

Defence Regulations (Guernsey), 1945

The Defence (Finance) (Guernsey) Regulations, 1945 Ordinance

THE ROYAL COURT, in the exercise of the powers conferred upon it by the Emergency Powers (Guernsey) Order in Council, 1945, and having heard the conclusions of His Majesty's Procureur, has ordered and doth hereby order that the following Finance Regulations shall have effect henceforth throughout the Bailiwick of the Island of Guernsey evcluding the Island of Alderney and that a copy of this Ordinance and of those Regulations shall be transmitted by His Majesty's Greffier to the Seneschal of the Island of Sark for registration on the Records of that Island.

THE DEFENCE (FINANCE) (GUERNSEY) REGULATIONS, 1945

ARRANGEMENT OF REGULATIONS

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1.—(1) The Treasury may by order direct —

(a) that, subject to any exemptions for which provision may be made by the order, no person shall, except with permission granted by or on behalf of the

Acquisition
by Treasury
of certain
securities

* Repealed by The Exchange Control (Transitional Provisions) (Channel Islands) Order, 1947, made by the Treasury on the 20th September, 1947.

† Revoked by Ordinance revoking Defence (Finance) Regulation 6 of the 1st May, 1948.

Treasury, sell, transfer or do anything which involves the creation of a charge on, or affects his rights or powers in relation to, securities of any such class as may be specified in the order, being a class of securities which, in the opinion of the Treasury, are likely to be marketable outside the United Kingdom, and

- (b) that the owner of any securities of the said class shall, in such manner and within such period as may be specified in the order, make a return to the Bank of England or to a representative in Guernsey of the Bank of England giving such particulars with respect to those securities as may be so specified.

For the purposes of this paragraph a person who mortgages or pledges a security shall be deemed thereby to create a charge on the security.

(2) At any time while an order made under the preceding paragraph with respect to securities of any class is in force, the Treasury, if they are of the opinion that it is expedient so to do for the purpose of strengthening the financial position of the United Kingdom, and the Channel Islands, may, by an order made generally with respect to any specified securities of that class, or by directions given with respect to any specified securities of that class, of which any particular person is the owner, transfer to themselves the securities to which the order or directions relates or relate, at a price specified in the order or directions being a price which, in the opinion of the Treasury, is not less than the market value of the securities on the date of the making of the order or the giving of the directions:

Provided that where the Treasury have by an order made under this paragraph transferred to themselves securities in respect of which returns had before the date of the making of that order been made to the Bank of England or to a representative in Guernsey of the Bank of England under an order made under the last foregoing

paragraph, then, if by an order or directions subsequently made or given under this paragraph the Treasury transfer to themselves securities which would have been transferred to them under the former order if such a return as aforesaid had been made before that date, the minimum price at which the securities may be transferred shall be the price specified in the former order subject to such reduction as the Treasury think fit in respect of any dividend or interest payable since the date of the making of that order, or a price which in the opinion of the Treasury is the market value of the securities on the date of the making or giving of the subsequent order or directions, whichever is the less.

(3) Where any order is made, or any directions are given, under the last preceding paragraph with respect to any securities —

- (a) those securities shall forthwith vest in the Treasury free from any mortgage, pledge or charge, and the Treasury may deal with the securities as they think fit;
- (b) the owner of any of those securities, and any person who is responsible for keeping any register or book in which any of those securities is registered or inscribed or who is otherwise concerned with the registration or inscription of any of those securities, shall do all such things as are necessary or as the Treasury or the Bank of England on their behalf may direct to be done for the purpose of securing that the security and any document of title relating thereto will be delivered to the Treasury or to such person as the Treasury may direct, and, in the case of any registered or inscribed security, that the security will be registered or inscribed in the name of the Treasury or such person as the Treasury may direct.

(4) The duty to deliver any security under the last preceding paragraph shall include a duty to do all

such things as are necessary to secure that any dividends or interest on that security becoming payable on or after the date of the making of the order or the giving of the directions will be paid to the Treasury; and where, in the case of any security payable to bearer which is delivered in pursuance of the said paragraph, any coupons representing any such dividends or interest are not delivered with the security, such reduction in the price payable therefor shall be made as the Treasury think fit:

Provided that, where the price specified in the order or directions in relation to any securities is ex any dividend or ex any interest, this paragraph shall not apply to that dividend or interest or to any coupon representing it.

(5) A certificate signed by any person authorised in that behalf by the Treasury that any specified securities are securities transferred to the Treasury under this Regulation shall be treated by all persons responsible for keeping any registers or books in which the securities are registered or inscribed, or who are otherwise concerned with the registration or inscription of those securities, as conclusive evidence that the securities have been so transferred.

(6) Where, by virtue of sub-paragraph (a) of paragraph (3) of this Regulation, any security has become vested in the Treasury, then, at any time before the steps required by sub-paragraph (b) of that paragraph to be taken in relation to that security have been taken, the Treasury may, by a declaration made in writing by them or on their behalf, divest themselves of the security; and thereupon the order or directions in consequence of which the security so became vested in the Treasury shall be deemed, for all purposes, not to have been made or given with respect to that security.

(7) For the purposes of this Regulation, the expression "security" does not include any such annuity, policy or contract as is mentioned in sub-paragraph (d) of paragraph (1) of Regulation ten of these Regulations.

1A. Where the Treasury have by an order made under paragraph (2) of the foregoing Regulation transferred to themselves securities in respect of which returns had before the date of the making of that order been made to the Bank of England or to a representative in Guernsey of the Bank of England under an order made under paragraph (1) of that Regulation, they may give directions to the owner of any security which would have been transferred to them under the said order if such a return as aforesaid had been made before that date requiring him to take such steps as may be specified in the directions to sell, or to procure the sale of, the security.

Power of Treasury to direct sale of certain securities

1B. The Treasury may give such directions as to the custody and disposition of documents of title relating to securities, or relating to any class or description of securities specified in the direction, as appear to the Treasury to be expedient.

Custody and disposition of documents of title to securities

5A.—(1) The Treasury may, by an order made by them generally with respect to any description of securities, or by a certificate given by them or on their behalf with respect to any particular securities, exempt the securities to which the order or certificate relates from the provisions of Regulation one of these Regulations, and any such order or certificate shall be deemed to relate not only to the securities specified therein, but also to any security to which the owner of the securities so specified may become or has become entitled as such, either by way of bonus or in consequence of any conversion operation, amalgamation or reconstruction.

Power to exempt securities from provisions of Regulation 1.

(2) Any order made by the Treasury or certificate given by them or on their behalf before the ninth day of May, nineteen hundred and forty, for the purpose of exempting securities from the provisions of Regulation one of these Regulations, shall be deemed to be an order or certificate made or given under this Regulation.

(3) Any certificate given under this Regulation may be revoked or varied by a notice served by or on

behalf of the Treasury on the person to whom the certificate was issued.

Exemption
from
stamp duty.

7.—(1) Stamp duty shall not be chargeable on any security by reason only of the assignment, transfer or negotiation thereof to the Treasury, and shall not be chargeable —

(a) on any instrument whereby any security is assigned or transferred to the Treasury (whether on sale or otherwise), or

(b) on any contract note for, or relating to, any sale of securities to the Treasury.

(2) This Regulation applies only in relation to assignments, transfers, negotiations or sales of securities effected during the continuance in force of this Regulation, whether in compliance with these Regulations or otherwise.

(3) In this Regulation the expression “contract note” has the meaning assigned to that expression by sub-section (3) of section seventy-seven of the Finance (1909-10) Act, 1910, of the United Kingdom.

10 Edw. 7
& 1 Geo. 5.
c. 8.

Calling in
of Bank of
England
notes.

7A. Where the Bank of England have (whether before or after the coming into force of this Regulation) given notice under Regulation 7AB of the Defence (Finance) Regulations, 1939, of the United Kingdom calling in any notes of the Bank, and the notice has expired, those notes shall not be legal tender in Guernsey.

8.—(1) The Treasury may give to any person directions requiring him, within such time and in such manner as may be specified in the directions, to furnish to them or to any person designated in the directions as a person authorised to require it, any information in his possession or control which the Treasury or the person so authorised, as the case may be, may require for the purpose of securing compliance with or detecting evasion of these Regulations or for the purpose of assisting the

government of any part of His Majesty's dominions outside Guernsey, of any country or territory to which section one of the Emergency Powers (Defence) Act, 1939, extends, or of any territory within the sterling area, to secure compliance with or to detect evasion of any Regulations or law made or enacted for purposes similar to the purposes of these Regulations.

2 & 3 Geo.
6. c. 62.

(2) A person required by any such directions as aforesaid to furnish information shall produce such books, accounts or other documents (hereinafter referred to as "documents") in his possession or control as may be required by the Treasury or by the person authorised to require the information, as the case may be, and for the purpose of inspecting any such documents any person so authorised as aforesaid, or any person authorised to act on behalf of the Treasury under this paragraph, may enter any premises and may take possession of any of the documents or take in relation thereto any other steps which appear to him necessary for preserving them and preventing interference therewith.

(3) No person shall, with intent to evade the provisions of these Regulations or of any Regulations or law mentioned in paragraph (1) of this Regulation, destroy, mutilate, deface, secrete or remove any documents.

(4) Any information given by a person in compliance with this Regulation may be given in evidence against him notwithstanding that it may tend to incriminate him.

(5) The provisions of this Regulation shall be without prejudice to any other provisions of these Regulations relating to the giving of information, and the provisions of the last foregoing paragraph shall be without prejudice to any question as to the admissibility as evidence of information obtained under statutory powers in the absence of any such express provision.

(6) The Treasury may, to such extent and subject to such restrictions as they think proper, delegate their

powers under this Regulation to any person or class or description of persons approved by them.

Application of certain provisions of the Defence Regulations (Guernsey), 1945.

9.—(1) The provisions of Part V of the Defence Regulations (Guernsey), 1945, shall, subject to the subsequent provisions of this Regulation, apply for the purpose of the enforcement of these Regulations, and otherwise in relation thereto, as if in the said Part V any reference to those Regulations included a reference to these Regulations.

(2) Where any person is convicted of an offence against any of these Regulations in relation to any security, currency, gold, banknote, postal order, bill, note, debt, payment or goods, the maximum fine which may be imposed on him shall be such fine as is authorised by Regulation ninety-two of the Defence Regulations (Guernsey), 1945, or a fine equal to three times the value of the security, currency, gold, banknote, postal order, bill, note, debt, payment, or goods, whichever is the larger:

Provided that nothing in this paragraph shall be construed as limiting the fine which may be imposed on the conviction of a corporation.

In this paragraph the expression “security” has, in relation to an offence against any provision of these Regulations, the same meaning as in the provision in question, and the expression “currency” includes a right to receive foreign currency in respect of a credit or balance at a bank.

Provision as to payments by Treasury.

9A.—(1) Nothing in the preceding provisions of these Regulations relating to the payment of any price or sum by the Treasury shall be construed as requiring the Treasury to pay that price or sum otherwise than in sterling or otherwise than in Guernsey.

(2) The Treasury may, in any particular case, declare that payment of any price or sum payable by the Treasury (being a price or sum payable by reason of the compliance of such a body corporate as is specified in paragraph (2) of Regulation five C of these Regulations

with any of the requirements specified in paragraph (3) of that Regulation) will be made to a blocked account only; and where such a declaration is made, paragraphs (1) to (4) of Regulation three D of these Regulations shall apply as if —

- (a) the payment were one for the making of which permission was necessary under Regulation three C of these Regulations; and
- (b) that permission had been granted but subject to the condition that the payment was made to a blocked account.

9B.—(1) Subject to any exemption which may be granted by order of the Treasury, no person shall, except with permission granted by the Treasury or by a person authorised by them or on their behalf, agree to do at any future time any act which, at the time of the agreement, is unlawful by virtue of any provision of these Regulations: Restriction
on
agreements.

Provided that, in relation to any such act which, at the time of the agreement, would be lawful if done with the consent of the Finance Committee of the States of Guernsey, this paragraph shall have effect as if for the references to the Treasury there were substituted references to that Finance Committee.

(2) Nothing in this Regulation shall be taken as prejudicing Regulation ninety of the Defence Regulations (Guernsey), 1945, as applied in relation to these Regulations.

10.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say: — Interpre-
tation.

“banknotes” means banknotes which are or have at any time been legal tender in the United Kingdom or in any part thereof or in the Channel Islands;

“Finance Committee” means Finance Committee of the States of Guernsey;

“foreign currency” means any currency other than currency which is legal tender in the Channel Islands, and includes notes which have at any time been legal tender in any territory outside the United Kingdom and the Channel Islands;

“gold” means gold coin or gold bullion;

“Guernsey” means the Bailiwick of the Island of Guernsey excluding the Island of Alderney;

“owner” in relation to any security, includes any person who has power to sell or transfer the security, or who has the custody thereof, or who receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon, or who has any other interest therein and also includes, in a case where securities are held on any trust, or dividends or interest thereon are paid into a trust fund, any trustee or any person entitled to enforce the performance of the trust, or to revoke or vary, with or without the consent of any other person, the trust or any of the terms thereof, or to control the investment of the trust moneys;

“security”, except in so far as is otherwise expressly provided, includes —

- (a) shares, stocks, bonds, notes, debenture, debentures, debenture stock and Treasury bills;
- (b) a deposit receipt in respect of the deposit of securities;
- (c) a unit or sub-unit of a unit trust;
- (d) an annuity granted under the Government Annuities Act, 1929, of the United Kingdom, or to which either Part I or Part II of that Act applies, and a life assurance policy or other contract entered into with an assurance company for securing the payment in the future of any capital sum or sums or of an annuity;
- (e) a warrant conferring an option to acquire a security;

(f) a share in an oil royalty;

but does not include a bill of exchange or a promissory note.

“sterling area” means the United Kingdom, the Channel Islands and such other territories as may be declared by order of the Treasury to be included in the sterling area;

“Treasury” means His Majesty’s Treasury in the United Kingdom;

and references in these Regulations to the United Kingdom shall be construed as if the Isle of Man were part of the United Kingdom.

(2) Any consent or permission granted by or on behalf of the Treasury or the Finance Committee of the States of Guernsey under any of these Regulations may be granted either absolutely or subject to conditions.

11.—An Order made by the Treasury under these Regulations shall only take effect in Guernsey after the registration of the Order by the Royal Court. Registration
of Treasury
Orders.

12.—These Regulations may be cited as the Defence Short
(Finance) (Guernsey) Regulations, 1945. title.