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EXCHANGE CONTROL REGULATIONS

(SECTION 3)

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PART I
GOLD AND FOREIGN CURRENCY

1. (1) Except with the permission of the Controller, no person, other than an authorised dealer, shall, in The Bahamas, buy or borrow any gold or foreign currency from, or sell or lend any gold or foreign currency to, any person other than an authorised dealer.

Dealings in gold and foreign currency.

(2) Except with the permission of the Controller, no person resident in the scheduled territories, other than an authorised dealer, shall, in The Bahamas, do any act which involves, is in association with or is preparatory to buying or borrowing any gold or foreign currency from, or selling or lending any gold or foreign currency to, any person outside The Bahamas.

(3) Where a person buys or borrows any gold or foreign currency in The Bahamas or, being a person resident in the scheduled territories, does any act which involves, is in association with or is preparatory to the buying or borrowing of gold or foreign currency outside The Bahamas, he shall comply with such conditions as to the use to which it may be put or the period for which it may be retained as may from time to time be notified to him by the Controller.

(4) In these Regulations —

- (a) the expression “foreign currency” means any currency or notes other than the currency or notes issued by the Central Bank of The Bahamas, and any reference to foreign currency, except so far as the context otherwise requires, includes a reference to any right to receive foreign currency in respect of any credit or balance at a bank; and
- (b) the expression “the scheduled territories” means the territories specified in the First Schedule to these Regulations.

S.I. 99/1971.

First Schedule.

Surrender of gold
and foreign
currency.

2. (1) Every person in The Bahamas who is entitled to sell or to procure the sale of, any gold, or any foreign currency to which this regulation applies, and is not an authorised dealer, shall offer it, or cause it to be offered, for sale to an authorised dealer, unless the Controller consents to his retention and use thereof, or he disposes thereof to any other person with the permission of the Controller.

The foreign currency to which this regulation applies is such foreign currency (hereafter in these Regulations referred to as “specified currency”) as may from time to time be specified by order to the Controller.

(2) If a person who has obtained the consent of the Controller to his retention and use of any gold or specified currency, and has stated in an application for the consent that he requires it for a particular purpose, no longer requires the gold or currency for that purpose, the preceding paragraph shall thereupon apply to him in relation to that gold or currency as if the Controller had revoked his consent to this retention and use thereof.

(3) A person who acquires any gold or specified currency from an authorised dealer shall be treated for the purposes of this regulation as if the Controller had consented to the retention and use by him of that gold or currency (subject, however, to any conditions notified to him in accordance with paragraph (3) of the preceding regulation) and as if any statement made by him in an application for that gold or currency as to the purpose for which he requires it had been made by him in an application for the Controller’s consent to his retention and use thereof.

(4) Where a person has become bound under this regulation to offer or cause to be offered any gold or specified currency for sale to an authorised dealer, he shall not be deemed to comply with that obligation by any offer made or caused to be made by him, if the offer is an offer to sell at a price exceeding that authorised by the Controller, or without payment of any usual and proper charges of the authorised dealer, or otherwise on any unusual terms.

(5) Where a person has become bound under this regulation to offer or cause to be offered any gold or

specified currency for sale to an authorised dealer and has not complied with that obligation, the Governor-General may direct that that gold or currency shall vest in the Controller, and it shall vest in the Controller accordingly free from any mortgage, pledge or charge, and the Controller may deal with it as he thinks fit, but the Controller shall pay to the person who would but for the direction be entitled to the gold or currency such sum as he would have received therefor if he had sold it to an authorised dealer in pursuance of an offer made under this regulation at the time when the vesting occurred.

(6) In any proceedings in respect of a failure to comply with the provisions of this regulation, it shall be presumed, until the contrary is shown, that the gold or currency in question has not been offered for sale to an authorised dealer.

3. (1) Every person in The Bahamas by whom or to whose order (whether directly or indirectly) any gold or any specified currency in the form of notes is held in The Bahamas but who is not entitled to sell it or procure its sale shall notify the Controller in writing that he so holds that gold or currency.

Bailees of gold and foreign currency.

(2) The Controller may direct any person in The Bahamas by whom or to whose order (whether directly or indirectly) any gold or any specified currency in the form of notes is held in The Bahamas, whether or not he is entitled to sell it or procure its sale, to cause that gold or currency to be kept at all times in the custody of such banker as may be specified in the direction.

4. (1) This regulation applies to any document of a kind intended to enable the person to whom the document is issued to obtain foreign currency from some other person on the credit of the person issuing it, and in particular to any traveller's cheque or other draft or letter of credit so intended.

Travellers' cheques, etc.

(2) For the purpose of these Regulations, the person issuing a document to which this regulation applies, and the person to whom it is issued, shall be deemed respectively to sell and buy foreign currency and where foreign currency is obtained by means of the document to sell and buy that foreign currency.

(3) Any such document not expressed in terms of Bahamas dollars or sterling shall, if it is of a kind intended to enable the person to whom it is issued to obtain any specified currency, be treated also for the purpose of these Regulations as itself, being specified currency.

(4) Every person in The Bahamas who holds or to whose order there is held any document to which this regulation applies, being a document expressed in terms of Bahamas dollars or sterling, shall encash it or cause it to be encashed in the scheduled territories with the person issuing it or with a banker, unless the Controller consents to his retention and use thereof and, where in his application for that consent he has stated that he requires it for a particular purpose, unless also he still requires it for that purpose.

(5) A person who acquires any document to which the last preceding paragraph applies from an authorised dealer shall be treated for the purposes of that paragraph as if the Controller had consented to the retention and use by him of that document (subject, however, to any conditions notified to him in accordance with paragraph (3) of regulation 1 of these Regulations), and as if any statement made by him in an application for that document as to the purpose for which he requires it had been made by him in an application for the Controller's consent to his retention and use thereof.

PART II PAYMENTS

Payments in The Bahamas.

5. Except with the permission of the Controller, no person shall do any of the following things in The Bahamas, that is to say —

- (a) make any payment to or for the credit of a person resident outside the scheduled territories; or
- (b) make any payment to or for the credit of a person resident in the scheduled territories by order or on behalf of a person resident outside the scheduled territories; or
- (c) place any sum to the credit of any person resident outside the scheduled territories:

Provided that where a person resident outside the scheduled territories has paid a sum in or towards the

satisfaction of a debt due from him, paragraph (c) of this regulation shall not prohibit the acknowledgement or recording of the payment.

6. (1) Except with the permission of the Controller, no person in The Bahamas shall, subject to the provisions of this regulation, make any payment outside The Bahamas to or for the credit of a person resident outside the scheduled territories, and no person resident in the scheduled territories shall in The Bahamas do any act which involves, is in association with or is preparatory to the making of any such payment.

Payments outside
The Bahamas.

(2) Nothing in this regulation shall prohibit the doing of anything otherwise lawful by any person with any foreign currency obtained by him in accordance with the provisions of Part I of these Regulations or retained by him in pursuance of a consent of the Controller.

7. (1) Except with the permission of the Controller, no person shall in The Bahamas make any payment to or for the credit of a person resident in the scheduled territories, and no person resident in the scheduled territories shall in The Bahamas do any act which involves, is in association with or is preparatory to the making of any such payment outside The Bahamas, as consideration for or in association with —

Compensation
deals.

- (a) the receipt by any person of a payment made outside the scheduled territories, or the acquisition by any person of property which is outside the scheduled territories; or
- (b) the transfer to any person, or the creation in favour of any person, of a right (whether present or future, and whether vested or contingent) to receive a payment outside the scheduled territories or to acquire property which is outside the scheduled territories.

(2) Nothing in this regulation shall prohibit the making of any payment in accordance with the terms of a permission or consent granted under these Regulations.

**PART III
SECURITIES**

Issue of
securities.
S.I. 79/1994.

8. (1) Subject to paragraph (3), except with the permission of the Controller, no person shall in The Bahamas issue any security or do any act which involves, is in association with or is preparatory to the issuing outside The Bahamas of any security which is registered or to be registered in The Bahamas, unless the following requirements are fulfilled, that is to say —

- (a) neither the person to whom the security is to be issued nor the person, if any, for whom he is to be a nominee is resident outside the scheduled territories; and
- (b) the prescribed evidence is produced to the person issuing the security as to the residence of the person to whom it is to be issued and that of the person, if any, for whom he is to be a nominee.

S.I. 79/1994.

Ch. 308.

(2) Subject to paragraph (3), the subscription of the memorandum of association of a company to be formed under the Companies Act, by a person resident outside the scheduled territories, or by a nominee for another person so resident, shall, unless he subscribes the memorandum with the permission of the Controller, be invalid in so far as it would on registration of the memorandum have the effect of making him a member of or shareholder in the company, so, however, that this provision shall not render invalid the incorporation of the company; and if by virtue of this paragraph the number of the subscribers of the memorandum who on its registration become members of the company is less than the minimum number required to subscribe the memorandum, the provisions of the said Act relating to the carrying on of business of a company the number of whose members is reduced below the legal minimum shall apply to the company as if the number of its members had been so reduced.

S.I. 79/1994.

(3) In relation to the issuing of shares in paragraph (1) and the subscription of the memorandum in paragraph (2), the reference to the Controller in those paragraphs shall be a reference to the Minister of Finance.

Transfer of
securities and
coupons.
S.I. 79/1994.

9. (1) Subject to paragraph (4), except with the permission of the Controller, a security registered in The Bahamas shall not be transferred, and a security not so

registered shall not be transferred in The Bahamas, unless, in either case, the following requirements are fulfilled, that is to say —

- (a) neither the transferor nor the person, if any, for whom he is a nominee is resident outside the scheduled territories; and
- (b) the transferor delivers to the transferee at or before the time of the transfer the prescribed declarations as to his residence and that of the person, if any, for whom he is a nominee; and
- (c) neither the transferee nor the person, if any, for whom he is to be a nominee is resident outside the scheduled territories; and
- (d) except where the security is registered in The Bahamas otherwise than in a subsidiary register, the Controller is satisfied that the requirements of subparagraph (c) of this paragraph are fulfilled:

Provided that —

- (i) neither the transferee nor his agent shall be deemed to have committed an offence by reason only that the requirements of subparagraph (a) of this paragraph were not fulfilled unless the transferee, or, as the case may be, his agent, knew or had reason to believe that those requirements were not fulfilled; and
- (ii) neither the transferor nor his agent shall be deemed to have committed an offence by reason only that any of the requirements of subparagraphs (c) and (d) of this paragraph have not been fulfilled unless, in the case of a non-fulfilment of the requirements of the said subparagraph (c), the transferor or, as the case may be, his agent, knew or had reason to believe that those requirements were not fulfilled.

(2) Subject to paragraph (4), except with the permission of the Controller, a security not registered in The Bahamas shall not be transferred outside The Bahamas if either the transferor or the transferee, or the person, if any, for whom the transferor or transferee is or is to be nominee, is resident in The Bahamas.

S.I. 79/1994.

- (3) Except with the permission of the Controller —
- (a) no coupon shall be transferred in The Bahamas if either the transferee or the person, if any, for whom he is to be nominee is resident outside the scheduled territories;
- (b) no person shall in The Bahamas do any act which involves, is in association with or is preparatory to the transfer of any coupon outside The Bahamas if either the transferor or transferee, or the person, if any, for whom the transferor or transferee is or is to be a nominee, is resident in The Bahamas.

S.I. 79/1994.

- (4) In relation to the transfer of shares in paragraphs (1) and (2) the reference to the Controller in those paragraphs shall be a reference to the Minister of Finance.

Issue of bearer certificates and coupons.

10. Except with the permission of the Controller, no person shall, in The Bahamas, issue any bearer certificate or coupon or so alter any document that it becomes a bearer certificate or coupon, and no person resident in the scheduled territories shall in The Bahamas do any act which involves, is in association with or is preparatory to such issue or alteration outside The Bahamas.

Substitution of securities and certificates outside The Bahamas.

- 11.** Except with the permission of the Controller —
- (1) No person in The Bahamas shall do any act with intent to secure —
- (a) that a security which is —
- (i) registered in The Bahamas; or
- (ii) transferable by means of a bearer certificate in The Bahamas,
- becomes, or is replaced by, a security registered outside The Bahamas or a security transferable by means of a bearer certificate outside The Bahamas; or
- (b) that a certificate of title to any other security is issued outside The Bahamas in substitution for or in addition to a certificate of title thereto which is in, or is or has been lost or destroyed in, The Bahamas.
- (2) No person resident in the scheduled territories shall in The Bahamas do any act which involves, is in association with or is preparatory to any such transaction outside The Bahamas as is referred to in subparagraph (a) or (b) of paragraph (1) of this regulation.

12. Except with the permission of the Controller —

Payments of capital moneys outside The Bahamas.

(1) No person in The Bahamas shall do any act with intent to secure that capital moneys payable on a security registered in The Bahamas are paid outside The Bahamas, or that, where the certificate of title to a security is in The Bahamas, capital moneys payable on the security are paid outside The Bahamas without production of the certificate to the person making the payment.

(2) No person resident in the scheduled territories shall in The Bahamas do any act which involves, is in association with or is preparatory to any such transaction outside The Bahamas as is referred to in paragraph (1) of this regulation.

13. Except with the permission of the Controller, no person concerned with the keeping of any register in The Bahamas shall —

Duties of persons keeping registers.

- (a) enter in the register the name of any person in relation to any security unless there has been produced to him the prescribed evidence that the entry does not form part of a transaction which involves the doing of any thing prohibited by these Regulations; or
- (b) enter in the register, in respect of any security, an address outside the scheduled territories, except for the purpose of any transaction for which the permission of the Controller has been granted with the knowledge that it involved the entry of that address; or
- (c) do any act in relation to the register which recognises or gives effect to any act appearing to him to have been done with such intent as is mentioned in the two last preceding regulations, whether done by a person in or resident in The Bahamas or not.

14. (1) Where —

Additional provisions as to nominee holdings.

- (a) the holder of a security is a nominee and the person for whom he is a nominee is resident outside the scheduled territories; or
- (b) the holder of a security is not a nominee and is resident outside the scheduled territories, then,

except with the permission of the Controller, no person resident in The Bahamas shall do any act whereby the holder becomes his nominee in respect of the security.

(2) Except with the permission of the Controller, a person resident in The Bahamas for whom the holder of a security is a nominee shall not do any act whereby —

- (a) the holder, being a person resident outside the scheduled territories, holds the security otherwise than as his nominee; or
- (b) the holder, not being a person resident outside the scheduled territories, holds the security as nominee for a person resident outside the scheduled territories.

(3) Where the holder of a security is a nominee, then, except with the permission of the Controller, neither he, if he is resident in The Bahamas, nor any person resident in The Bahamas through whose agency the exercise of all or any of the holder's rights in respect of the security are controlled, shall —

- (a) do any act whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives his instructions unless both the person previously instructing him and the person substituted for that person were, immediately before the substitution, resident in the scheduled territories and not elsewhere; or
- (b) do any act whereby he ceases to be a person bound to give effect to the instructions of another person in relation to the security, unless the person who theretofore instructed him is resident in the scheduled territories and not elsewhere.

(4) Where the holder of a security is not a nominee and is resident in The Bahamas, then, except with the permission of the Controller, he shall not do any act whereby he becomes the nominee of another person in respect of the security, unless that other person is resident in the scheduled territories and not elsewhere.

(5) No person resident in the scheduled territories shall in The Bahamas do any act which involves, is in association with or is preparatory to any such transaction outside The Bahamas as is referred to in this regulation.

15. (1) The Controller may, if in his opinion there are circumstances rendering it necessary or expedient so to do, by order direct that this regulation shall apply to such securities as may be prescribed, being securities on which capital moneys, dividends or interest are payable in a specified currency or as respects which the holder has an option to require payment of any capital moneys, dividends or interest thereon in a specified currency.

Special provisions as to dealings in certain securities.

(2) Except with the permission of the Controller, no person shall, in The Bahamas, transfer, or do anything which affects his rights or powers in relation to, any security to which this regulation applies, and no person resident in the scheduled territories shall in The Bahamas do any act which involves, is in association with or is preparatory to any such transactions outside The Bahamas.

16. (1) The title of any person to a security for which he has given value on a transfer thereof, and the title of all persons claiming through or under him, shall, notwithstanding that the transfer, or any previous transfer, or the issue of the security, was by reason of the residence of any person concerned other than the first-mentioned person prohibited by the provisions of these Regulations relating to the transfer or issue of securities, be valid unless the first-mentioned person had notice of the facts by reason of which it was prohibited.

Validation of certain transfers.

(2) Without prejudice to the provisions of paragraph (1) of this regulation, the Minister of Finance may issue a certificate declaring, in relation to a security, that any acts done before the issue of the certificate purporting to effect the issue or transfer of the security, being acts which were prohibited by these Regulations, are to be, and are always to have been, as valid as if they had been done with the permission of the Minister of Finance, and the said acts shall have effect accordingly.

S.I. 79/1994.

S.I. 79/1994.

(3) Nothing in this regulation shall affect the liability of any person to prosecution for any offence against these Regulations.

17. (1) This Part of these Regulations shall apply, with such modifications (if any) as may be prescribed, in relation to any such document as is mentioned in the following paragraph, as if the document created and were the certificate of title, to a security (hereafter in these Regulations referred to as a “secondary security”).

Application of Part III to secondary securities.

(2) The documents referred to in the preceding paragraph are any letter of allotment which may be renounced, any letter of rights, any warrant conferring an option to acquire a security, any deposit certificate in respect of securities and such other documents conferring, or containing evidence of, rights as may be prescribed.

Interpretation of
Part III.

18. (1) In this Part of these Regulations —

- (a) the expression “registered” includes inscribed;
- (b) the expression “registered in The Bahamas” and “registered outside The Bahamas” mean respectively, registered in a register in, and registered in a register outside, The Bahamas;
- (c) the expression “security which is registered in The Bahamas otherwise than in a subsidiary register” means a security which either —
 - (i) is registered in The Bahamas and is not, and cannot without the necessity for an entry in the register in The Bahamas become, registered outside; or
 - (ii) is registered both in The Bahamas and outside but on a transfer cannot, without the necessity for an entry in the register in The Bahamas, become registered outside in the name of the transferee; and
- (d) the expression “a register” includes any book, file or index in which securities are registered.

(2) For the purpose of any provision of this Part of these Regulations prohibiting the transfer of securities, a person shall be deemed to transfer a security if he executes any instrument of transfer thereof, whether effective or not, and shall be deemed to transfer it at the place where he executes the instrument.

(3) References in this Part of these Regulations to the person holding a certificate of title or coupon shall be construed as references to the person having physical custody of the certificate of title or coupon:

Provided that where the certificate of title or coupon is deposited with any person in a locked or sealed receptacle from which he is not entitled to remove it

without the authority of some other person, that other person shall be deemed for the purpose of this provision to have the physical custody thereof.

(4) In this Part of these Regulations, the expression “holder” —

- (a) in relation to a security transferable by means of a bearer certificate or to a coupon, includes the person holding the certificate or coupon; and
- (b) in relation to a security which is registered in the name of a deceased person, or of any person who, by reason of bankruptcy, unsoundness of mind or any other disability is incapable of transferring the security, means the personal representative, trustee in bankruptcy or other person entitled to transfer the security.

(5) The holder of a security or coupon shall be deemed for the purposes of this Part of these Regulations to be a nominee in respect thereof if, as respects the exercise of any rights in respect thereof, he is not entitled to exercise those rights except in accordance with instructions given by some other person, and references in this Part of these Regulations to the person for whom the holder of a security or coupon is a nominee shall be construed as references to the person who is entitled to give instructions, either directly or through the agency of one or more persons, as to the exercise of any rights in respect of the security or coupon and is not in so doing himself under a duty to comply with instructions given by some other person:

Provided that —

- (a) a person shall not by reason only that he has a controlling interest in a body corporate be deemed for the purposes of this paragraph to be entitled to give instructions to that body corporate as to the exercise of rights in respect of any security or coupon of which it is the holder; and
- (b) a person shall not be deemed to hold a security or coupon as a nominee by reason only that he holds it as trustee if he is entitled to transfer the security or coupon without permission from any other person.

PART IV
IMPORT AND EXPORT

Restrictions on
import.

- 19.** (1) The importation into The Bahamas of —
- (a) any notes of a class which are or have at any time been legal tender in the United Kingdom or any part of the United Kingdom;
 - (b) any such other notes as may be specified by order of the Controller, being notes issued by a bank or notes of a class which are or have at any time been legal tender in any territory;
 - (c) any certificate of title to any security, including any such certificate which has been cancelled, and any document certifying the destruction, loss or cancellation of any certificate of title to a security; and
 - (d) any Treasury bills,

G.N. 37/1959.

is hereby prohibited except with the permission of the Controller.

(2) In this section the expression “note” includes part of a note and the expression “security” includes a secondary security.

General
restrictions on
export.

- 20.** (1) The exportation from The Bahamas of —
- (a) any notes of a class which are or have at any time been legal tender in the United Kingdom or any part of the United Kingdom or in any other territory;
 - (b) any postal orders;
 - (c) any gold;
 - (d) any of the following documents (including any such document which has been cancelled), that is to say —
 - (i) any certificate of title to a security and any coupon;
 - (ii) any policy of assurance;
 - (iii) any bill of exchange or promissory note expressed in terms of a currency other than that of a scheduled territory and payable otherwise than within the scheduled territories;

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- (iv) any document to which regulation 4 of these Regulations applies not issued by an authorised dealer or in pursuance of a permission granted by the Controller, and any document certifying the destruction, loss or cancellation of any of the documents aforesaid;
 - (e) any such articles exported on the person of a traveller or in a traveller's baggage as may be prescribed; and
 - (f) any Treasury bills,

G.N. 37/1959.

is hereby prohibited except with the permission of the Controller.

(2) In this regulation, the expression “note” includes part of a note, the expression “security” includes a secondary security and the expression “coupon” shall be construed in accordance with the meaning of “security”.

21. (1) The exportation of goods of any class or description from The Bahamas to a destination in any such territory as may be prescribed is hereby prohibited except with the permission of the Controller, unless the Comptroller of Customs is satisfied —

Payment for exports.

- (a) that payment for the goods has been made to a person resident in The Bahamas in such manner as may be prescribed in relation to goods of that class or description exported to a destination in that territory, or is to be so made not later than six months after the date of exportation; and
- (b) that the amount of the payment that has been made or is to be made is such as to represent a return for the goods which is in all the circumstances satisfactory in the national interest:

Provided that the Controller may direct that, in cases to which the direction applies, subparagraph (a) of this paragraph shall have effect as if for the reference to six months there were substituted a reference to such longer or shorter period as may be specified in the direction, or as if the words “or is to be so made not later than six months after the date of exportation” were omitted.

(2) For the purpose of satisfying himself in the case of any goods as to the matters specified in paragraph (1) of this regulation, the Comptroller of Customs may require

the person making entry of the goods for export to deliver to the collector or other proper officer together with the entry such declarations signed by such persons as he may require, and where such declaration has been so required the goods shall not be exported until it has been delivered as aforesaid.

(3) Where the Comptroller of Customs is not satisfied in the case of any goods as to the matters specified in subparagraph (b) of the said paragraph (1), he shall give his reasons to the person making entry of the goods for export and shall take into consideration any representations made by him.

(4) Any reference in this regulation to the destination of any goods includes a reference to the ultimate destination thereof.

PART V MISCELLANEOUS

Duty to collect
certain debts.

22. (1) Except with the permission of the Controller, no person resident in The Bahamas who has a right (whether present or future and whether vested or contingent) to receive any specified currency, or to receive from a person resident outside the scheduled territories a payment in Bahamas dollars or sterling, shall do, or refrain from doing, any act with intent to secure or shall do any act which involves, is in association with or is preparatory to any transaction securing —

- (a) that the receipt by him of the whole or part of that currency or, as the case may be, of that payment in sterling, is delayed; or
- (b) that the currency or payment, ceases, in whole or in part, to be receivable by him:

Provided that nothing in this subparagraph —

- (i) shall, unless the Controller otherwise directs impose on any person any obligation, in relation to any debt arising in the carrying on of any trade or business, to procure the payment thereof at an earlier time than is customary in the course of that trade or business; or

- (ii) shall, unless the Controller otherwise directs, prohibit any transfer to a person resident in The Bahamas and not elsewhere of any right to receive any specified currency or payment in sterling.

(2) Where a person has contravened the provisions of paragraph (1) of this regulation in relation to any specified currency or payment in Bahamas dollars or sterling, the Controller may give to him or to any other person who appears to the Controller to be in a position to give effect thereto (being a person in or resident in The Bahamas) such directions as appear to the Controller to be expedient for the purpose of obtaining or expediting the receipt of the currency or payment in question, and, without prejudice to the generality of the preceding provisions of this paragraph, may direct that there shall be assigned to the Controller, or to such person as may be specified in the directions, the right to receive the currency or payment or enforce any security for the receipt thereof.

23. (1) Where —

- (a) any permission or consent has been granted under these Regulations or under any corresponding provision of the law in force in any territory comprised in the scheduled territories, subject to a condition provided that, or on the faith of an application stating an intention that, any goods should be sold outside the scheduled territories; or
- (b) any statement or declaration has been made under any provision of these Regulations or any such corresponding provision as aforesaid that any goods are to be sold outside the scheduled territories; or
- (c) any currency has been obtained in, or by any person resident in, the scheduled territories on the faith of an application stating an intention that any goods should be sold outside the scheduled territories,

Duty not to delay sale or importation of goods.

then, except with the permission of the Controller, no person resident in The Bahamas who is entitled to sell or procure the sale of the said goods shall do, or refrain from doing, any act with intent to secure or shall do any act which involves, is in association with or is preparatory to any transaction securing —

-
- (i) that the said sale is delayed to an extent which is unreasonable having regard to the ordinary course of trade; or
 - (ii) that, on the said sale, any payment made for the goods is not made in the manner indicated by the condition, statement, or declaration, as the case may be.
- (2) Where —
- (a) any permission or consent has been granted under these Regulations, or under any corresponding provisions of the law in force in any territory comprised in the scheduled territories, subject to a condition providing that, or on the faith of an application stating an intention that, any goods should be imported from outside the scheduled territories into any part of the scheduled territories; or
 - (b) any currency has been obtained in, or by any person resident in, the scheduled territories on the faith of an application stating an intention that any goods should be so imported, then, except with the permission of the Controller, no person resident in The Bahamas who is entitled to procure the importation of the said goods shall do, or refrain from doing, any act with intent to secure that the importation thereof is delayed to an extent which is unreasonable having regard to the ordinary course of trade.
- (3) Where in any such case as is specified in subparagraph (a), (b) or (c) of paragraph (1), or subparagraph (a) or (b) of paragraph (2), of this regulation —
- (a) the goods have not been sold or imported as indicated by the condition, statement or declaration within the time thereby indicated or, if no time is thereby indicated, a reasonable time, or (in either case) within such further time as may be allowed by the Controller; or
 - (b) it appears to the Controller that the goods cannot be sold or imported as indicated by the condition, statement or declaration,

the Controller may give to any person resident in The Bahamas who appears to the Controller to be in a position

to give effect thereto such direction as appears to him to be expedient as to the manner in which the goods are to be dealt with.

(4) Without prejudice to the generality of the provisions of the last preceding paragraph, the power conferred thereby on the Controller to give directions shall extend to the giving of directions that the goods shall be assigned to the Controller or to a person specified in the directions.

(5) The powers conferred by the two last preceding paragraphs in relation to any goods shall extend to the giving of directions with respect to any goods produced or manufactured therefrom, and, where goods to be sold outside the scheduled territories or to be imported were to be produced or manufactured from other goods, to the giving of directions with respect to those other goods and any goods produced or manufactured from those other goods.

24. (1) Where a person —

- (a) has made any payment which is prohibited by these Regulations; or
- (b) being bound under these Regulations to offer or cause to be offered any specified currency to an authorised dealer, has otherwise disposed of that currency,

Property
obtained by
infringement of
Regulations.

the Controller may direct him to sell or procure the sale of any property which he is entitled to sell or of which he is entitled to procure the sale, being property which represents, whether directly or indirectly, that payment or that specified currency, as the case may be, and may by the same or a subsequent direction specify the manner in which, the persons to whom and the terms on which the property is to be sold.

(2) Without prejudice to the generality of the provisions of paragraph (1) of this regulation, the power conferred thereby on the Controller to give directions shall extend to the giving of directions that the property shall be assigned to the Controller or to a person specified in the directions.

Provisions
supplemental to
preceding
provisions of
Part V.

25. (1) Where, under the preceding provisions of this Part of these Regulations, the Controller has power to give directions that any right to receive any currency or payment in Bahamas dollars or sterling or to enforce any security for the receipt thereof, any goods, or any other property shall be assigned to the Controller, the Controller shall also have power to direct that the right, goods or property shall vest in the Controller, and it or they shall vest in the Controller accordingly free from any mortgage, pledge or charge, and the Controller may deal with it or them as he thinks fit.

(2) Where, in pursuance of directions under the said provisions, any right, goods or property is or are assigned to the Controller or to a person specified in the directions, or any right, goods or property vests or vest in the Controller in pursuance of directions given under paragraph (1) of this regulation, the Controller shall pay the net sum recovered by him in respect of the right, goods or property to the person making the assignment or, in the case of any right, goods or property vested in the Controller under paragraph (1) of this regulation, to the person who, but for the directions, would be entitled to the right, goods or property.

Transfer of
annuities,
policies, etc.

26. (1) Except with the permission of the Controller, no person resident in The Bahamas shall transfer to a person resident outside the scheduled territories, or who is to be a nominee for a person resident outside the scheduled territories, any right to the sums assured by any policy of assurance, so, however, that where the person liable for the sums so assured makes any payment thereof to a person resident in the scheduled territories and not elsewhere, or makes, with the permission of the Controller, any payment thereof to any other person —

- (a) he shall not be bound to inquire as to the residence of any person other than the person to whom, and (if it is not the same person) the person to whose order the payment is made; and
- (b) the payment shall, to the extent of the sums paid, discharge him from his liability under the policy, notwithstanding that the payment is made to or to the order of a person who was not entitled thereto otherwise than by virtue of a transfer prohibited by this paragraph.

(2) Paragraphs (2) and (3) of regulation 16 of these Regulations shall apply in relation to any transfer prohibited by this regulation as they apply in relation to a transfer prohibited by these Regulations of a security.

(3) In this regulation, the expression “nominee” has, in relation to any policy, annuity or insurance, the same meaning as the said expression has in Part III of these Regulations in relation to a security.

27. (1) Except with the permission of the Controller, no person resident in The Bahamas shall settle any property, otherwise than by will, so as to confer an interest in the property on a person who, at the time of the settlement, is resident outside the scheduled territories, or shall exercise, otherwise than by will, any power of appointment, whether created by will or otherwise, in favour of a person who, at the time of the exercise of the power, is resident outside the scheduled territories.

Settlements.

(2) A settlement or exercise of a power of appointment shall not be invalid by reason that it is prohibited by this regulation, except so far as it purports to confer any interest on any person who, at the time of the settlement or the exercise of the power, is resident outside the scheduled territories.

(3) Paragraphs (2) and (3) of regulation 16 of these Regulations shall apply in relation to a settlement or the exercise of a power of appointment prohibited by this regulation as they apply in relation to a transfer prohibited by these Regulations of a security.

- (4) For the purpose of these Regulations —
- (a) any reference to settling property includes a reference to the making of any disposition, covenant, agreement or arrangement whereby the property becomes subject to a trust, or (in the case of a resettlement) to a different trust; and
 - (b) a person shall be deemed to have an interest in property if he has any beneficial interest therein, whether present or future, and whether vested or contingent, or falls within a limited class of persons in whose favour a discretion of power in respect of the property is exercisable; and
 - (c) the expression “will” includes any testamentary disposition.

(5) No person resident in the scheduled territories shall in The Bahamas do any act which involves, is in association with or is preparatory to any such transaction outside The Bahamas as is referred to in this regulation.

Companies.

28. (1) Where there is served on any person resident in The Bahamas a notice in writing that the Controller wishes any such requirements as are hereinafter mentioned to be complied with by any such body corporate as is specified in the Second Schedule to these Regulations (hereinafter in this paragraph referred to as a “foreign company”), and that person can, by doing or refraining from doing any act —

Second Schedule.

- (a) cause the foreign company to comply with any of the requirements; or
- (b) remove any obstacle to the foreign company complying with any of the requirements; or
- (c) render it in any respect more probable that the foreign company will comply with any of the requirements,

then, except so far as permission to the contrary may be given by the Controller, that person shall do, or, as the case may be, refrain from doing, that act.

The requirements with respect to which such a notice may be given are as follows, that is to say, that the foreign company shall —

- (i) furnish to the Controller such particulars as to its assets and business as may be mentioned in the notice;
- (ii) sell or procure the sale to an authorised dealer of any gold or specified currency mentioned in the notice, being gold or specified currency which it is entitled to sell or of which it is entitled to procure the sale;
- (iii) declare and pay such dividend as may be mentioned in the notice;
- (iv) realise any of its assets mentioned in the notice in such manner as may be so mentioned;
- (v) refrain from selling, transferring, or doing anything which affects its rights or powers in relation to, any such Treasury bills or securities as may be mentioned in the notice.

G.N. 37/1959.

(2) Except with the permission of the Controller, no person resident in The Bahamas shall do any act whereby a body corporate which is by any means controlled (whether directly or indirectly) by persons resident in The Bahamas ceases to be controlled by persons resident in The Bahamas:

Provided that this paragraph shall not prohibit any person from selling any securities authorised to be dealt in on any recognised stock exchange in The Bahamas if the sale takes place in pursuance of an agreement entered into in the ordinary course of business on that exchange.

No person resident in the scheduled territories shall in The Bahamas do any act which involves, is in association with or is preparatory to any such transaction outside The Bahamas as is referred to in this paragraph.

(3) Except with the permission of the Controller, no person resident in The Bahamas shall lend any money, Treasury Bills or securities to any body corporate resident in the scheduled territories which is by any means controlled (whether directly or indirectly) by persons resident outside the scheduled territories:

G.N. 37/1959.

Provided that this paragraph shall not apply where the lender after making such inquiries as are reasonable in the circumstances of the case does not know and has no reason to suspect that the body corporate is controlled as aforesaid.

No person resident in the scheduled territories shall in The Bahamas do any act which involves, is in association with or is preparatory to any such transaction outside The Bahamas as is referred to in this paragraph.

(4) For the purposes of this regulation and of the Second Schedule to these Regulations, persons resident in The Bahamas or outside the scheduled territories shall be deemed to control a body corporate notwithstanding that other persons are associated with them in the control thereof if they can together override these other persons.

(5) In this regulation the expression “security” includes a secondary security.

PART VI SUPPLEMENTAL

29. Any provision of these Regulations imposing any obligation or prohibition shall have effect subject to such

Exemptions.

exemptions as may be granted by order of the Controller, and any such exemption may be either absolute or conditional.

Blocked
accounts.

30. Where —

- (a) under any provision contained in Part II of these Regulations the permission of the Controller is required for the making of a payment or the placing of any sum to the credit of any person resident outside the scheduled territories; or
- (b) any payment falls to be made by an authorised dealer on the sale of any gold or specified currency by any foreign company within the meaning of paragraph (1) of the concluding regulation of Part V of these Regulations, being a sale made to comply with any requirement notified under that paragraph,

the Controller may direct that the sum payable or to be credited shall be paid or credited to a blocked account only, and, where such a direction is given, the provisions of the Third Schedule to these Regulations shall have effect in relation to the payment or crediting of the sum.

Third Schedule.

Contracts, legal
proceedings, etc.

31. (1) It shall be an implied condition in any contract that, where, by virtue of these Regulations, the permission or consent of the Controller is at the time of the contract required for the performance of any term thereof, that term shall not be performed except in so far as the permission or consent is given or is not required:

Provided that this paragraph shall not apply in so far as it is shown to be inconsistent with the intention of the parties that it should apply, whether by reason of their having contemplated the performance of that term in spite of the provisions of these Regulations or for any other reason.

Ch. 335.

(2) Notwithstanding anything in the Bills of Exchange Act, neither the provisions of these Regulations, nor any condition, whether express or to be implied having regard to those provisions, that any payment shall not be made without the permission of the Controller under these Regulations, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

32. (1) The provisions of the Fourth Schedule to these Regulations shall have effect for the purposes of the enforcement of these Regulations. Enforcement and administration.

(2) Persons belonging to the following classes, that is to say — Fourth Schedule.

- (a) bankers, authorised dealers;
- (b) persons to whom any powers of the competent authority under these Regulations are delegated;
- (c) persons concerned with the keeping of any register in The Bahamas; and
- (d) persons entrusted with the payment of capital moneys, dividends or interest in The Bahamas,

shall comply with such directions as may be given to them respectively by the Controller, being —

- (i) in the case of any such persons, directions as respects the exercise of any functions exercisable by them by virtue of, or by virtue of anything done under, any provisions of these Regulations; or
- (ii) in the case of authorised dealers, such directions as aforesaid or directions as to the terms on which they are to accept gold or foreign currency or directions requiring them to offer their gold or specified currency for sale to the Bank of England on such terms as may be specified in any such directions.

33. These Regulations shall bind the Crown and shall apply to transactions by a Government department or other person acting on behalf of the Crown, and the Controller shall not, by virtue of any contract made by them or on their behalf in relation to any securities, be under any obligation to grant any permission under Part III of these Regulations or any exemption from the provisions of the said Part III. Applications to Crown.

34. The Governor-General may by order make such transitional provisions as appear to him necessary or expedient in consequence of the making of any order under these Regulations. Transitional provisions.

35. (1) Any permission, consent or authority granted under these Regulations — Other powers.

- (a) may be either general or special; and
- (b) may be revoked by the Controller; and
- (c) may be absolute or conditional; and
- (d) may be limited so as to expire on a specified date, unless renewed; and
- (e) shall be published in such a way as, in the opinion of the Controller, to give any person entitled to the benefit of it an adequate opportunity of getting to know of it, unless in his opinion publication is not necessary for that purpose.

(2) Any directions given under any provision of these Regulations —

- (a) may be either general or special; and
- (b) may be revoked or varied by subsequent directions; and
- (c) shall be given to such persons and in such manner as the Controller thinks appropriate, and if so given shall be valid for all purposes.

(3) Notwithstanding subparagraph (c) of the last preceding paragraph, a person shall not by virtue of any direction given by the Controller under these Regulations, be convicted of an offence against these Regulations, unless the direction was served on him or he knew or avoided getting to know, of the giving thereof:

Provided that where reasonable steps were taken for the purpose of bringing the purport of the direction to his notice, it shall be for him to show that he neither knew nor avoided getting to know of the giving thereof.

(4) The Controller may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers (other than any power to make orders or to give authority to apply for a search warrant) to any person, or class or description of person, approved by him, and references in these Regulations shall be construed accordingly.

(5) Any document stating that any permission, consent, authority or direction is given under any of the provisions of these Regulations by the Controller, and purporting to be signed on his behalf, shall be evidence of the facts stated in the document.

36. Any expenses incurred under or by virtue of these Regulations by any Government department shall be paid out of moneys provided by Parliament, and any sums received under or by virtue of these Regulations, by any Government department shall be paid into the Treasury.

Financial provisions.

37. (1) The Controller may by order or direction provide that, for such of the purposes of these Regulations as may be specified in the order or direction —

Branches

- (a) any transaction with or by a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated; and
- (b) the making of any book entry or other statement recording a debit against a branch of any business in favour of any other branch of that business, shall be treated as a payment to that other branch; and
- (c) any property held by or on behalf of the person carrying on the business shall be deemed to be held by such of the branches of the business as may be determined in accordance with the order or direction,

and any such order or direction which makes, for any of the purposes of Part III of these Regulations, such provision as is mentioned in subparagraph (c) of this paragraph of this regulation may contain provisions declaring the circumstances in which a branch is to be treated as nominee for any other branch.

(2) Any reference in paragraph (1) of this regulation to a branch of a business shall be deemed to include a reference to the head office of that business.

(3) Paragraphs (1) and (2) of this regulation shall apply in relation to any body of persons (whether corporate or unincorporate) carrying on any activity, whether for the purpose of profit or not, as they apply in relation to a business.

38. Where a person resident in The Bahamas leaves the scheduled territories, the Controller may, before, at or after the time he leaves the scheduled territories, direct that, for such period as may be specified in the direction, payments by him or on his behalf and to him or to his

Persons leaving the scheduled territories.

G.N 37/1959.

credit and transactions in or in relation to Treasury bills, securities or secondary securities in which he is in any way concerned shall, whether or not he continues to be resident in The Bahamas, be subject to such restrictions as may be specified in the direction.

Determination of residence.

39. (1) For the purposes of these Regulations, a personal representative of a deceased person shall, unless the Controller otherwise directs, be treated as resident in the territory where the deceased person was resident for the purposes in question at the time of his death and as not resident elsewhere, so far as relates to any matters in which the personal representative is concerned solely in his capacity as such.

(2) The Controller may give directions declaring that for all or any of the purposes of these Regulations a person is to be treated as resident or not resident in such territories as may be specified in the directions.

S.I. 79/1994.

(3) For the purposes of these Regulations, a company shall be regarded as a wholly-owned resident company if sixty per cent or more of its shares are owned by Bahamians.

PART VII SPECIAL PROVISIONS

Restrictions on sale of real property.

40. (1) Subject to such exemptions as may be granted by order of the Controller, it shall not be lawful, except with permission granted by the Controller and in accordance with any conditions subject to which the permission was granted, for any person resident in any of the scheduled territories to transfer, by way of sale, exchange, gift or mortgage any land situate in The Bahamas or any document of title thereto or conclude any transaction which forms part of a series of transactions calculated to result in any such transfer, to a person resident in any country, the currency of which is a foreign currency, or to a person resident in any of the scheduled territories who shall be a subject or citizen of or a company incorporated in any country the currency of which is a foreign currency.

(2) Subject to such exemptions as may be granted by order of the Controller, it shall not be lawful, except with permission granted by the Controller and in accordance with any conditions subject to which the permission was granted, for any person who is not a resident of any of the scheduled territories to transfer, by the way of sale, exchange, gift or mortgage, any land situate in The Bahamas or conclude any transaction which forms a part of a series of transactions calculated to result in any such transfer, to any person resident in any of the scheduled territories.

41. (1) Where the Controller is satisfied that owing to the changes in the external or internal position of any country or territory action is being, or is likely to be, taken to the detriment of the economic position of The Bahamas, the Controller may give general or special directions prohibiting, either absolutely or to such extent as may be specified in the directions, the carrying out, except with permission granted by or on behalf of the Controller, of any order given by or on behalf of the government of that country or territory or any person resident therein at the time when the directions were given or at any later time while the directions are in force, in so far as the order —

Power of
Controller to
prohibit action
on certain orders
as to gold, etc.

- (a) requires the person to whom the order is given to make any payment or to part with any gold or securities; or
- (b) requires any change to be made in the persons to whose credit any sum is to stand or to whose order any gold or securities are to be held.

(2) Where any directions are given under this regulation with respect to any country or territory, a branch in that country or territory of any business, whether carried on by a body corporate or otherwise, shall, for the purpose of this regulation, be treated in all respects as if the branch were a body corporate resident in that country or territory.

PART VIII SHORT TITLE AND INTERPRETATION

42. (1) In these Regulations, except so far as the contrary is expressly provided or the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say —

General
provisions as to
interpretation.

“authorised dealer” means, in relation to gold or any foreign currency, a person for the time being authorised by an order of the Controller to act for the purposes of these Regulations as an authorised dealer in relation to gold, or, as the case may be, that foreign currency;

“bearer certificate” means a certificate of title to securities by the delivery of which (with or without endorsement) the title to the securities is transferable;

“certificate of title to securities” means any document of title whereby a person recognises the title of another to securities issued or to be issued by the first-mentioned person, and in the case of any such document with coupons (whether attached or on separate coupon sheets) includes any coupons which have not been detached;

“Controller” means the Controller of Exchange;

“coupon” means a coupon representing dividends or interest on a security;

“foreign currency” has the meaning ascribed to it by regulation 1 of these Regulations;

“gold” means gold coin or gold bullion;

“policy of assurance” means any policy securing the payment of a capital sum or annuity on the occurrence of a specified event which is certain to happen and includes —

- (a) any policy by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life; and
- (b) any policy securing the payment of an immediate annuity,

and the references in this definition to the occurrence of a specified event which is certain to happen shall include the occurrence which is certain to happen, of one of specified events none of which by itself is certain to happen;

“prescribed” means prescribed, for the purposes of the provision in question, by order of the competent authority;

“scheduled territories” has the meaning ascribed to it by regulation 1 of these Regulations;

“secondary securities” has the meaning ascribed to it by regulation 17 of these Regulations;

“securities” means shares, stock, bonds, notes (other than promissory notes), debentures, debenture stock, units under a unit trust scheme and shares in an oil royalty;

“specified currency” has the meaning ascribed to it by regulation 2 of these Regulations as extended by Regulation 4 hereof;

“unit trust scheme” means any arrangements made for the purpose, or having the effect, of providing for persons having funds available for investments, facilities for the participation by them, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of any property whatsoever;

“unit” means in relation to a unit trust scheme, a right or interest (whether described as a unit, as a sub-unit or otherwise) which may be acquired under the scheme.

(2) Any provision of these Regulations (however worded) the effect of which is to prohibit the doing of any act where a person to or by whom the act is to be done or who stands in a specified relation to any property possesses any specified attribute as to residence or otherwise shall, where the act is done to or by two or more persons or as the case may be, where two or more persons stand jointly in that relation to the property, operate to prohibit the doing of that act if any of those persons possess that attribute; and any provision of these Regulations imposing an obligation on any person to do an act if he possesses any specified attribute as to residence or otherwise shall, in relation to any act which can only be done by two or more persons jointly —

- (a) where all those persons possess that attribute, operate to impose a joint obligation on all of them to do the act; and
- (b) where some only of them possess that attribute, operate to impose a separate obligation on each one of them who possesses that attribute to do all he can to secure the doing of the act.

(3) Any power conferred by these Regulations to prescribe the declarations which are to be furnished on any occasion shall include a power to require that the declarations shall be made by specified persons and shall be verified in a specified manner.

(4) Nothing in these Regulations shall be construed as requiring the Controller to pay any sum otherwise than in Bahamas dollars or sterling or otherwise than in The Bahamas, and any provision of these Regulations requiring the Controller to pay any sum to any person shall, where that sum is in a specified currency, be construed as a provision that the Controller shall pay to that person the amount in Bahamas dollars or sterling which he would have received for the specified currency if he has sold it to an authorised dealer in pursuance of an offer made under regulation 2 of these Regulations at the time when the said sum is paid.

(5) The obligations and prohibitions imposed by these Regulations shall, subject to the express limitations contained therein, apply to all persons, notwithstanding that they are not British subjects.

Power of
controller to
make orders, etc.

43. Where in these Regulations there is any reference to the making of an order or the giving of a direction by the Controller, the Controller shall be deemed to make such order or give such direction, as the case may be, by virtue of the powers conferred upon him by section 4(2) of the Exchange Control Regulations Act.

Short title and
commencement.

44. (1) These Regulations may be cited as the Exchange Control Regulations.

(2) These Regulations shall come into force on such day as the Governor-General may by order appoint, and —

- (a) different days may be appointed for different purposes and for different provisions thereof; and
- (b) the power of the Governor-General to make transitional provisions consequent on the making of an order under these Regulations shall extend to the revocation, in consequence of any order made under this paragraph, of any of the provisions of the Defence (Finance) Regulations, 1943.

FIRST SCHEDULE (Regulation 1)**SCHEDULED TERRITORIES**

The Bahamas

SECOND SCHEDULE (Regulation 28)**FOREIGN COMPANIES**

1. The bodies corporate in question are bodies corporate not incorporated under the law of The Bahamas in the case of which any of the following conditions is fulfilled —

- (a) that the body corporate is by any means controlled (whether directly or indirectly) by persons resident in The Bahamas;
- (b) that more than one-half of the sums which, on a liquidation thereof, would be receivable by holders of share or loan capital would be receivable directly or indirectly by or for the benefit of persons resident in The Bahamas;
- (c) that more than one-half of the assets which, on a liquidation thereof, would be available for distribution after the payment of creditors would be receivable directly or indirectly by or for the benefit of persons resident in The Bahamas; or
- (d) that more than one-half —
 - (i) of the interest payable on its loans and loan capital, if any; or
 - (ii) of the dividends payable on its preference share capital, if any; or
 - (iii) of the dividends payable on its share capital, if any, not being preference share capital,

is receivable, directly or indirectly, by or for the benefit of persons resident in The Bahamas.

2. Where the identity of the person by whom or for whose benefit any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by a person resident in The Bahamas of a power of appointment or similar power, the sum, assets, interest or dividends shall, for the purpose of this Schedule, be deemed to be receivable directly or indirectly by or for the benefit of persons resident in The Bahamas.

THIRD SCHEDULE (Regulation 30)**BLOCKED ACCOUNTS**

1. In this Schedule, the expression “a blocked account” means an account opened as a blocked account at an office or branch in The Bahamas in favour of any person by a banker authorised by the Controller to open blocked accounts, and the expression “the banker” means, in relation to any person, a banker who opens a blocked account in favour of that person.

2. Where a direction is given that a payment is to be made to a blocked account only, then, subject to the next following paragraph —

- (a) the manner in which the payment may be made shall be either —
 - (i) to the banker, with a direction that it is to be credited to a blocked account of that person (which direction may, in the case of a payment by means of a cheque or warrant, be made by marking the cheque or warrant with the words “blocked account of” (naming the person in question) or words to the same effect); or
 - (ii) by a crossed cheque or warrant drawn in favour of that person, marked with the words “payable only to blocked account of payee” or words to the same effect; and
- (b) the sum collected shall be credited by the banker to a blocked account of that person.

3. Where a direction is given that a sum is to be paid or credited to a blocked account only, then, notwithstanding the direction, the sum may, with the consent of the person to whom it is to be paid or credited, and subject to the requirements of Part III of these Regulations, be invested instead in the purchase for that person of any such investments as may be prescribed for the purpose of paragraph (a) of the proviso to the next following Paragraph.

4. Any sum standing to the credit of a blocked account shall not be dealt with except with the permission of the Controller:

Provided, that subject to compliance with the requirements of Part III of these Regulations —

- (a) the whole or any Part of any such sum may, at the request of the person in whose name the account stands, be invested through the banker in such investments as may be prescribed; and
- (b) nothing in this Schedule shall be construed as restricting the manner in which the investments acquired may be dealt with.

5. Where a person in whose name a blocked account is standing becomes bankrupt in The Bahamas or dies, the banker may, notwithstanding anything in paragraph 4 of this Schedule, transfer the account to the name of the trustee in bankruptcy or personal representative, but, save as aforesaid, no change shall, except with the permission of the Controller, be made in the name in which the account stands; and where any such change is made (whether or not the permission of the Controller is necessary therefor) the account shall remain a blocked account notwithstanding the change, and the provisions of this Schedule shall apply accordingly.

6. Where —

- (a) a sum is due from any person to any other person but the Controller directs that it shall be paid or credited to a blocked account only; and
- (b) the person to whom the sum is due nominates such an account to the person from whom the sum is due,

the last mentioned person is under a duty to the person to whom the same is due to cause the sum to be paid or credited to that blocked account, and the crediting of any sum to a blocked account in pursuance of a direction of the Controller shall, to the extent of the sum credited, be a good discharge to the person from whom the sum is due:

Provided that in the case of a sum due under a contract this paragraph shall not apply in so far as it is shown to be inconsistent with the intention of the parties that it should apply.

FOURTH SCHEDULE (Regulation 32)

ENFORCEMENT

PART I

GENERAL PROVISIONS AS TO EVIDENCE AND INFORMATION

1. (1) Without prejudice to any other provisions of these Regulations, the Controller may give to any person in or resident in The Bahamas directions requiring him, within such time and in such manner as may be specified in the directions, to furnish to him, or to any person designated in the directions as a person authorised to require it, any information in his possession or control which the Controller 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 the Defence (Finance) Regulations, 1943.

(2) A person required by any such directions as aforesaid to furnish information shall also produce such books, accounts or other documents (hereafter in this Part of this Schedule referred to as “documents”) in his possession or control as may be required for the said purpose by the Controller or by the person authorised to require the information as the case may be.

(3) Nothing in the preceding provisions of this paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(4) Where a person is convicted for failing to give information or produce documents when required so to do under this paragraph, the court may make an order requiring the offender, within such period as may be specified in the order, to comply with the requirement to give the information or produce the documents.

2. (1) If a justice of the peace is satisfied by information on oath given by a person authorised by the Controller to act for the purpose of this paragraph either —

- (a) that there is reasonable ground for suspecting that an offence against these Regulations has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information, or in any vehicle, vessel or aircraft so specified; or
- (b) that any documents which ought to have been produced under the preceding paragraph and have not been produced are to be found at any such premises or in any such vehicle, vessel or aircraft,

he may grant a search warrant authorising any peace officer, together with any other person named in the warrant and any other peace officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant, and to search the premises, or, as the case may be, the vehicle, vessel or aircraft.

(2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, vessel or aircraft, may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, vessel or aircraft, as the case may be, and may seize any article found in the premises or in the vehicle, vessel or aircraft which he has reasonable ground for believing to be evidence of the commission of any offence against these Regulations or any documents which he has reasonable ground for believing ought to have been produced under the preceding paragraph:

Provided that no female shall, in pursuance of any warrant issued under this paragraph, be searched except by a female.

(3) Where, by virtue of this paragraph, a person has any power to enter any premises, he may use such force as is reasonably necessary for the purpose of exercising that power.

3. (1) Any article coming into the possession of an executive authority (whether in consequence of the seizure of the article under or by virtue of these Regulations or otherwise) which the authority has reasonable ground for believing to be evidence of the commission of an offence against these Regulations may be retained for a period of three months or, if with that period there are commenced proceedings in respect of such an offence in which the article is, or can properly be, adduced in evidence, until the final determination of those proceedings.

(2) For the purposes of this paragraph, any person to whom any powers of the Controller under these Regulations are delegated or on whom any functions are conferred by or by virtue of these Regulations, including any peace officer, shall be deemed to be an executive authority.

(3) For the purposes of this paragraph, any proceedings shall be deemed not to have been finally determined so long as there is pending any appeal in the matter of the proceedings, and an appeal in that matter shall be deemed to be pending during the ordinary time within which such an appeal may be lodged, and, if such an appeal is duly lodged, the appeal shall be deemed to be pending until it is decided or withdrawn.

(4) The powers conferred by this paragraph in relation to any article shall be in addition to, and not in derogation of, any powers otherwise exercisable in relation thereto.

No person in or resident in The Bahamas shall —

- (a) with intent to evade the provisions of these Regulations, destroy, mutilate, deface, secrete or remove any documents;
- (b) in furnishing any information for any of the purposes of these Regulations, make any statement which he knows to be false in a material particular, or recklessly make any statement which is false in a material particular;
- (c) obstruct any person in the exercise of any powers conferred on him by virtue of this Part of this Schedule.

PART II GENERAL PROVISIONS AS TO OFFENCES

1. (1) Any person in or resident in The Bahamas who contravenes any restriction or requirement imposed by or under these Regulations, and any such person who conspires or attempts, or aids, abets, counsels or procures any other person, to contravene any such restriction or requirements as aforesaid, shall be guilty of an offence punishable under this Part of this Schedule:

Provided that an offence punishable by virtue of Part III of this Schedule shall not be punishable under this Part of this Schedule.

(2) Where an offence punishable under this Part of this Schedule has been committed by a body corporate, any person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the contravention was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

2. (1) No proceedings for an offence punishable under this Part of this Schedule shall be instituted, except by or with the consent of the Attorney-General:

Provided that this subparagraph shall not prevent the issue or execution of a warrant for the arrest of any person in respect of such an offence, or the remanding in custody or on bail of any person charged with such an offence.

(2) Proceedings against any person in respect of an offence punishable under this Part of this Schedule may be taken before the appropriate court in The Bahamas having jurisdiction in the place where that person is for the time being.

(3) Any proceedings under a law establishing summary jurisdiction which may be taken against any person in respect of any offence punishable under this Part of this Schedule may, notwithstanding anything to the contrary in that law, be taken at any time within twelve months from the date of the commission of the offence or within three months from the date on which evidence sufficient in the opinion of the Controller to justify the proceedings comes to the knowledge of the Controller, whichever period last expires, or, where the person in question was outside The Bahamas at the last date mentioned, within twelve months from the date on which he first arrives in The Bahamas thereafter.

(4) For the purposes of this paragraph a certificate of the Controller as to the date on which such evidence as aforesaid came to the knowledge of the Controller shall be conclusive evidence thereof..

PART III IMPORT AND EXPORT

1. (1) The enactments relating to customs shall, subject to such modifications, if any, as may be prescribed to adapt them to these Regulations apply in relation to anything prohibited to be imported or exported by any of the provisions of Part IV of these Regulations

except with the permission of the Controller as they apply in relation to goods prohibited to be imported or exported by or under any of the said enactments, and any reference in the said enactments to goods shall be construed as including a reference to anything prohibited to be imported or exported by any of the provisions of the said Part IV except with the permission of the Controller.

(2) References in this Part of the Schedule to the enactments relating to customs shall be taken as including references to any Acts relating to the post office.

2. Any declaration required to be given under Part IV of these Regulations shall, for the purpose of any Acts relating to customs be deemed to be a declaration in a matter relating to customs.

3. If anything prohibited to be exported by any provision of the said Part IV is exported in contravention thereof, or is brought to a quay or other place, or is waterborne, for the purpose of being so exerted, the exporter or his agent shall be liable to the same penalty as that to which a person is liable for an offence to which the Acts relating to customs apply.

4. Without prejudice to any of the preceding provisions of this Part of this Schedule, any person who, on any occasion, is about to leave The Bahamas or arrives in The Bahamas (which person is hereafter in this paragraph referred to as “the traveller”) shall if on that occasion he is required so to do by an officer of customs or an immigration officer —

(a) declare whether or not he has with him anything prohibited to be imported or exported by any of the provisions of the said Part IV except with the permission of the Controller; and

(b) produce any such thing as aforesaid which he has with him, and the officer may examine or search any article which the traveller has with him for the purpose of ascertaining whether he is conveying or has in his possession any such thing, and, if the officer has reasonable grounds for suspecting that the traveller has about his person any such thing, search him, and may seize anything produced as aforesaid or found upon such examination or search as aforesaid as to which the officer has reasonable grounds for suspecting that it is prohibited to be imported or exported by any of the provisions of the said Part IV except with permission of the Controller:

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

5. Subparagraph (2) of paragraph I of Part II of this Schedule shall apply also to offences punishable by virtue of this Part of this Schedule.