who is knowingly a party to the default shall be liable on the like conviction to a like fine or to imprisonment with or without hard labour for a term not exceeding six months.

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(5) For the purposes of this section the expression "securities" means any annuities, stock, shares, debentures, or debenture stock, issued by or on behalf of the Government, or by any municipal or other authority, or by any company, or by any other body, which are registered or inscribed in any register, branch register, or other book kept in the colony.

11.—(1) Where it appears to the Governor in Council that the business carried on in the colony by any person, firm, or company is, by reason of the enemy nationality or enemy association of that person, firm, or company, or of the members of that firm or company or any of them, or otherwise, carried on wholly or mainly for the benefit of or

Dealing with businesses of enemy nationality or association.

under the control of enemy subjects, the Governor in Council shall, unless for any special reason it appears to him inexpedient to do so, make an order either—

- (a) prohibiting the person, firm, or company from carrying on the business, except for the purposes and subject to the conditions, if any, specified in the order; or
- (b) requiring the business to be wound up.

(2) The Governor in Council may at any time revoke or vary the order and may, in any case where he has made an order prohibiting or limiting the carrying on of the business, at any time if he thinks it expedient substitute for that order an order requiring the business to be wound up.

Vesting
enemy
property in
custodian by
Governor in
Council.

12.—(1) The Governor in Council, whenever it appears to him to be expedient to do so, may by order vest in the custodian any property, movable or immovable (including any rights whether legal or equitable, in or arising out of property, real or personal), belonging to, or held or managed for or on behalf of any enemy or enemy subject, or the right to transfer that property, and may by the order, or any subsequent order, confer on the custodian any powers of selling, managing, and otherwise dealing with the property to the Governor in Council seeming proper.

(2) A vesting order under this section as respects property of any description shall be of the like purport and effect as a vesting order as respects property of the same description made by the Supreme Court under the Trustee Act, 1893, and shall be sufficient to vest property in the custodian, or the right to transfer any property, as provided by the order, without the necessity of any further conveyance, assurance, or document.

(3) Where in exercise of the powers conferred on the custodian by the Governor in Council, he proposes to sell any shares or stock forming part of the capital of any company, or any securities issued by the company, in respect of which a vesting order under either of the enactments aforesaid has been made, the company may, with the consent of the Governor in Council, purchase the shares, stock, or securities, any law or regulation of the company to the contrary notwithstanding, and any shares, stock, or securities so purchased may from time to time be re-issued by the Company.

(4) The transfer on sale by the custodian of any property shall be conclusive evidence in favour of the purchaser and of the custodian that the requirements of this section have been observed.

(5) All property vested in the custodian under this section, and the proceeds of the sale thereof, or money arising therefrom, shall be dealt with by him in like manner as money paid to and property vested in him under section six of this Ordinance.

13. Every enemy subject who is within the colony, shall, if so required by the custodian, within one month after the requirement, furnish the custodian with the particulars as to—

Returns as to property by enemy subjects.

- (a) any stocks, shares, debentures, or other securities, issued by any company, government, municipal, or other authority, held by him or in which he is interested; and
- (b) any other property of the value of fifty pounds or upwards belonging to him or in which he is interested,

which the custodian requires, and if he fails to do so he shall on summary conviction be liable to a fine not exceeding five hundred dollars, or to imprisonment with or without hard labour for a term not exceeding six months, or to both the fine and imprisonment, and, in addition, to a further fine not exceeding two hundred and fifty dollars for every day during which the default continues.

Penalty.