CHAPTER 69.

An Act to provide for controlling the importation, exportation and carriage coastwise of goods and the shipment of goods as ships' stores; to provide for facilitating the enforcement of the law relating to the matters aforesaid and the law relating to trading with the enemy; and to provide for purposes connected with the matters aforesaid. [1st September 1939.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Control of importation and exportation.

1.—(1) The Board of Trade may by order make such provisions as the Board think expedient for prohibiting or regulating, in all cases or any specified classes of cases, and subject to such exceptions, if any, as may be made by or under the order, the importation into, or exportation from, the United Kingdom or any specified part thereof, or the carriage coastwise or the shipment as ships' stores, of all goods or goods of any specified description.

(2) An order under this section may be varied or revoked by a subsequent order.

(3) An order under this section may suspend wholly or in part the operation of any enactment, proclamation, Order in Council or order prohibiting or regulating the importation, exportation, shipment as ships' stores

or carriage coastwise of any goods; and an order under this section may contain such provisions (including penal provisions) as appear to the Board of Trade to be necessary for securing the due operation and enforcement of the order.

(4) For the avoidance of doubt it is hereby declared that, without prejudice to the provisions of the enactments relating to customs with respect to ships and aircraft, the taking into or out of the United Kingdom of ships or aircraft may be prohibited or regulated by an order under this section as an importation or exportation of goods, notwithstanding that the ships or aircraft are conveying goods or passengers, and whether or not they are moving under their own power.

(5) Notwithstanding anything in section eleven of the Customs and Inland Revenue Act, 1879, a prosecution for an offence under an order made in pursuance of this section may, in England or Northern Ireland, be instituted by, or under the authority of, the Board of Trade.

42 & 43 Vict. c. 21.

Power to impose charges.

2.—(1) The Treasury may by order provide for imposing and recovering, in connection with any scheme of control contained in an order under the preceding section, such charges as may be specified in the first-mentioned order; and any order under this section may be varied or revoked by a subsequent order of the Treasury.

(2) Any charges recovered by virtue of such an order as aforesaid shall be paid into the Exchequer of the United Kingdom or, if the order so directs, be paid into such public fund or account as may be specified in the order.

(3) Any order under this section shall be laid before the Commons House of Parliament as soon as may be after it is made, but, notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, shall be deemed not to be a statutory rule to which that section applies.

56 & 57 Vict. c. 66.

(4) Any such order as aforesaid imposing or increasing a charge shall cease to have effect on the expiration of the period of twenty-eight days beginning with the day on which the order is made, unless at some time before the expiration of that period it has been approved by a resolution of the Commons House of Parliament, without prejudice, however, to the validity of anything previously done under the order or to the making of a new order.

In reckoning any period of twenty-eight days for the purposes of this subsection, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which the Commons House is adjourned for more than four days.

Application and extension of law as to prohibited goods.

3.—(1) If any goods—

(*a*) are imported, exported, carried coastwise or shipped as ships' stores in contravention either of an order under this Act or of the law relating to trading with the enemy, or

(*b*) are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped in contravention either of an order under this Act or of the law relating to trading with the enemy,

those goods shall be deemed to be prohibited goods and shall be forfeited; and the exporter of the goods or his agent, or the shipper of the goods, shall be liable, in addition to any other penalty under the enactments relating to customs, to a customs penalty of five hundred pounds.

(2) If any such order as aforesaid prohibits the exportation of any goods unless consigned to a particular place or person, and such goods so consigned are delivered otherwise than to that place or person, as the case may be, the vessel in which the goods were exported shall be deemed to have been used in the conveyance of prohibited goods.

(3) If any goods are imported, exported, carried coastwise or shipped as ships' stores, or are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped, an officer of Customs and Excise may require any person possessing or having control of the goods to furnish proof that the importation, exportation or carriage coastwise of the goods or the shipment of the goods as ships' stores, as the case may be, is not unlawful by virtue either of an order under this Act or of the law relating to trading with the enemy; and if such proof is not furnished to the satisfaction of the Commissioners of Customs and Excise, the goods shall be deemed to be prohibited goods unless the contrary is proved.

In any proceedings taken by virtue of this subsection, an averment in the information that such proof as aforesaid has not been furnished to the satisfaction of the Commissioners of Customs and Excise shall, unless the contrary is proved, be sufficient evidence that no such proof has been furnished to their satisfaction.

Notice of seizure of goods. 39 & 40 Vict. c. 36.

4. Where any goods are seized as forfeited, the notice of the seizure required by section two hundred and seven of the Customs Consolidation Act, 1876, to be given to the owner of the goods may, if the owner has no address in the United Kingdom, be given by the publication of a notice of the seizure in the London, Edinburgh or Belfast Gazette.

Requirement of pre-entry of ships' stores.

5. Section one hundred and thirty-nine of the Customs Consolidation Act, 1876, (which relates to the pre-entry and clearance of goods) shall have effect as if the reference therein to goods intended for exportation or carriage coastwise included a reference to goods intended for exportation as ships' stores or carriage coastwise as ships' stores.

Provisions as to clearance.

6.—(1) For the purpose of securing compliance with the provisions of this Act or any order made under section one of this Act or with any other enactment relating to the importation or exportation of goods or with the law relating to trading with the enemy—

(*a*) an officer of Customs and Excise may at any time refuse clearance to any ship, and

(*b*) where clearance has been granted to a ship, an officer of Customs and Excise, an officer of His Majesty's Navy, or any person authorised in that behalf by the Commissioners of Customs and Excise may, at any time whilst the ship is within the limits of a port in the United Kingdom, demand that the clearance shall be returned to the person making the demand.

(2) Any such demand may be made orally on the master of the ship or by serving a written demand in any manner authorised by section six hundred and ninety-six of the Merchant Shipping Act, 1894, for the service of documents which are, under that Act, to be served on the master of a ship.

57 & 58 Vict. c. 60.

(3) Where a demand is so made for the return of a clearance—

(*a*) the clearance shall forthwith become void, and

(*b*) if the demand is not complied with, the master of the ship shall be liable to a customs penalty of one hundred pounds.

(4) This section shall apply to aircraft, as if references in this section and in section six hundred and ninety-six of the Merchant Shipping Act, 1894, to a ship, the master of a ship, and a port included respectively references to an aircraft, the pilot of an aircraft and an aerodrome.

Provisions as to ultimate destination of goods.

7.—(1) Where a person about to export goods from the United Kingdom, in the course of making entry thereof before shipment, makes a declaration as to the ultimate destination thereof, and the Commissioners of Customs and Excise have reason to suspect that the declaration is untrue in any material particular, the goods may be detained until the Commissioners are satisfied as to the truth of the declaration, and, if the Commissioners are not so satisfied, the goods shall be forfeited.

(2) Any exporter or shipper of goods which have been exported from the United Kingdom shall, if so required by the Commissioners of Customs and Excise, satisfy the Commissioners that those goods have not reached any enemy or any enemy territory, and if he fails so to do, he shall incur a customs penalty of treble the value of the goods or one hundred pounds at the election of the Commissioners, unless he proves that he did not consent to or connive at the goods reaching an enemy or enemy territory, and that he took all reasonable steps to secure that the ultimate destination of the goods was not other than that specified in the documents shown or furnished to the officers of Customs and Excise in connection with the exportation of the goods.

(3) In any proceedings under this section, an averment in the information that the Commissioners of Customs and Excise are not satisfied as to any matter shall be sufficient evidence that they have not been so satisfied, unless the contrary is proved.

Interpretation, &c.

8.—(1) For the purposes of this Act—

(*a*) the Isle of Man shall be deemed to form part of the United Kingdom;

(*b*) the expression "enemy" means—

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

(ii) any individual resident in enemy territory;

(iii) any body of persons (whether corporate or unincorporate) carrying on business in any place, if and so long as the body is controlled by a person who, under this subsection, is an enemy;

(iv) any body of persons constituted or incorporated in, or under the laws of, a State at war with His Majesty; or

(v) any other person, who for the purposes of any Act relating to trading with the enemy is to be deemed to be an enemy;

but does not include any person by reason only that he is an enemy subject;

(*c*) the expression "enemy subject" means—

(i) an individual who, not being either a British subject or a British protected person, possesses the nationality of a State at war with His Majesty, or

(ii) a body of persons constituted or incorporated in, or under the laws of, any such State; and

(*d*) the expression "enemy territory" means any area which is under the sovereignty of, or in the occupation of, a Power 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.

(2) A certificate of a Secretary of State that any area is or was under the sovereignty of, or in the occupation of, any Power, or as to the time at which any area became or ceased to be under such sovereignty or in such occupation shall, for the purposes of any proceedings

taken by virtue of this Act, be conclusive evidence of the facts stated in the certificate.

(3) Anything required or authorised under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board or any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board.

Short title, construction and duration of Act.

9.—(1) This Act may be cited as the Import, Export and Customs Powers (Defence) Act, 1939.

(2) This Act shall be construed as one with the Customs Consolidation Act, 1876, and the enactments amending that Act.

(3) This Act shall continue in force until such date as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end, and shall then expire except as respects things previously done or omitted to be done.

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