1962 No. 2187

FOREIGN COMPENSATION

The Foreign Compensation (Egypt) (Determination and Registration of Claims) Order 1962

Made - - - -	*2nd October* 1962
Laid before Parliament	*8th October* 1962
Coming into Operation	*9th October* 1962

At the Court at Balmoral, the 2nd day of October 1962

Present,

The Queen's Most Excellent Majesty in Council

Whereas Her Majesty is authorised to make provision by Order in Council under the Foreign Compensation Act 1950(a) (hereinafter referred to as "the Act") for the determination by the Foreign Compensation Commission (hereinafter referred to as "the Commission") of claims to participate in compensation received under agreements with foreign Governments:

And Whereas such provision was made by the Foreign Compensation (Egypt) (Determination and Registration of Claims) Order 1959(b), as amended(c):

And Whereas the Agreement (hereinafter referred to as "the Agreement") entered into between Her Majesty's Government and the Government of the United Arab Republic on 28th February 1959 concerning Financial and Commercial Relations and British Property in Egypt(d) has been amended and supplemented by Exchanges of Notes between the two Governments dated 7th August 1962(e):

And Whereas it is now expedient to revoke the said Order in Council, as amended, and to make further provision with regard to the sums received from the Government of the United Arab Republic under the Agreement and for the registration, assessment and determination of claims in respect of British property in Egypt:

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

(a) 14 Geo. 6. c. 12. (b) S.I. 1959/625 (1959 I, p. 1384).
(c) S.I. 1959/1773, 1960/2418, 1962/1089 (1959 I, p. 1388; 1960 II, p. 1563; 1962 II, p. 1261).
(d) Cmnd. 723. (e) Cmnd. 1820.

PART I

INTERPRETATION

1.—(1) The Interpretation Act 1889(a) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament, and as if this Order and the Orders hereby revoked were Acts of Parliament.

(2) In this Order:—

"Annex E" means the revised text of Annex E to the Agreement substituted by an Exchange of Notes between Her Majesty's Government and the Government of the United Arab Republic on 7th August 1962.

"British nationals" means

(*a*) citizens of the United Kingdom and Colonies, citizens of Rhodesia and Nyasaland, citizens of Southern Rhodesia, British subjects without citizenship, and British protected persons belonging to any of the territories for whose international relations the Government of the United Kingdom were on 28th February 1959 responsible; and

(*b*) corporations and unincorporated associations constituted under the laws in force in the United Kingdom of Great Britain and Northern Ireland or in any territory for whose international relations the Government of the United Kingdom were on 28th February 1959 responsible; and

includes the Ottoman Bank for the purposes of Part III of this Order and such other persons as may be notified to the Commission by Her Majesty's Principal Secretary of State for Foreign Affairs for all or any of the purposes of the Order as he shall specify.

"Converted company" means an Egyptian controlled company which has at any time between 30th October 1956 and the date on which this Order is made been authorised under the laws of the Republic of Egypt or of the United Arab Republic to continue its activities as an Egyptian or United Arab Republic corporation limited by shares.

"Egyptian controlled company" means a corporation which was a British national on 31st October 1956 but all, or substantially all, of the undertaking and assets of which were at that date situated in Egypt and the management and control of which were at that date exercised in Egypt.

"Egyptian measures" means all measures of sequestration and powers to sell, liquidate or manage sequestrated property taken or exercised by the Government of the Republic of Egypt or by the Government of the United Arab Republic against property between 30th October 1956 and 28th February 1959 and all restrictive measures taken against British nationals during the same period in accordance with the provisions of Egyptian Proclamation No. 5 of 1st November 1956.

"The Fund" means the fund called the Egyptian Compensation Fund into which the Commission have paid such sums as have been paid to them by Her Majesty's Government, being sums received under the Agreement, and the interest, dividends and other sums received by the

(a) 52 & 53 Vict. c. 63.

Commission as a result of the investment of any sum standing to the credit of the said fund.

"Property" includes all rights or interests of any kind in property.

"Shares" includes stock. Shares in corporations and unincorporated associations constituted under the laws in force in Egypt shall be deemed to be situated in Egypt.

PART II

THE FUND

2. Any sum standing to the credit of the Fund may be temporarily invested by the Commission in such manner as the Treasury may authorise.

3. 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 Fund shall be paid into the Fund.

PART III

CLAIMS IN RESPECT OF PROPERTY REFERRED TO IN ANNEX E

4.—(1) The Commission shall treat a claim under this Part of the Order as established if the applicant satisfies them of the following matters:—

(*a*) that his application relates to property in Egypt which is referred to in Annex E;

(*b*) if the property is referred to in paragraph (1) (*a*) or paragraph (2) of Annex E—

(i) that the applicant is the person referred to in paragraph (1) (*a*) or in paragraph (2), as the case may be, as the owner of the property or is the successor in title of such person; and

(ii) that the person referred to as aforesaid and any person who became successor in title of such person on or before 28th February 1959 were British nationals on 31st October 1956 and 28th February 1959;

(*c*) if the property is referred to in paragraph (1) (*b*) of Annex E—

(i) that the applicant was the owner on 31st October 1956 or, at the option of the applicant, on the date of the sale of the property at any time before 28th February 1959 by the Government of the United Arab Republic under the provisions of Egyptian Proclamation No. 5 of 1st November 1956 or is the successor in title of such owner; and

(ii) that the owner on 31st October 1956 or on the date of such sale, as the case may be, and any person who became successor in title of such owner on or before 28th February 1959 were British nationals on 31st October 1956 and 28th February 1959.

(2) For the purposes of sub-paragraph (*b*) (i) of paragraph (1) of this Article, any reference in paragraph (2) of Annex E to the estate of a deceased person shall be interpreted as a reference to the persons entitled to such estate under the testamentary dispositions or intestacy of such deceased person.

(3) For the purposes of sub-paragraphs (*b*) (ii) and (*c*) (ii) of paragraph (1) of this Article, a British national who died, or in the case of a corporation or association ceased to exist, between 31st October 1956 and 28th February 1959 shall be deemed to have been a British national on the latter date and a person who had not been born, or in the case of a

corporation or association had not been constituted, on 31st October 1956 shall be deemed to have been a British national on that date if such person became a British national at birth or when constituted, as the case may be; provided that a converted company shall for the purposes of sub-paragraphs (*b*) (ii) and (*c*) (ii) of paragraph (1) of this Article be deemed not to have been a British national.

(4) If it shall appear to the Commission in relation to any Egyptian controlled company referred to in paragraph (1) (*a*) or paragraph (2) of Annex E that under the provisions of any Egyptian measure the shares of any British national in such company have at any time between 30th October 1956 and 28th February 1959 been sold, or purported to be sold, by a sequestrator or by any person acting under his authority without the consent of the holder thereof, the Commission may, if they think it just and equitable so to do, and shall if the company is a converted company, hold that such shares were property in Egypt referred to in paragraph (1) (*b*) of Annex E and determine any application in relation to the company or to such shares as if the said company had been incorporated in Egypt and named in the said paragraph.

5.—(1) The Commission shall assess the amount of loss with respect to each claim established under this Part of the Order.

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

PART IV

CLAIMS IN RESPECT OF OTHER PROPERTY LOST, INJURED OR DAMAGED AS A RESULT OF EGYPTIAN MEASURES

6.—(1) The Commission shall treat a claim under this Part of the Order as established if the applicant satisfies them of the following matters:—

(*a*) that his application relates to property in Egypt in respect of which no claim can be established under Part III of this Order and which has been lost, injured or damaged after 30th October 1956 and before 28th February 1959 as a result of Egyptian measures;

(*b*) that he was the owner at the time of such loss, injury or damage or is the successor in title of such owner; and

(*c*) that the owner at the time of the loss, injury or damage and any person who became successor in title of such owner on or before 28th February 1959 were British nationals on 31st October 1956 and 28th February 1959.

(2) For the purposes of sub-paragraph (*c*) of paragraph (1) of this Article, a British national who died, or in the case of a corporation or association ceased to exist, between 31st October 1956 and 28th February 1959 shall be deemed to have been a British national on the latter date and a person who had not been born, or in the case of a corporation or association had not been constituted, on 31st October 1956 shall be deemed to have been a British national on that date if such person became a British national at birth or when constituted, as the case may be.

(3) The Commission shall not entertain under this Part of the Order any application by a corporation which is a converted company, but may, if they think it just and equitable so to do, hold that the shares of any British national in any such corporation were property in Egypt for the purposes of sub-paragraph (*a*) of paragraph (1) of this Article.

(4) If it shall appear to the Commission in relation to any Egyptian controlled company, other than a converted company, that any shares of

any British national have at any time since 30th October 1956 been sold, or purported to be sold, by a sequestrator or by any person acting under his authority without the consent of the holder thereof, the Commission may, if they think it just and equitable so to do, refuse to entertain any application by the company under this Part of the Order and hold that the shares of any British national in the company were property in Egypt for the purposes of sub-paragraph (*a*) of paragraph (1) of this Article.

7.—(1) The Commission shall assess the amount of loss with respect to each claim established under this Part of the Order.

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

(3) The Commission shall separately record the amount of any sequestration charge imposed on the person making application by the Government of the Republic of Egypt or the Government of the United Arab Republic.

8. If the applicant satisfies the Commission of all the matters specified in Article 6 of this Order other than that the loss, injury or damage was the result of Egyptian measures, the Commission shall register the claim and report thereon to Her Majesty's Principal Secretary of State for Foreign Affairs in such manner as he shall direct.

PART V

GENERAL

9. An application shall not be entertained by the Commission for the purposes of this Order unless it is made in accordance with the rules for the time being of the Commission and each application shall be determined by not less than two members of the Commission; provided that the provisional determination of the application may be made by one member of the Commission if the assessed amount of the loss does not exceed £5,000 and the application is not the subject of an oral hearing.

10.—(1) In assessing the amount of any loss in accordance with Articles 5 and 7 of this Order the Commission shall have regard to any compensation or recoupment in respect of that loss that the person making the application has received, or is entitled to receive, from any source other than the Fund.

(2) The Commission shall separately record the nature and amount of any compensation or recoupment which they take into account in accordance with paragraph (1) of this Article in assessing the amount of any loss.

11.—(1) The Foreign Compensation (Egypt) (Determination and Registration of Claims) Order 1959, the Foreign Compensation (Egypt) (Determination and Registration of Claims) (Amendment) Order 1959, the Foreign Compensation (Egypt) (Determination and Registration of Claims) (Amendment) Order 1960 and the Foreign Compensation (Egypt) (Determination and Registration of Claims) (Amendment) Order 1962 (hereinafter referred to as " the old Orders ") are hereby revoked.

(2) Any notification, application, determination, assessment, registration, report, record or any other thing made or done under the old Orders and of effect immediately before the coming into operation of this Order shall continue to have effect as if made or done under the corresponding provisions of this Order; provided that any claim registered under Article

6 of the Foreign Compensation (Egypt) (Determination and Registration of Claims) Order 1959, as amended by the Foreign Compensation (Egypt) (Determination and Registration of Claims) (Amendment) Order 1960, shall be removed from the register and shall be entertained by the Commission as if a new application had been made in respect of such claim.

(3) References in the Foreign Compensation (Egypt) (Interim Distribution) Order 1959, as amended by the Foreign Compensation (Egypt) (Interim Distribution) (Amendment) Order 1960 and the Foreign Compensation (Egypt) (Interim Distribution) (Amendment) Order 1961, to the Foreign Compensation (Egypt) (Determination and Registration of Claims) Order 1959 and any amendments thereto shall be construed as including references to the present Order and any amendments thereto.

12. This Order shall come into operation on 9th October 1962 and may be cited as the Foreign Compensation (Egypt) (Determination and Registration of Claims) Order 1962.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order replaces the Foreign Compensation (Egypt) (Determination and Registration of Claims) Order 1959, as amended by subsequent Orders.

The principal purposes of the present Order are to consolidate the previous Orders and to make new provisions to facilitate the establishment of claims to which Part III of the Order applies (including claims registered under Article 6 of the Order of 1959, as amended). These new provisions are based on amendments to Article III (*c*) and Annex E of the Agreement between Her Majesty's Government and the Government of the United Arab Republic of 28th February 1959 (Cmnd. 723) made by an Exchange of Notes between the two Governments on 7th August 1962 (Nos. 3 (*a*) and 3 (*b*) in Cmnd. 1820).

Articles 4 and 6 of the present Order contain new provisions concerning Egyptian controlled companies as defined in paragraph (2) of Article 1.