1958 No. 594

The Foreign Compensation (Hungary) Order, 1958

Made - - - -	3*rd April*, 1958
Laid before Parliament	11*th April*, 1958
Coming into Operation	14*th April*, 1958

At the Court at Buckingham Palace, the 3rd day of April, 1958

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 for the distribution by the Commission of such compensation:

And Whereas an Agreement (hereinafter referred to as "the Agreement") entered into between Her Majesty's Government and the Government of the Hungarian People's Republic on the twenty-seventh day of June, 1956(b), provides that the Hungarian Government shall pay to the United Kingdom Government the sum of £4,050,000 in full and final settlement of the debts, claims and obligations mentioned in paragraph (1) of Article 1 of the Agreement.

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:

PART I
GENERAL PROVISIONS

1. The Commission shall pay into a fund to be called the Hungarian Compensation Fund (hereinafter referred to as "the Fund") all such sums as may be paid to them by Her Majesty's Government, being sums received under the Agreement in respect of:—

(1) Commercial and banking transactions, where the obligation arose on or before the eighth day of April, 1941, and the sum was due and payable on or before the fifteenth day of September, 1947, and had not been settled by the latter date:

(2) balances held at banks in Hungary at the fifteenth day of September, 1947:

(3) payments made by the United Kingdom Treasury under their guarantee of £1,000,000 4½ per cent. "A" Debenture Stock of the Hungarian Transdanubian Electrical Company Limited under an agreement of the twenty-eighth day of March, 1927:

(a) 14 Geo. 6. c. 12. (b) Treaty Series No. 30 (1956), Cmd. 9820.

(4) debts arising out of contracts of insurance concluded on or before the eighth day of April, 1941, which were due from Hungarian nationals as defined in Article 15 of this Order to physical persons who were British nationals as defined in Article 15 of this Order both on the date of the Agreement and on the eighth day of April, 1941:

(5) claims arising out of Article 26 of the Treaty of Peace with Hungary of the tenth day of February, 1947(a) (hereinafter referred to as "the Treaty of Peace with Hungary"):

(6) claims in respect of British property affected by Hungarian measures of nationalisation, land reform, expropriation, state administration and other similar measures:

(7) claims in respect of shares in Hungarian banking companies affected by the Hungarian Law Number XXX of the first day of December, 1947, being shares which from the date of that Law up to the date of the Agreement were continuously owned by British nationals as defined in Article 15 of this Order.

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

(2) 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.

3.—(1) The Commission shall, subject to the provisions of Articles 13, 21, 24, 28, 29 and 40 of this Order, assess the amounts of each claim established under any Part of this Order, and shall dismiss each claim which is not so established.

(2) The Commission shall make payments out of the Fund to every person who has established a claim under this Order, and who applies to the Commission for payment.

(3) If any person who has 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) If any person whose claim has been established under this Order is an infant at the date when the amounts payable to him under Articles 4 and 5 of this Order are due to be paid, the Commission may make payment thereof into the Supreme Court, or, if the amount thereof does not exceed five hundred pounds, into the County Court for the district in which the infant resides, under the provisions of the Trustee Act, 1925(b).

4.—(1) The payment in respect of each claim established under this Order shall be a fraction of the distributable amount of the 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.

(2) The distributable amount shall be the total of all sums paid into the Fund, after the deduction 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.—(1) Whether or not all claims under this Order against the Fund have been finally determined, the Commission may, at such time on times as they

(a) Treaty Series No. 54 (1948), Cmd. 7485. (b) 15 & 16 Geo. 5. c. 19.

may decide, make from the Fund interim payments to any of the persons who have established claims under this Order. For this purpose the Commission may vary the amount which, under the rules regulating the procedure of the Commission made under Section 4 of the Act (hereinafter referred to as " the rules for the time being of the Commission ") has been provisionally awarded in respect of any claim either by increasing or decreasing the amount.

(2) Interim payments made under the provisions of this Article shall be made:

(*a*) on account of future payments to be made under Article 4 of this Order and

(*b*) at a uniform rate upon the amount at which the claim has been assessed in accordance with the provisions of this Article. The uniform rate of payment shall be determined by the Commission; for this purpose the Commission shall estimate the total liability likely to fall upon the Fund.

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

7.—(1) Subject to the provisions of paragraph (2) of this Article, 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 available documents of title, if any, relating exclusively to the claim to which the application 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 this Order.

(2) If the person for whose benefit payment is to be made is an infant, the Commission shall, as a condition of the making of any payment into Court under paragraph (4) of Article 3 of this Order, require the person who, in accordance with the rules for the time being of the Commission, 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 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 document so signed shall operate as a valid surrender by the infant of all such claims.

8. All documents which are delivered to the Commission under Article 7 of this 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 the Secretary of State.

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

10.—(1) An application shall not be entertained by the Commission for the purposes of this Order unless

(*a*) it has reached the Commission on or before the fourteenth day of October, 1958, and

(*b*) it is made in accordance with the rules for the time being of the Commission.

(2) The provisions of paragraph (1) of this Article shall not prevent the Commission from requiring an application to be re-submitted in the name

of another applicant or from receiving any amendment or addition to an application which has been submitted within the time limit specified in paragraph (1) of this Article, or from receiving an application by a beneficiary made under paragraph (3) of Article 17, or under paragraph (3) of Article 22, or under paragraph (3) of Article 27, or under paragraph (3) of Article 32 of this Order.

11. No application under any Part of this Order shall be entertained by the Commission if it relates to a debt arising out of a bond, or if it is in respect of a loss sustained as a result of a Hungarian measure (as defined in Article 38 of this Order) affecting any security constituted under a bond. Without prejudice to the generality of the provisions of this Article the expression " bond " shall include:

(1) a loan or obligation issued or guaranteed by the Hungarian State or any Hungarian municipal authority ; and

(2) a loan or obligation of the former Austro-Hungarian Monarchy.

12. Nothing in this Order shall enable the Commission to entertain any application in respect of an obligation which arose out of

(1) a short term credit granted by a British national to the Hungarian Government or to a Hungarian national ; or

(2) an unpaid matured Treasury Bill of the " Government of the Kingdom of Hungary " held by a British national

provided that the obligation is among those for the settlement of which provision has been made under paragraph (2) of Article 1 of the Agreement.

13. Where any amount which is material to the determination of an application made under this 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:—

(1) Where the amount of a debt (as defined in Article 18 of this Order) comprises a sum expressed in a unit of foreign currency other than pengoes or forints—

(*a*) if the sum is due and payable under a contract in which provision is made for a specified rate of exchange, its value in sterling shall be determined in accordance with the rate of exchange so specified ;

(*b*) if the rate of exchange is not specified in the contract, the value in sterling shall be determined in accordance with the rate of exchange obtaining on the eighth day of April, 1941.

(2) Where the amount of a debt (as defined in Article 18 of this Order) comprises a sum expressed in forints, the value in sterling shall be determined at the rate of exchange obtaining on the fifteenth day of September, 1947.

(3) Where the amount to which the application relates consists of a bank balance, the value in sterling of any part of the assessable amount which existed on the eighth day of April, 1941, shall be determined at the rate of exchange obtaining on that date, and the value in sterling of the remainder of the assessable amount shall be determined at the rate of exchange obtaining on the fifteenth day of September, 1947.

(4) Where the application relates to shares in a Hungarian banking company, which banking company has been affected by the Hungarian Law Number XXX of the first day of December, 1947, the value in sterling of such shares shall be determined at the rate of exchange obtaining on the eighth day of April, 1941.

(5) Where any amount which is material to the determination of an application made under the provisions of Article 28 of this Order or which is to be taken into account under the provisions of Article 31 of this Order is expressed in a unit of Hungarian or any other foreign currency, the value in sterling of that amount shall be determined—

(*a*) in the case of any application under paragraph (1) (2) (3) (4) or (6) of Article 28, at the rate of exchange obtaining on the eighth day of April, 1941 :

(*b*) in the case of any application under paragraph (5) (7) or (8) of Article 28, or in the case of an amount which is to be taken into consideration under Article 31, at the rate of exchange obtaining on the fifteenth day of September, 1947, or at the date of payment, whichever is the later.

(6) The value in sterling of any property, in respect of which an application is entertained under Part V of this Order shall be determined at the rate of exchange obtaining on the eighth day of April, 1941, except that where the property consists of a debt or obligation expressed in a foreign currency and created after the eighth day of April, 1941, the rate of exchange to be applied shall be that prevailing on the fifteenth day of September, 1947 or that on the day immediately preceding the date of loss, whichever is the later.

(7) For the purpose of this Article, the rate of exchange between the foreign currency and sterling on any of the said dates shall be deemed to be the middle rate for telegraphic transfers ruling in the London market on that date or, if there was no such rate, such rate as the Treasury may determine.

14. In assessing the amount of any claim established under any Part of this Order, the Commission shall have regard to any compensation or recoupment in respect of that claim that the person making application or, if he is a trustee, the person for whom he is a trustee, has received or may, if he exercises diligence, be reasonably expected to receive from any source other than

(1) the Fund established under this Order ; or

(2) the distribution made under the Treasury Directions to the Administrator of Hungarian Property given pursuant to Article 1 (7) of the Treaty of Peace (Hungary) Order, 1948(**a**), or by an Administrator of Hungarian Property in Colonial Territory (as defined in the Treasury Directions).

15. For the purposes of this Order the expression " British national " shall mean:

(1) any individual who at the relevant date was (or would have been if the British Nationality Act, 1948(**b**) had then been in force) a citizen of the United Kingdom and Colonies, a citizen of Southern Rhodesia, a British subject without citizenship (as defined in Section 13 of that Act), or a British protected person (as defined by Section 32 of that Act) ;

(2) any company or other juridical person which at the relevant date was incorporated or constituted under the laws in force in the United Kingdom or in any territory for whose international relations Her Majesty's Government were on the twenty-seventh day of June, 1956, responsible ;

and the expression " Hungarian national " shall mean:

(**a**) S.I. 1948/116 (Rev. XVII, p. 392: 1948 I, p. 3211). (**b**) 11 & 12 Geo. 6. c. 56.

(1) any physical person possessing Hungarian citizenship;

(2) any company or other juridical person incorporated or constituted under Hungarian law.

16. In this Order, the expression "predecessor in title" shall, subject to Article 26 of this Order, mean any person from whom a person making application under this Order has succeeded, whether by assignment or otherwise, to the property or interest in property to which the claim relates.

PART II

APPLICATIONS IN RESPECT OF DEBTS AND BANK BALANCES

17.—(1) The following persons shall be qualified to make application to the Commission for the purpose of establishing claims under this Part of the Order:—

(*a*) Her Majesty's Government and the Government of any territory for the international relations of which Her Majesty's Government were responsible on the twenty-seventh day of June, 1956;

(*b*) individuals, companies or other juridical persons who, on the twenty-seventh day of June, 1956, were British nationals;

(*c*) individuals, companies or other juridical persons who, after the twenty-seventh day of June, 1956, have succeeded to the rights of British nationals as aforesaid in relation to the claim to which the application relates.

(2) An application under this Part of the Order may be made by a trustee if he is qualified under paragraph (1) of this Article or by a beneficiary if so qualified. An application made by a trustee shall, however, be entertained by the Commission only in so far as the beneficial interest in the claim to which the application relates was, on the twenty-seventh day of June, 1956, owned by a British national.

(3) (*a*) If application is made under this Part of the Order by a trustee and by a beneficiary in relation to the same claim, and both the trustee and the beneficiary are qualified under paragraph (1) of this Article, the Commission may entertain the application made by the trustee in preference to that made by the beneficiary or that made by the beneficiary in preference to that made by the trustee. The Commission shall dismiss the application by the trustee or by the beneficiary, as the case may be, which it has decided not to entertain.

(*b*) If a claim by a trustee is not established because the trustee is not a person qualified to make an application under paragraph (1) of this Article, the Commission may entertain an application by a beneficiary who is so qualified in respect of the same claim or any part of it, provided that the beneficiary's application is received by the Commission not more than two months after the trustee's application has been dismissed, or by the date specified in sub-paragraph (*a*) of paragraph (1) of Article 10 of this Order, whichever is the later.

18. For the purpose of this Part of the Order, and subject to the provisions of paragraph (1) of Article 20 of this Order, the expression "debt" means a sum due or owing, or a claim for unliquidated damages, or a sum deposited in a Hungarian bank by a Hungarian debtor for the purpose of meeting in whole or in part an obligation, but not transferred, in respect of—

(1) the Treasury guarantee, under an agreement of the twenty-eighth day of March, 1927, of £1,000,000 4½ per cent. "A" Debenture Stock of the Hungarian Transdanubian Electrical Company Limited; or

(2) a contract for the sale of goods or a bill of exchange given for the discharge of obligations under any such contract ; or

(3) the servicing, preservation, transport, insuring or advertising of goods in the course of trade, whether or not the goods are the subject of any such contract as aforesaid ; or

(4) agency contracts other than those relating to contracts of insurance or to treaties and contracts of reinsurance ; or

(5) professional charges or disbursements ; or

(6) a contract of insurance (including life and endowment assurance but not including a treaty or contract of reinsurance) concluded with a Hungarian insurance company ; or

(7) a contract for the payment of royalties or for the manufacture of goods under licence ; or

(8) shipping or transport services ; or

(9) an advance, loan, acceptance credit, or other facility originally granted by a British national to a Hungarian national in the course of business.

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

(1) that he is a person qualified under Article 17 of this Order to make such application ; and

(2) that his application relates to a debt ; or to a balance held on the fifteenth day of September, 1947, at a bank in Hungary by a British national and held by a British national from that date until the twenty-seventh day of June, 1956 ; and

(3) in the case of an application relating to a debt,

(*a*) that the debt arose on or before the eighth day of April, 1941 ;

(*b*) that the amount of the debt was, on or before the fifteenth day of September, 1947, outstanding to a British national from the Hungarian Government or a Hungarian national who was on the eighth day of April, 1941, resident or ordinarily carrying on business in Hungary.

20.—(1) No application shall be entertained in respect of a bank balance expressed in pengoes, except as may be provided for in paragraph (3) of this Article, or of a debt expressed in pengoes.

(2) Subject to paragraph (1) of this Article, the assessable amount of a claim in respect of a debt shall be the principal amount outstanding on the twenty-seventh day of June, 1956, and, if the contract expressly provided for the payment of interest, simple interest at the rate stated in the contract up to and including the eighth day of April, 1941.

(3) Where pengoes have been deposited in a bank account by a Hungarian debtor in respect of a debt expressed in sterling or other non-Hungarian currency, the assessable amount of the claim shall be taken to be the value of the debt in sterling or the other non-Hungarian currency, unless the pengoes deposited were accepted by the creditor in full or partial discharge of the debt, in which case the assessable amount of the claim shall be determined in accordance with paragraph (4) of this Article.

(4) The assessable amount of a claim in respect of a bank balance shall be the amount outstanding at the fifteenth day of September, 1947, but account shall be taken of any withdrawals by or on the order of the holder from the bank account after that date.

21. If a debt, as defined in Article 18, is also a debt to which Part V of this Order applies, its assessable amount shall be determined in accordance with the provisions of Article 20 of this Order.

PART III

APPLICATIONS IN RESPECT OF BANK SHARES

22.—(1) The following persons shall be qualified to make application to the Commission for the purpose of establishing claims under this Part of the Order:—

individuals, companies or other judicial persons who, on the twenty-seventh day of June, 1956, were British nationals.

(2) An application under this Part of the Order may be made by a trustee if he is qualified under paragraph (1) of this Article, or by a beneficiary if so qualified. An application by a trustee shall, however, be entertained by the Commission only in so far as the shares to which the application relates were on the twenty-seventh day of June, 1956, held by the trustee on behalf of a British national.

(3) (*a*) If application is made under this Part of the Order by a trustee and by a beneficiary in relation to the same holding of shares and both the trustee and the beneficiary are qualified under paragraph (1) of this Article, the Commission may entertain the application made by the trustee in preference to that made by the beneficiary, or that made by the beneficiary in preference to that made by the trustee. The Commission shall dismiss the application by the trustee or by the beneficiary, as the case may be, which it has decided not to entertain.

(*b*) If a claim by a trustee is not established because the trustee is not a person qualified to make an application under paragraph (1) of this Article, the Commission may entertain an application by a beneficiary who is so qualified in respect of the same claim or any part of it, provided that the beneficiary's application is received by the Commission not more than two months after the trustee's application has been dismissed, or by the date specified in sub-paragraph (*a*) of paragraph (1) of Article 10 of this Order, whichever is the later.

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

(1) that he is a person qualified under Article 22 of this Order to make such application; and

(2) that his application relates to shares held in a Hungarian banking company, which banking company has been affected by the Hungarian Law Number XXX of the first day of December, 1947; and

(3) that the shares to which the application relates were on the first day of December, 1947, owned by a British national, and that they were continuously so owned between that date and the twenty-seventh day of June, 1956.

24. The Commission shall determine the value of the shares to which the application relates by their value on or immediately prior to the first day of September, 1939.

PART IV

CLAIMS UNDER THE TREATY OF PEACE WITH HUNGARY

25. Under this Part of the Order, the Commission shall entertain any claim which is notified to the Commission by Her Majesty's Principal Secretary of State for Foreign Affairs as being a claim by a British national

which has arisen out of Article 26 of the Treaty of Peace with Hungary and in respect of which an application is made to the Commission.

26. To establish a claim to which this Part of the Order applies, the applicant shall first be required to establish to the satisfaction of the Commission

(1) either that on the twenty-seventh day of June, 1956, he was a British national, or that he is a national of one of the United Nations (as defined in paragraph (2) of Article 30 of this Order) and has succeeded to the claim under Article 26 of the Treaty of Peace with Hungary of a person who, on the twenty-seventh day of June, 1956, was a British national.

(2) that on and between the twentieth day of January, 1945, and the fifteenth day of September, 1947, the property, right or interest to which the claim relates was directly or indirectly owned continuously by the claimant or by his predecessor in title who was then either

(*a*) an individual who was a national of any of the United Nations (as defined in paragraph (2) of Article 30 of this Order); or

(*b*) a corporation or association organised under the laws of any of the United Nations (as defined in paragraph (2) of Article 30 of this Order).

(3) that at the date of the injury, loss or damage which is the subject matter of the claim, the property to which the claim relates was owned directly or indirectly by an individual who was a national of any of the United Nations (as defined in paragraph (2) of Article 30 of this Order) or by a corporation or association organised under the laws of any of the United Nations as aforesaid.

27.—(1) If a claim notified to the Commission under Article 25 of this Order is a claim made by a trustee, an application under this Part of the Order may be made either by a trustee, if he fulfils the conditions of paragraph (1) of Article 26 of this Order, or by a beneficiary if he is so qualified.

(2) An application by a trustee shall, however, be entertained by the Commission only in so far as the beneficial interest in the claim to which the application relates was, between the twentieth day of January, 1945, and the fifteenth day of September, 1947, and at the twenty-seventh day of June, 1956, the interest of a British national.

(3) (*a*) If an application under this Part of the Order is made by a trustee and by a beneficiary in relation to the same claim, and both the trustee and the beneficiary are qualified under paragraph (1) of this Article, the Commission may entertain the application made by the trustee in preference to that made by the beneficiary, or entertain the application made by the beneficiary in preference to that made by the trustee. The Commission shall dismiss the application by the trustee or by the beneficiary, as the case may be, which it has decided not to entertain.

(*b*) If a claim by a trustee is not established because the trustee is not a person qualified to make an application under paragraph (1) of this Article the Commission may entertain an application by a beneficiary who is so qualified in respect of the same claim or any part of it provided that the beneficiary's application is received by the Commission not more than two months after the trustee's application has been dismissed, or by the date specified in sub-paragraph (*a*) of paragraph (1) of Article 10 of this Order, whichever is the later.

28. If the applicant has satisfied the requirements of Article 26 of this Order, the Commission in assessing the amount of the claim shall determine the amount of the loss suffered by the applicant or his predecessor in title either

(1) by reason of injury or damage to property in Hungary as the result of the war ; or

(2) by reason of injury or damage as the result of the war to the property in Hungary of a corporation or association in which the applicant or his predecessor in title held directly or indirectly an ownership interest, but which was not itself a national of one of the United Nations (as defined in paragraph (2) of Article 30 of this Order) ; or

(3) by reason of the non-restoration of property which was in Hungary on the fifteenth day of September, 1947, or of legal rights and interests as they existed in Hungary on the fifteenth day of September, 1947 ; or

(4) by reason of loss or damage (other than a loss of profit) due to special measures which were applied to the property during the war, and which were not applicable to Hungarian property ; or

(5) by reason of failure to pay an amount specified in a requisitioning order, or failure to pay, where property was requisitioned, the same amount as was paid in respect of the requisitioning of similar property to Hungarian nationals ; or

(6) by reason of encumbrances or charges to which the property may have become subject as the result of the war ; or

(7) by reason of the payment of any exceptional tax, levy or impost imposed on the capital assets in Hungary of the applicant by the Hungarian Government or any Hungarian authority between the twentieth day of January, 1945, and the fifteenth day of September, 1947, for the specific purpose of meeting charges arising out of the war or of meeting the cost of occupying forces or of reparation payable to any of the United Nations (as defined in paragraph (2) of Article 30 of this Order) ; or

(8) by reason of any reasonable expenses (including the assessment of loss or damage) incurred in Hungary by the applicant in establishing a claim under Article 26 of the Treaty of Peace with Hungary.

29. In determining any application to which this Part of the Order relates, the Commission shall estimate the value of the property which is the subject matter of the claim by reference to its value on or immediately prior to the first day of September, 1939, without taking into account any subsequent change in property values.

30. For the purpose of this Part of the Order—

(1) the duration of the war shall be deemed to be the period between the first day of September, 1939, and the entry into force of the Treaty of Peace with Hungary on the fifteenth day of September, 1947 ;

(2) the expression " United Nations " shall mean France and any Power which, on the fifteenth day of September, 1947, was a member of the United Nations and whose diplomatic relations with Hungary were broken off during the war.

31. If an application made under Article 25 of this Order and an application entertained by the Commission under Part V of this Order relate to the same property, both applications shall be determined by the Commission

as an application under Part V of this Order; but it shall be deemed that prior to nationalisation the property had been restored to complete good order and returned to the applicant freed of all encumbrances and charges to which it had become subject as the result of the war, and any damage suffered by the property as the result of the war shall be taken into account only to the extent that the applicant or his predecessor in title has paid for any repairs made necessary by such damage.

PART V

APPLICATIONS IN RESPECT OF MEASURES OF NATIONALISATION, LAND REFORM, EXPROPRIATION, STATE ADMINISTRATION, OR OTHER SIMILAR MEASURES

32.—(1) The following persons shall be qualified to make application to the Commission for the purpose of establishing claims under this Part of the Order—

(*a*) Her Majesty's Government and the Government of any Territory for the international relations of which Her Majesty's Government are responsible:

(*b*) individuals, companies or other juridical persons who, on the twenty-seventh day of June, 1956, were British nationals, and whose claims to participate in compensation received from the Hungarian Government in respect of measures of nationalisation, land reform, expropriation, state administration and other similar measures were registered by the Commission under the Foreign Compensation (Hungary) (Registration) Order, 1954(**a**), as amended by the Foreign Compensation (Hungary) (Registration) (Amendment) Order, 1954(**b**), or were communicated in writing to Her Majesty's Principal Secretary of State for Foreign Affairs or to the Foreign Compensation Commission before the twenty-seventh day of June, 1956:

(*c*) individuals, companies, or other juridical persons who after the twenty-seventh day of June, 1956, have succeeded to the rights of persons qualified under sub-paragraph (*b*) of paragraph (1) of this Article in relation to the claim to which the application relates.

(2) An application under this Part of the Order may be made by a trustee if he is qualified under paragraph (1) of this Article, or by a beneficiary if so qualified. An application by a trustee shall, however, be entertained by the Commission only in so far as the beneficial interest in the claim to which the application relates was at the relevant date (as defined in Article 37 of this Order), and at the twenty-seventh day of June, 1956, owned by a British national.

(3) (*a*) If application under this Part of the Order is made by a trustee and by a beneficiary in relation to the same claim, and both the trustee and the beneficiary are qualified under paragraph (1) of this Article, the Commission may entertain the application made by the trustee in preference to that made by the beneficiary, or entertain the application made by the beneficiary in preference to that made by the trustee. The Commission shall dismiss the application by the trustee or by the beneficiary, as the case may be, which it has decided not to entertain.

(*b*) If a claim by a trustee is not established because the trustee is not a person qualified to make an application under paragraph (1) of this Article, the Commission may entertain an application by a beneficiary who is so qualified in respect of the same claim or any Part of it, provided that the beneficiary's application is received by the Commission not more than

(**a**) S.I. 1954/219 (1954 I, p. 921). (**b**) S.I. 1954/1371 (1954 I, p. 926).

two months after the trustee's application has been dismissed, or by the date specified in sub-paragraph (*a*) of paragraph (1) of Article 10 of this Order, whichever is the later.

33. To establish a claim under this Part of the Order, any person making application to the Commission shall be required to establish to the satisfaction of the Commission

(1) that he is a person qualified under paragraph (1) of Article 32 of this Order to make such application:

(2) that the property (as defined in Article 35 of this Order) or interest in property (as defined in Article 36 of this Order) to which his application relates was British at the relevant date (as defined in Article 37 of this Order):

(3) that by or under any Hungarian measure (as defined in Article 38 of this Order), he or his predecessor in title has been deprived of title to or enjoyment of such property or that any person for whom he is a trustee and who would himself be qualified to make an application under Article 32 of this Order has been deprived of enjoyment of such property; or, if the claim relates to an interest in any property owned or held by a company to which Article 36 of this Order applies, that, by or under such Hungarian measure, the company has been deprived of title to or enjoyment of that property:

(4) that he or his predecessor in title has suffered loss as a result of such deprivation or, if he is a trustee, that the person for whom he is a trustee and who is qualified as provided in paragraph (3) of this Article has suffered a loss as the result of such deprivation.

Notwithstanding the foregoing, if the property to which paragraph (3) of this Article applies consists of a debt, it shall not be necessary for the person making application to the Commission to prove that he, or his predecessor in title, has been deprived of the legal right to recover the debt, provided that he is able to satisfy the Commission that recovery of the debt has in fact become impossible as the result of the application of a Hungarian measure (as defined in Article 38 of this Order) to the debtor or to the property of the debtor. The expression "the debtor" shall not include a person ordinarily resident or having a principal place of residence outside Hungary.

34. Property or an interest in property shall be deemed to be British if, legally or beneficially, the property was owned or held by, or the interest was the interest of, a British national, provided that property or an interest in property owned or held by a trustee shall be deemed to be British only to the extent to which at the relevant date (as defined in Article 37 of this Order) it was owned or held by the trustee on behalf of any person who was at that date a British national.

35. In this Part of the Order the expression "property" means property of any kind, movable or immovable, whether owned or held directly or through a trustee or nominee.

36. In this Part of the Order the expression "interest in property" means shares or stock in a company incorporated in Hungary; and if any such company had at the material time an interest in property within the meaning of this Article that property shall for the purposes of this Part of the Order be deemed to be property owned or held by the company to the extent of that interest.

37. For the purposes of this Part of the Order, the relevant date shall be the date of publication of the Hungarian measure by or under which the

property or interest in property was affected ; or, if such Hungarian measure was first applied to the property or interest in property to which the claim relates on a date other than the date of publication of the measure, the date on which the person making 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.

38. In this Part of the Order, the expression " Hungarian measure " means any Hungarian law or decree listed in the Schedule to the Foreign Compensation (Hungary) (Registration) Order, 1954, or notified to the Commission under that Order.

39. If any transfer of property, or of any interest in property, to which a claim relates was effected in Hungary between the eighth day of April, 1941, and the twentieth day of January, 1945, 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, the transfer shall be deemed to be void.

40. The Commission shall assess the amount of loss with respect to each claim established under this Part of the Order and in determining any application thereunder shall estimate the value of the property (as defined in Article 35 of this Order) by reference to its value on or immediately prior to the first day of September, 1939, without taking account of any subsequent change in property value.

PART VI

FINAL PROVISION

41.—(1) This Order may be cited as the Foreign Compensation (Hungary) Order, 1958.

(2) The Interpretation Act, 1889(a), shall apply for the purpose of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

(3) This Order shall come into operation on the fourteenth day of April, 1958.

And the Right Honourable Selwyn Lloyd, Her Majesty's Principal Secretary of State for Foreign Affairs, is to give the necessary directions herein.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order provides—

(i) for the determination by the Foreign Compensation Commission of claims to participate in the compensation received by Her Majesty's Government from the Hungarian Government under the Anglo-Hungarian Agreement of June 27, 1956, relating to the Settlement of Financial Matters ; and

(ii) for the distribution of the aforesaid compensation by the Commission to persons who have established claims under the Order.

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