

TRADING WITH THE ENEMY.

No. 77 of 1952.

An Act to amend the *Trading with the Enemy Act 1939-1947*.

[Assented to 6th November, 1952.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title
and citation.

1.—(1.) This Act may be cited as the *Trading with the Enemy Act 1952*.

(2.) The *Trading with the Enemy Act* 1939-1947* 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* 1939-1952.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3. After section thirteen B of the Principal Act the following sections are inserted :—

“ 13C.—(1.) By virtue of this section, but subject to the next succeeding section, there shall be vested in the Controller of Enemy Property appointed under the National Security (Enemy Property) Regulations— Moneys in High Court to be paid to Controller of Enemy Property.

(a) all moneys (including interest), and all investments representing moneys (including investments representing interest and moneys in an account with a bank), from time to time standing to the credit of the High Court of Australia Suitors' Fund as a result of payments into court (whether before or after the commencement of this section) by controllers appointed by the High Court under this Act ; and

(b) possession of all books and accounts at any time in the possession of the High Court relating to the businesses and affairs of persons, firms or corporations of whom or of which controllers have been appointed by the Court under this Act.

“ (2.) A controller appointed by the High Court under this Act who has paid moneys into court shall, at the request of the Controller of Enemy Property—

(a) permit the Controller of Enemy Property to inspect, and make extracts from or copies of, any books or accounts under his control relating directly or indirectly to the moneys paid into court ; and

(b) furnish to the Controller of Enemy Property such information relating to those moneys as the Controller requires.

“ (3.) This section has effect in relation to any moneys, investments, books or accounts whether or not the controller concerned has been discharged by the High Court.

“ 13D.—(1.) Jurisdiction is conferred on the High Court to order the payment or transfer to the Controller of Enemy Property of moneys, investments, books or accounts to which sub-section (1.) of the last preceding section applies, and no such moneys, investments, books or accounts shall be so paid or transferred except in pursuance of such an order. Certain powers of High Court.

* Act No. 14, 1939, as amended by No. 33, 1940 ; and No. 75, 1947.

“(2.) Notwithstanding anything contained in the last preceding section, the High Court may, in proceedings arising under this section, by order—

- (a) direct the retention in court, or the application as directed by the Court, of moneys or investments which, in the opinion of the Court, should be retained or applied for the purposes of meeting just claims ;
- (b) direct the retention in court of any books or accounts ;
- (c) direct that the payment of moneys or transfer of investments, books or accounts to the Controller of Enemy Property be subject to such conditions as it thinks fit ; or
- (d) direct that the costs of a party to the proceedings be paid out of, or charged upon, any moneys or investments the subject of the proceedings.

“(3.) An application to the High Court for an order under subsection (1.) of this section shall be made by the Attorney-General.

Payment into
Enemy Subjects
Trust Account.

“ 13E.—(1.) Moneys received by the Controller of Enemy Property in pursuance of an order under the last preceding section shall be paid into the Enemy Subjects Trust Account referred to in the National Security (Enemy Property) Regulations.

“(2.) Investments received by the Controller of Enemy Property in pursuance of such an order shall be deemed to be investments of moneys standing to the credit of that Enemy Subjects Trust Account, and an amount determined by the Treasurer to be the value of those investments shall be credited to that account.

Distribution of
proceeds of
Japanese
property to
former
prisoners of
war, &c.

“ 13F.—(1.) This section applies—

- (a) to the portion of the moneys from time to time standing to the credit of the Enemy Subjects Trust Account referred to in the National Security (Enemy Property) Regulations (including moneys paid or credited to that Account in pursuance of section thirteen E or fourteen of this Act) that is, or represents, property, rights or interests to which sub-paragraph (i) of paragraph two of Article fourteen of the Treaty of Peace with Japan (being the treaty approved by the *Treaty of Peace (Japan) Act 1952*) applies ; and
- (b) to so much of those moneys as the Treasurer specifies as representing interest accrued in relation to that portion of those moneys.

“(2.) From the moneys to which this section applies there are payable, subject to any directions of the Treasurer, in addition to fees payable to the Controller of Enemy Property out of those moneys in accordance with the National Security (Enemy Property) Regulations, such debts and claims as the Controller, in his discretion, considers should be paid out of those moneys.

“(3.) Subject to the last preceding sub-section, the moneys to which this section applies shall be disposed of as follows :—

- (a) the sum of Twenty-five thousand pounds shall be paid to trustees appointed by the Prime Minister, to be held upon trusts determined by the Prime Minister, being trusts for the benefit of Australians (other than members of the Defence Force) who have suffered physical or mental injury as a result of internment by the Japanese during the war with Japan, or of persons who were dependants of Australians (other than members of the Defence Force) who have died during or after, and as a result of, internment by the Japanese during that war ; and
- (b) the balance of the moneys shall be transferred to a Trust Account to be established under section sixty-two A of the *Audit Act* 1901–1950, for the purpose of distribution, in accordance with the directions of the Prime Minister, to or for the benefit of members or former members of the Defence Force, or of organizations attached to that Force, who were prisoners of war of the Japanese, and to or for the benefit of persons who were dependants of, or other persons connected with or claiming through, such of those prisoners of war as died whilst in captivity or since their release.

“(4.) The interest of a person in moneys payable in pursuance of the last preceding sub-section, or the possibility of such an interest, is, and shall be deemed at all times to have been, absolutely inalienable at law and in equity before receipt by that person of the moneys representing that interest, whether by means of, or in consequence of, sale, assignment, charge, execution or otherwise.”

4. Section fifteen A of the Principal Act is amended by omitting sub-section (3.) and inserting in its stead the following sub-section :—

Control
of enemy
property.

“(3.) The power to amend the regulations in force by virtue of this section includes the power to make such amendments as are necessary or convenient for carrying out or giving effect to—

- (a) Article six of the Agreement on Repatriation from Germany, on the Establishment of an Inter-Allied Reparation Agency and on the Restitution of Monetary Gold (being the agreement the terms of which were recommended for signature by the Paris Conference on Reparation that concluded its meeting on the twenty-first day of December, One thousand nine hundred and forty-five, to which agreement Australia is a party) ;
- (b) Article fourteen of the Treaty of Peace with Japan (being the treaty approved by the *Treaty of Peace (Japan) Act* 1952) ;
or

- (c) a provision of any other treaty or arrangement for the settlement of matters arising out of a state of war that commenced on or after the third day of September, One thousand nine hundred and thirty-nine, being a provision dealing with the disposal or treatment of property, rights or interests under the control of the Commonwealth or situated in Australia or the Territories of the Commonwealth.”

Regulations.

5. Section sixteen of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(2.) Amendments made by regulations under this Act to the National Security (Enemy Property) Regulations shall be amendments—

- (a) authorized by sub-section (3.) or (4.) of the last preceding section ;
 - (b) dealing with a matter dealt with by those Regulations ; or
 - (c) necessary or convenient for the purpose of the winding up of matters arising under or out of those Regulations, or the disposal of moneys standing to the credit of the Enemy Subjects Trust Account established under those Regulations, or investments of any such moneys.”.
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