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GOVERNMENT NOTIFICATIONS.

L. D.—CF 25/39

THE EMERGENCY POWERS (DEFENCE) ACTS, 1939 AND 1940.

43/2 (FSO).

DEFENCE Regulation made by the Officer Administering the Government of Ceylon by virtue of the powers vested in the Governor by the Emergency Powers (Defence) Acts, 1939 and 1940, of the Imperial Parliament, as adapted, modified and extended to Ceylon by the Emergency Powers (Colonial Defence) Order in Council, 1939, and the Emergency Powers (Colonial Defence) (Amendment) Order in Council, 1940.

By His Excellency's command,

E. R. SUDBURY,
Secretary to the Governor.

Colombo, December 10, 1940.

REGULATION.

The Defence (Finance) Regulations published in *Gazette Extraordinary* No. 8,509 of September 19, 1939, as last amended by the Regulations published in *Gazette* No. 8,633 of July 12, 1940, are hereby amended as follows:—

(1) by the substitution, for regulation 5, of the following new regulations which shall have effect, respectively, as regulations 5, 5A, 5B, and 5C:—

Restrictions on export of currency, gold and securities, &c. 5. (1) Subject to any exemptions which may be granted by Order of the Governor, no person shall, except with permission given by the Controller, take or send out of Ceylon any bank note, money order, postal order, gold, securities or currency (whether scheduled or otherwise) to any place outside Ceylon.

(2) Nothing in paragraph (1) shall restrict the doing of anything, within the scope of his authority, by a person authorized by or on behalf of the Governor to deal in foreign exchange.

(3) Any person who on any occasion is about to leave Ceylon (which person is hereafter in this regulation referred to as "the traveller") shall, if requested so to do by the authorized officer—

(a) declare whether or not he has with him any bank notes, money orders, postal orders, gold, securities or currency (whether scheduled or otherwise);

(b) produce any bank notes, money orders, postal orders, gold, securities or currency (whether scheduled or otherwise) which he has with him,

and the authorized officer and any person acting under his directions, may search the traveller and examine or search any article which the traveller has with him for the purpose of ascertaining whether he has with him any bank notes, money orders, postal orders, gold, securities or currency (whether scheduled or otherwise) and may seize any bank notes, money orders, postal orders, gold, securities or currency (whether scheduled or otherwise) produced or found upon such examination or search unless either—

(i.) the authorized officer is satisfied that the traveller is, in respect of any bank notes, money orders, postal orders, gold, securities or currency (whether scheduled or otherwise) which he has with him on the said occasion, exempt from the restrictions imposed by paragraph (1); or

- (ii.) the traveller produces to the authorized officer such a certificate granted by or on behalf of the Controller as shows that the taking out by the traveller of any bank notes, money orders, postal orders, gold, securities or currency (whether scheduled or otherwise) which he has with him on the said occasion, does not involve a contravention of that paragraph :

Provided that no female shall be searched in pursuance of this paragraph except by a female.

(4) Where any persons are about to leave Ceylon in any ship or aircraft, the authorized officer and any person acting under his directions may go on board the ship or aircraft for the purpose of exercising the powers conferred on them by the last preceding paragraph, and may also examine or search the ship or aircraft for the purpose of ascertaining whether there are on board the ship or aircraft any bank notes, money orders, postal orders, gold, securities or currency (whether scheduled or otherwise) and may seize any bank notes, money orders, postal orders, gold, securities or currency (whether scheduled or otherwise) which the authorized officer has reasonable ground for suspecting to be in the ship or aircraft for the purpose of being taken or sent out of Ceylon in contravention of paragraph (1) of this regulation.

(5) Nothing in the preceding provisions of this regulation shall apply in relation to the taking or sending of anything from one part of Ceylon to another or in relation to any person travelling between one part of Ceylon and another.

(6) As respects any goods consigned from Ceylon to a destination outside Ceylon, the authorized officer and any person acting under his directions may examine or search the goods for the purpose of ascertaining whether there are being sent therewith any bank notes, money orders, postal orders, gold, securities or currency (whether scheduled or otherwise) and may seize any bank notes, money orders, postal orders, gold, securities or currency (whether scheduled or otherwise) found upon such examination or search unless there appears to the authorized officer to have been granted by or on behalf of the Controller a certificate which shows that the sending as aforesaid of the bank notes, money orders, postal orders, gold, securities or currency (whether scheduled or otherwise) does not involve a contravention of paragraph (1).

The authorized officer and any person acting under his directions may go on board any ship or aircraft for the purpose of exercising the powers conferred on them by this paragraph in relation to any goods on board the ship or aircraft.

(7) For the purposes of this regulation—

- (a) any bill of exchange or promissory note payable in scheduled currency shall be deemed to be scheduled currency ; and
(b) the expression "security" includes a deposit in respect of the deposit of securities, a unit or sub-unit of a unit trust, a coupon representing dividends or interest, and a life or endowment assurance policy, and any document of title relating to any security.

Restrictions
on payments,
&c.

5A. (1) Subject to any exemptions which may be granted by Order of the Governor, no person shall, except with permission given by the Controller—

- (a) draw, issue or negotiate any bill of exchange or promissory note, or acknowledge any debt so that a right (whether actual or contingent) to receive a payment in Ceylon is created or transferred in favour of a person who is resident in any scheduled territory ; or
(b) make any payment to any such person.

(2) Subject to any exemptions which may be granted by Order of the Governor, no person shall, except with permission given by the Controller—

- (a) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment in Ceylon is created or transferred in favour of a person resident in any non-scheduled territory as consideration for, or in association with—
(i.) the receipt by any person of a payment, or the acquisition by any person of property, in any scheduled territory ; or
(ii.) the creation or transfer, in favour of any person, of a right (whether actual or contingent) to receive a payment, or acquire property, in any scheduled territory ; or
(b) make any payment to a person resident in any non-scheduled territory as such consideration or in such association as aforesaid.

In this paragraph the expression "transfer" includes, in relation to any security, transfer by way of loan or security, and the expression "security" includes a deposit receipt in respect of the deposit of securities, a unit or a sub-unit of a unit trust, a coupon representing dividends or interest and a life or endowment assurance policy.

(3) Where an individual has at any time since the nineteenth day of September, nineteen hundred and thirty-nine, resided in Ceylon—

- (a) he shall, until the Governor otherwise directs, be treated, for the purposes of this regulation and of any Order providing for exemptions from any of the provisions thereof, as having been, and as still being, resident in Ceylon and not in any scheduled territory ; and
(b) if any such direction is given, the Governor may, by the same or a subsequent direction, declare the territory in which, for those purposes, he is to be treated as being resident,

and any directions given under this paragraph may be either general or special and may be revoked or varied by a subsequent direction thereunder.

(4) In the case of any individual to whom paragraph (3) does not apply, the Governor may give directions declaring the territory in which, for the purposes of this regulation and of any Order providing for exemptions from any of the provisions thereof, such individual is to be treated as being resident, and any direction given under this paragraph may be either general or special and may be revoked or varied by a subsequent direction thereunder.

(5) Nothing in this regulation shall restrict the doing of anything, within the scope of his authority, by a person authorized by or on behalf of the Governor to deal in foreign exchange.

Provisions
supplemental
to regulations
5 and 5A.

5B. (1) The Governor or a person acting on his behalf may impose such restrictions on the making of payments, and the doing of any other acts, by bankers in the course of their business as appear to the Governor to be necessary or expedient for the purpose of securing the due enforcement of regulations 5 and 5A.

(2) For the purposes of regulations 5 and 5A and of any orders made thereunder—

- (a) any transaction with a branch in any non-scheduled territory of any body corporate resident in a scheduled territory shall be treated in all respects as if the branch were a separate body corporate resident where the business of the branch is carried on ; and
(b) the making of any book entry or other statement recording a debit against any such branch in favour of the head office of the body corporate or any branch thereof in a scheduled territory shall be treated as the acknowledgment of a debt whereby a right is created in favour of a person resident in a scheduled territory to receive a payment in the place where the business of the first-mentioned branch is carried on.

Applications
for permission.

5C. (1) Every applicant for permission under regulation 5 (1), regulation 5A (1) or regulation 5A (2) shall furnish to the Controller such particulars as the Controller may require in such form as may be provided for the purpose.

(2) The permission given by the Controller in every case referred to in paragraph (1) shall be subject to such conditions and to such time limit as may be specified in the letter or other document by which the permission is given.

(3) The Controller may at any time withdraw any permission given by him or may rescind, add to or vary any conditions or extend or reduce any time limit to which such permission is subject.

(4) Every decision of the Controller, to grant or refuse an application for permission, or to withdraw any permission given by him, or to rescind, add to or vary the conditions or to extend or reduce the time limit to which any permission given by him is subject, shall be signed and dated by him and shall forthwith be communicated to the person by whom the application was made or to whom the permission was given ; and such person may, if he is dissatisfied with the decision of the Controller, appeal therefrom to the Financial Secretary within a period of ten days reckoned from the date of the decision.

(5) Before adjudicating on any appeal preferred under paragraph (4), the Financial Secretary shall consult the Minister for Labour, Industry and Commerce.

(6) The decision of the Controller under the preceding provisions of this regulation or, in a case where an appeal has been preferred against any such decision, the order of the Financial Secretary on such appeal, shall for all purposes be final and conclusive and shall not be subject to review or called in question in any court of law ;

(2) in regulation 10—

(a) by the insertion, immediately after the definition of "gold", of the following new definition :—

"non-scheduled territory" means any territory other than a scheduled territory and "non-scheduled currency" accordingly means the currency of any such non-scheduled territory ;

(b) by the insertion, immediately after the definition of "scheduled currency", of the following new definition :—

"scheduled territory" means a territory specified for the time being in the schedule to the Defence (Finance) Regulations.

L. D.—CF 25B/39

43/2 (FSO)

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DEFENCE Regulation made by the Officer Administering the Government of Ceylon by virtue of the powers vested in the Governor by the Emergency Powers (Defence) Acts, 1939 and 1940, of the Imperial Parliament, as adapted, modified and extended to Ceylon by the Emergency Powers (Colonial Defence) Order in Council, 1939, and the Emergency Powers (Colonial Defence) (Amendment) Order in Council, 1940.

By His Excellency's command,

E. R. SUDBURY,
Secretary to the Governor.

Colombo, December 10, 1940.

REGULATION.

The Defence (Securities) Regulations published in *Gazette Extraordinary* No. 8,596 of March 28, 1940, as amended by the Regulations published in *Gazette* No. 8,633 of July 12, 1940, and in *Gazette Extraordinary* No. 8,640 of July 23, 1940, are hereby further amended by the substitution, for regulations 2A and 2B thereof, of the following new regulations:—

Restrictions
upon transfer
of securities.

2A. (1) Subject to any exemptions which may be granted by Order of the Governor, no person shall, either on his own behalf or on behalf of any other person, agree to transfer or acquire, or transfer, or acquire otherwise than by operation of law or by inheritance, any securities or any interest in securities, unless the Controller is satisfied that no person resident in any scheduled territory has, immediately before the transfer, acquisition, or agreement, any interest in the securities:

Provided that nothing in this paragraph shall prohibit any agreement, transfer or acquisition which is effected with permission granted by the Controller.

(2) Subject to any exemptions which may be granted by Order of the Governor, no person shall, except with permission granted by the Controller—

- (a) transfer any security or create or transfer any interest in a security to or in favour of a person resident in any scheduled territory;
- (b) transfer any security from a register in Ceylon to a register in any scheduled territory, or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in or registered in Ceylon of any security which is either in or registered in any scheduled territory; or
- (c) procure that, in any register or book in which securities are registered or inscribed, an address in any scheduled territory shall, except by way of substitution for another such address in the same currency area, be registered in respect of any security.

In this paragraph, the expression "security" includes a coupon representing dividends or interest.

(3) Subject to any exemptions which may be granted by Order of the Governor, no person who holds any securities as trustee or agent shall, except with permission granted by the Controller, do any act whereby he recognizes or gives effect to the transfer of those securities or the creation or transfer of any interest therein by, to, or in favour of a person resident in any scheduled territory:

Provided that nothing in this paragraph shall restrict the doing of any act for the doing of which permission has been granted to any person by the Controller under any other paragraph of this regulation, or the doing of any act recognizing or giving effect to any transaction for which permission has been so granted or which has been entered into before the eleventh day of December, 1940.

(4) Subject to any exemptions which may be granted by Order of the Governor, no person shall, except with permission granted by the Controller, enter any transfer of securities in any register or book in which those securities are registered or inscribed unless there has been produced to him such evidence that the transfer does not involve a contravention of this regulation as may be prescribed by instructions issued by or on behalf of the Governor.

(5) In this regulation—

the expression "acquire by inheritance" means acquire in the capacity of a beneficiary under a will or intestacy, or in the capacity of a personal representative of a deceased person; and
the expression "security" includes a deposit receipt in respect of the deposit of securities and a life or endowment assurance policy, but, for the purposes of this regulation, does not include a Treasury bill or any bill issued by a local authority in the United Kingdom or the Isle of Man;

and for purposes of this regulation an interest in securities does not include an interest in expectancy on the determination of a life, or any interest merely as a trustee.

Restriction
upon issue of
documents of
title relating
to securities.

2B. (1) Subject to any exemptions which may be granted by Order of the Governor, no person shall, except with permission granted by the Controller, issue any bearer bond, share warrant to bearer, or other document of title by the delivery of which the title to securities or to any interest in securities is transferable:

Provided that nothing in this regulation shall restrict the issue of any such document of title for the purpose of replacing any such document which has been lost or destroyed.

(2) Coupons representing dividends or interest shall be deemed for the purposes of this regulation to be documents of title by the delivery of which a title to an interest in securities is transferable.

(3) In this regulation, the expression "security" does not include a Treasury bill.