The Foreign Compensation Commission Rules, Approval Instrument, 1950

1950 No. 2042

Made - - - -	15*th December*, 1950
Laid before Parliament	18*th December*, 1950
Coming into Operation	1*st January*, 1951

Whereas the Foreign Compensation Commission have, in pursuance of their powers under section 4 of the Foreign Compensation Act, 1950(**a**), made rules of procedure and have submitted them to me for my approval:

Now, therefore, I, William Allen Viscount Jowitt, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by section 4 of the Foreign Compensation Act, 1950, and all other powers enabling me in this behalf, do hereby approve the said rules in the form set out in the schedule hereto.

This instrument may be cited as the Foreign Compensation Commission Rules, Approval Instrument, 1950, and shall come into operation on the first day of January, 1951.

SCHEDULE

The Foreign Compensation Commission Rules, 1950

The Foreign Compensation Commission in exercise of their powers under section 4 of the Foreign Compensation Act, 1950, hereby make the following Rules:—

Short title

1. These Rules may be cited as the Foreign Compensation Commission Rules, 1950.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

" The Act " means the Foreign Compensation Act, 1950.

" Adjudication " means any meeting of not less than three Commissioners for the purpose of determining an Application or any part thereof, either provisionally or on review, whether such determination takes place by way of oral hearing or otherwise.

" The Commission " means the Foreign Compensation Commission.

" The Czechoslovak Order " means the Foreign Compensation (Czechoslovakia) Order in Council, 1950(**b**).

" The Funds " mean the Czechoslovak Fund as referred to in the Czechoslovak Order and the Yugoslav Fund as referred to in the Yugoslav Order.

(**a**) 14 Geo. 6. c. 12. (**b**) S.I. 1950 No. 1191, p. 772 below.

" The Legal Officer " means the Legal Officer appointed by the Commission to represent the interests of the Funds and any person authorised by the Commission to act on his behalf.

" Pleading " means the Application (or any document accepted by the Commission in lieu thereof) in the event only of an Answer being filed under Rule 11 ; the Answer ; the Reply ; and any amendment of or particulars delivered in respect of the above documents.

" The Secretary " means the Secretary of the Commission and any person authorised by the Commission to act on his behalf.

" The Yugoslav Order " means the Foreign Compensation (Yugoslavia) Order in Council, 1950(a).

(2) Expressions defined in any Order in Council conferring jurisdiction on the Commission shall have the meanings therein assigned to them.

(3) The Interpretation Act, 1889(b), shall apply to the interpretation of these Rules as if they were an Act of Parliament.

Language of Proceedings and Translations

3.—(1) All Applications to and the proceedings of the Commission shall be in the English language.

(2) The Commission may at any time order that an English translation shall be made of any measure or other document, and any copy of a translation so made or submitted by the Applicant may be certified by the Secretary to be a true translation and shall thereafter be accepted without challenge in any proceedings.

(3) The Commission may appoint Interpreters to interpret oral evidence in any proceedings or translate documents for the use of the Commission and the Legal Officer.

(4) The Commission may appoint language arbiters to whom any disputed question of translation or interpretation shall be referred, and the decision of any language arbiter shall be accepted as final.

Power to receive evidence

4. The Commission shall not be bound by rules of evidence and may admit in evidence any document or any statement whether on oath or not which it deems to have probative value, but no such document or statement may without leave of the Commission be used unless it has been disclosed to the Applicant or the Legal Officer, as the case may be, not less than fourteen days before adjudication, and in the case of such a statement the Commission may direct that it shall not be used unless the maker thereof is produced for cross-examination.

Public Hearing

5. Subject to any direction given by the Commission every oral hearing shall be in public.

Claims for Compensation

6. Unless the Commission otherwise order, compensation shall be claimed by an Application in the appropriate Form issued by the Commission and shall be signed by the Applicant or in the case of a corporation shall bear its seal. Applications shall be addressed to the Commission and delivered by post or otherwise and their receipt shall be acknowledged.

(a) S.I. 1950 No. 1192, p. 780 below. (b) 52 & 53 Vict. c. 63.

Time for Applications

7.—(1) Save with leave of not less than three Commissioners, no Application will be considered which has not reached the Commission on or before the date hereinafter defined:

Provided that—

(*a*) if the Applicant delivered on or before the said date a part of the relevant Application Form as therein directed, he shall be deemed to have complied with this Rule;

(*b*) any other part of the relevant Application Form shall be delivered on or before a date fixed by the Commission.

(2) In respect of a claim under the Czechoslovak Order or the Yugoslav Order the said date shall be the 31st March, 1951, in the case of an Applicant residing in the United Kingdom of Great Britain and Northern Ireland, or the 30th April, 1951, in the case of an Applicant residing elsewhere.

(3) If the functions of the Commission should be extended in relation to any countries other than Czechoslovakia and Yugoslavia, the dates for the purpose of this Rule shall be those published by the Commission.

Joinder of Claims

8. Several distinct claims may be made in one Application provided that they relate to the same foreign state; but if it appears that they cannot conveniently be disposed of together the Commission may give directions for their separate disposal.

Register of Applicants

9.—(1) The Secretary shall enter in a Register short particulars of each Application and of any amendment thereto.

(2) The Register shall be available for inspection by all Applicants claiming under the same Order in Council, during usual office hours.

(3) Any Applicant may inform the Legal Officer of any objection he may have to the claim of any other Applicant and the grounds thereof.

Unopposed Applications

10.—(1) The Legal Officer may at any time file with the Secretary a statement recommending the Commission to admit a claim and the Commission may determine the matter accordingly.

(2) Before making a determination the Commission may require the Applicant to make a statutory declaration of the statements by which he has supported his claim.

Answer

11. If the Legal Officer is not prepared to make a recommendation as provided in the preceding Rule or the Commission do not accept it, if made, he shall file an Answer setting out any matters affecting the Application which in his view the Commission should consider. A copy of the Answer shall be served on the Applicant.

Reply

12. The Applicant shall have the right within twenty-one days after service of the Answer to deliver to the Secretary a Reply, together with any further particulars, and a copy thereof for service on the Legal Officer.

Further and better particulars

13. Where the Applicant or the Legal Officer refuse or fail to supply further and better particulars when requested to do so in writing, the Commission may, upon a request being made, give directions for the delivery of such particulars.

Oral Hearing

14.—(1) The Applicant may at any time within twenty-eight days after service of the Answer or with his Reply, whichever is the later, make a demand in writing to the Commission for a determination of his Application by way of oral hearing.

(2) If the Applicant elects or the Commission decide that there shall be an oral hearing, the Applicant may apply at any time for a date and place to be fixed or the Commission may of their own motion fix the same. Notice shall be given to the Applicant by the Secretary of the date and place and of any adjournment of the hearing.

Preliminary Determinations

15. If the Applicant has requested a preliminary determination as to his qualification to put forward a claim the Commission shall so determine the same. On the request of the Applicant or the Legal Officer or of their own motion the Commission may at any time order a preliminary adjudication upon any question of law or issue of fact.

Written Arguments

16. If the Applicant does not demand an oral hearing he may at any time submit a written argument, within twenty-eight days of the service of the Answer or with his Reply, whichever is the later, not containing allegations of fact other than those which he has already pleaded, and thereupon the Commission may, without further reference to him, make a determination after considering any submissions which the Legal Officer may make.

Consultation with Legal Officer

17.—(1) The Legal Officer may, a reasonable time before the adjudication, request the Applicant, either in writing or by attending at his office, to limit and define the issues to be determined and agree any further information to be supplied.

(2) Any dispute under this Rule may be referred to a Commissioner who may direct that no adjudication shall take place until such directions as may be given by him have been complied with.

(3) No admission or agreement as to any question of law or fact by the Legal officer shall bind the Commission, but if they require further proof or argument in support thereof an adjournment shall, if necessary, be granted to enable the Applicant to produce the same.

Amendments

18. The Applicant or the Legal Officer may amend his Application or any pleading up to twenty-one days before the adjudication without leave, except as to a change of Applicant, and thereafter with leave of the Commission. A copy of every amendment shall be delivered to the Secretary with a copy for service on the Applicant or the Legal Officer, as the case may be. No consquential amendment of any other pleading shall be required if it would consist of a mere denial.

Change of Applicant

19.—(1) With the written consent of the Legal Officer and of any existing and proposed new Applicant, an Applicant may be removed or a new Applicant may at any time be added.

(2) If any of the consents above-mentioned are not forthcoming, a request may be made for an order for such proposed change of Applicant:

Provided that on such request no existing Applicant shall be removed or new Applicant added without his consent in writing.

(3) If such change of Applicants has been made by consent any new Application Form or new pleading or amendment of either, which may be consequential upon such change, shall be delivered in accordance with these Rules; if such change has been made by order, such directions as may seem necessary shall be given in the order.

Associated Applications

20. Where there are pending at the same time two or more Applications relating to the same subject matter or question of law or fact, whether they are made by the same or different Applicants, the Commission may, on the request of an Applicant or the Legal Officer or of their own motion, order that such several Applications or parts thereof shall be adjudicated at the same time. Upon making such order the Commission shall give any consequential directions that may be required.

Determination of Issues of General Importance

21.—(1) If at any time it appears to the Commission to be desirable that any question of law or fact, which is common to any substantial number or class of Applications, should be determined in respect of all such Applications, they may give notice to all Applicants who in their discretion they consider would be affected by the decision, stating the question to be determined, and fixing a time and place for a preliminary hearing before not less than two Commissioners, who, may:—

(*a*) amend the form of the question to be determined;

(*b*) limit the number and appoint the Applicants who may be heard in support of any particular answer to the question;

(*c*) appoint a time and place for the hearing, no further notice of which shall be required;

(*d*) direct the Legal Officer to present the evidence or argument in support of any answer to the question which it may appear would not otherwise be adequately presented, but without prejudice to his right, if no such direction is given, to support such answer as may seem to him proper;

(*e*) make such other order as may be deemed expedient.

(2) The determination of any such question shall be binding in any future proceeding and in any review of any provisional determination, in which it may arise.

Oaths

22. Any member of the Commission shall have power to administer an oath to or take the affirmation of any Applicant or witness and to require any such person to take such oath or make such affirmation and to answer any question to which the Commission may legally require an answer.

Expert Witnesses and Reports

23.—(1) Unless the Commission otherwise direct not more than one expert witness in respect of each technical aspect of the Application shall be called by the Applicant or the Legal Officer.

(2) The Commission may at any time on the request of the Applicant or the Legal Officer or of their own motion order that a report be provided, by any person nominated by the Commission, on any matter which they are to consider, and a copy thereof shall be supplied to the Applicant and the Legal Officer to enable them to comment thereon or to apply to the Commission for leave to cross-examine the maker thereof.

Summonses to Witnesses and Orders to forward documents

24.—(1) A summons for any person to attend and give evidence and to produce documents shall be in Form A of the Appendix to these Rules and an order to forward documents shall be in Form B, with such variations as circumstances may require.

(2) Where any Applicant or the Legal Officer desires a summons or order to issue the Secretary shall issue the same and shall, in the case of a summons in Form A, specify therein a sum to be tendered to the person to be summoned to attend which shall be reasonably sufficient to cover his expenses in travelling to and from the place of hearing.

(3) The Applicant or Legal Officer, as the case may be, shall serve with the summons an undertaking, in Form D of the Appendix, to pay to the person summoned to attend compensation for loss of time and any additional expenses which are certified by the Secretary to have been reasonably incurred.

(4) Each summons or order shall contain the name of one person only and shall be served personally a reasonable time before the date fixed for adjudication.

(5) No summons or order issued pursuant to this Rule shall be valid unless it is served upon the person named therein within twelve weeks from the date of signature by the Secretary, and unless the conditions contained therein with regard to the payment of expenses and loss of time are complied with.

(6) A person served with a summons to attend and give evidence may apply to the Commission to set aside the same, whereupon notice shall be sent by the Secretary to the person at whose instance the summons was issued.

Orders to Furnish Information

25. The Applicant or the Legal Officer may at any time apply to the Commission for, or the Commission may of its own motion issue, an order in Form C of the Appendix to these Rules, with such variations as circumstances may require, addressed to any person to furnish such written information as may be specified in the order.

Power to inspect

26. Where in response to an order under Rule 24 or Rule 25 the person to whom it is addressed forwards to the Commission any documents or a statement, the Secretary shall forthwith inform the Applicant and the Legal Officer, who shall be entitled to inspect and take copies thereof. If any such document or statement is used by the Applicant or the Legal Officer it shall be treated as though it had been disclosed not less than fourteen days before adjudication as provided for in Rule 4.

Taking evidence abroad

27. The Commission may give such directions for the taking of evidence abroad and of the manner thereof as may be deemed expedient.

Time

28. Save as to the time limited by Rule 7 for making an Application for compensation:—

(*a*) the time appointed by these Rules for doing any act or taking any step in the proceedings in the case of persons normally resident outside the United Kingdom of Great Britain and Northern Ireland shall be extended by four weeks.

(*b*) The time, however appointed, may be extended by consent or at the discretion of the Commission, and such extension may be ordered by the Commission although the request for the same is not made until after the expiration of the time appointed.

Requests for Directions and Right of Appeal

29. Save as otherwise provided in these Rules, a request may at any time be made to the Commission for directions and may be heard and determined by one Commissioner, and with leave of the Commissioner an appeal shall lie from his decision to two other Commissioners on a written notice given within seven days of the decision.

Service by post

30. Save as otherwise provided in these Rules any notice or other document required or authorised to be served on any person for the purpose of these Rules shall be deemed to have been duly served if sent by pre-paid post to that person at his ordinary address or to his address for service specified in any notice given under these Rules.

Copies of Notices and Requests

31. All notices and requests to the Commission or to the Secretary shall be in writing and a copy thereof shall at the same time be served on the Applicant or the Legal Officer, as the case may be.

Right of Audience

32.—(1) Save as provided in sub-paragraph (2) hereof the following persons only may address the Commission:—

(*a*) an Applicant, other than a corporation. A corporation shall be represented by a barrister or solicitor retained on its behalf or with leave of the Commission in case of hardship by a member of the Board of Directors or by its Secretary;

(*b*) the Legal Officer;

(*c*) a barrister retained by or on behalf of an Applicant or the Legal Officer;

(*d*) a solicitor acting generally in the proceedings for an Applicant or a solicitor acting as agent for that solicitor but not a solicitor retained as an advocate by a solicitor so acting;

(2) At any hearing before one Commissioner and on the hearing of any appeal therefrom the right of audience shall extend to any person in the regular employment of a solicitor.

(3) A person having in Scotland, Northern Ireland, or any part of the British Commonwealth, qualifications and rights of audience similar to those of a barrister or solicitor in England shall have the same right before the Commission.

Non-compliance with Rules

33. Non-compliance with any of these Rules shall not render void any proceedings unless the Commission shall so direct.

Determination and Notice thereof

34. The determination by the Commission of all matters save as otherwise provided by these Rules shall be made by not less than three Commissioners and a notice thereof shall be given to the Applicant and the Legal Officer, and it shall not be necessary for the Commission to meet for the purpose of announcing their determination.

Selection of Commissioners

35.—(1) The Chairman, or in his absence the Deputy Chairman, may select the Commissioners required to hear and determine any particular Application or group of Applications or any matter arising therein, and may from time to time vary the Commissioners selected, and where more than one Commissioner is required shall appoint the Commissioner who is to preside.

(2) Where the Chairman, or in his absence the Deputy Chairman, has appointed any other Commissioner to preside over any Commissioners selected as aforesaid, the Commissioner so presiding may exercise the like power of substituting one Commissioner for another to hear and determine that Application or group of Applications.

(3) If in the course of any hearing one or more of the Commissioners so appointed becomes unable to attend another Commissioner may, with the consent of the Applicant, in like manner be appointed.

Majority decision

36. In case of disagreement the majority decision of the Commissioners sitting shall prevail. If equally divided the determination of the presiding Commissioner shall be decisive.

Provisional Determinations and Reviews

37.—(1) All determinations of the Commission including those mentioned in Rule 10 but not in Rule 21 shall be provisional and subject to review at the discretion of the Commission:

Provided that there shall be not more than one review of any Application, the decision on which shall be final.

(2) The Commission may invite the Applicant and the Legal Officer to submit written arguments or to attend an oral hearing for the purpose of review, but shall not be bound to do so unless they propose to disallow or reduce the amount of a claim provisionally allowed.

The Seal of the Foreign Compensation Commission was hereunto affixed this fifteenth day of December, 1950.

(L.S.)

A. S. Comyns Carr,
Chairman of the Commission.

Basil Marsden-Smedley,
Secretary.

Dated this fifteenth day of December, 1950.

Jowitt, C.

FORM A

FOREIGN COMPENSATION ACT, 1950

SUMMONS TO ATTEND AND GIVE EVIDENCE

FOREIGN COMPENSATION COMMISSION

IN THE MATTER OF AN APPLICATION pending before the Foreign Compensation Commission

by

Applicant

To

of

You are hereby summoned to attend at

on the day of 19 at in

the noon and so from day to day until the above Matter has been heard to give evidence in the above Application.

And also to bring with you and produce at the time and place aforesaid (specify documents to be produced).

Dated day of 19 .

Secretary.

This Summons is issued at the request of*

You are not obliged to attend unless on the service of this summons the said* tenders to you the sum of £ s. d. on account of your expenses, and gives you a written undertaking to pay to you such further sum in respect of expenses and loss of time as the Secretary to the Commission may certify to be reasonable.

If you fail to attend as aforesaid the Chairman of the Commission may certify your offence to the High Court which may if it thinks fit punish you as for a contempt of Court.

You may if you think fit apply in writing to the Commission, for just cause, particulars whereof must be stated, to set aside this summons. Any such request must be sent by registered post addressed to the Secretary of the Commission at 1, Princes Gate, London, S.W.7, within three days after service of this summons. If the cause alleged is ill-health a medical certificate must be enclosed with the request.

This summons is of no validity unless served upon you within twelve weeks from the date of its signature as above.

Receipt for Expenses

I hereby acknowledge the receipt of the sum of £ s. d. on account of my expenses and of the required written undertaking.

Signed†.....

* Fill in name of person making request for Summons.

† To be signed by person to whom summons is directed.

FORM B

FOREIGN COMPENSATION ACT, 1950

ORDER TO FORWARD DOCUMENTS

FOREIGN COMPENSATION COMMISSION

IN THE MATTER OF AN APPLICATION pending before the Foreign Compensation Commission

by

Applicant

To

of

You are hereby required to forward by Registered post to the Commission at 1, Princes Gate, London, S.W.7, on or before the day of 19 , the following documents:—

If the said documents or any of them are not in your possession, custody or power or if you claim to have legal objection to the production of the documents or any of them you must on or before the last-mentioned date forward as above directed a declaration signed by yourself giving the reasons for your inability or objection to forward each of the documents to which such reasons apply.

If you know the name and/or address of the person in whose possession, custody or power the said documents or any of them now are or have been you must give it.

Dated day of 19 .

Secretary.

This Order is issued at the request of*

If you fail to comply with this Order the Chairman of the Commission may certify your offence to the High Court which may if it thinks fit punish you as for a contempt of Court.

This Order is of no validity unless served upon you within twelve weeks from the date of its signature as above.

The Commission will refund to you the cost of forwarding the said documents.

*(Fill in name of person making request for summons.)

FORM C

FOREIGN COMPENSATION ACT, 1950
ORDER TO FURNISH INFORMATION
FOREIGN COMPENSATION COMMISSION

IN THE MATTER OF AN APPLICATION pending before the Foreign Compensation Commission

by

Applicant

To

of

You are hereby required to furnish the information specified in the Schedule hereto which must be forwarded by registered post addressed to the Secretary, Foreign Compensation Commission, 1, Princes Gate, London, S.W.7, before the

day of 19 .

Dated day of 19 .

Secretary,
By order of the Commission.

If you fail to comply with this Order the Chairman of the Commission may certify your offence to the High Court which may if it thinks fit punish you as for a contempt of Court.

If in addition to furnishing the information as above directed you wish to give oral evidence *at your own expense* please so indicate in order that you may be notified of the date of hearing.

The Commission will refund to you the postage incurred in complying with this Order.

Schedule

FORM D

FOREIGN COMPENSATION ACT, 1950
FORM OF UNDERTAKING TO PAY EXPENSES AND COMPENSATION FOR LOSS OF TIME
FOREIGN COMPENSATION COMMISSION

In addition to the sum of £ s. d. paid to the said*
in respect of expenses I hereby undertake to pay to the said*
such further sum in respect of expenses and/or loss of time as the Secretary of the Commission may certify to be reasonable.

.....
Signature of the person applying for summons in Form A.

* (Insert name of witness.)

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules prescribe the procedure to be followed in proceedings before the Foreign Compensation Commission.

Rules 6 to 8 prescribe how claims for compensation are to be made and the time within which they must reach the Commission.

Rule 10 provides a simple procedure for dealing with claims which the Legal Officer recommends the Commission to admit. Rules 11 to 20 relate to the procedure for determining cases in which the Legal Officer is not prepared to recommend the Commission to admit the claim.

Rule 21 allows the Commission to determine questions of law or fact which are common to a substantial number or class of applicants, thus shortening the procedure in many cases.

Rules 24 and 25 give the Commission power to summon witnesses to give evidence or produce documents or to order a person to forward documents or furnish information.

The object of Rule 37 is to protect the Fund by providing that the Commission may review determinations once. Having regard to the nature of the proceedings and the difficulty of obtaining information from Czechoslovakia and Yugoslavia, it is possible that, in the light of experience, the Commission may find that some cases which are determined in the early stages require reconsideration.

The Foreign Compensation (Czechoslovakia) Order in Council, 1950

1950 No. 1191

Made - - - -	21*st July*, 1950
Laid before Parliament	22*nd July*, 1950
Coming into Operation	1*st August*, 1950

At the Court at Buckingham Palace, the 21st day of July, 1950

Present,

The King's Most Excellent Majesty in Council

Whereas an Agreement (hereinafter referred to as "the Czechoslovak Agreement"), entered into between the Government of the United Kingdom and the Government of Czechoslovakia on the twenty-eighth day of September, 1949(a), provided for the payment of certain sums by the Government of Czechoslovakia to the Government of the United Kingdom as compensation in respect of British property, rights and interests affected by various Czechoslovak measures;

And Whereas the Foreign Compensation Act, 1950(b) (hereinafter referred to as "the Act"), provided for the constitution for the purposes of the Act of a Commission, to be called the Foreign Compensation Commission (hereinafter referred to as "the Commission");

(a) "Treaty Series No. 60 (1949)," Cmd. 7797.
(b) 14 Geo. 6. c. 12.