DISTRIBUTION OF GERMAN ENEMY PROPERTY

The Distribution of German Enemy Property (No. 1) Order, 1950

1950 No. 1642

Made - - - -	*9th October*, 1950
Laid before Parliament	*10th October*, 1950
Coming into Operation	*23rd October*, 1950

At the Court at Buckingham Palace, the 9th day of October, 1950

Present,

The King's Most Excellent Majesty in Council

His Majesty, in pursuance of Sections 1 and 11 (4) of the Distribution of German Enemy Property Act, 1949(a), and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

PART I

Title, commencement and interpretation

1.—(1) This Order may be cited as the Distribution of German Enemy Property (No. 1) Order, 1950.

(2) This Order shall come into operation on the 23rd day of October, 1950.

2.—(1) In this Order, unless the context otherwise requires, the following expressions have the meanings hereinafter respectively assigned to them—

(*a*) "the Act" means the Distribution of German Enemy Property Act, 1949(a);

(*b*) "the 1939 Act" means the Trading with the Enemy Act, 1939(b), as amended by or under any other Act;

(*c*) "the Administrator" means the Administrator of German Enemy Property appointed under this Order;

(*d*) "Custodian" means any Custodian of Enemy Property appointed by the Board of Trade under section 7 of the 1939 Act.

(2) The Interpretation Act, 1889(c), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

PART II

Appointment of the Administrator

3. The Board of Trade shall appoint, on such terms as they may specify, an administrator who, by virtue of subsection (3) of section one of the Act, shall be a corporation sole under the name of the Administrator of German Enemy Property.

4. The Administrator shall have the powers conferred upon him, and the duties imposed upon him, by this Order and by any other Order in Council made under section one of the Act, and may do all such things as he may consider necessary or desirable for carrying out the powers and duties so conferred and imposed.

(a) 12, 13 & 14 Geo. 6. c. 85. (b) 2 & 3 Geo. 6. c. 89. (c) 52 & 53 Vict. c. 63.

5. The Administrator may sue and be sued in the name of the Administrator of German Enemy Property.

6. The Administrator shall have a common seal and power to hold land without licence in mortmain.

7.—(1) The Administrator shall be assisted by such officers, agents and servants as the Board of Trade, with the consent of the Treasury, may determine.

(2) There shall be paid by the Board of Trade to the Administrator and to such officers, agents and servants such remuneration, allowances and expenses as the Board of Trade, with the consent of the Treasury, may determine.

8. The seal of the Administrator shall be authenticated by the signature of the Administrator or some other person authorised by the Administrator to act in that behalf.

9. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Administrator by any person generally or specially authorised by him for the purpose.

10. Every document purporting to be a document duly executed or issued under the seal of the Administrator authenticated as aforesaid or purporting to be signed by the Administrator or any person authorised to act on his behalf shall, until the contrary be proved, be deemed to be a document so executed or issued or so signed as the case may be.

PART III

Collection and realisation of German enemy property

11. The day on which this Order comes into operation is the appointed day for the purposes of the definition of German enemy property contained in subsection (1) of section eight of the Act.

12.—(1) A Custodian shall, on being so required by the Administrator, transfer to the Administrator, or as the Administrator may direct, any German enemy property which, or the right to transfer which, is vested in, or otherwise in the possession or under the control of, the Custodian.

(2) The Administrator shall have power to sell any property so transferred at such price and on such terms as he may think fit.

13.—(1) The Board of Trade may by order vest in the Administrator any German enemy property, or the right to transfer any German enemy property. Any order so made by the Board is hereinafter referred to as a "vesting order".

(2) The Administrator shall have such rights, powers, duties and liabilities with regard to the property or the right to transfer the property vested in him by a vesting order as are prescribed by the order.

(3) A vesting order as respects property of any description shall be of like purport and effect as a vesting order as respects property of the same description made by the High Court under the Trustee Act, 1925(a), and shall be sufficient to vest in the Administrator any property, or the right to transfer any property, as provided by the vesting order without the necessity for any further conveyance, assurance or document.

(4) A vesting order may be varied or revoked by the Board of Trade.

(a) 15 & 16 Geo. 5. c. 19.

14. Where any requirement or direction with respect to any property is addressed to any person by the Administrator and accompanied by a certificate of the Administrator that the property is German enemy property which is required to be transferred to the Administrator, or in respect of which a vesting order has been made, the certificate shall be evidence of the facts stated therein, and if that person complies with the requirement or direction he shall not be liable to any action or other legal proceeding by reason only of such compliance.

15. If it is proved that any property which, or the right to transfer which, is transferred to or vested in the Administrator under this Order was not German enemy property the owner thereof shall be entitled to recover the property from the Administrator, or if it has been sold the proceeds of sale thereof, but shall not be entitled to any other remedy.

16.—(1) The Administrator shall not be bound by any provision in any article of association, bye-law or other rule governing a company or other body which restricts the right to transfer shares, stock or other securities or imposes any conditions as to the price at which, or the person to whom, shares, stock or other securities are to be offered or sold.

(2) Where in exercise of the powers conferred on him the Administrator executes a transfer of any shares, stock or securities the company or other body in whose book the shares, stock or securities are registered shall, upon the receipt of the transfer so executed by the Administrator and upon being required by him so to do, register the shares, stock or securities in the name of the Administrator or other transferee notwithstanding any regulation or stipulation of the company or other body, and notwithstanding that the Administrator is not in possession of the certificate, scrip or other document of title relating to the shares, stock or securities transferred ; but such registration shall be without prejudice to any lien or charge in favour of the company or other body, or to any other lien or charge of which the Administrator or a Custodian has notice.

17. No property which, or the right to transfer which, is transferred to or vested in the Administrator shall be liable to be attached or taken in execution.

18.—(1) Except in accordance with the foregoing provisions of this Part of this Order, or with the consent of the Administrator, no person other than a Custodian shall transfer, dispose of or otherwise deal with any German enemy property ; and any transfer, disposal or dealing in contravention of this paragraph shall be void.

(2) If any person called upon to pay any money or to transfer or deal with any property has reason to suspect that the money or property is German enemy property, he shall, before paying, transferring or dealing with the money or property, furnish particulars thereof to the Administrator and shall comply with any directions that the Administrator may give with respect thereto.

(3) Nothing in this Article shall prohibit or restrict the transfer or disposal of or dealing with any property or the payment of any money—

(*a*) by or to a Custodian, or

(*b*) in accordance with any direction, or with the consent, of the Board of Trade.

19.—(1) Where any right or interest in the estate of a deceased person is German enemy property, the Administrator may act in the administration of the estate, and the Court having jurisdiction to grant letters of administration of the estate may grant such letters to the Administrator by the name of

the Administrator of German Enemy Property and, for that purpose, the Court shall consider the Administrator as in law entitled equally with any other person or class of persons to obtain the grant of letters of administration.

(2) The Administrator shall be treated as, and shall have the powers of, a trust corporation for the purposes of the Law of Property Act, 1925(**a**), the Settled Land Act, 1925(**b**), the Trustee Act, 1925(**c**), the Administration of Estates Act, 1925(**d**), and the Supreme Court of Judicature (Consolidation) Act, 1925(**e**).

PART IV

Miscellaneous

20.—(1) Every person who at or after the coming into operation of this Order, holds, controls or manages property which is, or any right to or interest in which is, German enemy property shall, unless particulars thereof have before the coming into operation of this Order been furnished to a Custodian, within three months from the date on which this Order comes into operation, or from the date when the property, right or interest becomes German enemy property, whichever is the later, by notice in writing furnish particulars thereof to the Administrator and shall furnish the Administrator with such further information in relation thereto as the Administrator may require.

(2) Every company incorporated in the United Kingdom and every company which, though not incorporated in the United Kingdom, has a share transfer or share registration office in the United Kingdom, shall, unless particulars thereof have already been furnished to a Custodian, within three months from the date on which this Order comes into operation by notice in writing communicate to the Administrator full particulars of all shares, stock, debentures and debenture stock, bonds or other securities issued by the company which are German enemy property; and if any shares, stock, debentures or debenture stock, bonds or other securities issued by any such company as aforesaid become German enemy property after the coming into operation of this Order, the company shall, within fourteen days after the day on which the property becomes German enemy property, by like notice communicate to the Administrator the like particulars in regard to that property.

21.—(1) If it appears to the Administrator expedient so to do for the purpose of collecting German enemy property or discharging any of his other functions, the Administrator may, by notice in writing—

(*a*) require any person to produce, at a time and place specified in the notice, to the Administrator, or to any person nominated by him for the purpose, any books or documents specified or described in the notice, being books or documents which are in his custody or under his control, or

(*b*) require any person to furnish to the Administrator such returns, accounts or other information as may be specified or described in the notice, and specify the time, the manner and the form in which any such returns, accounts or information are to be furnished.

(2) The Administrator may take copies of any books or documents produced under sub-paragraph (*a*) of the foregoing paragraph.

(**a**) 15 & 16 Geo. 5. c. 20. (**b**) 15 & 16 Geo. 5. c. 18. (**c**) 15 & 16 Geo. 5. c. 19.
(**d**) 15 & 16 Geo. 5. c. 23. (**e**) 15 & 16 Geo. 5. c. 49.

22.—(1) If a justice of the peace is satisfied by information on oath that there is reasonable ground for suspecting that there is situate in or on any premises specified in the information any German enemy property or document of title or evidence relating thereto or any strong room, safe, box or other sealed receptacle which may contain any German enemy property or document of title or evidence relating thereto, he may grant a search warrant authorising any constable, together with any other persons named in the warrant, at any time or times within one month from the date of the warrant, to enter the premises specified in the information, if necessary by force, and to search the premises and to open the strong room, safe, box or other sealed receptacle so specified.

(2) A person authorised by any such warrant as aforesaid to enter any premises or to open any strong room, safe, box or other sealed receptacle may take possession of anything therein which he has reasonable ground for suspecting to be German enemy property or a document of title or evidence relating thereto.

23.—(1) The Court may on the application of the Administrator require any person known or suspected to have in his possession or under his control any German enemy property, or any person whom the Court may consider capable of giving information with respect to the same, to attend as a witness, subject to payment or tender of reasonable expenses of his attendance, and to give evidence or produce documents before the Court or before such officer as the Court may appoint for the purpose of examining into the matter, who shall have power to take evidence and administer oaths.

(2) The Administrator shall be entitled to appear and be represented and to examine any person required to attend under this Article.

(3) For the purposes of this Article "the Court" means the High Court or, in Scotland, the Court of Session.

24. A person who, having been resident in Germany at any time, seeks under subsection (2) of section eight of the Act to prove to the satisfaction of the Administrator, that he was not at that time a German national, must do so before the 23rd day of April, 1951, by furnishing to the Administrator a statutory declaration (or, where the person is resident in a country other than the United Kingdom, either a statutory declaration or, with the consent of the Administrator, such other form of declaration as may be appropriate under the law of that country) made or executed by him of the relevant facts supported by such certificates or other appropriate documents as the Administrator may require:

Provided that the Administrator shall, if the Board of Trade so direct in pursuance of subsection (6) of section one of the Act, transfer any German enemy property or the proceeds of any German enemy property held by reason of the operation of subsection (2) of section eight of the Act and this Article.

25.—(1) Accounts shall be prepared by the Administrator, in such form and manner and at such time as the Treasury may direct, of the sums received and the sums paid by him in pursuance of the Act and any Order-in-Council made under section one thereof and the Comptroller and Auditor-General shall examine and certify every such account.

(2) The Comptroller and Auditor-General shall lay copies of every such certified account, together with his report thereon, before both Houses of Parliament.

PART V

Application to the Isle of Man, the Channel Islands, Scotland and Northern Ireland

26.—(1) In the application of section two of the Act to the Isle of Man—

(*a*) the expression "summary conviction" shall mean conviction subject to, and in accordance with, the Petty Sessions and Summary Jurisdiction Acts, 1927 and 1946 (being Acts of Tynwald) and any Act amending those Acts; and

(*b*) the expression "indictment" includes an information.

(2) Section two of the Act, in its application to the Channel Islands, shall have effect as if in subsection (3) for paragraphs (*a*) and (*b*) there were substituted the words

"on conviction thereof to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or both such imprisonment and such fine".

27. In the application of this Order to Scotland—

(*a*) any reference to a justice of the peace shall include a reference to the Sheriff;

(*b*) for any reference to the granting of letters of administration of an estate there shall be substituted a reference to the granting of confirmation as executor on the estate;

(*c*) for any reference to a vesting order made by the High Court under the Trustee Act, 1925(**a**), there shall be substituted a reference to a warrant to complete title granted under section twenty-two of the Trusts (Scotland) Act, 1921(**b**); and

(*d*) the expression "attached or taken in execution" means arrested in execution or in security or otherwise affected by diligence.

28. In the application of this Order to Northern Ireland—

(*a*) for the reference in Article 13 to the Trustee Act, 1925(**a**), there shall be substituted a reference to the Trustee Act, 1893(**c**);

(*b*) references to a company shall be construed as including a company incorporated under the law of Northern Ireland;

(*c*) for paragraph (2) of Article 19 there shall be substituted the following paragraph:—

"(2) The Administrator shall be treated as, and shall have the powers of, a trust corporation within the meaning of the Probate and Letters of Administration Act (Northern Ireland), 1933(**d**).";

(*d*) a reference to a justice of the peace shall be construed as including a reference to any person who under the law for the time being in force in Northern Ireland has the powers and duties of a justice of the peace;

(**a**) 15 & 16 Geo. 5. c. 19. (**b**) 11 & 12 Geo. 5. c. 58. (**c**) 56 & 57 Vict. c. 53.
(**d**) 23 & 24 Geo. 5. c. 16. (N.I.).

(*e*) a reference to a constable shall be construed as a reference to a head-constable, sergeant or constable of the Royal Ulster Constabulary;

(*f*) a reference to the High Court shall be construed as a reference to the High Court of Justice in Northern Ireland.

29. In the application of this Order to the Channel Islands—

(*a*) in paragraph (2) of Article 1 for the reference to the 23rd day of October, 1950, there shall be substituted a reference to the day on which the Order is registered in the appropriate Court;

(*b*) in sub-paragraph (*b*) of paragraph (1) of Article 2 for the words "as amended by or under any other Act" there shall be substituted the words "as it extends to the Channel Islands";

(*c*) no transfer under Part III of any real property situate in the Channel Islands shall have effect until registered in the Public Registry of Deeds of the Island in which the property is situate, by order of the Court thereof;

(*d*) for paragraph (3) of Article 13 there shall be substituted the following paragraph:—

"(3) A vesting order as respects property of any description shall, upon lodgment in the records of the appropriate Court and also, as respects real property, upon registration in accordance with paragraph (*c*) of Article 29, be sufficient to vest in the Administrator any property, or the right to transfer any property, as provided by the vesting order without the necessity of any further conveyance, assurance or document.";

(*e*) any proceedings under Article 15 for the recovery of any property situate in the Channel Islands shall be brought in the appropriate Court and process against the Administrator in any such proceedings shall be sufficiently served if addressed to the Administrator and served at the offices of the Law Officers of the Crown for Jersey or Guernsey, as the case may be;

(*f*) for Article 19 there shall be substituted the following Article:—

"19. Where any right or interest in the personal estate of a deceased person is German enemy property, the Court having jurisdiction to grant letters of administration of the estate shall, at the request in writing of the Administrator and upon the production of the certificate of the Administrator specifying the right or interest which is German enemy property and whether or not a previous grant of such letters has been made in respect to that estate, grant such letters as respects such German enemy property to the Administrator by the name of the Administrator of German Enemy Property without requiring the Administrator or any sureties to enter into an administration bond and thereupon the Administrator shall be exclusively entitled to act in the administration of that estate in so far as such German enemy property is concerned.";

(*g*) in paragraph (2) of Article 20 for the references to the United Kingdom there shall be substituted references to the Channel Islands;

(*h*) in paragraph (1) of Article 22 for the reference to a justice of the peace there shall be substituted a reference to the Bailiff, and for the reference to a constable there shall be substituted a reference to a police officer;

(*i*) for paragraph (3) of Article 23 there shall be substituted the following paragraph :—

"(3) For the purposes of this Article 'the Court' means the appropriate Court; and that Court may make rules for regulating the procedure under this Article.".

In this Article "Guernsey" means the Bailiwick of Guernsey and "the appropriate Court" means, in relation to Jersey, the Royal Court of Jersey and, in relation to Guernsey, the Royal Court of Guernsey.

30. In the application of this Order to the Isle of Man—

(*a*) in sub-paragraph (*b*) of paragraph (1) of Article 2 for the words "as amended by or under any other Act" there shall be substituted the words "as it extends to the Isle of Man";

(*b*) in paragraph (3) of Article 13 for the words "the High Court under the Trustee Act, 1925" there shall be substituted the words "the High Court, Chancery Division, under the Trustee Act, 1937 (being an Act of Tynwald)";

(*c*) for paragraph (2) of Article 19 there shall be substituted the following paragraph:—

"(2) The Administrator shall be treated as, and shall have the powers of, an approved Corporation for the purposes of the Judicature Amendment Act, 1935 (being an Act of Tynwald).";

(*d*) in paragraph (2) of Article 20 for the references to the United Kingdom there shall be substituted references to the Isle of Man;

(*e*) for paragraph (3) of Article 23 there shall be substituted the following paragraph :—

"(3) For the purposes of this Article 'the Court' means the High Court of Justice of the Isle of Man.".

E. C. E. Leadbitter.

EXPLANATORY NOTE

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

This Order in Council provides for the collection and realisation of German enemy property and for the appointment by the Board of Trade of an Administrator of German enemy property with certain powers and duties for those purposes.