1956 No. 618

The Foreign Compensation (Poland) (Nationalisation Claims) Order, 1956

Made - - - -	*24th April*, 1956
Laid before Parliament	*28th April*, 1956
Coming into Operation	*30th April*, 1956

At the Court at Buckingham Palace, the 24th day of April, 1956

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Foreign Compensation Act, 1950(a) (hereinafter referred to as "the Act"), provides 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"):

And Whereas by Section 3 of the Act Her Majesty is authorised, if Her Majesty's Government in the United Kingdom (hereinafter referred to as "Her Majesty's Government") enter into or contemplate an agreement with the government of any foreign country providing for the payment of compensation by the latter government, to make provision by Order in Council for the determination by the Commission of claims to participate in such compensation, and for the distribution by the Commission of any sums paid to them by Her Majesty's Government, being sums received under the agreement:

And Whereas an Agreement (hereinafter referred to as "the Agreement") entered into between Her Majesty's Government and the Government of Poland on the eleventh day of November, 1954(b), provided for the payment of certain sums by the Government of Poland to Her Majesty's Government as compensation in respect of British property, rights and interests affected by the Polish measures of nationalisation, expropriation and other similar measures which are set out in the Schedule to the Agreement and by regulations made under the aforesaid Polish measures:

And Whereas a Minute concerning compensation for British interests affected by the Polish Law of 3rd January, 1946, regarding the taking over by the State of the basic branches of the national economy, signed in Warsaw on 31st October, 1947(c), (hereinafter referred to as the Minute of 31st October, 1947) contained the provisions set out in Part I of the Second Schedule to this Order; and, under the Agreement, such provisions of the Minute of 31st October, 1947, as are consistent with the provisions of the Agreement continue in force:

And Whereas by Sub-section (1) of Section 4 of the Act, Her 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, Her 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 disposal of any sums in their hands which it is not practicable to distribute:

(a) 14 Geo. 6. c. 12. (b) "Treaty Series No. 77 (1954)," Cmd. 9343.
(c) "Treaty Series No. 23 (1948)," Cmd. 7403.

And Whereas it is now deemed expedient that provision should be made in pursuance of the afore-mentioned provisions of Sections 3, 4 and 7 of the Act:

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:—

1. The Commission shall pay into a fund, to be called the Polish (Nationalisation Claims) 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 as compensation in respect of British property affected directly or indirectly by the Polish measures of nationalisation, expropriation and other similar measures set out in the First Schedule to this Order, and by regulations made under the aforesaid Polish measures.

2.—(*a*) Any sum standing to the credit of the 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 Fund shall be paid into the Fund.

3.—(*a*) The Commission shall make payments out of the 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.

(*c*) If any person who has made application and established a claim 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(**a**).

4.—(*a*) 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.

(*b*) 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.—(*a*) Whether or not all claims under this Order have been finally determined, the Commission may from time to time make interim payments to the persons referred to in Article 3 of 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.

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

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

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

(ii) 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. The following persons shall be qualified to make application to the Commission for the purpose of establishing claims under this 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 who, on the eleventh day of November, 1954, were:

(i) citizens of the United Kingdom and Colonies, or

(ii) British subjects without citizenship, or

(iii) British protected persons as defined by Section 32 of the British Nationality Act, 1948(a);

(*c*) corporations, firms and associations existing on the eleventh day of November, 1954, and 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 that date responsible;

(*d*) individuals, corporations, firms or associations who, after the eleventh day of November, 1954, have succeeded or would, but for the Polish measure giving rise to a claim, have 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. Nothing in this Order shall enable any application to be made to the Commission with respect to the claim of Henckel von Donnersmarck Beuthen Estates Limited referred to in Exchange of Notes No. 4 annexed to the Agreement.

9.—(*a*) An application shall not be entertained by the Commission for the purposes of this Order unless

(i) it has reached the Commission on or before the 24th of April, 1957, and

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

(*b*) The provisions of paragraph (*a*) of this Article shall not prevent the Commission from requiring an application to be resubmitted 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 (*a*) of this Article.

(a) 11 & 12 Geo. 6. c. 56.

(*c*) If an application has been received by the Commission under the Foreign Compensation (Poland) (Debts) Order, 1956(**a**), which, in their opinion, should have been made under this Order, the Commission may treat it as so made.

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

11. To establish a claim under this Order, any person making application to the Commission for that purpose shall be required to establish 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 14 of this Order) or interest in property (as defined in Article 15 of this Order) to which his application relates was British at the relevant date (as defined in Article 16 of this Order) ;

(*c*) that, by or under any Polish measure (as defined in Article 17 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 7 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 corporation to which Article 15 of this Order applies that, by or under such Polish measure, the corporation has been deprived of title to or enjoyment of that property ;

(*d*) 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 sub-paragraph (*c*) above has suffered a loss as the result of such deprivation.

Notwithstanding the foregoing, if the property to which sub-paragraph (*c*) 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 as the result of the application of a Polish measure (as defined in Article 17 of this Order) to the Polish debtor or his property recovery of the debt has in fact become impossible.

12. 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*) any individual who at the relevant date (as defined in Article 16 of this Order) was (or would have been if the British Nationality Act, 1948, had then been in force) a citizen of the United Kingdom and Colonies, a British subject without citizenship, or a British protected person as defined by Section 32 of that Act ;

(*b*) any corporation, firm or association which at the relevant date (as defined in Article 16 of this Order) was incorporated or constituted under the laws in force in the United Kingdom or any territory for whose international relations Her Majesty's Government were at that date responsible ;

(a) S.I. 1956/617 (p. 1036 above).

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, it was owned or held by the trustee on behalf of any person who was at that date (or would have been if the British Nationality Act, 1948, had then been in force) a citizen of the United Kingdom and Colonies, a British subject without citizenship, or a British protected person as defined by Section 32 of the British Nationality Act, 1948, or of a corporation as defined in sub-paragraph (*b*) of this Article.

13.—(*a*) In this Order, the expression "predecessor in title" means 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.

(*b*) Where there has been any assignment after the relevant date, the Commission shall entertain an application made by the assignor in preference to one made by the assignee, but if the assignor has died, or is otherwise unable or is unwilling to apply, the Commission may entertain an application by the assignee.

14.—(*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, but shall not include a debt as defined in the Foreign Compensation (Poland) (Debts) Order, 1956.

(*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 shall entertain the application made by the beneficiary if so qualified.

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

(i) Shares or stock in a corporation incorporated under the laws in force in Poland;

(ii) The interests defined in sub-paragraphs (*b*) and (*c*) of paragraph 10 of the Minute of 31st October, 1947, reproduced in Part I of the Second Schedule to this Order. In the case of those companies listed in Part II of the aforesaid Schedule the conditions set out in the provisos to sub-paragraphs (*b*) and (*c*) of paragraph 10 of the Minute of 31st October, 1947, shall be deemed by the Commission to have been satisfied.

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

(*c*) For the purpose of this Article and Part I of the Second Schedule to this Order, the expression "Poland" means territory which on the thirty-first day of October, 1947, was under the administration of the Polish Government.

16. For the purposes of this Order, the relevant date shall be the date of publication in the Polish Law Journal, of the Polish law or decree by or under which property or the interest in property was affected, except that in the case of property or an interest in property affected by the laws or decrees numbered 9, 11 and 12 in the First Schedule to this Order, the relevant date shall be the date prior to the eleventh day of November, 1954,

on which the person making the application or his predecessor in title, was deprived of title to or enjoyment of the property to which the claim relates or, if the claim relates to an interest in property, the date prior to the eleventh day of November, 1954, on which the corporation which owned or held the property was deprived of title to or enjoyment of that property.

17. In this Order, the expression "Polish measure" means any Polish law or decree listed in the First Schedule to this Order, and any decree, order, regulation or act made or done thereunder.

18. If any transfer of property, or of any interest in property to which a claim relates was effected either in Danzig or in a part of Poland under German occupation between the first day of September, 1939, and the eighth 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.

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 assessable amount of a claim in respect of a debt shall be the principal amount due and outstanding on the eleventh day of November, 1954, 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 thirty-first day of August, 1939.

(*c*) Subject to the provisions of paragraph (*b*) of this Article, the amount of loss 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 Polish measure or measures;

(*b*) shall have such regard as the Commission may deem proper to the debts and other liabilities and the credits and other assets associated with the enterprise or business in Poland; 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 Funds established under this Order and the Foreign Compensation (Poland) (Debts) Order, 1956.

21.—(*a*) Subject to the provisions of paragraph (*b*) 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 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.

(*b*) If the person for whose benefit the payment is to be made is an infant, the Commission shall, as a condition of the making of any payment into court under paragraph (*c*) 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 property or interest in property to which the claim relates and, in so far as such documents are not available, to execute and deliver to the Commission a document in such form as the Commission may determine declaring that the infant renounces all claims in respect of the property or interest in question; and a document so surrendered or executed and delivered to the Commission shall operate as a valid surrender or renunciation, as the case may be, by the infant of all such claims.

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 Fund or until the aforesaid 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 (Poland) (Nationalisation Claims) Order, 1956.

(*b*) 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.

(*c*) This Order shall come into operation on the 30th day of April, 1956.

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.

FIRST SCHEDULE

1. Law of 3rd January, 1946, regarding the taking over by the State of the Basic Branches of the National Economy. (Law Journal of 1946, No. 3, Item 17.)

2. Decree of the Polish National Liberation Committee of 6th September, 1944, regarding the realisation of agrarian reform. (Law Journal of 1945, No. 3, Item 13.)

3. Decree of 28th November, 1945, regarding the taking over of certain landed property for the purpose of agrarian reform and agrarian resettlement. (Law Journal of 1945, No. 57, Item 321.)

4. Decree of the Polish National Liberation Committee of 12th December, 1944, regarding the taking over by the State of certain forests. (Law Journal of 1944, No. 15, Item 82.)

5. Decree of 26th October, 1945, regarding the ownership and use of sites in the area of the capital city of Warsaw. (Law Journal of 1945, No. 50, Item 279.)

6. Decree of 26th October, 1945, regarding the demolition and repair of buildings destroyed and damaged during the War. (Law Journal of 1947, No. 37, Item 181.)

7. Decree of 8th March, 1946, regarding abandoned property and property previously owned by German nationals. (Law Journal of 1946, No. 13, Item 87.)

8. Law of 8th January, 1951, regarding the taking over by the State of pharmacies. (Law Journal of 1951, No. 1, Item 1.)

9. Decree of 16th December, 1918, regarding compulsory State Administration. (Law Journal of 1918, No. 21, Item 67.)

10. Decree of 7th April, 1948, regarding the expropriation of estates occupied for the purpose of public use during the 1939-1945 War. (Law Journal of 1948, No. 20, Item 138.)

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

11. Decree of 26th April, 1949, regarding the acquisition and the transfer of real property required for the realisation of the National Economic Plans. (Law Journal of 1952, No. 4, Item 31.)

12. Law of 20th July, 1950, regarding the registration of machines and the purchase of industrial machines not in use. (Law Journal of 1950, No. 31, Item 285.)

13. Decree of 6th September, 1951, regarding the liquidation of deposits and liens deposited before 9th May, 1945, and also of all bills of exchange, cheques and other documents deposited before that date. (Law Journal of 1951, No. 47, Item 344.)

14. Law of 18th November, 1948, regarding the transfer of certain forests and other communal land to the State. (Law Journal of 1948, No. 57, Item 456.)

15. Decree of 3rd February, 1947, regarding the registration and cancellation of certain bearer bonds issued before 1st September, 1939. (Law Journal of 1948, No. 28, Item 190.)

16. Decree of 27th July, 1949, concerning the taking over by the State of rural property not in the possession of the owners situated in certain districts of the Voivodships of Bialvstok, Lublin, Rzeszow and Cracow. (Law Journal of 1949, No. 46, Item 339.)

SECOND SCHEDULE

PART I

III. PRINCIPLES OF COMPENSATION TO BRITISH OWNERS AND SHAREHOLDERS

10.—(*a*) The Polish Government will grant compensation to British owners and shareholders to the extent of their interests as owners of, or as shareholders in companies which owned, any of the following undertakings:—

(i) Undertakings nationalised under article 3 of the Nationalisation Law; or

(ii) Undertakings nationalised under article 2 of the Nationalisation Law owned by companies having their legal seat in Poland.

(*b*) The Polish Government will grant compensation to British owners and shareholders to the extent of their interests as owners of, or as shareholders in companies which owned, undertakings nationalised under article 2 of the Nationalisation Law owned by companies having their legal seat within the present administrative boundaries of Germany, if—

(i) the combined shareholding of United Nations nationals, whether held directly or indirectly, including holding through the medium of subsidiary companies, amounts to 90 per cent. or more of the total shareholdings in the company; or

(ii) although such combined shareholding is less than 90 per cent., substantially the whole assets of the company were, on 1st September, 1939, located in Poland.

(*c*) The Polish Government will also grant compensation to British owners and shareholders to the extent of their interests, in companies which owned undertakings mentioned in sub-paragraph (*a*) of this paragraph, held indirectly through companies having their legal seat within the present administrative boundaries of Germany, if—

(i) the combined shareholding of United Nations nationals, whether held directly or indirectly, including holding through the medium of subsidiary companies, amounts to 90 per cent. or more of the total shareholding in the company which owned the undertaking; or

(ii) although such combined shareholding is less than 90 per cent., substantially the whole assets of the company were, on 1st September, 1939, located in Poland.

PART II

Oberschlesische Kesselwerke.
Elektrizitaetswerk Schlesien A.G.
Saarauer Muhlenwerke G.m.b.H. (including N.A.R. Building).
Rosenthaler Muhlenwerke A.G.
Okruna Kartoffelwerk G.m.b.H.
Olex.
Deutsche Shell A.G.

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, in respect of measures of nationalisation, expropriation and other similar measures, which is received by Her Majesty's Government from the Polish Government under the Anglo-Polish Agreement of November 11, 1954, regarding 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.

1956 No. 832

The Foreign Compensation (Yugoslavia) (Amendment) Order, 1956

Made - - - -	1*st June*, 1956
Laid before Parliament	6*th June*, 1956
Coming into Operation	11*th June*, 1956

At the Court at Buckingham Palace, the 1st day of June, 1956.

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Foreign Compensation Act, 1950(a) (hereinafter referred to as "the Act"), provides 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"):

And Whereas by Sub-section (1) of Section 2 of the Act, Her Majesty is authorised by Order in Council to make provision for the distribution by the Commission of such sums as may be paid to the Commission by Her Majesty's Government in the United Kingdom, being sums received under the Agreements entered into between the Government of Yugoslavia on the twenty-third day of December, 1948(b), and the twenty-sixth day of December, 1949(c), 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 (2) of Section 2 of the Act, Her Majesty is authorised by Order in Council to make provision for defining the persons who are to be qualified, in respect of nationality or status, to make applications to the Commission for the purpose of establishing such claims as aforesaid, and for imposing any other conditions to be fulfilled before such claims can be entertained; and for requiring documents of title relating to property in respect of which claims are established to be surrendered to the Commission, and for securing the abandonment or extinction of rights in respect of which claims are established:

And Whereas it was so provided by the Foreign Compensation (Yugoslavia) Order in Council, 1950(d), as amended by the Foreign Compensation (Yugoslavia) (Amendment) Order, 1952(e), and the Foreign Compensation (Yugoslavia) (Amendment) Order, 1953(f) (hereinafter referred to together as "the Order"):

(a) 14 Geo. 6. c. 12. (b) "Treaty Series No. 2 (1949)," Cmd. 7600.
(c) "Treaty Series No. 5 (1950)," Cmd. 7875. (d) S.I. 1950/1192 (1950 I, p. 780).
(e) S.I. 1952/1414 (1952 I, p. 1096). (f) S.I. 1953/1210 (1953 I, p. 827).