

DEFENCE (FINANCE) REGULATIONS 1939

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ASSIGNMENT OF LIFE POLICIES

S.R. & O. No. 708 of 1940. 12 May 1940

This order forbade the transfer or acquisition (otherwise than the acquisition by inheritance or operation of Law) of any security or any interest in a security, unless the Treasury . . . were satisfied that no person resident outside the United Kingdom or the Isle of Man had, immediately before the acquisition or transfer, any interest in the security. It also forbade the transfer without permission of any security or any interest in any security to or in favour of a person resident outside the United Kingdom and the Isle of Man.

Note. Forms 'D' and 'B' which had to be completed in respect of all transfers of Registered or Bearer Securities were part of the machinery required for the enforcement of this Order. A life policy was not a security within the definition, so no action was called for.

S.R. & O. No. 710 of 1940. 12 May 1940

By this Order references to the countries of the sterling area were substituted for references to the United Kingdom and the Isle of Man for the purposes of S.R. & O. No. 708.

S.R. & O. No. 1254 of 1940. 17 July 1940

This Order repeated the provisions of No. 708 and included in the definition of security 'a life or endowment assurance policy'. The effect of this Order was that any assignment of a life policy, whether between a resident and a non-resident, or *between two residents*, was invalid unless before the execution of the assignment Treasury approval had been obtained. For the purpose of this and subsequent Orders 'resident' means resident within the sterling area as from time to time defined under the Defence (Finance) Regulations.

Note. As soon as it was realized that this Order affected *any* assignment of a life policy, the Bank of England were informed of its effect which had apparently not been foreseen. Subsequently, after consultation with the Life Offices' Association and the Associated Scottish Life Offices, a new Order (No. 755) of a much restricted character was made and legislation was passed to permit the validation of most of the large number of assignments which were invalid because the requirements of S.R. & O. No. 1254 had not been complied with.

S.R. & O. No. 755 of 1941. 30 May 1941

The effect of this Order was that, so far as life and annuity policies are concerned, as from the date of the Order prior Treasury approval was necessary only for the transfer of a policy or the creation or transfer of an interest in a policy *to or in favour of a non-resident*. The Order also gave a much fuller and more comprehensive definition of a life or annuity policy.

Securities (Validation) Act 1942. 5 & 6 Geo. 6, Ch. 10. 26 February 1942

This Act empowers the Treasury (i) to issue a *certificate* validating a specified transfer or transfers made before the date of the certificate and which would have been lawful if previous Treasury approval had been obtained and (ii) to make an *Order* with respect to a specified class of securities validating in general terms the transfer (whether before or after the making of the Order) of any security within that class which would have been lawful if previous Treasury approval had been obtained.

S.R. & O. No. 527 of 1942. 25 March 1942

This is an Order issued under the Securities (Validation) Act 1942 validating *all invalid acts done before 25 March 1942* purporting to be:

(a) assignments of policies to residents, or

(b) assignments of policies to anyone resident or non-resident if the last person to whom the policy was purported to be transferred before the date of this Order was 'then' resident in the sterling area.

Notes. (1) There is some doubt as to the meaning of the word 'then', but it is understood that it was intended to mean the date of the transfer and not the date of the Order.

(2) Actually many assignments to residents made after the Order of 30 May 1941 were already valid.

S.R. & O. No. 2096 of 1942. 14 October 1942

This Order substituted a new Regulation 3A for the previous one. The effect so far as life and annuity policies are concerned is that prior Treasury approval is required to the transfer of a policy to a non-resident *or to the nominee* of a non-resident.

As it is practically impossible for Life Offices to ascertain whether any interest exists, the transfer or creation of which infringed Regulation 3A in its old or its new form, the following assurance has been given by the Bank of England on behalf of the Treasury:

'In any case in which a Life Office has acted, whether by a cash payment 'or otherwise, on the title of a policyholder resident in the sterling area whose 'title is subsequently discovered to be defective owing to the provisions of 'Para. 2 (a) of Regulation 3A of the Defence (Finance) Regulations having 'been contravened, the Bank will, upon having the facts brought to their 'notice and without insisting that the Life Office concerned should before so 'acting have enquired into the interests of third parties in the policy, issue a 'certificate under Section 1 (i) of the Securities (Validation) Act 1942 vali- 'dating all assignments of the policy in question to the extent necessary to 'give the resident policyholder a good title at the time the action was taken.'

This Order also added a new Regulation 3BA which forbade the settling of any property upon trust (otherwise than by Will) by which a non-resident would have a beneficial interest (whether vested or contingent) in a policy without prior approval by the Treasury. A breach of this Regulation would involve liability for penalties, but would not invalidate the settlement.

Summary

The present position is that applications for Treasury certificates of validation must still be made in the case of assignments:

(a) By residents to non-residents after 25 March 1942.

(b) By residents to non-residents on or after 17 July 1940 and before 25 March 1942 *unless* there have been subsequent dealings *before* 25 March 1942 of which the last purported to be an assignment to a person who was a resident on the date of that last assignment.

(c) In some cases, between non-residents.

(d) In some cases to residents where a Life Office has acted on the resident's title and subsequently discovers it to have been defective owing to the provisions of paragraph 2 (a) of Regulation 3A having been contravened.

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