11 GEORGE VI.

CHAP. 24.

An Act to continue the Revised Regulations respecting Trading with the Enemy (1943).

[*Assented to 14th May, 1947.*]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Trading with the Enemy (Transitional Powers) Act.*

Revised Regulations Respecting Trading with the Enemy continued.

R.S., c. 206.

1945, (2nd Sess.), c. 25.

2. (1) The Revised Regulations Respecting Trading with the Enemy (1943), set out in the Schedule to this Act, as established by an Order of the Governor in Council made under the *War Measures Act* on the thirteenth day of November, nineteen hundred and forty-three, and continued in force by an Order of the Governor in Council made on the twenty-eighth day of December, nineteen hundred and forty-five, under section four of *The National Emergency Transitional Powers Act, 1945*, and amended by an Order of the Governor in Council made on the fourteenth day of January, nineteen hundred and forty-seven, and by this Act shall, while this Act is in force, continue and be in full force and effect.

Coming into force of amendments to Regulations.

(2) The Revised Regulations Respecting Trading with the Enemy (1943) shall be read and construed as if the following provisions had been duly enacted as amendments thereto to take effect from the commencement of this Act:

(a) Paragraph *(k)* of Regulation one is amended by adding thereto the following:

"; and for the purposes of this Regulation the war between His Majesty and the German Reich shall be deemed to have commenced on the 2nd day of September, nineteen hundred and thirty-nine.";

(b) Paragraphs *(e)* and *(f)* of Regulation three are revoked;

(c)

(c) Section (2) of Regulation six is revoked and the following substituted therefor:

"(2) Any power or duty conferred or imposed by or under these Regulations upon the Custodian may be delegated by him to such person or persons as he thinks proper.";

(d) Regulation seven is revoked and the following substituted therefor:

"7. No person shall be liable for any act or omission in the exercise or performance or purported exercise or performance, in good faith and on reasonable grounds, of any power, discretion, authority or duty conferred or imposed by or under these Regulations.";

(e) Subparagraphs (i) and (ii) of paragraph *(f)* of Regulation eight are revoked and the following substituted therefor:

"(i) whether the business is carried on for the benefit of or under the control of an enemy; or

"(ii) the relations existing or which have, either before or after the commencement of the present war, existed between a person interested in the business and an enemy.";

(f) Section (2) of Regulation eleven is revoked and the following substituted therefor:

"(2) The power of the Secretary of State to appoint a supervisor under this Regulation shall include a power to appoint a supervisor of the business carried on by any person for the purpose of ascertaining whether the business is carried on for the benefit of or under the control of an enemy, or for the purpose of ascertaining the relations existing, or which before the commencement of the present war existed, between such person and any enemy.";

(g) Section (11) of Regulation fifteen is revoked and the following substituted therefor:

"(11) The Secretary of State shall from time to time prepare and publish in the *Canada Gazette* lists of the persons as to whom orders have been made under this Regulation.";

(h) Regulation fifteen is amended by adding thereto the following as Section (14):

"(14) Notwithstanding anything in this Regulation, where the Secretary of State has made an order under this Regulation, any person affected by the order may, within fifteen days from the day on which he receives notice of the order, apply to a judge of the Exchequer Court of Canada or of a superior court in the province in which the business is situated, to review the order and the judge may thereupon confirm or set aside the order.";

(i) Regulation sixteen is revoked and the following substituted therefor:

"16. Where, on the application of the Secretary of State, it appears to a judge of the Exchequer Court of Canada that a contract entered into prior to or after the commencement of the present war with an enemy or with a person in respect of whose business an order has been made under Regulation fifteen of these Regulations is injurious to the public interest, the judge may by order cancel or determine the contract either unconditionally or upon such conditions as he deems proper and thereupon such contract shall be deemed to be cancelled or determined accordingly.";

(j) Regulation twenty-five is revoked;

(k) Section (2) of Regulation twenty-seven is revoked and the following substituted therefor:

"(2) Any person may, not less than ninety days after giving the Custodian notice of his claim, proceed in the Exchequer Court of Canada for an order declaring that he is not an enemy and

(a) that the property held or controlled by the Custodian is not subject to these Regulations and he is the owner thereof or of an interest therein; or

(b) that he was the owner of property or an interest in property immediately prior to its vesting in the Custodian under these Regulations;

and if the Court makes such an order, the Court may thereupon direct the Custodian to deliver the property to the owner or to such other person as the Court may determine.";

(l) Section (2) of Regulation forty-five is revoked and the following substituted therefor:

"(2) Any person desiring to record such claims or property may obtain the necessary forms for that purpose from the Custodian but the action of the Custodian shall be confined to entering upon the record claims of which particulars are supplied to him, and it shall in no way commit the Custodian or the Government of Canada either to responsibility for the correctness of the claim entered or to taking action on the conclusion of hostilities or otherwise for the recovery of the claim or property in question.";

(m) Regulation sixty-eight is revoked.

Annual Report.

3. The Custodian appointed by the Revised Regulations Respecting Trading with the Enemy (1943) shall, as soon as possible after the 31st day of December in each year and in any event within three months thereof, prepare an Annual Report of the affairs and operations of the Custodian's Office during the twelve month period ending on

Laid before Parliament.

the 31st day of December, and the Secretary of State shall forthwith lay the said Report before Parliament if Parliament is then in session or within fifteen days of the commencement of the next session of Parliament.

Duration

4. This Act shall continue in force until a day fixed by proclamation of the Governor in Council and from and after that day the Revised Regulations Respecting Trading with the Enemy (1943) shall be deemed to be revoked.

SCHEDULE.

REVISED REGULATIONS RESPECTING TRADING WITH THE ENEMY (1943)

Interpretation.

1. For the purpose of these Regulations, the following expressions shall be construed so that—

"Person".

(a) "Person" shall extend to and include persons and bodies of persons, incorporated (wherever incorporated) and unincorporated, such as firms, clubs, companies and municipal authorities, and, as well, trustees, executors and administrators and also a State or the government of a State.

"Enemy territory".

(b) "Enemy territory" means any area which is under the sovereignty of, or in the occupation of, a State or Sovereign for the time being at war with His Majesty.

"Proscribed territory".

(c) "Proscribed territory" means any area in respect of which the Governor in Council, by reason of real or apprehended hostilities or otherwise, has ordered the protective custody of property of persons residing in that area or the regulating of trade with such persons, or both.

"Enemy".

(d) "Enemy" shall extend to and include—

(i) Any State, or Sovereign of a State, at war with His Majesty;

(ii) Any person who resides within enemy territory or proscribed territory;

(iii) Any person who carries on business within enemy territory or proscribed territory;

(iv) Any person acting as agent or otherwise on behalf of an enemy, or under the control of an enemy;

(v) Any person or body of persons constituted or incorporated within, or under the laws of, a State at war with His Majesty or a State the territory of which is occupied by an enemy or is proscribed territory;

(vi) Any person with whom trading is, for the time being, prohibited by these Regulations or by statute or proclamation by His Majesty or by the common law;

(vii) Any person who under the common law is deemed to be an enemy.

Provided, however, that "enemy" shall not include any person by reason only that he is an enemy subject, and provided further that the Governor in Council shall have power to declare any person not to be an enemy who would otherwise be considered an enemy under these Regulations.

"Enemy subject".

(e) "Enemy subject" extends to and includes a person wherever resident, who is a subject or citizen of a State or Sovereign for the time being at war with His Majesty.

"Enemy currency".

(f) "Enemy currency" means any notes or coins which circulate as currency in any area under the sovereignty of a State or Sovereign with whom His Majesty is at war, not being an area in the occupation of His Majesty or of a Power allied with His Majesty, and includes any notes or coins declared by an order of the Minister of Finance to be enemy currency.

"Securities".

(g) "Securities" shall extend to and include stock, shares, annuities, bonds, debentures, debenture stock, certificates of indebtedness, trust receipts or other obligations or rights, whether registered or in bearer form, issued by or on behalf of any Government, municipal or other authority, society or association, or any corporation or company, whether the issuer is in Canada or not and whether the place of registration or the situs of the certificates or other instruments representing the securities is in Canada or not.

"Dividends, interest or share of profits".

(h) "Dividends, interest or share of profits" shall extend to and include—

(i) Any dividends, bonus or interest (whether payable within Canada or not) in respect of any security or other obligation;

(ii) Any interest in respect of any loan made to a person for the purpose of carrying on business, and any profits of such a business; and

(iii) Where a person is carrying on any business on behalf of an enemy, any sum which, had a state of war not existed, would have been transmissible to the enemy by way of profits from that business.

"Property".

(i) "Property" shall extend to and include all real and personal property and all rights and interests therein whether legal or equitable; and without restricting the generality of the foregoing, "property" shall include securities, dividends, interest or share of profits, debts, credits, accounts, patents, copyrights, trade marks, designs or any interest therein and choses in action.

"Enemy Property".

(j) "Enemy Property" means property belonging to an enemy at or subsequent to the commencement of the present war.

"Commencement of the present war".

(k) "Commencement of the present war" shall mean, as respects any enemy, the first day on which a state of war existed between His Majesty and the country in which that enemy resides or carries on business, or the first day upon which such a person became an

enemy; and for the purposes of this Regulation the war between His Majesty and the German Reich shall be deemed to have commenced on the second day of September, nineteen hundred and thirty-nine.

"Secretary of State".

(l) "Secretary of State" shall mean the Secretary of State of Canada.

"Proclamation".

(m) "Proclamation" or "Proclamation by His Majesty" and like expressions shall mean, proclamation by His Majesty the King acting by and with the advice of the Government of Canada.

(n) Words importing the masculine gender include females and corporations.

Offence o trading with enemy.

2. (1) Any person who trades or attempts to trade, or directly or indirectly offers or proposes or agrees to trade, or has since the commencement of the present war traded, attempted or directly or indirectly offered or proposed or agreed to trade, with an enemy, shall be guilty of the offence of trading with the enemy.

Prima facie proof.

(2) In any proceedings for the offence of trading with the enemy, the fact that any document has been despatched addressed to a person in enemy territory or proscribed territory shall be *prima facie* proof, as against any person who was a party to the despatch of the document, that the person to whom the document was despatched was an enemy.

Trading with the enemy.

3. Without restricting the generality of the terms of the immediately preceding Regulation, it is declared that the following matters constitute trading with the enemy within the meaning of these Regulations—

(a) Entering into any transaction or doing any act which was at the time of the transaction or act prohibited by or under any proclamation issued by His Majesty, for the time being in force, dealing with trading with the enemy or which at common law or by statute or under any orders or regulations constitutes the offence of trading with the enemy;

(b) Entering into any transaction or doing any act with, to, or on behalf of, or for the benefit of any person after the issue of any Order in Council or proclamation by His Majesty declaring that such person is by reason of his enemy nationality or enemy association a person with whom trading is prohibited;

(c) Dealing, or attempting, offering, proposing or agreeing, whether directly or indirectly, to deal with any property which is in the hands or custody of the person so dealing, attempting, offering, proposing or agreeing, or over which he has any claim or control, for the purpose of enabling an enemy to obtain money or credit thereon or thereby;

(d) Aiding or abetting any person, whether or not such person is in Canada, to enter into, negotiate, or complete any transaction or do any act which, if effected or done in Canada by such person, would constitute the offence of trading with the enemy;

(e) (Revoked);

(f) (Revoked);

(g) Purchasing enemy currency;

(h) Having any commercial, financial or other intercourse, transactions or dealings with, or for the benefit of, an enemy;

(i) Attempting to do anything which, under these Regulations, is to be treated as trading with the enemy:

Provided that any transaction or act permitted by or under any proclamation or otherwise or by the Secretary of State, or other competent authority, shall not be deemed to be trading with the enemy.

4. (Revoked).

5. (Revoked).

"The Custodian"

6. (1) The Secretary of State is hereby appointed to receive, hold, manage, release, dispose of and otherwise deal with all property which is reported to him, received or controlled by him or vested in him under or by virtue of these Regulations, and he is hereafter referred to as "the Custodian".

Delegation of authority

(2) Any power or duty conferred or imposed by or under these regulations upon the Custodian may be delegated by him to such person or persons as he thinks proper.

Establishment of Custodian's office.

(3) The Custodian may establish and maintain such office or offices as he thinks proper for the administration of these Regulations and such other matters as may be delegated to him and may attach thereto such officers, clerks and advisers as he selects and they shall be paid such remuneration as the Custodian determines.

Department of Government.

(4) For the purposes of the *Canada Evidence Act*, the Custodian's office shall be deemed to be a department of the Government of Canada of which the Custodian is the head.

Actions prohibited.

7. No person shall be liable for any act or omission in the exercise or performance or purported exercise or performance, in good faith and on reasonable grounds, of any power, discretion, authority or duty conferred or imposed by or under these Regulations.

Appointment of inspector.

8. (1) Where it appears to the Secretary of State—

(a) That there is reasonable ground for suspecting that an offence under any of these Regulations has been committed by any person;

(b) That one of the partners in a firm has, at any time since the commencement of the present war, been an enemy or enemy subject or was, immediately prior to the present war, a subject or citizen of a sovereign or state which has become an enemy;

(c) That one-third or more of the issued share capital of a company was, at any time since the commencement of the present war, issued to or held by enemies or enemy subjects or was, immediately prior to the present war, issued to or held by subjects or citizens of sovereigns or states which have become enemies;

(d) That one-third or more of the directorate of a company, at any time since the commencement of the present war, consisted of persons who were enemies or enemy subjects or, immediately prior to the present war, consisted of persons who were subjects or citizens of sovereigns or states which have become enemies;

(e) That a person was or is acting as agent for an enemy; or

(f) That an enemy has an interest in any property;

the Secretary of State, if he thinks it expedient for the purpose of satisfying himself that the person, firm or company is not trading with the enemy, may, in writing, appoint an inspector to inspect the affairs of the person, firm or company or the administration of the property; and the Secretary of State may appoint an inspector to inspect any business to ascertain

(i) whether the business is carried on for the benefit of or under the control of an enemy; or

(ii) the relations existing or which have, either before or after the commencement of the present war, existed between a person interested in the business and an enemy.

Inspector's authority

(2) The Secretary of State may authorize an inspector appointed pursuant to this Regulation to inspect all books, files and documents relating to the subject-matter of the inspection, regardless of who owns or controls such books, files and documents.

9. (Revoked).

10. (Revoked).

Appointment of supervisor.

11. (1) Where, on the report of an inspector appointed under Regulation 8 hereof, it appears to the Secretary of State that it is expedient that the property, business or trade of any person should be subject to frequent inspection or constant supervision, the Secretary of State may appoint that inspector or some other person to supervise the property, business or trade with such powers as the Secretary of State may determine, and any remuneration payable and expenses incurred, whether for the original

inspection or the subsequent supervision, to such amount as may be fixed by the Secretary of State, shall be paid by the person first referred to in this section.

(2) The power of the Secretary of State to appoint a supervisor under this Regulation shall include a power to appoint a supervisor of the business carried on by any person for the purpose of ascertaining whether the business is carried on for the benefit of or under the control of an enemy, or for the purpose of ascertaining the relations existing, or which before the commencement of the present war existed, between such person and any enemy.

Appointment of Controller by Court.

12. (1) Where it appears to the Secretary of State in reference to any person—

(a) That an offence against any of these Regulations has been committed in connection with such person's property, business or trade;

(b) That the control or management of the said property, business or trade has been or is likely to be so affected by the state of war as to prejudice the effective continuance or administration thereof and that it is in the public interest that the said business or trade should continue to be carried on or such property administered; or

(c) That it is expedient in the public interest owing to circumstances or considerations arising out of the present war, that a controller or manager of the said property, business or trade be appointed;

the Secretary of State may apply to the same Court as would within the province wherein the said person owns property or carries on the said business or trade have jurisdiction to appoint a receiver or liquidator or to grant a winding-up order, for the appointment of a controller of the said property, business or trade; and the said Court shall have power to appoint such a controller, for such time and subject to such conditions and with such powers as the Court thinks fit; and the powers so conferred shall be either those of a receiver and manager or those powers subject to such modifications, restrictions or extensions as the Court thinks fit (including, if the Court considers it necessary or expedient for enabling the controller to borrow money, power, after a special application to the Court for that purpose, to create charges on the property of the said person in priority to existing charges).

Costs and remuneration.

(2) The Court shall have power to direct how and by whom the costs of any proceedings under this Regulation and the remuneration, charges and expenses of the controller shall be borne, and shall have power, if it thinks fit, to charge such remuneration, charges and expenses on the property of the person in respect of whose property, business

business or trade the controller has been appointed in such order of priority, in relation to any existing charges thereon as it thinks fit.

Winding-up order.

13. Where the Secretary of State certifies that it appears to him that a company registered within Canada is carrying on business either directly or through an agent, branch, or subsidiary company outside Canada, and that in carrying on such business it has entered into or done acts which if entered into or done within Canada would constitute the offence of trading with the enemy, the Secretary of State may present a petition for the winding-up of the company to the Court having jurisdiction, and the issue of such a certificate shall be a ground on which the company may be wound up by the Court, and the certificate shall, for the purpose of the petition, be evidence of the facts therein stated.

14. (Revoked.)

Appointment of Controller.

15. (1) Where it appears to the Secretary of State that the business carried on within Canada by any person is carried on wholly or mainly for the benefit of or under the control of an enemy, the Secretary of State may make an order either:—

(a) prohibiting such person from carrying on 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 Secretary of State may at any time revoke or vary any such order and may at any time in any case where he has made an order prohibiting or limiting the carrying on of the business substitute for that order an order requiring the business to be wound up.

(3) Where the Secretary of State makes an order under this Regulation he may in that order or at any subsequent time appoint a controller to carry out the order or supervise the carrying out of the order.

(4) The Secretary of State may confer on the controller such powers as are exercisable by a liquidator in a voluntary winding-up of a company including the power to convey or transfer any property in the name of the person whose business is being wound up or in the name of the controller, subject to such modifications, restrictions or extensions as the Secretary of State may deem necessary or convenient.

(5) The Secretary of State may also confer on the controller the power to apply to a Court having jurisdiction to appoint a receiver or a liquidator or to grant a winding-up order, or to a judge of that Court, to determine any question arising in the carrying out of any order made by the Secretary of State under this Regulation.

(6) The Secretary of State may determine the amount of any remuneration payable and of any costs, charges and expenses incurred in connection with the carrying out of any order made under this Regulation or under Regulation 8 hereof, and such amount shall be paid out of the assets of the business in priority to any other claim.

(7) The distribution of any money or other property resulting from the realization of any assets of the business, shall be subject to the same rules as to preferential payments as are applicable to the distribution of the assets of a company which is being wound up under the *Winding-up Act of Canada*, and those assets shall, so far as they are available for discharging unsecured debts, be applied in discharging the debts due to creditors who are not enemy creditors for whose benefit or under whose control the business was carried on, in priority to debts due to such enemy creditors; and any balance, after providing for the discharge of all liabilities, shall be distributed amongst the persons interested therein in such manner as the Secretary of State may direct.

(8) The Secretary of State may, on application for the purpose being made by a controller appointed under this Regulation, after considering the application and any objection which may be made by any person who appears to him to be interested, grant the controller a release; and an order of the Secretary of State releasing the controller shall discharge him from all liability in respect of any act done or default made by him in the exercise and performance of his powers and duties as controller, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(9) Where an order under this Regulation has been made as respects the business carried on by any person, no steps shall be taken for the enforcement of the rights of any creditors of that person, nor shall any petition for the winding-up of the business be presented, nor any resolution for the winding-up of the business be passed, without the consent of the Secretary of State.

(10) The Secretary of State may present a petition for the winding-up of a company by the Court having jurisdiction, and the making of an order under this Regulation shall be a ground on which a company may be wound up by the Court.

(11) The Secretary of State shall from time to time prepare and publish in the *Canada Gazette* lists of the persons as to whom orders have been made under this Regulation.

(12) (Revoked.)

(13) If any person contravenes the provisions of any order made under this Regulation he shall be guilty of an offence under these Regulations. Offence.

(14) Notwithstanding anything in this Regulation, where the Secretary of State has made an order under this Regulation, any person affected by the order may, within fifteen days from the day on which he receives notice of the order, apply to a judge of the Exchequer Court of Canada or of a superior court in the province in which the business is situated, to review the order and the judge may thereupon confirm or set aside the order. Application for review of order.

16. Where, on the application of the Secretary of State, it appears to a judge of the Exchequer Court of Canada that a contract entered into prior to or after the commencement of the present war with an enemy or with a person in respect of whose business an order has been made under Regulation 15 of these Regulations is injurious to the public interest, the judge may by order cancel or determine the contract either unconditionally or upon such conditions as he deems proper, and thereupon such contract shall be deemed to be cancelled or determined accordingly. Cancellation or determination of contract.

17. Where by any statute, Order in Council, regulation, rule, by-law, contract or otherwise, any notice is required to be given to a person who, under these Regulations, is an enemy, such notice shall be deemed to have been duly given if it is addressed to the enemy in care of the Custodian and delivered or mailed to the Custodian: Provided that the giving of any such notice shall not in any way affect the rights of the Custodian or impose upon him any duty to take or abstain from taking any action or proceeding. Notice to enemy.

18. (Revoked.)

19. (1) Where the right of nominating or appointing a director of a company is vested in an enemy, the right shall not be exercisable except by leave of the Secretary of State, and any director nominated or appointed in exercise of such right shall, except as aforesaid, cease to hold office as director. Prohibition of nomination or appointment of Director.

(2) The Secretary of State may, notwithstanding any statute or Order in Council or any by-law, regulation or stipulation of a company or other body, by written order remove any enemy director and appoint a substitute director who shall act as a director until such time as a new board of directors is duly elected or appointed. Removal of Director.

20. (Revoked.)

21. (1) All enemy property is hereby vested in and made subject to the control of the Custodian whether or not the property has been disclosed to the Custodian as required by these Regulations.

(2) This Regulation shall be deemed to be a vesting order and to confer on the Custodian all rights of an enemy including Vesting of enemy property in Custodian.

cluding the power of dealing with the property in such manner as the Custodian may in his sole discretion decide.

(3) Where property is held, recorded or registered in Canada for or in the name of a person whose address on the register or other record is in enemy territory or proscribed territory, the property is hereby vested in and made subject to the control of the Custodian whether or not the property has been disclosed to the Custodian as required by these Regulations and the Custodian may deal with the property as though it had, before vesting, belonged absolutely to an enemy.

(4) The Governor in Council may by order declare that property specified therein is enemy property and cause a copy thereof to be published in the *Canada Gazette;* and thereupon the property so specified shall be deemed to be enemy property and to have vested in the Custodian as of the date of the Order in Council, but the making or publication of such an order does not in any manner whatsoever affect any vesting of property under section (1) of this Regulation.

22. (Revoked.)

Real estate.

23. (1) Where any real estate or interest therein is vested in the Custodian he may issue a certificate stating that such real estate or interest therein is vested in the Custodian and such certificate shall be registered *without charge* in the Land Titles Office or registration office in the district in which the real estate is situate, but failure to register such a certificate shall not release the real estate or interest therein from the provisions of these Regulations.

(2) After the registration of such certificate and upon the written request of the Custodian, the proper officer in the Land Titles Office or registration office in the district in which the real estate is situate shall, where there is provision for transfer of titles, forthwith and *without charge* transfer the title of the real estate or interest therein affected by the Custodian's certificate into the name of "The Secretary of State of Canada acting in his capacity as Custodian under the Revised Regulations Respecting Trading with the Enemy (1943)", without any transmission or other application or further proceeding. The title to the land or interest therein shall be transferred as hereinbefore provided, notwithstanding that the Custodian has not in his possession or under his control the certificate or any other document relating to the title to the said real estate or interest therein.

(3) The interest of any enemy in such real estate shall be regarded as having been effectively dealt with by any such action on the part of the Custodian.

(4) The Custodian may issue a certificate vacating any certificate of vesting previously registered, and the vacating

certificate shall be registered in the Land Titles Office or registration office, as the case may be, *without charge.*

Patent, copyright, trade mark or design.

24. (1) If the benefit of an application made by or on behalf of or for the benefit of an enemy for any patent, copyright, trade mark or design is, by a certificate of the Custodian, declared to have been vested by these Regulations in the Custodian, the patent shall issue, or the copyright, trade mark or design shall be registered, as the case may be, in the name of the Secretary of State of Canada acting in his capacity as Custodian under the Revised Regulations Respecting Trading with the Enemy (1943), notwithstanding anything in any statute to the contrary.

(2) Where any patent has issued, or where any interest in a patent or any copyright, trade mark or design or any interest therein has been registered, in the name of an enemy, the Custodian may issue a certificate that the patent, copyright, trade mark or design or interest therein, as the case may be, is vested in the Custodian, and such certificate shall forthwith and without charge be recorded by the proper officer and shall have the same force and effect as an assignment of the said patent, copyright, trade mark or design or interest therein, as the case may be, to the Secretary of State of Canada acting in his capacity as Custodian under the Revised Regulations Respecting Trading with the Enemy (1943).

(3) Failure to register a certificate as provided in sections (1) or (2) of this Regulation shall not affect the rights of the Custodian.

25. (Revoked).

Duration of vesting.

26. Where the property of any person is vested in the Custodian under these or any other Regulations or under any Order in Council or statute such vesting shall not, nor shall any proceedings relating thereto or in consequence of the vesting, be invalidated or affected by reason only of such person having, prior or subsequent to the date of the vesting, died or ceased to be an enemy, or, where the property has been vested under the provisions of sections (3) or (4) of Regulation 21 or of Regulation 25 of these Regulations, by reason of its being subsequently ascertained that such person was not an enemy.

Court proceedings.

27. (1) Where a dispute or question arises as to whether property is subject to these Regulations, the Custodian may proceed in the Exchequer Court of Canada or in any superior court of record for a declaration as to whether the property is subject to these Regulations.

(2) Any person may, not less than ninety days after giving the Custodian notice of his claim, proceed in the Exchequer Court of Canada for an order declaring that he is not an enemy and

(a) that the property held or controlled by the Custodian is not subject to these Regulations and he is the owner thereof or of an interest therein: or

(b) that he was the owner of property or an interest in property immediately prior to its vesting in the Custodian under these Regulations;

and if the Court makes such an order, the Court may thereupon direct the Custodian to deliver the property to the owner or to such other person as the Court may determine.

Duty to report to Custodian.

28. (1) Any person who holds or manages any enemy property shall within thirty days after the commencement of the present war, or if the property comes into his possession or custody or under his control after the commencement of the present war, then within thirty days after the time when it comes into his possession or custody or under his control, by notice in writing communicate the fact to the Custodian, and shall furnish the Custodian with such particulars in relation thereto as the Custodian may prescribe and require and shall, on the Custodian's written request, deliver to him possession of the property and all documents or other evidence of title relating thereto.

(2) The preceding section of this Regulation shall extend and apply to balances and deposits standing to the credit of enemies at any bank, and to debts which are due, or which, had a state of war not existed, would have been due to enemies, or which shall become due, as if the bank or debtor were a person who held property on behalf of an enemy. All such balances, deposits and debts shall be paid to the Custodian as required by these Regulations.

(3) Every company incorporated by or under the authority of the Parliament of Canada or of the legislature of a Province of Canada, and every company which, though not so incorporated, has its head office or has a share transfer or share registration office in Canada, shall within thirty days after the commencement of the present war, by notice in writing communicate to the Custodian full particulars of any securities or other obligations of the company which are held by or in the name of or for the benefit of an enemy.

(4) Every partner of a firm or partnership, one or more partners of which on the commencement of the present war became an enemy or 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 thirty days after the commencement of the present war, by notice in writing communicate to the Custodian full particulars as to any dividends, interest or share of profits due to such enemy.

(5) Where before the commencement of the present war any money has been paid into any account, or has been paid to any person in trust for an enemy, the person by whom the payment was made shall, within thirty days after the commencement of the present war, by notice in writing require the person to whom the payment was made to pay the money over to the Custodian and shall furnish the Custodian with such particulars as he may require. The person to whom the payment was made shall, within one week after the receipt of the notice, comply with the requirements and shall be exempt from all liability for having done so: Provided that in the case of such payments as, had a state of war not existed, would have been payable and paid to an enemy (other than a payment in respect of securities issued by a company), the duty of making payments to the Custodian and of requiring payments to be made to him and of furnishing him with particulars shall rest with the person through whom the payments are made.

Payment of moneys to Custodian.

29. (1) Any money which, had a state of war not existed, would have been payable and paid to or for the benefit of an enemy, and any such money which shall become so payable after the commencement of the present war shall be paid to the Custodian by the person by whom it would have been payable, and the payment shall be accompanied by such particulars as the Custodian may prescribe and require.

(2) Without restricting the generality of section (1) of this Regulation, this Regulation shall be deemed to extend to and include moneys payable by way of—

(a) dividends, interest or share of profits;

(b) any payment in respect of securities, including the payment of any securities which have become payable on maturity or by being drawn for payment or otherwise;

(c) any moneys due under or in respect of any policy of assurance or insurance;

(d) any payment in respect of requisitioned property;

(e) any payment under any trust, will or settlement; and

(f) any other payment required to be made to the Custodian under these or any other Regulations.

30. (Revoked)

Payment of bearer securities.

31. Where on or after the commencement of the present war any coupon or other security transferable by delivery is presented for payment to any person and such person has reason to suspect that it is so presented on behalf of or for the benefit of an enemy, or that on or after the commencement of the present war it has been held by or

for the benefit of an enemy, such person shall pay the sum due in respect thereof to the Custodian and such payment shall for all purposes be a good discharge to such person.

Payment on securities after notice.

32. Where the Custodian is satisfied from returns made to him that any securities are held by any person on behalf of an enemy, the Custodian may give notice thereof to the person by or through whom any dividends, interest or share of profits in respect of the securities or any money by way of payment of the securities are payable, and upon receipt of such notice any dividends, interest or share of profits payable in respect of, and any money by way of payment of the securities to which the notice relates shall be paid to the Custodian in like manner as if the securities were held by an enemy.

Method of payment to Custodian.

33. All moneys payable to the Custodian in pursuance of these Regulations shall be paid to the credit of the Custodian through such officers, banks or persons, and in such manner as the Custodian from time to time directs and appoints.

Time for payment.

34. (1) Any money required to be paid to the Custodian under these Regulations shall be paid

(a) within thirty days after the commencement of the present war, if the money, had a state of war not existed, would have been payable before the commencement of the present war; and

(b) in any other case, within thirty days after it would have been payable.

Interest.

(2) All interest payable on any such money shall be paid to the Custodian; and any moneys not paid within the time required by these Regulations shall bear interest at the rate of five per centum per annum from the date on which such payment is so required by these Regulations.

Currency.

(3) Where any money is payable or becomes payable to any enemy by contract, law or custom or in any other manner in other than Canadian currency, it shall, unless the Custodian allow or direct otherwise, be paid to the Custodian in Canadian currency at the rate of exchange equal to the average cable transfer rate prevailing in Canada during the month immediately preceding the commencement of the present war, or at such rate as may be fixed by the Foreign Exchange Control Board.

Effect of payment to Custodian.

35. (1) Any payment by or on behalf of a debtor made to the Custodian shall, to the extent of the payment, discharge the debtor from all obligations and liabilities in respect of the debt, and interest shall cease to run against the debtor on the amount so paid from the date of its receipt by the Custodian.

Evidence of discharge.

(2) The Custodian shall have power to execute and deliver any document necessary or proper as evidence of such discharge and may deliver up to the person making

such payment any note, bond or other evidence of or any security for the debt which may be in the possession of the Custodian.

Custodian's receipt.

(3) The receipt of the Custodian or any person duly authorized to sign receipts on his behalf for any money paid to him under these Regulations shall be a good discharge to the person paying the same.

Recovery of moneys by Custodian.

36. In the event of failure by any person to pay to the Custodian any money payable to him under these Regulations the Custodian may take action in the Exchequer Court of Canada or in any superior court of record to recover such money.

Registration of securities in name of Custodian.

37. (1) Where any securities are vested in the Custodian, he may issue a warrant stating that the securities are vested in him and requiring the person in whose books the securities are registered to cancel the existing registration and to register the securities, and issue a certificate therefor, in the name of the Secretary of State of Canada acting in his capacity as Custodian under the Revised Regulations Respecting Trading with the Enemy (1943), his nominee or transferee. Upon receipt of such warrant the person in whose books the securities are registered shall forthwith cancel the existing registration and register the securities and issue the certificate in accordance with the terms of the warrant and deliver the certificate to the Custodian, notwithstanding any law, contract, by-law, regulation or stipulation to the contrary, and notwithstanding that the Custodian is not in possession of the certificate, scrip or other document or instrument of title relating to the securities affected by the warrant.

Liens on securities.

(2) The registration and the issue and delivery of the certificate under section (1) of this Regulation shall be without prejudice to any lien or charge in favour of the person in whose books the securities are registered or to any other lien or charge of which the Custodian has notice. If any question arises as to the existence or amount of any lien or charge, the question may, on application being made for the purpose, be determined by any superior court of record or a judge thereof.

Disposition of property.

38. (1) The Custodian may, where he considers it advisable to do so, sell, liquidate or otherwise dispose of any property vested in him and shall deal with the proceeds of such property in the same manner as he may deal with moneys paid to him under these Regulations.

(2) Proof of the transfer or sale by the Custodian of any property is conclusive evidence in favour of the purchaser and of the Custodian that the requirements of these Regulations have been complied with.

Relinquishing property.

39. The Custodian may at any time, at his discretion and by such notice, conveyance, transfer or release as he may think proper, relinquish any property or the proceeds of the liquidation of any property.

40. (Revoked.)

41. (Revoked.)

Execution of documents.

42. The Custodian may execute any agreement or document whether of indemnity or otherwise, or do anything necessary to deal effectively with any property delivered to or vested in him or subject to his control.

Investments by Custodian

43. The Custodian may place on deposit with any bank or may, with the approval of the Treasury Board, invest in any securities, approved by the Treasury Board, any moneys paid to or received by him from or in respect of property vested in him pursuant to these Regulations or otherwise.

Fees for services rendered.

44. (1) The Custodian may, in addition to other charges authorized by these Regulations, if any, charge against all property investigated, controlled or administered by him, whether the property has vested in him or not, a fee for services rendered not exceeding two per centum of the value of the property including the income therefrom.

(2) The Custodian may employ such part of the property vested in him or the proceeds therefrom as may be necessary to pay the expenses incurred in the administration of these Regulations.

Custodian's records.

45. (1) The Custodian shall, in addition to his other duties, keep a record of:—

(a) Debts (including bank balances) due to persons residing in Canada, from persons residing or carrying on business in enemy territory or proscribed territory;

(b) Other property in enemy territory or proscribed territory (including securities) belonging to persons residing in Canada; and

(c) All debts reported to him under these Regulations.

(2) Any person desiring to record such claims or property may obtain the necessary forms for that purpose from the Custodian but the action of the Custodian shall be confined to entering upon the record claims of which particulars are supplied to him, and it shall in no way commit the Custodian or the Government of Canada either to responsibility for the correctness of the claim entered or to taking action on the conclusion of hostilities or otherwise for the recovery of the claim or property in question.

(3) The Custodian shall record claims against enemy Governments, as distinct from claims against other enemies, in respect of public securities of those governments held by the claimants but not any other claims against enemy Governments.

(4) The Custodian shall keep a record of all property whereof returns have been made to him or which is held by him under these or any other Regulations, or under any Order in Council or statute, and such record may be inspected by any person who appears to the Custodian to be interested as creditor or otherwise at all reasonable times, free of charge.

46. (Revoked.)

Creditors to report claims.

47. (1) Every person in Canada to whom a debt is owing by an enemy shall notify the Custodian of such debt

(a) if the debt is owing at the commencement of the present war, within one month after the commencement of the present war; and

(b) if the debt becomes payable after the commencement of the present war, within one month after the debt becomes payable;

and shall thereafter from time to time within one month of demand by the Custodian furnish such further information and documents in his possession or power, in such form and verified in such manner, as the Custodian may require.

Offence.

(2) Every person who fails to comply with any provision of section (1) of this Regulation is guilty of an offence under these Regulations and the Custodian may, by order, forever bar and extinguish any claim in respect of a debt regarding which the claimant has not complied with any provision of section (1) of this Regulation.

(3) The Custodian is not, by reason of a notification under Section (1) of this Regulation, subject to any liability with respect to the debt.

Offence.

(4) Every person who furnishes false information with respect to an enemy debt is guilty of an offence under these Regulations.

48. (Revoked.)

49. (Revoked.)

Custodian not liable for tax, etc.

50. Property vested in the Custodian is liable for any tax, mortgage, lien, charge, rent, interest or payment thereon but the Custodian is not liable with respect thereto.

Life Insurance.

51. Where any life insurance policy or annuity contract would, at any time on or after the second day of September, nineteen hundred and thirty-nine, have lapsed by its terms were it not for a regulation heretofore in force with reference to trading with the enemy or enemy property, it shall be deemed to have lapsed when it would, but for such regulation, have lapsed.

Proof of signatures.

52. Every document purporting to be an order, certificate or other instrument issued by the Custodian and signed by him or any other person authorized by the Custodian, shall without further proof, unless the contrary is shown, be deemed for all purposes, including its receipt in evidence, to be such order, certificate or other instrument.

Periods of Prescription suspended.

53. All periods of prescription or limitations of right of action, whether they began to run before or after the commencement of the present war, shall be treated, so far as regards relations between persons who are not enemies under these Regulations and enemies, as having been suspended during the present war.

Certificate that territory enemy or proscribed.

54. A certificate of the Secretary of State that any area is or was enemy territory or proscribed territory, or as to the time at which any area became or ceased to be enemy territory or proscribed territory shall, for the purposes of any proceedings under or arising out of these Regulations, be conclusive evidence of the facts stated in such certificate.

Offence.

55. Any person who for the purpose of obtaining any authority or sanction under these Regulations or for any other reason, or in giving any information for the purposes of these Regulations or any order made thereunder, makes a statement knowing it to be false, shall be guilty of an offence under these Regulations.

Offence.

56. (1) Any person who refuses or fails to make or require the making, as the case may be, of any payment, or to furnish the prescribed particulars as required by these Regulations, shall be guilty of an offence under these Regulations.

(2) Any person who refuses or fails to furnish information and particulars within the time mentioned in these Regulations, or fails to deliver to the Custodian the documents or other evidence of title pursuant to the Custodian's written request as provided by these Regulations, shall be guilty of an offence under these Regulations.

Offence.

57. Any person who wilfully obstructs any person in the exercise of any powers conferred on him by or under these Regulations shall be guilty of an offence under these Regulations.

Onus of proof.

58. (1) The onus of proof rests upon a person who asserts that he has or had any interest in property or that he or any property is not subject to the provisions of these Regulations.

(2) Evidence submitted to the Custodian thereby becomes the property of the Custodian and may be retained by him.

Court rules.

59. The judges of the Court to which any jurisdiction is by these Regulations committed may make provision by rules for the practice and procedure to be adopted for the purpose of the exercise of such jurisdiction.

Consent of Attorney-General to prosecution.

60. No prosecution for an offence under Regulations 2 or 3 of these Regulations shall be instituted except by or with the consent of the Attorney-General of Canada; provided that the person charged with such an offence may be arrested and a warrant for his arrest may be issued and executed, and such person may be remanded in custody or on bail notwithstanding that the consent

of the Attorney-General of Canada to the institution of the prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

61. (Revoked.)

Criminal Code applicable.

62. Subject to the provisions of Regulation 60 hereof, any offence declared and any penalty or forfeiture imposed or authorized by these Regulations may in the absence of any provision for a different procedure be prosecuted, recovered, or enforced by summary proceedings and conviction under the provisions of Part XV of the Criminal Code.

Penalty

63. Any person guilty of the offence of trading, attempting or directly or indirectly offering or proposing or agreeing to trade with the enemy in violation of any of these Regulations shall be liable—

(a) on summary conviction to imprisonment with or without hard labour, for a term not exceeding twelve months, or to a fine not exceeding two thousand dollars, or to both such imprisonment and such fine: or

(b) on conviction on indictment to imprisonment for a term not exceeding five years or to a fine not exceeding five thousand dollars, or to both such imprisonment and fine;

and the Court may in any case order that any goods or money in respect of which the offence has been committed shall be forfeited to the Custodian.

Penalty.

64. Any person guilty of an offence under these Regulations shall be liable to a fine not exceeding five hundred dollars or imprisonment with or without hard labour for a term not exceeding six months, or to both such fine and imprisonment.

Offences by corporation.

65. Where a company, incorporated or unincorporated, or other body of persons, has been guilty of an offence or default under these Regulations, and the penalty or punishment provided as respects said offence or default is or includes a fine and whether or not imprisonment, additionally or alternatively, the company or other body shall be liable to the fine only (with any additional fine or fines provided by any of these Regulations with respect to continuing defaults); and every director, manager, secretary, or other officer of such company or body of persons and every partner or member of such unincorporated company or body of persons who is knowingly a party to the offence or default, shall also be deemed guilty of the offence or default and liable on conviction to the like fine or fines as the company or other body of persons, or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such fine or fines and such imprisonment.

66. (Revoked.)
67. (Revoked.)
68. (Revoked.)
69. (Revoked.)

Citation.

70. These Regulations may be cited as "Revised Regulations Respecting Trading with the Enemy (1943)".

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