# The Foreign Compensation (Yugoslavia) Order in Council, 1950

## 1950 No. 1192

| | |
|---|---|
| *Made* - - - - | 21*st July*, 1950 |
| *Laid before Parliament* | 22*nd July*, 1950 |
| *Coming into Operation* | 1*st August*, 1950 |

At the Court at Buckingham Palace, the 21st day of July, 1950

Present,

The King's Most Excellent Majesty in Council

Whereas Agreements (hereinafter referred to as " the Yugoslav Agreements ") entered into between the Government of the United Kingdom and the Government of Yugoslavia on the twenty-third day of December, 1948,(a) and the twenty-sixth day of December, 1949(b), provided for the payment of certain sums by the Government of Yugoslavia to the Government of the United Kingdom as compensation in respect of British property, rights and interests affected by various Yugoslav measures ;

And Whereas the Foreign Compensation Act, 1950(c) (hereinafter referred to as " the Act "), provided for the constitution for the purposes of the Act of a Commission, to be called the Foreign Compensation Commission (hereinafter referred to as " the Commission ") ;

And Whereas by Section 2 of the Act, His Majesty is authorised by Order in Council to provide for the distribution by the Commission of such sums as may be paid to the Commission by His Majesty's Government in the United Kingdom, being sums received under the Yugoslav Agreements, 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 (3) of the said Section 2, His Majesty is authorised by Order in Council to provide for the appointment by any of the Governments named in that Sub-section of a person to be treated as a member of the Commission for the purpose of determining such classes of application as may be prescribed by the Order ;

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

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

(a) " Treaty Series No. 2 (1949)," Cmd. 7600. (b) " Treaty Series No. 5 (1950)," Cmd. 7875.
(c) 14 Geo. 6. c. 12.

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

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

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

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

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

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

**4.**—(*a*) The payment in respect of each claim established under this Order shall be a fraction of the distributable amount of the Yugoslav 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 Yugoslav Fund after the deduction of the amount of any payments made therefrom into the Exchequer in accordance with any Order in Council made under Sub-section (2) of Section 7 of the Act.

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

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

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

(*a*) The Governments of the United Kingdom, Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa, India, Pakistan, Ceylon and of any territory for the foreign relations of which the Government of any of the aforesaid countries is responsible;

(*b*) individuals who, on the first day of January, 1949, were (i) British subjects within the meaning of the British Nationality Act, 1948(a), or (ii) British-protected persons as defined in Sub-Section (1) of Section 32 of that Act, or (iii) persons who, because of the accession of their State to India or Pakistan have become citizens or potential citizens of India or Pakistan within the meaning of that Act (for purposes of the interpretation of subsequent provisions of this Order, such persons shall be deemed to be included within the expression " British-protected persons ");

(*c*) corporations existing on the first day of January, 1949, which were incorporated under the laws in force in the United Kingdom, Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa, India, Pakistan, Ceylon or in any territory for the foreign relations of which the Government of any of the aforesaid countries was responsible on the said date ; and

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

**8.** An application shall not be entertained by the Commission for the purposes of this Order unless—

(*a*) the claim to which the application relates shall have been notified to the Commission by one of the Governments mentioned in paragraph (*a*) of Article 7 of this Order ; and

(*b*) the application is made in accordance with the rules regulating the procedure of the Commission made under Section 4 of the Act.

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

**10.** If the Government of Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa, India, Pakistan, Ceylon or Southern Rhodesia has notified claims to the Commission for the purposes of this Order, that Government may appoint a person who shall be treated as a member of the Commission for the purpose of determining all applications relating to the claims so notified by that Government. Any person so appointed shall be entitled to take part in determining any such application and, for the determination thereof, shall be deemed to be a member of the Commission for the purpose of Article 9 of this Order.

**11.** To establish a claim under this Order, any person, making application to the Commission for that purpose, shall be required to prove to the satisfaction of the Commission that he is a person qualified to make such application, and—

(*a*) (i) 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 17 of this Order) ;

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

(ii) that, by or under any Yugoslav measure as defined in Article 18 of this Order, he or his predecessor in title has been deprived of title to or enjoyment of such property or, if the claim relates to an interest in property owned or held by a corporation, that, by or under such Yugoslav measure, the corporation has been deprived of title to or enjoyment of that property; and

(iii) that he or his predecessor in title has suffered loss as a result of such deprivation; or

(*b*) that his claim relates to a debt within the meaning of Article 16 of this Order.

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

(*a*) any Government mentioned in paragraph (*a*) of Article 7 of this Order, or

(*b*) any individual who was a British subject or a British-protected person, or

(*c*) any corporation which was incorporated under the laws in force in the United Kingdom, Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa, India, Pakistan, Ceylon or in any territory for the foreign relations of which any of the aforesaid countries was responsible on the relevant date.

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

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

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

(*b*) Where there has been any assignment after the relevant date, the application, if any, shall be made by the assignor but, if, by virtue of the option with regard to the relevant date granted under Article 17 of this Order to the person making application, there might be more than one person entitled to make application under this Order, the later date referred to in Article 17 shall be taken as the revelant date for the purpose of determining by whom the application should be made.

**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.

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

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

(i) in relation to property owned or held by a corporation incorporated under the laws in force in Yugoslavia, any shares or stock in that corporation; and

(ii) in relation to property owned or held by a corporation incorporated under the laws in force in any country, other than Yugoslavia or any of the countries and territories mentioned in paragraph (*c*) of Article 12 of this Order, any shares or stock in that corporation, provided that the Government of the country under the laws of which the corporation was incorporated has, by or in accordance with the provisions of any agreement between that Government and the Government of Yugoslavia signed before the date of this Order, excluded the interest to which the application relates from compensation paid or to be paid to that Government by the Government of Yugoslavia in respect of property, rights and interests affected by the relevant Yugoslav measure or measures.

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

**16.**—(*a*) In this Order, the expression "debt" means any trade or commercial debt, or any other debt arising out of contract, incurred by the owner of any British property, who was deprived of title to or enjoyment of that property by or under any Yugoslav measure, if—

(i) the debt was so incurred in the course of conduct of the enterprise or business in which such property was used;

(ii) on the twenty-third day of December, 1948, the debt was due to the person making application, or to his predecessor in title, who was at that date a British subject or a British-protected person or a corporation to which the provisions of paragraph (*c*) of Article 12 of this Order apply; and

(iii) the debt was due at that date from the Government of Yugoslavia or from any Yugoslav citizen or from any corporation incorporated under the laws in force in Yugoslavia.

(*b*) For the purposes of this Article, property shall be deemed to have been British, if at the revelant date it was British within the meaning of Article 12 of this Order or was owned by a corporation, incorporated under the laws in force in Yugoslavia, the control of which was vested in any individuals or corporations to which the provisions of paragraph (*b*) or (*c*) of Article 12 of this Order apply.

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

(*a*) the date of entry into force of the Yugoslav law or decree by or under which the property or interest in property was affected, or

(*b*) the date on which the property or interest in property to which the claim relates was placed under State administration or otherwise taken over by the Yugoslav State.

**18.** In this Order, the expression "Yugoslav measure" means any of the following Yugoslav laws and decrees and any decree, order or act made or done thereunder:—

(*a*) Decree of the twenty-first day of November, 1944, made by the Anti-Fascist Provincial Government of Yugoslavia concerning Transfer to State Ownership of Enemy Property, Government Control of Absentees' Property and Sequestration of Property Seized by Enemy Authorities;

(*b*) Law of the twenty-fourth day of May, 1945, concerning—

(i) Disposition of Property Abandoned by its Owner during the Occupation and of the Property Confiscated by the Occupying Power or by Régimes Subordinate to it, and

(ii) The Protection and Management of State Property;

(*c*) Law of the second day of August, 1946, concerning the confirmation of and alterations to the Law mentioned in sub-paragraph (i) of paragraph (*b*) of this Article;

(*d*) Law of the twenty-third day of August, 1945, concerning Agrarian Reform and Colonisation;

(*e*) Decree of the fifth day of December, 1946, promulgating the Law concerning the Nationalisation of Private Economic Enterprises;

(*f*) Law of the twenty-eighth day of April, 1948, concerning Alterations and Additions to the Law mentioned in paragraph (*e*) of this Article.

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

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

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

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

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

(*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 Yugoslav Fund; and

(*d*) shall, if the claim relates to a debt, treat the debt as though it were an interest in any property used in the course of conduct of the enterprise or business in which the debt was incurred.

**21.** Nothing in this Order shall enable any application to be made to the Commission with respect to the claim of Messrs. Guinness, Mahon Executor and Trustee Company, Limited, referred to in the Notes dated the twenty-third day of December, 1948, exchanged between the Government of the United Kingdom and the Government of Yugoslavia.

**22.** The Commission shall, as a condition of the making of any payment to any person under this Order—

(*a*) if his claim relates to property, or an interest in property, 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, and

(*b*) if his claim relates to a debt, 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 debt in question.

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

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

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

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

*E. C. E. Leadbitter.*

---

## EXPLANATORY NOTE

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

The main purposes of this Order are two. First, Articles 1 to 6 inclusive and Articles 8, 9 and 10 make certain administrative and financial provisions. They supplement the general provisions made in the Foreign Compensation (Administrative and Financial Provisions) Order in Council, 1950, but they are included in this Order because they relate only to the series of claims against the Yugoslav Fund into which will be paid moneys received under the Anglo-Yugoslav Compensation Agreements of 1948 and 1949. Secondly, Article 7 and Articles 11 to 21 inclusive of the Order provide the law to be applied by the Foreign Compensation Commission in determining claims against the Yugoslav Fund.

The Order is based on the draft which was published in the Command Paper on the Foreign Compensation Bill, 1950, issued when the Foreign Compensation Bill was introduced into the House of Commons (Cmd. 7942). A number of amendments have been made, the majority of which are intended to clarify the text. The more important amendments affect Articles 11, 14, 15 and 20 (*b*).