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**TRADING WITH THE ENEMY (CONTINUANCE OF EMERGENCY PROVISIONS) ACT, 1947**

**16 of 1947**

**[20th March, 1947]**

CONTENTS

1. Short title, extent and commencement
2. Continuance of certain emergency provisions
3. Effect of rules, etc., inconsistent with other enactments
4. Delegations
5. Savings as to orders
6. Protection of action taken under rules

**SCHEDULE 1 :- 1**

**TRADING WITH THE ENEMY (CONTINUANCE OF EMERGENCY PROVISIONS) ACT, 1947**

**16 of 1947**

**[20th March, 1947]**

STATEMENT OF OBJECTS AND REASONS "The Bill seeks to provide for the continuance of the special powers enjoyed by the Government of India up to the 30th September, 1946 under Parts XV and XVI of the Defence of India Rules and thereafter continued for a period of six months by means of the Emergency Powers (Continuance) Ordinance, 1946. Although hostilities ceased long ago, it will continue to be obligatory on the Government of India to maintain the general prohibition against trading with enemies until Peace Treaties are signed. Similarly, it will be their responsibility to continue to look after the property of the 'enemy' firms vested in the Custodian of the Enemy Property until it is liquidated or released, For these purposes it is sought to keep alive most of the provisions of the Defence of India Rules relating to the ban on trade with 'enemies', the control over 'enemy' firms and the custody of 'enemy' property."-Gaz. of Ind., 1947, Part V, p. 179.

**1. Short title, extent and commencement :-**

These Rules may be called the Defence of India Rules<sup>1</sup> .

## **2 \ Continuance of certain emergency provisions**

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(1) Notwithstanding the expiry of the Defence of India Act, 1939, and the Emergency Provisions (Continuance) Ordinance, 1946-

(a) the provisions of the Defence of India Rules mentioned in the first column of the Schedule to this Act shall continue in force, and shall have effect subject to the modifications specified in the second column thereof;

(b) any order or other instrument made or deemed to be made under or in pursuance of any of the said provisions and in force immediately before the commencement of this Act shall continue in force so far as consistent with the provisions as continued in force by this section and be deemed to be made under or in pursuance of the provisions so continued in force.

(2) The reference in sub-section (1) to the Defence of India Rule" shall be construed as references to those Rules as modified and continued in force by the Emergency Provisions (Continuance) Ordinance, 1946.

### **3. Effect of rules, etc., inconsistent with other enactments**

:-

(1) The General Clauses Act, 1897 , shall apply to the interpretation of these Rules as it applies to the interpretation of a Central Act.

(2) Any reference in these Rules to the forces, vessels, aircraft, servants, subjects or prisoners of war of His Majesty shall, unless there is anything repugnant in the subject or context, be deemed to include the forces, vessels, aircraft, servants, subjects, or prisoners of war, as the case may be, of any part of His Majesty's dominions, of any territories under the protection or suzerainty of His Majesty and of any State in alliance with His Majesty.

(3) [Omitted by Act XVI of 1947, Sch.]

## **4 \ Delegations**

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(1) The Central Government may by order direct that any power or duty which by or under any of the provisions as continued in force

by section 2 is conferred or imposed upon the Central Government, shall in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority subordinate to that Government or by any other authority.

(3) All orders delegating any power or duty conferred Or imposed by any of the provisions continued in force by section 2 made by the Central Govern- ment before the commencement of this Act and in force immediately before such commencement shall continue in force and be deemed to be made by the Central Government under this section.

#### **5. Savings as to orders :-**

If any person to whom any provision of these Rules relates, or to whom any order made in pursuance of these Rules is addressed or relates, or who is in occu- pation, possession or control of any land, building, vehicle, vessel or other thing to which such provision relates, or in respect of which such order is made-

(a) fails, without lawful authority or excuse, himself, or in respect of any land, building, vehicle, vessel, or other thing of which he is in occupa- tion, possession or control, to comply, or to secure compliance, with such provision or order, or

(b) evades, or attempts to evade, by any means such provision, or order,- he shall be deemed to have contravened such provision or order; and in these Rules the expression "contravention" with its grammatical variations includes any such failure, evasion or attempts to evade

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#### **5 \Savings as to orders**

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(1) No order made or deemed to be made in exercise of any power conferred by or under any of the provisions continu- ed in force by section 2 shall be called in question in any Court.

(2) Where an order purports to have been made and signed by any auth- ority in exercise of any power conferred by or under any of the aforesaid provisions, a Court shaR within the meaniag of the Evidiace Act, 1872, presume that such order was so made by that authority

## **6. Protection of action taken under rules :-**

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any of the provisions continued in force by section 2 or any order made or deemed to be made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of any of the provisions continued in force by section 2 or any order made or deemed to be made thereunder.

### **SCHEDULE 1**

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(See section 2 ) Provisims of the Defence of liuMa Rules cwntinued in forcea  
Number and title of Rule Modification 1.-Short title ... 2.-Definitions Clause  
(1) shall be omitted - . 3.-Interpretation Sub-rule (3) shall be omitted 4.-  
Saving 5.-Non-compliance with these rules or enters made thereunder 97.-  
Definition 98.-Prohibition of trading -with the enemy 99.-Control of rights,  
etc., in respect of trad- ing with the enemy 100.-Power to appoint  
Controllers, etc. of Enemy Trading 100A.-Powers of Controllcis, etc., of  
Enemy Trading 101A.-Penalty for failure to comply -with ordeis of  
Controllers, etc. 103.-Definitions 104.-Prohibition of trade with enemy firms  
and purchase of enemy currency 105.-Power to appoint Controllers, etc., of  
enemy firms 106.-Powers of Controllers, etc., of enemy firms 108.-Penalty  
for failure to comply with erders of Controllers, etc. 110.-Contracts with  
enemy firms 111.-Transfer of property to or by enemy firms 113A.-Power to  
carry on business of enemy, firms 114.-Collection of debts of enemy firms  
and cus- tody of property 114A.-Power to control and wind up certain busi-  
^ ness 117.-False statements 117A.-Power to require production of beohs,  
etc. 121.-Attempts, etc., to contravene rules 122.-Offences by corporations  
123A.-Burden of proof in certain cases 130-Cognizance of contraventions of  
the Sub-rule (3) and (4) shall He rules, etc. omitted. \ \