

## TRADING WITH THE ENEMY.

### No. 20 of 1916.

An Act to amend the *Trading with the Enemy Acts* 1914.

[Assented to 30th May, 1916.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Trading with the Enemy Act* 1916. Short title  
and citation.

(2.) The *Trading with the Enemy Act* 1914, as amended by the *Trading with the Enemy Act* (No. 2) 1914, is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Trading with the Enemy Act* 1914–1916.<sup>(a)</sup>

2. This Act shall commence on a day to be fixed by proclamation.<sup>(b)</sup> Commencement.

3. Section two of the Principal Act is amended—

(a) by omitting from sub-section (1.) the definition of “Enemy subject” and inserting in its stead the following definition:— Amendment of  
s. 2.

“ ‘Enemy subject’ means—

(a) any person or firm with whom trading is prohibited by or under any proclamation referred to in sub-section (2.) of this section; or

(b) any company, whether incorporated in any enemy country or not, which the Attorney-General, by notice published in the *Gazette*, declares to be in his opinion managed or controlled, directly or indirectly, by or under the influence of, or carried on wholly or mainly for the benefit or on behalf of, persons of enemy nationality, or resident or carrying on business in an enemy country”; and

(a) For copy of the *Trading with the Enemy Act* 1914–1916 see *infra*, p. 107.

(b) Proclaimed to commence on 1st September, 1915. See *Gazette*, 10th August, 1916, p. 1757.

(b) by adding at the end of sub-section (1.) the following definitions :—

5 Geo. 5, c. 12,  
s. 2 (5).

“ ‘Dividends, interest or share of profits’ means any dividends, bonus, or interest in respect of any shares, stock, debentures, debenture stock or other obligations of any company, any interest in respect of any loan to a firm or person carrying on business for the purposes of that business, and any profits or share of profits of such a business :

‘Public Trustee’ means the Public Trustee appointed by the Governor-General under this Act.”

4. After section two of the Principal Act the following sections are inserted :—

Constitution  
of office of  
Public Trustee.  
Cf. 5 Geo. 5,  
c. 12, s. 1.

“ 2A.—(1.) For the purposes of this Act, the Governor-General may appoint a person to act as custodian of enemy property, and that person is in this Act referred to as the Public Trustee.

“(2.) The Public Trustee shall be charged with the duty of receiving, holding, preserving, and dealing with such property as is paid to or vested in him in pursuance of this Act.

“(3.) The Public Trustee shall be a corporation sole under that name with perpetual succession and an official seal, and shall be capable of suing and being sued.

“(4.) The accounts of the Public Trustee shall be subject to audit by the Auditor-General.

“(5.) The Public Trustee shall have such powers and duties with respect to the property specified in sub-section (2.) of this section as are prescribed.

“(6.) The Public Trustee may place on deposit with any bank, or invest in any securities, approved by the Treasurer, any moneys paid to him under this Act, or received by him from property vested in him under this Act.

“(7.) The Public Trustee shall deal in such manner as the Treasurer directs with any interest or dividends received on account of such deposits or investments.

Delegation by  
Public Trustee.

“ 2B.—(1.) The Public Trustee may, in relation to any particular matters or class of matters, or to any particular State or part of the Commonwealth, by writing under his hand delegate all or any of his powers and functions under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate with respect to the matters or class of matters, or the State or part of the Commonwealth, specified in the instrument of delegation.

“(2.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Public Trustee.”

## 5. Section three of the Principal Act is amended—

Amendment of  
s. 3.

- (a) by inserting in sub-section (1.) after the word “trades” the words “, or attempts, or directly or indirectly offers or proposes or agrees, to trade,”;
- (b) by inserting in that sub-section after the word “traded” the words “, or attempted, or directly or indirectly offered or proposed or agreed, to trade,”; and
- (c) by inserting after that sub-section the following sub-section:—

Ib. s. 10 (3).

“(1A.) If any person without lawful authority deals, or attempts, or offers, proposes or agrees, whether directly or indirectly, to deal with any money or security for money or other property which is in his hands or over which he has any claim or control for the purpose of enabling an enemy subject to obtain money or credit thereon or thereby, he shall be deemed to be guilty of the offence of trading with the enemy within the meaning of this Act.”

5 Geo. 5, c. 12,  
s. 10 (3).

## 6. Section four of the Principal Act is amended—

Amendment of  
s. 4.

- (a) by inserting in sub-section (1.) after the words “last preceding section”, the words “or that it is desirable for the purposes of this Act to inspect the books and documents of any person, firm, or company,”; and
- (b) by adding at the end thereof the following sub-sections:—

“(4.) Where a person has given any information to a person authorized under this section to inspect the books and documents belonging to or in the possession or control of any person firm or company, the information so given may be used in evidence against him in any proceedings relating to offences of trading with the enemy within the meaning of this Act, notwithstanding that he only gave the information on being required to do so by the authorized person in pursuance of his powers under this section.

Ib. s. 13.

“(5.) Where, on the report of any person authorized to inspect the books and documents of a person, firm, or company under section four of this Act, it appears to the Minister for Trade and Customs that it is expedient that the business should be subject to frequent inspection or constant supervision, the Minister may appoint a person to supervise the business with such powers as the Minister 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 Minister, shall be paid by the said person, firm or company.”

Ib. s. 12 (1).

Amendment of  
s. 8.  
Ib. s. 11 (1).

7. Section eight of the Principal Act is amended by inserting in sub-section (1.), after paragraph (d), the words, " or

(e) that it is expedient in the public interest that a controller should be appointed owing to circumstances or considerations arising out of the present war ;".

Amendment of  
s. 9.

8. Section nine of the Principal Act is amended by omitting sub-section (5.) and inserting in its stead the following sub-section :—

"(5.) Any money paid to a Trust Account in pursuance of this section may, at the discretion of the Treasurer—

(a) be paid to the Public Trustee as money vested in him under this Act ; or

(b) be paid to any special account opened by the creditor in accordance with any licence granted by the Attorney-General under any proclamation by the Governor-General relating to trading with the enemy ; or

(c) be paid to the creditor, his executors or administrators, on demand made after the termination of the present state of war, or before that time if he is satisfied that the creditor is not an enemy subject."

9. After section nine of the Principal Act the following sections are inserted :—

Payment of  
dividends, &c.,  
payable to  
enemy subject.  
Ib. s. 2.  
5-6 Geo. 5,  
c. 79, s. 1.

"9A.—(1.) Any sum which, had a state of war not existed, would have been payable and paid to or for the benefit of an enemy subject by way of dividends, interest or share of profits, or would have been payable and paid in Australia to any enemy subject—

(a) in respect of interest on securities issued by or on behalf of the Government of the Commonwealth or of any State or of any other part of the British Dominions, or of any foreign Government, or by or on behalf of any corporation or any municipal or other authority whether within or without the Commonwealth ; and

(b) by way of payment off of any securities which have become repayable on maturity or by being drawn for payment or otherwise, being such securities as aforesaid or securities issued by any company,

shall be paid to the Public Trustee, to hold subject to the provisions of this Act and the Regulations.

"(2.) In the case of dividends, interest or share of profits, the payment shall be made by the person firm or company by whom it would have been payable ; and in the case of sums in respect of the payment off of securities issued by a company, the payment shall be made by the company by which they would have been payable ; and in the case of all other sums comprised in paragraph (a) or (b) of sub-section (1.) of this section, the payment shall be made by the person firm or company through whom or which the payments in Australia are made.

“(3.) The payment shall be accompanied by such particulars as are prescribed, or as the Public Trustee requires.

“(4.) Any payment required to be made under this section to the Public Trustee shall be made—

(a) within fourteen days after the commencement of this section, if the sum, had a state of war not existed, would have been paid before the commencement of this section; and

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

“(5.) Where before the commencement of this section any such sum has been paid into any account with a bank, or has been paid to any other person in trust for an enemy, the person, firm or company by whom the payment was made shall, within fourteen days after the commencement of this section, by notice in writing require the bank or person to pay the sum over to the Public Trustee to hold as aforesaid, and shall furnish the Public Trustee with such particulars as aforesaid.

“(6.) The bank or other person shall, within one week after the receipt of the notice, comply with the requirement and shall be exempt from all liability for having done so.

“(7.) If any person fails to make, or require the making of, any payment, or to furnish the prescribed or required particulars, within the time mentioned in this section, he shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months, or both; and in addition a further penalty not exceeding Fifty pounds for every day during which the default continues.

“(8.) Every director, manager, secretary or officer of a company, or any other person who is knowingly a party to the default, shall likewise be guilty of an offence and be liable to the like penalty.

“(9.) If, in the case of any person, firm or company, any question arises as to the amount which would have been so payable and paid as aforesaid, the question shall be determined by any person who has been or may be authorized to inspect the books and documents of the person, firm or company, or, on appeal, by the Public Trustee, and if, in the course of determining the question, it appears to that authorized person or the Public Trustee that the person, firm or company has not distributed as dividends, interest or profits the whole of the amount properly available for that purpose, the authorized person or the Public Trustee, as the case may be, may ascertain what amount was so available and require the whole of such amount to be so distributed, and, in the case of a company, if such dividends have not been declared, the authorized person or the Public Trustee may himself declare the appropriate dividends, and every such declaration shall be as effective as a declaration to the like effect duly made in accordance with the constitution of the company:

Provided that where a controller has been appointed under section eight of this Act this sub-section shall apply as if for references to an authorized person there were substituted references to the controller.

“(10.) Where a person is carrying on any business on behalf of an enemy subject, any sum which, had a state of war not existed, would have been transmissible by a person to the enemy subject by way of profits from that business shall be deemed to be a sum which would have been payable and paid to that enemy subject.

“(11.) For the purposes of this section, the word ‘securities’ includes stock, shares, annuities, bonds, debentures or debenture stock or other obligations.

Duty of trustees  
for enemy  
subjects to  
notify the  
Public Trustee.  
5 Geo. 5, c. 12,  
s. 3.  
5-6 lb. c. 79, s. 2.

“9B.—(1.) Any person or company who holds or manages for or on behalf of an enemy subject any property, real or personal (including—

- (a) any rights, whether legal or equitable, in or arising out of property, real or personal ; or
- (b) any balances or deposits standing to the credit of an enemy subject at any bank ; or
- (c) any debt to the amount of Fifty pounds or upwards which is due, or which, had a state of war not existed, would have been due, to an enemy subject),

shall, within one month after the commencement of this section, or if the property comes into his possession or under his control after the commencement of this section, then within one month after the time when it comes into his possession or under his control, by notice in writing communicate the fact to the Public Trustee, and shall furnish the Public Trustee with such particulars in relation thereto as the Public Trustee requires.

“(2.) In the case of—

- (a) any balances or deposits standing to the credit of an enemy subject at a bank ; and
- (b) any such debt as is specified in paragraph (c) of the last preceding sub-section,

the bank or debtor, as the case may be, shall, for the purposes of that sub-section, be deemed to be a company or person holding or managing property for or on behalf of an enemy subject.

“(3.) If any person fails to comply with the provisions of sub-section (1.) of this section he shall be guilty of an offence, and be liable to a penalty not exceeding One hundred pounds or imprisonment for a term not exceeding six months, or to both such penalty and imprisonment, and in addition to a further penalty not exceeding Fifty pounds for every day during which the default continues.

“(4.) If any company fails to comply with the provisions of sub-section (1.) of this section, the company, and every director, manager, secretary, or officer of the company who is knowingly a party to the default shall be guilty of an offence, and shall be liable to the following punishment :—

- (a) the company—to a penalty not exceeding One hundred pounds, and, in addition, to a further penalty not exceeding Fifty pounds for every day during which the default continues ; and

- (b) the director, manager, secretary or officer who is knowingly a party to the default—to a penalty not exceeding One hundred pounds, or imprisonment for a term not exceeding six months, or both; and, in addition, to a further penalty not exceeding Fifty pounds for every day during which the default continues.

“(5.) Every company which is incorporated in any part of Australia, or which, though not incorporated in any part of Australia, has a share transfer or share registration office in Australia, shall, within one month after the commencement of this section, by notice in writing communicate to the Public Trustee full particulars of all shares, stock, debentures and debenture stock and other obligations of the company which are held by or for the benefit of an enemy subject :

Provided that where any company has for the purposes of any Regulations under the *War Precautions Act 1914-1915* communicated to the Attorney-General full particulars of all shares of the company which are held by or for the benefit of an enemy subject, the company shall not be required to communicate to the Public Trustee particulars of such shares, unless the Public Trustee by notice in writing served upon the Company requires it so to do.

“(6.) Every partner of every firm—

- (a) which is an enemy subject; or
- (b) one or more partners of which on the commencement of the war became enemy subjects; or
- (c) to which money had been lent for the purpose of the business of the firm by a person who so became an enemy subject,

shall, within one month after the commencement of this section, by notice in writing communicate to the Public Trustee full particulars as to any share of profits and interest due to such enemy subjects or subject.

“(7.) If any company or partner fails to comply with the provisions of sub-section (5.) or (6.) of this section—

- (a) the company shall be guilty of an offence and be liable to a penalty not exceeding One hundred pounds, and in addition to a further penalty not exceeding Fifty pounds for every day during which the default continues; and
- (b) the partner, and every director, manager, secretary or officer of the company who is knowingly a party to the default, shall likewise be guilty of an offence and be liable to the like penalty or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment.

“(8.) Where the Public Trustee is satisfied from returns made to him under this section that any such securities as are specified in sub-section (1.) of section nine A of this Act (including securities issued by a company) are held by any person on behalf of an enemy subject, the Public Trustee may

give notice thereof to the person firm or company by or through whom any dividends interest or bonus in respect of the securities or any sums by way of payment off of the securities are payable, and upon the receipt of the notice any dividends interest or bonus payable in respect of, and any sums by way of payment off of, the securities to which the notice relates shall be paid to the Public Trustee in like manner as if the securities were held by an enemy subject.

“(9.) The Public Trustee shall keep a register of all property, returns of which have been made to him under this section, and any person who appears to the Public Trustee to be interested as a creditor or otherwise may inspect the register.

Power to vest  
enemy property  
in Public  
Trustee.  
5 Geo. 5, c. 12,  
s. 4.

“9c.—(1.) The High Court or a Justice thereof may, on the application of any person who appears to the Court—

- (a) to be a creditor of an enemy subject, or
- (b) to be entitled to recover damages against an enemy subject, or
- (c) to be interested in any property, real or personal (including any rights, whether legal or equitable, in or arising out of property, real or personal), belonging to, or held or managed for or on behalf of, an enemy subject,

or on the application of the Public Trustee or any Minister of State, by order vest in the Public Trustee any such real or personal property as aforesaid, if the Court or the Justice is satisfied that such vesting is expedient for the purposes of this Act, and may by the order confer on the Public Trustee such powers of selling, managing and otherwise dealing with the property as to the Court or Justice may seem proper.

“(2.) The Court or Justice, before making any order under this section, may direct that such notices (if any), whether by way of advertisement or otherwise, shall be given as the Court or Justice thinks fit.

“(3.) A vesting order under this section as respects property of any description in any State or part of the Commonwealth shall be of the like purport and effect as a vesting order as respects property of the same description made in that State or part under the law of that State or part relating to trustees.

Holding and  
dealing with  
property by  
Public Trustee.  
5 Geo. 5, c.12,  
s. 5.  
5-6 Geo. 5,  
c. 105, s. 12.

“9d.—(1.) The Public Trustee shall, except so far as a Minister of State or the High Court or a Justice thereof otherwise directs, and subject to the provisions of the next succeeding sub-section, hold any money paid to, and any property vested in, him under this Act until the termination of the present war, and shall thereafter deal with the same in such manner as the Governor-General directs.

(2.) The property held by the Public Trustee under this Act shall not be liable to be attached or otherwise taken in execution, but the Public Trustee may, if so authorized by an order of the High Court or a Justice thereof, pay out of the property paid to him in respect of that enemy subject the whole or any part of any debts due by that enemy subject and specified in the order :

Provided that before paying any such debt the Public Trustee shall take into consideration the sufficiency of the property paid to



or vested in him in respect of the enemy subject in question to satisfy that debt and any other claims against that enemy subject of which notice verified by statutory declaration may have been served upon him.

“(3.) The receipt of the Public Trustee, or any person duly authorized to sign receipts on his behalf, for any sum paid to him under this Act shall be a good discharge to the person paying the same as against the person or body of persons in respect of whom the sum was paid to the Public Trustee.

“(4.) The Public Trustee shall keep a register of all property held by him under this Act, which register shall be open to public inspection at all reasonable times free of charge.

“9E. The Justices of the High Court, or a majority of them, may make Rules of Court for regulating the practice and procedure to be adopted for the purpose of the last two preceding sections.

Rules of Court.  
5 Geo. 5, c. 12,  
s. 5 (6).

“9F.—(1.) No person shall by virtue of any assignment of any debt or other chose in action, or delivery of any coupon or other security transferable by delivery, or transfer of any other obligation, made or to be made in his favour by or on behalf of an enemy subject, whether for valuable consideration or otherwise, have any rights or remedies against the person liable to pay, discharge or satisfy the debt, chose in action, security or obligation, unless he proves that the assignment, delivery, or transfer was made before the ninth day of May One thousand nine hundred and sixteen; and any person who knowingly pays, discharges or satisfies any debt, or chose in action, to which this sub-section applies, shall be guilty of the offence of trading with the enemy :

Invalidity of  
assignment of  
debts, &c., by  
enemy subjects.  
1b. s. 6.

Provided that this sub-section shall not apply to any bill of exchange or promissory note.

“(2.) No person shall by virtue of any transfer of a bill of exchange or promissory note made or to be made in his favour by or on behalf of an enemy, whether for valuable consideration or otherwise, have any rights or remedies against any party to the instrument unless he proves that the transfer was made—

(a) before the commencement of the present war, or

(b) before the ninth day of May, One thousand nine hundred and sixteen in good faith and for valuable consideration ;

and any party to the instrument who knowingly discharges the instrument shall be guilty of trading with the enemy.

“(3.) Nothing in this section shall be construed as validating any assignment, delivery or transfer which would be invalid apart from this section or as applying to securities within the meaning of section nine G of this Act.

“9G.—(1.) No transfer made after the passing of this section by or on behalf of an enemy subject of any securities shall confer on the transferee any rights or remedies in respect thereof and no company or municipal authority or other body by whom the securities were issued or are managed shall, except as hereinafter appears, take any cognizance of or otherwise act upon any notice of such a transfer.

Invalidity of  
transfers of  
shares in  
company, &c.  
1b. s. 8.

“(2.) No entry shall hereafter, during the continuance of the present war, be made in any register or branch register or other book kept in Australia of any transfer of any securities therein registered, inscribed or standing in the name of an enemy subject except by leave of the Public Trustee.

“(3.) No share warrants payable to bearer shall be issued during the continuance of the present war in respect of any shares or stock registered in the name of any enemy subject.

“(4.) If any company or any body contravenes the provisions of this section the company or body shall be guilty of an offence and be liable to a penalty not exceeding One hundred pounds, and every director, manager, secretary or other officer of the company or body who is knowingly a party to the default, shall likewise be guilty of an offence and be liable to the like penalty or to imprisonment for a term not exceeding six months.

“(5.) For the purposes of this section the expression ‘securities’ means any annuities, stock, shares, debentures, or debenture stock issued by or on behalf of the Government of the Commonwealth or a State, or by any municipal or other authority, or by any company or by any other body, which are registered or inscribed in any register, branch register, or other book kept in Australia.

Power to deal  
with businesses  
of persons, &c.,  
of enemy  
nationality  
or associations.  
5-6 Geo. 5,  
c. 105, s. 1.

“9H.—(1.) Where it appears to the Minister for Trade and Customs that the business carried on in Australia by any person, firm, or company is, by reason of the enemy nationality or enemy association of that person, firm, or company, or of the members of that firm or company or any of them, or otherwise, carried on wholly or mainly for the benefit of or under the control of enemy subjects, the Minister may, if he thinks fit, make an order requiring the business to be wound up.

“(2.) The Minister may at any time revoke or vary any such order.

“(3.) Where the Minister makes any such order he may at the same time or at any time subsequently appoint a controller to conduct the winding up of the business, and in any case where it appears expedient to the Minister, he may, as occasion requires, confer on the controller such powers as are exercisable by a liquidator in a voluntary winding-up of a company (including power in the name of the person, firm, or company, or in his own name, and by deed or otherwise, to convey or transfer any property, and power to apply to the High Court or a Justice thereof to determine any question arising in the carrying out of the order), or those powers subject to such modifications restrictions or extensions as the Minister thinks necessary or convenient for the purpose of giving full effect to the order, and the remuneration of and costs, charges and expenses incurred by the controller, to such amount as may be approved by the Minister, shall be defrayed out of the assets of the business, and shall be charged on such assets in priority to any other charges thereon.

“(4.) The distribution of any sums 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, and those assets shall, so far as they are available for discharging unsecured debts, be applied in discharging such debts due to creditors who are not enemy subjects in priority to the unsecured debts due to creditors who are enemy subjects; and any balance, after providing for the discharge of liabilities, shall be distributed amongst the persons interested therein in such manner as the Minister directs:

Provided that any sums or other property which had a state of war not existed would have been payable or transferable under this section to enemy subjects, whether as creditors or otherwise, shall be paid or transferred to the Public Trustee to be dealt with by him in like manner as money paid to him under section nine of this Act.

“(5.) Where there are assets of the business in enemy territory, the controller shall cause an estimate to be prepared of the value of those assets and also of the liabilities of the business to creditors, whether secured or unsecured, in enemy territory, and of the claims of persons in enemy territory to participate in the distribution of any balance available for distribution, and such liabilities and claims shall, for the purposes of this section, be deemed to have been satisfied out of such assets so far as they are capable of bearing them, and the balance (if any) of such liabilities and claims shall alone rank for payment out of the other assets of the business. A certificate by the controller as to the amount of such assets, liabilities, claims and balance shall be conclusive for the purpose of determining the sums available for discharging the other liabilities and for distribution amongst other persons claiming to be interested in the business:

Provided that nothing in this provision shall affect the rights of creditors of and other persons interested in the business against the assets of the business in enemy territory.

“(6.) The Minister may, on application for the purpose being made by a controller appointed under this section, after considering the application and any objection which may be made by any person who appears to him to be interested, grant him a release, and an order of the Minister 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.

“(7.) If any person contravenes the provisions of any order made under this section he shall be guilty of an offence, and liable to the same punishment as if he had been guilty of trading with the enemy.

“(8.) Where an order under this section has been made as respects the business carried on by any person, firm, or company, no bankruptcy petition or petition for sequestration or summary sequestration

against such person or firm, or petition for the winding-up of such company, shall be presented, or resolution for the winding-up of such company passed, or steps for the enforcement of the rights of any creditors of the person, firm, or company taken, without the consent of the Minister, but the Minister may present a petition for the winding-up of the company by the High Court, and the making of an order under this section shall be a ground on which the company may be wound up by the High Court.

“(9.) The Minister may from time to time prepare and lay before Parliament lists of the persons, firms, and companies as to whom orders have been made under this section, together with short particulars of such orders, and notice of the making of an order under this section requiring any business to be wound up, shall be published in the *Gazette*.

“(10.) Where a person, being a subject of His Majesty or of any State allied to His Majesty, is detained in enemy territory against his will, that person for the purposes of this section shall not be treated as an enemy subject or as being in enemy territory.

“(11.) An order made under this section shall continue in force notwithstanding the termination of the present war until determined by order of the Minister.

Power of  
Minister to vest  
enemy property  
in public  
trustee.  
5-6 Geo. 5,  
c. 105, s. 4.

“91.—(1.) The Minister in any case where it appears to him to be expedient to do so, may by order vest in the Public Trustee any property, real or personal (including any rights whether legal or equitable, in or arising out of property, real or personal), belonging to or held or managed for or on behalf of an enemy subject, or the right to transfer that property, and may by any such order, or any subsequent order, confer on the Public Trustee such powers of selling, managing, and otherwise dealing with the property as to the Minister seems proper.

“(2.) A vesting order under this section as respects property of any description in any State or part of the Commonwealth shall be of the like purport and effect as a vesting order as respects property of the same description made in that State or part under the law relating to trustees, and shall be sufficient to vest in the Public Trustee any property, or the right to transfer any property as provided by the order, without the necessity of any further conveyance, assurance, or document.

“(3.) Where in exercise of the powers conferred on him under or by virtue of this Act, the Public Trustee proposes to sell any shares or stock forming part of the capital of any company or any securities issued by the company in respect of which a vesting order has been made under this Act, the company may, with the consent of the Minister, purchase the shares, stock, or securities, any law or any regulation of the company to the contrary notwithstanding, and any shares, stock, or securities so purchased may from time to time be re-issued by the company.

“(4.) The transfer on sale by the Public Trustee of any property shall be conclusive evidence in favour of the purchaser and of the Public Trustee that the requirements of this section have been complied with.

“(5.) All property vested in the Public Trustee under this section, and the proceeds of the sale of, or money arising from, any such property shall be dealt with by him in like manner as money paid to and property vested in him under other provisions of this Act.

“9j. It shall be the duty of every enemy subject who is within Australia, if so required by the Public Trustee within one month after being so required, to furnish the Public Trustee with such particulars as to—

Duty of enemy subjects to make returns as to property.  
5-6 Geo. 5,  
c. 105, s. 5.

(a) any stocks, shares, debentures, or other securities issued by any company, government, municipal or other authority held by him or in which he is interested; and

(b) any other property of the value of Fifty pounds or upwards belonging to him or in which he is interested

as the Public Trustee may require, and if he fails to do so he shall be guilty of an offence, and be liable to a penalty not exceeding One hundred pounds, or imprisonment for six months, or both; and, in addition, to a further penalty not exceeding Fifty pounds for every day during which the default continues.

“9k. If the benefit of an application made by or on behalf or for the benefit of an enemy subject for any patent is, by an order under this Act, vested in the Public Trustee, the patent may be granted to the Public Trustee as patentee and may, notwithstanding anything in section sixty-six of the *Patents Act* 1903-1909 be sealed accordingly by the Commissioner of Patents, and any patent so granted to the Public Trustee shall be deemed to be property vested in him by such order as aforesaid.

Right of public trustee to have enemy patent granted to him.  
Ib. s. 6.

“9l.—(1.) Any restrictions imposed by any Act, Regulations or Proclamation on dealings with enemy property shall continue to apply to property particulars whereof are or are liable to be notified to the Public Trustee in pursuance of this Act, not only during the continuance of the present war, but thereafter until such time as they are removed by the Governor-General.

Duration of restrictions on dealings with enemy property.  
Ib. s. 7.

“(2.) The Governor-General may by order remove all or any of those restrictions either simultaneously as respects all such property or at different times as respects different classes or items of property.

“9m.—(1.) Where the Public Trustee executes a transfer of any shares, stock, or securities which he is empowered to transfer by a vesting order made under this Act, the company or other body in whose books the shares, stock, or securities are registered shall, upon the receipt of the transfer so executed by the Public Trustee, and upon being required by him so to do, register the shares, stock, or securities in the name of the Public Trustee or other transferee, notwithstanding any regulation or stipulation of the company or other body, and

Registration of transfer without production of certificates, &c.  
Ib. s. 8.

notwithstanding that the Public Trustee 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 Public Trustee has notice.

“(2.) 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 the High Court or a Justice thereof.

Validity of vesting orders.  
5-6 Geo. 5,  
c. 105, s. 9.

“9N. Where a vesting order has been made under this Act as respects any property belonging to or held or managed for or on behalf of a person who appeared to the Court or the Minister, as the case may be, to be an enemy subject, the order shall not nor shall any proceedings thereunder or in consequence thereof be invalidated or affected by reason only of such person having, prior to the date of the order, died or ceased to be an enemy subject or subsequently dying or ceasing to be an enemy subject, or by reason of its being subsequently ascertained that he was not an enemy subject, as the case may be.

Power of Court to order winding-up of companies in certain circumstances.  
Ib. s. 11.

“9P. Where the Minister certifies that it appears to him that a company registered in Australia is carrying on business either directly or through an agent, branch, or subsidiary company outside Australia, and that in carrying on such business it has entered into or done acts which if entered into or done in Australia, would constitute the offence of trading with the enemy, the Minister may present a petition for the winding-up of the company by the High Court, and the issue of such a certificate shall be a ground on which the company may be wound up by the High Court, and the certificate shall, for the purposes of the petition, be evidence of the facts therein stated.

Fees charged by Public Trustee.  
Ib. s. 13.

“9Q. There shall be charged in respect of the duties of the Public Trustee such fees, whether by way of percentage or otherwise, as are prescribed, and the incidence of the fees as between capital and income shall be determined by the Public Trustee.

Power to Governor-General or Minister to grant licences.  
Cf. 5-6 Geo. 5,  
c. 79, s. 3.

“9R. Notwithstanding anything contained in this Act, the Governor-General or a Minister of State may by licence under his hand, exempt any particular transaction or class of transactions from the provisions of this Act.

Transfer to Commonwealth of returns, &c., made under State Acts.

“9S.—(1.) The Governor-General may arrange with the Governor-in-Council of any State, the Parliament of which has passed legislation in relation to the custody of property of alien enemies during the present war, for—

- (a) the transfer by the Custodian of enemy property or Public Trustee under the State Act (in this Act referred to as “the Custodian”) to the Public Trustee, of all money and other property whatsoever received by the Custodian under the State Act, and of all returns, particulars, notifications, books and documents received by the Custodian under, or kept by him for the purposes of, the State Act; and
- (b) all matters necessary or desirable for carrying out or giving effect to the transfer.

“(2.) Upon the notification in the *Gazette* of the making of any such arrangement with the Governor in Council of any State—

(a) all property vested in the Custodian under the State Act shall by force of this Act be vested in the Public Trustee as though it were vested in him under this Act; and

(b) any sum of money which under a State Act has been paid into the Supreme Court of the State shall be transferred to and paid into the High Court as though it were money which under this Act has been paid into the High Court.

“(3.) Subject to the last two preceding sub-sections this section shall not, nor shall the making of any arrangement under this section affect any right obligation privilege or liability acquired accrued or incurred under any State Act.”