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.

And Whereas by Section 2 of the Act, His Majesty is authorised by Order in Council to provide for the distribution by the Commission of such sums as may be paid to the Commission by His Majesty's Government in the United Kingdom, being sums received under the Czechoslovak Agreement, among the persons who establish claims to the satisfaction of the Commission in respect of losses suffered in such circumstances as may be prescribed by the Order;

And Whereas by Sub-section (1) of Section 4 of the Act, His Majesty is authorised by Order in Council to prescribe the number of members of the Commission for the determination on their behalf of applications under the Act;

And Whereas by Sub-section (1) of Section 7 of the Act, His Majesty is authorised by Order in Council to make provision (*inter alia*) for the management and investment of any moneys in the hands of the Commission and for the disposal of any sums in their hands which it is not practicable to distribute;

And Whereas it is now deemed expedient that provisions should be made in pursuance of the afore-mentioned provisions of Sections 2, 4 and 7 of the Act;

Now, therefore, His Majesty, by virtue and in exercise of the powers in that behalf by the Act, or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order and it is hereby ordered as follows:—

1. The Commission shall pay into a fund, to be called the Czechoslovak Fund, all such sums as may be paid to them by His Majesty's Government being sums received under the Czechoslovak Agreement.

2.—(*a*) Any sum standing to the credit of the Czechoslovak Fund may be temporarily invested by the Commission in such manner as the Treasury may authorise.

(*b*) All interest, dividends and other sums received by the Commission as a result of any investment made by them of any sum standing to the credit of the Czechoslovak Fund shall be paid into that Fund.

3.—(*a*) The Commission shall make payments out of the Czechoslovak Fund to every person who has made application and established a claim under this Order and who applies to the Commission for payment.

(*b*) If any person, who has made application and established a claim under this Order, shall have died before the amounts payable to him under Articles 4 and 5 of this Order have been paid to him, such payments or the balance thereof shall be made to his legal personal representatives if they apply to the Commission for payment.

4.—(*a*) The payment in respect of each claim established under this Order shall be a fraction of the distributable amount of the Czechoslovak Fund equal to the proportion which the assessed amount of the claim bears to the total of the amounts assessed with respect to all claims established under this Order.

(*b*) The distributable amount shall be the total of all sums paid into the Czechoslovak Fund after the deduction of the amount of any payments made therefrom into the Exchequer in accordance with any Order in Council made under Sub-section (2) of Section 7 of the Act.

5. The Commission may from time to time, as sums are paid into the Czechoslovak Fund, make to the persons referred to in Article 3 of this Order interim part payments. Such interim part payments shall be proportionate to the amounts assessed with respect to the claims established.

6. When it appears to the Secretary of State that all payments to be made into the Czechoslovak Fund have been made and that all payments which it is practicable to make out of the Czechoslovak Fund have been made, he may direct that the Czechoslovak Fund shall be wound up and that any sums remaining therein shall be paid into the Exchequer.

7. The following persons shall be qualified to make application to the Commission for the purpose of establishing claims under this Order :—

(*a*) His Majesty's Government and the Government of any territory for the foreign relations of which His Majesty's Government are responsible ;

(*b*) individuals who, on the twenty-eighth day of September, 1949, (i) were citizens of the United Kingdom and Colonies, or (ii) would have been citizens of Southern Rhodesia if the Southern Rhodesian Citizenship and British Nationality Act, 1949(**a**), had been in force on that date, or (iii) were British-protected persons as defined in Sub-section (1) of Section 32 of the British Nationality Act, 1948(**b**) ;

(*c*) corporations existing on the twenty-eighth day of September, 1949, which were incorporated under the laws in force in the United Kingdom or in any territory for the foreign relations of which His Majesty's Government were responsible on the said date ; and

(*d*) individuals or corporations who, after the twenty-eighth day of September, 1949, have succeeded otherwise than by assignment or would, but for the Czechoslovak measure giving rise to a claim, have so succeeded to the rights of such an individual or body as aforesaid in relation to the property or interest in property to which the claim relates.

8. An application shall not be entertained by the Commission for the purposes of this Order unless it is made in accordance with the rules regulating the procedure of the Commission made under Section 4 of the Act.

9. Each application made under this Order shall be determined by not less than three members of the Commission.

10. To establish a claim under this Order, any person, making application to the Commission for that purpose, shall be required to prove to the satisfaction of the Commission—

(*a*) that he is a person qualified to make such application ;

(*b*) that the property (as defined in Article 13 of this Order) or interest in property (as defined in Article 14 of this Order) to which his application relates was British at the relevant date (as defined in Article 15 of this Order) ;

(*c*) that, by or under any Czechoslovak measure as defined in Article 16 of this Order, he or his predecessor in title has been deprived of title to or enjoyment of such property or, if the claim relates to an interest in property owned or held by a corporation, that, by or under such Czechoslovak measure, the corporation has been deprived of title to or enjoyment of that property ; and

(*d*) that he or his predecessor in title has suffered loss as a result of such deprivation.

(**a**) Southern Rhodesia, No. 13, 1949.
(**b**) 11 & 12 Geo. 6. c. 56.

11. Property or an interest in property shall be deemed to have been British if the property was owned or held by or the interest was the interest of—

(*a*) His Majesty's Government or any other Government referred to in paragraph (*a*) of Article 7 of this Order, or

(*b*) any individual who, if the British Nationality Act, 1948, had been in force on the relevant date, would then have been (i) a citizen of the United Kingdom and Colonies or (ii) a British-protected person as defined in Sub-section (1) of Section 32 of that Act, or

(*c*) any individual who, if the Southern Rhodesian Citizenship and British Nationality Act, 1949, had been in force on the relevant date would then have been a citizen of Southern Rhodesia, or

(*d*) any corporation which was incorporated under the laws in force in the United Kingdom or in any territory for the foreign relations of which His Majesty's Government were responsible on the said date.

12.—(*a*) In this Order, the expression "predecessor in title" means any person from whom a person making application under this Order—

(i) has, on or before the relevant date, succeeded, whether by assignment or otherwise, to the property or interest in property to which the claim relates; or

(ii) has, after the relevant date, succeeded otherwise than by assignment, or would, but for the Czechoslovak measure giving rise to his claim, have so succeeded after that date to the property or interest in property to which that claim relates.

(*b*) Where there has been any assignment after the relevant date, the application, if any, shall be made by the assignor but, if, by virtue of the option with regard to the relevant date granted under Article 15 of this Order to the person making application, there might be more than one person entitled to make application under this Order, the latest date referred to in Article 15 shall be taken as the relevant date for the purpose of determining by whom the application should be made.

13.—(*a*) In this Order, the expression "property" means property of any kind, movable or immovable, whether owned or held directly or through a trustee or nominee.

(*b*) If application under this Order is made by a trustee and by a beneficiary in relation to the same claim, the Commission shall entertain the application made by the trustee in preference to that made by the beneficiary, and, if the claim is established by the trustee to the satisfaction of the Commission, shall dismiss the application made by the beneficiary; but, if the claim is not so established by the trustee because he is not a qualified person under Article 7 of this Order, the Commission may entertain the application made by the beneficiary.

14.—(*a*) In this Order, the expression "interest in property" means—

(i) in relation to property owned or held by a corporation incorporated under the laws in force in Czechoslovakia, any shares or stock in that corporation (including holdings described under Czechoslovak law as "kuxen"); and

(ii) in relation to property owned or held by a corporation incorporated under the laws in force in any country, other than Czechoslovakia or the United Kingdom or any of the territories mentioned in paragraph (*d*) of Article 11 of this Order, any shares or stock in that corporation, provided that the Government of the country under the

laws of which the corporation was incorporated has, by or in accordance with the provisions of any agreement between that Government and the Government of Czechoslovakia signed before the date of this Order, excluded the interest to which the application relates from compensation paid or to be paid to that Government by the Government of Czechoslovakia in respect of property, rights and interests affected by the relevant Czechoslovak measure or measures.

(*b*) If any corporation to which the provisions of sub-paragraph (i) or (ii) of paragraph (*a*) of this Article apply had at the material time an interest in property (within the meaning of paragraph (*a*) of this Article) that property shall for the purposes of this Order be deemed to be property owned or held by the corporation to the extent of that interest.

15. For the purposes of this Order, the relevant date shall, at the option of the person making the application, be—

(*a*) the date of entry into force or the date of publication in the Czechoslovak Official Gazette, whichever is the later, of the Czechoslovak or Slovak law or decree by or under which the property or interest in property was affected, or

(*b*) the date on which the person making the application, or his predecessor in title, was deprived of title to or enjoyment of the property to which his claim relates or, if the claim relates to an interest in property, the date on which the corporation, which owned or held the property, was deprived of title to or enjoyment of that property, or

(*c*) the twenty-eighth day of September, 1949, if the person making the application, or his predecessor in title, was deprived of the enjoyment of the property to which his claim relates, or, in the case of a claim relating to an interest in property, the corporation, which owned or held the property, was deprived of the enjoyment of that property, as a result of the property being placed under national administration under Czechoslovak Decree No. 5 of 1945 or Slovak Decree No. 50 of 1945.

16. In this Order, the expression "Czechoslovak measure" means any Czechoslovak or Slovak law or decree listed in the Schedule to this Order, and any decree, order or act made or done thereunder.

17. If any transfer of property, or of any interest in property, to which a claim relates was effected in a part of Czechoslovakia under Hungarian occupation between the sixth day of November, 1938, and the ninth day of May, 1945, or under German occupation between the first day of October, 1938, and the ninth day of May, 1945, that transfer shall be deemed, for the purposes of this Order, to have been null and void if it was effected under fraud or duress or without the consent of the person to whom the property or interest in property belonged at the date of such transfer.

18. (*a*) No application under this Order shall be dismissed by the Commission solely on the ground that restitution proceedings in Czechoslovakia with respect to the property or interest in property to which the claim relates have not been instituted or, if they have been instituted, have not been prosecuted to a successful conclusion.

(*b*) If property has been confiscated under Slovak Decree No. 4 of 1945, No. 104 of 1945, No. 64 of 1946 or No. 89 of 1947 or under Czechoslovak Decree No. 12 of 1945 or No. 108 of 1945 and subsequently has been nationalised or otherwise expropriated under any other law or decree listed in the Schedule to this Order, the person making application may at his option rely entirely on such nationalisation or expropriation for the purpose

of establishing a claim under this Order in relation to that property, and in such cases the provisions of Article 15 regarding the relevant date shall be applied in accordance with the option exercised under this Article by the person making application.

19.—(*a*) The Commission shall assess the amount of loss with respect to each claim established under this Order, and shall dismiss each claim which is not so established.

(*b*) The amount of loss so assessed shall be such amount as seems just and equitable to the Commission having regard to all the circumstances.

20. Without prejudice to the generality of the provisions of Article 19 of this Order, in assessing the amount of loss with respect to any claim, the Commission—

(*a*) shall not have regard to rules for the assessment of compensation laid down by the relevant Czechoslovak measure or measures;

(*b*) shall have such regard, as the Commission may deem proper, to the debits and other liabilities and the credits and other assets associated with the enterprise or business in Czechoslovakia in which the property, to which the claim relates, was used; and

(*c*) shall have regard to any compensation or recoupment that the person making the application has received or may, if he exercises diligence, be reasonably expected to receive from any source other than the Czechoslovak Fund.

21. The Commission shall, as a condition of the making of any payment to any person under this Order, require him to surrender to the Commission all documents of title relating exclusively to the property or interest in property to which his claim relates and if he is unable to produce the documents of title or any of them, or if any of the documents of title relating to the property or interest in question do not exclusively relate thereto, require him to execute and deliver to the Commission a document in such form as the Commission may determine declaring that he renounces all claims in respect of the property or interest in question.

22. All documents with respect to any claim, surrendered or delivered to the Commission under Article 21 of this Order, shall remain in their custody until the final payment with respect to that claim has been made out of the Czechoslovak Fund or until the Czechoslovak Fund has been wound up, whichever is the earlier, and the Commission shall then deliver those documents to the Secretary of State.

23.—(*a*) This Order may be cited as the Foreign Compensation (Czechoslovakia) Order in Council, 1950.

(*b*) This Order shall come into operation on the first day of August, 1950.

And the Right Honourable Ernest Bevin, His Majesty's Principal Secretary of State for Foreign Affairs, is to give the necessary directions herein.

E. C. E. Leadbitter.

SCHEDULE

PART I

SLOVAK DECREES

	Title	*No. of Decree*
1.	Decree concerning the confiscation and accelerated distribution of the agricultural property of Germans, Hungarians, and traitors and enemies of the Slovak nation	4/1945
2.	Decree concerning national administration	50/1945
3.	Decree on the confiscation and expedited distribution of agricultural property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation	104/1945
4.	Decree amending Decree 104/1945	64/1946
5.	Decree amending Decrees 104/1945 and 64/1946	89/1947

PART II

CZECHOSLOVAK LAWS AND DECREES

	Title	*No. of Law or Decree*
1.	Decree concerning the invalidity of certain judicial property transactions made during the period of subjugation and the national administration of the property values of Germans, Magyars, traitors and collaborators, and of certain organisations and institutions	5/1945
2.	Decree concerning the confiscation and the more rapid distribution of the agricultural property of Germans, Magyars and traitors and enemies of the Czech and Slovak nations ..	12/1945
3.	Decree concerning measures in the field of films	50/1945
4.	Decree concerning the nationalisation of mines and certain industrial undertakings	100/1945
5.	Decree concerning the nationalisation of certain undertakings in the food industry	101/1945
6.	Decree nationalising the joint stock banks	102/1945
7.	Decree concerning the nationalisation of private insurance societies	103/1945
8.	Decree on the confiscation of the property belonging to the enemy, and the establishment of funds for national reconstruction purposes	108/1945
9.	Law concerning the nationalisation of certain further industrial and other enterprises and concerning an adjustment of certain conditions in nationalised and national enterprises	114/1948
10.	Law concerning the nationalisation of further industrial and other manufacturing enterprises and works in the food-stuffs branch, and concerning an adjustment of certain conditions in nationalised and national enterprises in this branch ..	115/1948
11.	Law concerning the organisation of wholesale trade activities and the nationalisation of wholesale business	118/1948

12.	Law concerning the State organisation of foreign trade and international transport	119/1948
13.	Law concerning the nationalisation of commercial enterprises employing 50 or more persons	120/1948
14.	Law concerning nationalisation of building	121/1948
15.	Law concerning the organisation and nationalisation of travel offices	122/1948
16.	Law concerning the nationalisation of polygraphic enterprises	123/1948
17.	Law concerning the nationalisation of certain inn-keeping and off-licence enterprises and accommodation equipment ..	124/1948
18.	Law concerning the nationalisation of natural curative springs and concerning the incorporation and administration of confiscated spa property	125/1948
19.	Law concerning the nationalisation of certain breeding enterprises	126/1948
20.	Law by which the Czechoslovak State acquires the right of ownership of certain real estate and movables for the Union of Soviet Socialist Republics and the United States of America	127/1948
21.	Law concerning nationalisation of medical and nursing institutions and the organisation of State medical welfare in institutions	185/1948
22.	Law concerning the nationalisation of agriculture and forest research institutions and their organisation and administration	249/1948
23.	Law on national transport corporations	311/1948
24.	Law amending Decree 108/1945	84/1949

EXPLANATORY NOTE

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

The main purposes of this Order are two. First, Articles 1 to 6 inclusive and Articles 8 and 9 make certain administrative and financial provisions. They supplement the general provisions made in the Foreign Compensation (Administrative and Financial Provisions) Order in Council, 1950, but they are included in this Order because they relate only to the series of claims against the Czechoslovak Fund into which will be paid moneys received under the Anglo-Czechoslovak Compensation Agreement of 1949. Secondly, Article 7 and Articles 10 to 20 inclusive of the Order provide the law to be applied by the Foreign Compensation Commission in determining claims against the Czechoslovak Fund.

The Order is based on the draft which was published in the Command Paper on the Foreign Compensation Bill, 1950, issued when the Foreign Compensation Bill was introduced into the House of Commons (Cmd. 7942). A number of amendments have been made, the majority of which are intended to clarify the text. The more important amendments affect Articles 10, 13, 14, 18 and 20 (*b*) and the Schedule. The Schedule is still not complete. It is intended, however, by an amending Order in Council to add some further laws and decrees, relating in particular to land reform, as soon as translations of the texts have been received and examined.