1953 No. 1223

The Control of Trade by Sea (Colonial Enforcement) Order, 1953

Made - - - - 1*st August*, 1953

Coming into Operation 6*th August*, 1953

At the Court at Buckingham Palace, the 1st day of August, 1953

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of subsection (2) of section four of the Emergency Powers (Defence) Act, 1939(**a**), as continued in force by subsection (2) of section five of the Supplies and Services (Transitional Powers) Act, 1945(**b**), and the Supplies and Services (Continuance) Order, 1952(**c**), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. In any territory specified in the Schedule to this Order a person may, in accordance with the next following Article, be apprehended, tried and punished for any offence against Regulation forty-six of the Defence (General) Regulations, 1939 (which relates to the control of trade by sea), being an offence committed after the coming into operation of this Order.

2.—(1) In the case of a territory in which at the material time Defence Regulations are in force, the power to apprehend, try and punish a person under the preceding Article shall be exercisable as if offences against the said Regulation forty-six were offences against those Regulations, and were punishable thereunder in accordance with any general provisions of those Regulations relating to the punishment of offences, other than offences for which a special penalty is provided.

(2) In the case of any territory not falling within the preceding paragraph,—

(*a*) the power to apprehend and try a person under the preceding Article shall be exercisable in accordance with any rules made in that behalf by the Governor of the territory ; and

(*b*) the power to punish a person under that Article shall be exercisable as if at the material time Defence Regulations were in force in the territory and offences against the said Regulation forty-six were offences against those Regulations, and as if the penalties applicable thereunder to offences against the said Regulation forty-six were such as may appear to the court of trial to correspond most nearly to the penalties to which, on conviction in comparable proceedings, a person is liable in England for an offence against that Regulation.

(**a**) 2 & 3 Geo. 6. c. 62. (**b**) 9 & 10 Geo. 6. c. 10. (**c**) S.I. 1952/2094; 1952 III, p. 3006.

(3) In this Article—

(*a*) the expression " the material time ", in relation to the exercise of a power, means the time at which the power is to be exercised ;

(*b*) the expression " the Governor ",—

(i) in relation to the territories comprised in the Federation of Malaya, means the High Commissioner of the Federation, and includes any person for the time being administering the government of the federation ;

(ii) in relation to the Zanzibar Protectorate, means the British Resident or the person lawfully discharging his functions ;

(iii) in relation to any other territory, includes any person administering the government of the territory ; and

(iv) in relation to any territory, includes any deputy to the person who is the Governor of the territory in accordance with the preceding heads of this sub-paragraph, to the extent that the deputy is authorised to act for that person ; and

(*c*) the reference to conviction in comparable proceedings—

(i) if the proceedings before the court of trial are in the nature of summary proceedings, shall be construed as a reference to summary conviction, and

(ii) in any other case, shall be construed as a reference to conviction on indictment.

3. This Order shall have effect in relation to any dependencies of any of the territories specified in the Schedule to this Order, and in relation to the territorial waters (if any) adjacent to any such territory or to a dependency thereof, as it has effect in relation to that territory.

4.—(1) The Defence Regulations (Reciprocal Enforcement) Order, 1940(**a**) (which provides for the reciprocal enforcement of Defence Regulations in the United Kingdom and in other territories in which Defence Regulations are for the time being in force by virtue of the Emergency Powers (Defence) Act, 1939) shall not apply for the purposes of the apprehension, trial or punishment of any person, in any of the territories specified in the Schedule to this Order, for an offence against the said Regulation forty-six committed after the coming into operation of this Order.

(2) Subject to the preceding paragraph, nothing in this Order shall affect the operation of the said Order of 1940 in relation to any offence against Defence Regulations.

5.—(1) This Order may be cited as the Control of Trade by Sea (Colonial Enforcement) Order, 1953.

(2) This Order shall come into operation on the sixth day of August, nineteen hundred and fifty-three.

W. G. Agnew.

(a) S.R. & O. 1940/1036; 1940 II, p. 269.

SCHEDULE

Aden (Colony and Protectorate).
Bahamas.
Barbados.
Bermuda.
British Guiana.
British Honduras.
British Solomon Islands Protectorate.
Cyprus.
Dominica.
Falkland Islands.
Federation of Malaya:—
Settlement of Malacca.
Settlement of Penang.
Malay States.
Fiji.
Gambia (Colony and Protectorate).
Gibraltar.
Gilbert and Ellice Islands Colony.
Gold Coast:—
(*a*) Colony.
(*b*) Ashanti.
(*c*) Northern Territories.
(*d*) Togoland under United Kingdom Trusteeship.
Grenada.
Hong Kong.
Jamaica (including Turks and Caicos Islands and the Cayman Islands).
Kenya (Colony and Protectorate).
Leeward Islands:—
Antigua.
Montserrat.
St. Christopher and Nevis.
Virgin Islands.
Malta.
Mauritius.
Nigeria:—
(*a*) Colony.
(*b*) Protectorate.
(*c*) Cameroons under United Kingdom Trusteeship.
North Borneo.
Northern Rhodesia.
Nyasaland Protectorate.
St. Helena.
St. Lucia.
St. Vincent.
Sarawak.
Seychelles.
Sierra Leone (Colony and Protectorate).
Singapore.
Somaliland Protectorate.
Tanganyika.
Trinidad and Tobago.
Uganda Protectorate.
Zanzibar Protectorate.

EXPLANATORY NOTE

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

Regulation 46 of the Defence (General) Regulations, 1939, authorises the making of orders prohibiting British ships from proceeding to sea except under the authority of a licence. The Control of Trade by Sea (China and North Korea) Order, 1953, has been made under this Regulation.

The Defence Regulations (Reciprocal Enforcement) Order, 1940, provided for the reciprocal enforcement of Defence Regulations in the United Kingdom and in colonial territories where Defence Regulations were for the time being in force. A number of colonial territories, however, do not now have Defence Regulations.

The present Order provides that offenders against Regulation 46 may be apprehended, tried and punished in any of the territories specified in the Schedule to the Order.