STATUTORY INSTRUMENTS

1963 No. 365

FOREIGN COMPENSATION

The Foreign Compensation (Egypt) (Final Distribution) Order 1963

Laid before Parliament in draft

Made - - - - *27th February* 1963

Coming into Operation *4th March* 1963

At the Court of Saint James, the 27th day of February 1963

Present,

Her Majesty Queen Elizabeth The Queen Mother

His Royal Highness The Duke of Gloucester

Lord President — Mr. Powell

Mr. Vosper — Mr. Macpherson

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the twenty-second day of January, 1963, to delegate to the following Counsellors of State (subject to the exceptions hereinafter mentioned) or any two or more of them, that is to say, His Royal Highness The Prince Philip, Duke of Edinburgh, Her Majesty Queen Elizabeth The Queen Mother, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester, His Royal Highness Prince William of Gloucester and His Royal Highness The Duke of Kent, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And Whereas Her Majesty was further pleased to except from the number of the said Counsellors of State His Royal Highness The Prince Philip, Duke of Edinburgh, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester, His Royal Highness Prince William of Gloucester and His Royal Highness The Duke of Kent while absent from the United Kingdom:

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

And Whereas provision was made by the Foreign Compensation (Egypt) (Interim Distribution) Order 1959 (b), as amended (c), for an interim distribution of sums received from the Government of the United Arab Republic under an Agreement entered into between Her Majesty's Government and the Government of the United Arab Republic on 28th February 1959 (d):

And Whereas by section 1 (1) of the Foreign Compensation Act 1962 (e) the Secretary of State is authorised, out of moneys provided by Parliament,

(a) 14 Geo. 6. c. 12. (b) S.I. 1959/1291 (1959 I, p. 1389).
(c) S.I. 1960/2212, 1961/2276 (1960 II, p. 1567; 1961 III, p. 4030).
(d) Cmnd. 723. (e) 11 & 12 Eliz. 2. c. 4.

to make payments to the Commission for the purposes of that section and it is provided that the Foreign Compensation Act 1950 shall have effect as if sums so paid had been received by Her Majesty's Government in addition to the sums received from the Government of the United Arab Republic under the said Agreement:

And Whereas it is now expedient that provision should be made for a final distribution of sums received from the Government of the United Arab Republic and of any sums paid to the Commission by the Secretary of State under section 1 (1) of the Foreign Compensation Act 1962:

And Whereas a draft of this Order has been laid before Parliament in accordance with section 1 (2) of the Foreign Compensation Act 1962 and approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Duke of Gloucester, being authorized thereto by the said Letters Patent, and in pursuance of the powers conferred by the said Acts or otherwise in Her Majesty vested, do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf order, and it is hereby ordered, as follows:

PART I

INTERPRETATION

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

(2) In the present Order:—

"The Determination Order" means the Foreign Compensation (Egypt) (Determination and Registration of Claims) Order 1962 (b) and any amendments thereto.

"The Fund" means the Egyptian Compensation Fund referred to in Part II of the Determination Order.

"*The Interim Distribution Order*" *means the Foreign Compensation (Egypt) (Interim Distribution) Order* 1959, *as amended.*

"The Rules" means the Foreign Compensation Commission (Egyptian Claims) Rules 1959 (c) and any amendments thereto.

PART II

PAYMENTS INTO THE FUND

2. *All sums paid to the Commission by Her Majesty's Principal Secretary of State for Foreign Affairs under section* 1 (1) *of the Foreign Compensation Act* 1962 *shall be paid into the Fund.*

PART III

PAYMENTS OUT OF THE FUND

3.—(1) After the Commission have assessed under the Determination Order the amount of loss in respect of a claim or claims established by an applicant, the Commission shall record, with reference to the total amount of loss assessed by the Commission in respect of the said claim or claims, a sum calculated in accordance with *the Schedule to the present Order.*

(2) The Commission shall report to Her Majesty's Principal Secretary of State for Foreign Affairs the said total amount of loss and the amount of the sum so calculated.

(a) 52 & 53 Vict. c. 63. (b) S.I. 1962/2187 (1962 III, p. 2980).
(c) S.I. 1959/640 (1959 I, p. 1368).

4.—(1) The Commission shall make a payment out of the Fund to each person who has established a claim under the Determination Order and who applies to the Commission for payment.

(2) *Subject to the provisions of Articles 5 and 6 of the present Order,* the amount of the payment to be made by the Commission under paragraph (1) of this Article shall be the sum calculated in accordance with paragraph (1) of Article 3 of the present Order less such sum (if any) as Her Majesty's Principal Secretary of State for Foreign Affairs, acting on the advice of a Board appointed by him for the purpose, shall notify in writing to the Commission as an appropriate deduction in respect of any ex gratia loan made to the applicant or his predecessor in title by Her Majesty's Government.

(3) If it shall appear to Her Majesty's Principal Secretary of State for Foreign Affairs that any sum notified by him in writing to the Commission as a deduction pursuant to paragraph (2) of this Article was in excess of the sum which in all the circumstances it was appropriate to deduct, he may at any time thereafter, acting on the advice of the Board referred to in that paragraph, notify in writing some lesser sum as an appropriate deduction in lieu of the sum previously notified, and the Commission shall thereupon adjust the amount of the payment and (if the case requires) make an additional payment accordingly.

5.—(1) *In every case in which the whole or part of the total amount of loss assessed by the Commission in respect of the claim or claims established by any applicant has been reported by the Commission before the coming into operation of the present Order to Her Majesty's Principal Secretary of State for Foreign Affairs pursuant to paragraph* (2) *of Article* 2 *or paragraph* (2) *of Article* 4 *of the Interim Distribution Order, the Commission shall record with respect to such claim or claims a sum representing the difference between the sum calculated in accordance with the Schedule to the present Order with reference to the total amount of loss so reported by the Commission and the sum calculated in accordance with the Schedule to the Interim Distribution Order with reference to such amount.*

(2) *The Commission shall report to Her Majesty's Principal Secretary of State for Foreign Affairs the amount of the difference so calculated.*

(3) *The provisions of Article* 4 *of the present Order shall apply with respect to the said difference as if it were a sum calculated in accordance with paragraph* (1) *of Article* 3 *of the present Order.*

6.—(1) If an applicant establishes a further claim or claims in addition to any claim or claims in respect of which a sum has been recorded under paragraph (1) of Article 3 of the present Order, the Commission shall record with respect to such further claim or claims a sum representing the difference between the sum calculated in accordance with the Schedule to the present Order with reference to the total amount of loss assessed by the Commission in respect of the claim or claims previously established by the applicant and a sum calculated in accordance with the said Schedule with reference to the total amount of loss assessed by the Commission in respect of all claims established by the applicant.

(2) The Commission shall report to Her Majesty's Principal Secretary of State for Foreign Affairs the amount assessed in respect of such further claim or claims and the amount of the difference so calculated.

(3) The provisions of Article 4 of the present Order shall apply with respect to the said difference as if it were a sum calculated in accordance with paragraph (1) of Article 3.

7. For the purposes of the present Order:—

(a) the Commission shall treat all claims registered under Article 8 of the Determination Order on or before 31st December 1962 as established by the applicant under that Order;

(b) Her Majesty's Principal Secretary of State for Foreign Affairs may by notification in writing to the Commission direct that any claim which has been registered by the Commission under Article 8 of the Determination Order after 31st December 1962 shall for the purposes of the present Order be treated as established by the applicant under the Determination Order, and upon such notification the Commission shall for the purposes of the present Order treat such claim as so established;

(c) the sum registered by the Commission as the amount of the loss in respect of any claim which is treated as established by virtue of the present Article shall be deemed to be the amount of the loss assessed by the Commission in respect of such claim and any order or direction of the Commission for registration of the claim shall be deemed to be a determination of the Commission.

PART IV

GENERAL

8. For the purposes of the present Order:—

(*a*) a claim shall be deemed to be established under the Determination Order even though the determination may be subject to review under Rule 38 of the Rules;

(*b*) the amount of the loss assessed by the Commission shall be taken to be the amount provisionally determined to be the amount of such loss, subject to review, in accordance with Rule 38 of the Rules; provided that, if the provisional determination of the Commission shall have been reviewed by the Commission, then—

(i) the Commission shall, unless the provisions of (iii) below apply, make any necessary amendment to any record or report already made;

(ii) for the purposes of any record, report or payment made by the Commission after the date of such review the amount of the loss shall be taken to be the amount (if any) so determined on review;

(iii) if the amount of the loss so determined on review shall exceed the amount provisionally determined, the provisions of Article 6 of the present Order shall apply as if the applicant had established a further claim for the amount of such excess;

(iv) if the amount of the loss so determined on review shall be less than the amount provisionally determined, the Commission shall deduct from any further payment which may become due to the applicant out of the Fund the sum by which the amount of the payment already made exceeds the amount which ought to have been paid under the provisions of Article 4 of the present Order as calculated on the basis of the reduced amount of the loss.

9. Where any amount which is material to the determination of an application made under the Determination Order is expressed in a unit of foreign currency, the value in sterling of that amount shall be determined in accordance with the following provisions:

(*a*) if the amount is expressed in Egyptian currency, the rate of exchange applicable shall be calculated by using the respective parity values for the Egyptian pound and the pound sterling declared to the International Monetary Fund on 27th July 1956;

(*b*) if the amount is expressed in any other foreign currency, the rate of exchange applicable shall be the middle rate for telegraphic transfers ruling in the London market on 27th July 1956 or, if there was no such rate, such rate as the Treasury may determine.

10.—(1) If any person who has established a claim under the Determination Order shall have died before the amount payable to him under the present Order has been paid to him, such payment shall be made to his legal personal representatives if they apply to the Commission for payment; *provided that, if the Commission are satisfied that no grant of administration of his estate has been made in the United Kingdom and that the assets of his estate (including the amount payable under the present Order) do not exceed £100 in value, the Commission may, at their discretion and subject to such conditions as the Commission think proper, make such payment either to any person who has taken out administration in any other part of the Commonwealth, or to the person who shall appear to the Commission to be the person who, being a widower, widow, child, father, mother, brother or sister of the deceased person, would, under the law of England, have the prior right to a grant of administration of the estate of the deceased person if such deceased person had died intestate domiciled in England.*

(2) If any person whose claim has been established under the Determination Order is an infant at the date when the amount payable to him under the present Order is due to be paid, the Commission may make payment thereof into the Supreme Court or, if the amount thereof does not exceed £500, into the County Court for the district in which the infant resides, under the provisions of the Trustee Act 1925 (**a**).

11. When a claim has been established under the Determination Order in respect of any property of an unincorporated association or in respect of any property subject to a trust and no person who, in the opinion of the Commission, has authority to receive and give a good discharge for payment under the present Order applies to the Commission for payment within six months from the date on which the Commission have given notice of the determination of the amount of loss under Rule 35 of the Rules, the Commission may, at their discretion, pay the amount payable under the present Order in respect of such claim to the Public Trustee or into the Supreme Court under the provisions of the Trustee Act 1925 and may in any such case dispense with any such surrender or renunciation as is required by paragraph (1) of Article 12 of the present Order as a condition of payment.

12.—(1) Subject to the provisions of paragraph (2) of this Article and of Article 11 of the present Order, the Commission shall, as a condition of the making of any payment to any person under the present Order, require him to surrender to the Commission all available documents of title, if any, relating exclusively to the claim or claims to which the payment relates, and, if he is unable to produce such documents of title, shall require him to sign and deliver to the Commission a document in such form as the Commission may determine declaring that he renounces all those claims which he has established under the Determination Order.

(2) If the person for whose benefit a payment is to be made is an infant, the Commission shall, as a condition of the making of any payment into the Court under paragraph (2) of Article 10 of the present Order, require the person who in accordance with the Rules has made an application for payment on the infant's behalf to surrender to the Commission the documents of title, if any, under his control relating exclusively to the claim, and to sign and deliver to

(**a**) 15 & 16 Geo. 5. c. 19.

the Commission a document in such form as the Commission may determine declaring that the infant renounces all claims to which the payment relates; and the documents so signed shall operate as a valid surrender by the infant of all such claims.

13. All documents which are delivered to the Commission under Article 12 of the present Order shall remain in their custody until the final payment with respect to that claim has been made out of the Fund, or until the Fund has been wound up, whichever is the earlier, and the Commission shall then deliver those documents to Her Majesty's Principal Secretary of State for Foreign Affairs.

PART V

REVOCATION AND FINAL PROVISIONS

14.—(1) *The Foreign Compensation (Egypt) (Interim Distribution) Order* 1959(a), *the Foreign Compensation (Egypt) (Interim Distribution) (Amendment) Order* 1960 (b) *and the Foreign Compensation (Egypt) (Interim Distribution) (Amendment) Order* 1961(c) *are hereby revoked.*

(2) *Any record, report, payment, notification, determination, calculation, surrender of documents, renunciation of claims or any other thing made or done under the Orders revoked by paragraph* (1) *of this Article or any of them shall for the purposes of the present Order, except Article* 5 *thereof, be deemed to have been made or done under the corresponding provisions of the present Order.*

15. *The present Order shall come into operation on* 4*th March* 1963 *and may be cited as the Foreign Compensation (Egypt) (Final Distribution) Order* 1963.

E. N. Landale.

SCHEDULE

Where the amount of the loss assessed by the Commission under the Determination Order	*The sum calculated shall be:—*
(1) *does not exceed* £10,000	100 *per cent. of the amount assessed.*
(2) *exceeds* £10,000 *but does not exceed* £50,000	£10,000 *and* 75 *per cent. of the balance of the amount assessed over* £10,000.
(3) *exceeds* £50,000 *but does not exceed* £500,000	£40,000 *and* 50 *per cent. of the balance of the amount assessed over* £50,000.
(4) *exceeds* £500,000 *but does not exceed* £1 *million*	£265,000 *and* 30 *per cent. of the balance of the amount assessed over* £500,000.
(5) *exceeds* £1 *million but does not exceed* £2 *million*	£415,000 *and* 25 *per cent. of the balance of the amount assessed over* £1 *million.*
(6) *exceeds* £2 *million*	£665,000 *and* 20 *per cent. of the balance of the amount assessed over* £2 *million.*

(a) S.I. 1959/1291 (1959 I, p. 1389). (b) S.I. 1960/2212 (1960 II, p. 1567).
(c) S.I. 1961/2276 (1961 III, p. 4030).

EXPLANATORY NOTE

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

This Order, which is made pursuant to the Foreign Compensation Act 1950 and the Foreign Compensation Act 1962, replaces the Foreign Compensation (Egypt) (Interim Distribution) Order 1959, as amended by subsequent Orders. Its principal purposes are:—

(i) to provide for payment into the Egyptian Compensation Fund of moneys provided by Parliament (see Article 2);

(ii) to provide for the payment of compensation with respect to claims registered under the Foreign Compensation (Egypt) (Determination and Registration of Claims) Order 1962 (see Article 7);

(iii) to provide a final scale of compensation with respect to claims which qualify for payment (see the Schedule); and

(iv) to enable a small amount of compensation due in a case where the person who has established the claim has died to be paid without requiring a grant of administration of his estate to be obtained in the United Kingdom (see Article 10(1)).

New provisions are printed in italics.