

CAP. 53.

CYPRUS

ENEMY PROPERTY

CHAPTER 53 OF THE LAWS

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1959

CHAPTER 53.

ENEMY PROPERTY.

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A LAW TO MAKE PROVISION AS RESPECTS THINGS DONE, IN RELATION TO ENEMY PROPERTY OR PROPERTY TREATED AS ENEMY PROPERTY, IN EXCESS OF THE POWERS CONFERRED BY THE LAW RELATING TO TRADING WITH THE ENEMY, AND AS RESPECTS INCOME FROM MONEYS INVESTED BY THE CUSTODIAN OF ENEMY PROPERTY ; AS RESPECTS COPYRIGHTS, RIGHTS IN INVENTIONS AND DESIGNS, AND OTHER RIGHTS IN OR IN CONNECTION WITH WHICH GERMAN ENEMY INTERESTS SUBSISTED, OR WERE PROPERLY TREATED AS SUBSISTING, DURING THE PERIOD OF THE WAR WITH GERMANY ; AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

65 of 54.

[29th December, 1954.]

PART I.

PRELIMINARY.

Short title.

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

2. In this Law, unless the context otherwise requires— Interpreta-
tion.

“ property ” means real or personal property, and includes any estate or interest in real or personal property, any money, any negotiable instrument, debt or other chose in action, and any other right or interest whether in possession or not ;

“ trust ” includes any obligation subsisting by virtue of a fiduciary relationship and the expression “ trustee ” shall be construed accordingly.

PART II.

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

3. (1) Sections 4 and 5 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 Law, where the payment was so made or withheld, or the property was so dealt with, either— Circum-
stances in
which
sections 4
and 5 are
to apply.

- (a) by a competent authority acting in good faith and purporting to act under the Trading with the Enemy Law (hereinafter referred to as “ the Law 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 10 of that Law (which relates to the collection of enemy debts and custody of enemy property) or to prevent that Law from being contravened ; or Cap. 99.
- (b) by any person acting in good faith and in purported compliance with a restriction or obligation imposed by or under the Law 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 Law 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 com-

pliance with a restriction or obligation imposed by or under the Law 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.

Provisions as to making of certain payments and withholding of payments.

4. (1) Where at a time within the period mentioned in section 3—

- (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 Law 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 section 3, it shall be deemed to have been authorized by the Law of 1939 notwithstanding that apart from this section it was not so authorized, 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 subsection (1) the payment (apart from that subsection) was not authorized by or under the Law 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.

5. (1) Where at a time within the period mentioned in section 3 any property was dealt with in any way other than the making or withholding of a payment as mentioned in section 4, 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 3, the person who so dealt with it shall be deemed, as against all persons interested therein, to have been empowered by the Law of 1939 to deal with it in that way:

Provisions
as to other
dealings with
property.

Provided that in a case falling within either subsection (2) or subsection (3) 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.

(3) If the dealing purported to be a transfer of the property by the custodian to or for the benefit of a person as being the person who, but for the Law of 1939 or any order made thereunder, would have been entitled thereto, subsection (1) shall have effect subject to the provisions of subsection (5); but subject to the said subsection (5) the property shall be deemed to have vested in the transferee as mentioned in subsection (2).

(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 10 of the Law 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) nothing in that subsection or in subsection (1) 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 10 of the Law of 1939, and to have continued to be so vested while remaining in his possession or under his control.

Income
from moneys
invested by
the
custodian.

6. (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 Law of 1939 or otherwise) shall be paid to the general revenue.

Gazettes;
Suppl. No. 3.
11.9.1940
31.7.1941

(2) Subsection (1) shall be deemed to have had effect as from the coming into operation of the Trading with the Enemy (Custodian) Orders, 1940 and 1941.

(3) Where a custodian, whether after or before the passing of this Law, pays or has paid to any person a capital sum on the footing that—

(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 Law, 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 Law 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 subsection (3) a custodian who at the passing of this Law has in his hands, or thereafter receives, any income such as is mentioned in subsection (1) shall set aside out of that income such sums as the Accountant-General 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 general revenue.

(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 Law of 1939.

Interpreta-
tion of
Part II and
provisions as
to evidence.

7. (1) In this Part 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 Governor, the Accountant-General, the Official Receiver and Registrar or any person appointed by the Governor to discharge any function under the Law of 1939 ;

“ custodian ” means the custodian of enemy property appointed under section 10 of the Law 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 purposes of this definition the expressions “ enemy ” and “ enemy subject ” have the same meanings as for the purposes of the Law of 1939 ;

16 of 1953.

“ the post-war enactments relating to enemy property ” means the Distribution of German Enemy Property Law, 1953, and any Order in Council made under the Treaties of Peace (Italy, Roumania, Bulgaria, Hungary and Finland) Act, 1949, and the Japanese Treaty of Peace Act, 1951 ;

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

(2) References in this Part 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 authorized by the said person to receive it.

(3) For the purposes of this Part a certificate issued by or on behalf of the Accountant-General, 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 3 ; 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 Law 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.

PART III.

SPECIAL PROVISIONS AS RESPECTS GERMANY.

8. (1) The following provisions shall have effect where at any time within the war period—

Infringe-
ments of
copyright.

- (a) a person acting in good faith on behalf of the Crown, or a person authorized by a person so acting, did anything the doing of which was an infringement of the copyright in a work ; or
- (b) a person acting in good faith on behalf of the Crown or on behalf of a Power allied with His late Majesty, or a person authorized by a person so acting, brought into any part of His Majesty's dominions, without infringing copyright, or brought into the territory of any Power allied as aforesaid, a work in which copyright then subsisted or a copy of such a work,

and at the time of the taking of the action described in paragraph (a) or (b) of this subsection, as the case may be (in this section referred to as "the relevant action"), there subsisted in the copyright an interest which either was then a German enemy interest or was properly treated as a German enemy interest by the person by whom or under whose authority the relevant action was taken :

Provided that the said provisions shall not have effect

if the copyright in question came into existence on or after the twenty-ninth day of March, nineteen hundred and forty-nine.

(2) In a case falling within paragraph (a) of subsection (1) the relevant action shall, as against any person claiming in right of the interest mentioned in that sub-section, be deemed not to have been an infringement of the copyright.

(3) In a case falling within either paragraph (a) or paragraph (b) of subsection (1)—

(a) if at the time of the relevant action the interest mentioned in that subsection was the only interest subsisting in the copyright, the copyright shall be deemed to have been extinguished on the taking of that action ;

(b) in any other case the said interest shall be deemed to have been extinguished on the taking of the relevant action.

(4) For the purposes of subsection (1) an interest in the copyright in a work shall be deemed to have been properly treated by a person as a German enemy interest if, at the time when the relevant action was taken, the work or a copy thereof was in that person's possession or under his control in consequence of the removal of the work or a copy thereof from Germany :

Provided that an interest shall not be deemed to have been so treated if the relevant action was taken in circumstances affording reasonable grounds for believing that the interest was not a German enemy interest.

(5) For the purposes of this section a certificate issued by or on behalf of the Head of any Department stating, as respects the doing of anything specified in the certificate in relation to a work so specified,—

(a) that it was done by or under the authority of a person acting on behalf of the Crown or of a Power so specified ; or

(b) that it was done as aforesaid and that at the time when it was done the work or a copy thereof was in the said person's possession or under his control in consequence of the removal of the work or a copy thereof from Germany,

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.

(6) For the purposes of this section any person who, in doing or authorizing the doing of anything, was acting on behalf of the Crown or of a Power allied with His late Majesty shall be deemed so to have acted in good faith unless the contrary is proved.

(7) In this section the expression "copy", in relation to a work, means any document or thing recording or reproducing, in any material form whatsoever, the whole or a substantial part of that work.

9. (1) Subject to the provisions of this section, where at any time within the war period anything was done so as to infringe a patent, or so as to infringe the copyright in a registered design, and at that time there subsisted in the patent or registered design an interest which was then a German enemy interest, the patent or copyright shall, as against any person claiming in right of that interest, be deemed not to have been infringed by the doing of that thing.

Infringe-
ments of
patents and
registered
designs.

(2) Subsection (1) shall not apply to an infringement of a patent sealed, or of the copyright in a design registered, in pursuance of an application made on or after the eighth day of April, nineteen hundred and forty-eight.

(3) In relation to an infringement which occurred at a time when an application for the grant of the patent in question was still pending—

- (a) the reference in subsection (1) to an interest then subsisting in the patent shall be construed as a reference to an interest then subsisting in the invention to which the application related ; and
- (b) a person claiming in right of an interest in the patent, being an interest which corresponds to an interest which at the time of the infringement subsisted in that invention, shall for the purposes of that subsection be treated as claiming in right of the latter interest.

10. (1) Where at any time within the war period a person disclosed or supplied to any other person any information, model or document relating to an invention, design or process, and did so—

Disclosure
of informa-
tion about
inventions,
etc., in
breach of
contract.

- (a) at the request of a Department, and for a purpose which appeared to that Department to be in the

interests of the defence of the Colony or otherwise in the public interest ; but

(b) in breach of a contract in respect of which there was at that time a German enemy covenantee, no legal proceedings shall be brought or prosecuted in respect of that breach of contract by the German enemy covenantee or by any person claiming under him.

(2) For the purposes of this section a certificate signed by the Administrative Secretary stating that, in disclosing or supplying to any person any information, model or document specified in the certificate, a person so specified was acting at the request of a Department so specified, and for a purpose which appeared to that Department to be in the interests of the defence of the Colony or otherwise in the public interest, shall in any proceedings be conclusive evidence of the facts so stated.

(3) Nothing in this section shall be construed as derogating from the provisions of any other enactment or of any Defence Regulations as to the use or disclosure of information, models or documents relating to inventions, designs or processes.

(4) In this section the expression "German enemy covenantee" means a person who, being a German enemy at the time of the breach of contract in question, was then entitled to enforce the contract or would have been so entitled if he had not been a German enemy, and references to the bringing of proceedings include references to the setting up in any proceedings of any claim by way of counter-claim or set-off.

Meaning of
"German
enemy" and
"German
enemy
interest."

11. (1) In this Part the expression "German enemy", in relation to any time within the war period, means any of the following, that is to say :—

- (a) the German State ;
- (b) an individual being a German national—
 - (i) resident in Germany or in enemy territory other than Germany ; or
 - (ii) deemed for the time being to be an enemy for the purposes of the Law of 1939 by virtue of an order made under subsection (2) of section 4 of that Law ;
- (c) a body of persons, whether corporate or unincorporate, being a body incorporated or constituted in, or under the laws of, Germany ;

- (d) a body of persons, whether corporate or unincorporate, being a body controlled by the German State or by such an individual or body as is mentioned in either of the two last foregoing paragraphs,

and the expression " German enemy interest ", in relation to any time within the war period, means an interest then belonging to, or held on behalf of, a German enemy or belonging to, or held on behalf of, two or more persons of whom any one was then a German enemy.

(2) For the purposes of this section an area shall be deemed to have been enemy territory—

- (a) at any time, if it was then under the sovereignty of, or in the occupation of, a power with whom His late Majesty was then at war and was not then in the occupation of His Majesty or of a Power allied with His Majesty ;
- (b) at any time, if it was then an area specified in an order for the time being in force under subsection (1) of section 2 of the Law of 1939 ;
- (c) at any time on or after the twenty-eighth day of September, 1944, if it was on that day under the sovereignty of a Power with whom His late Majesty was at war on that day, unless at the time in question, it was certified for all the purposes of the Law of 1939 as not being enemy territory.

(3) A certificate issued by or on behalf of a Secretary of State that an area specified in the certificate was at a time so specified under the sovereignty of, or in the occupation of, a Power with whom His late Majesty was then at war, or that an area so specified was at a time so specified in the occupation of His Majesty or of a Power allied with His Majesty, shall for the purposes of this Part of this Law be conclusive evidence of the facts stated in the certificate.

(4) In any case where in accordance with the foregoing provisions of this section the operation of any of the foregoing sections of this Part depends on an individual's having been a German national at a particular time, and he is proved to have been resident in Germany at that time, he shall, unless the contrary is shown, be deemed to have been a German national at that time.

Interpreta-
tion of
Part III.

12. (1) In this Part the following expressions have the meanings hereby assigned to them respectively, that is to say :—

“ copyright ”, except where the reference is to copyright in a registered design, means copyright subsisting by virtue of the Copyright Act, 1911 ;

“ German national ” does not include any person on whom German nationality was conferred in consequence of the inclusion in the German State after the first day of March, nineteen hundred and thirty-eight of any territory not comprised therein on that day ;

“ Germany ” means territory comprised in the German State on the first day of March, nineteen hundred and thirty-eight ;

“ person ” includes a State, the sovereign of a State, and any body of persons, whether corporate or unincorporate ; and

“ the war period ” means the period beginning with the third day of September, nineteen hundred and thirty-nine and ending with the ninth day of July, nineteen hundred and fifty-one.

(2) In relation to an interest which at a time relevant for the purposes of any provision of this Part was a German enemy interest, references in that provision to a person claiming in right of that interest include references to a person claiming in right of any interest created immediately or derivatively out of that interest, whether before or after the passing of this Law, except any interest so created—

(a) before the beginning of the war period ; or

(b) before the earliest time within that period at which that interest was a German enemy interest.

(3) Where any provision of this Part has effect in relation to an interest as being an interest properly treated as a German enemy interest as therein mentioned, subsection (1) shall apply for the purposes of that provision in relation to that interest, but shall so apply as if paragraph (b) of that subsection had been omitted.

(4) References in this Part to interests in a patent, registered design or copyright shall be taken to include any rights conferred by a licence under the patent or registered design or, as the case may be, by a licence in respect of the copyright ; but for the purposes of subsection (2) any rights so conferred in the case of a patent, registered design

or copyright shall not be treated as being an interest created out of the proprietorship of the patent, design or copyright.

PART IV.

SUPPLEMENTARY.

13. Any document purporting to be a certificate issued for the purposes of this Law and to be so issued by or on behalf of the officer in charge of a Government Department shall be received in evidence and shall, unless the contrary is proved, be deemed to be a certificate so issued.

General provision as to certificates.

14. (1) Nothing in this Law shall affect the determination of any proceedings begun before the seventeenth day of March, 1953, or of any appeal, whether brought before or after the passing of this Law, being either—

Operation of Law as respects pending proceedings, etc.

(a) an appeal against an order made in such proceedings ; or

(b) an appeal against the decision of an appeal falling within paragraph (a) of this subsection.

(2) Where any proceedings have been begun on or after the said seventeenth day of March but before the passing of this Law and no final order has been made in the proceedings before the passing of this Law, the foregoing provisions of this Law shall have effect for the purposes of the proceedings notwithstanding that they were not in operation at the time when the proceedings were begun.

(3) Where any proceedings have been begun as mentioned in subsection (2) and a final order has been made in the proceedings before the passing of this Law, then, on the application of any person against whom the order is enforceable, being an application made, within three months from the date of the passing of this Law—

(a) the Court by which the order was made, if in its opinion the order would not have been made, or a different order would have been made, if this Law had been in operation when the proceedings were begun, shall rescind or vary the order accordingly ; and

(b) pending the determination of the application, the Court may stay execution on the order, or any proceedings for the enforcement thereof, in-

cluding any proceedings on any bankruptcy petition or winding-up petition founded on the non-payment of money due under the order.

(4) In this section the expression "order" includes a judgment and references to the making of an order shall be construed accordingly.