2. REMITTED CLAIMS

The War Damage (Remitted Claims) Regulations, 1949

1949 No. 2019

Made - - - -	31*st October*, 1949
Laid before Parliament	2*nd November*, 1949
Coming into Operation	4*th November*, 1949

The Lords Commissioners of His Majesty's Treasury in pursuance of the powers conferred upon them by virtue of Section 31 of the War Damage Act, 1943(a) (hereinafter referred to as " the principal Act "), Sections 9 and 17 of the War Damage (Public Utility Undertakings, &c.) Act, 1949(b) (hereinafter referred to as " the Act of 1949 "), and paragraph 5 of the Third Schedule to the Act of 1949 and of all other powers enabling them in that behalf hereby make the following Regulations :—

1.—(1) These Regulations may be cited as The War Damage (Remitted Claims) Regulations, 1949, and shall come into operation on the fourth day of November, 1949.

(2) The Interpretation Act, 1889(c), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

2.—(1) These Regulations shall apply to the following claims :—

(*a*) any claim (hereinafter referred to as " a remitted claim ") to the War Damage Commission (hereinafter referred to as " the Commission ") for a payment in respect of any war damage to which the provisions of the principal Act as to payments in respect of war damage to land under Part I thereof are to apply by virtue of paragraph (*a*) of sub-section (2) of section 9 of the Act of 1949, or as to which the provisions of the principal Act are to have effect by virtue of sub-section (3) of Section 17 of the Act of 1949 ;

(*b*) any claim (hereinafter referred to as " a paragraph 2 claim ") to the Commission for a payment which the Commission may be liable to make by virtue of the provisions of sub-paragraph (1) (*b*) of paragraph 2 of the Third Schedule to the Act of 1949 ; and

(*c*) any claim (hereinafter referred to as " a paragraph 3 claim ") to the Commission for a payment which the Commission may be liable to make by virtue of the provisions of sub-paragraph (*b*) of paragraph 3 of the Third Schedule to the Act of 1949.

(2) The War Damage (Notification and Claims) Regulations, 1944(d), shall not apply to any claim to which these Regulations apply.

3. Any notification of damage, claim for payment, application, particulars or statement to be given, made or furnished under these Regulations shall be given, made or furnished on a form or forms to be supplied by the Commission for the purpose on demand free of charge.

(a) 6 & 7 Geo. 6. c. 21.
(b) 12, 13 & 14 Geo. 6. c. 36.
(c) 52 & 53 Vict. c. 63.
(d) S.R. & O. 1944 (No. 816) I, p. 1046.

4.—(1) Any person who proposes to make a claim to which these Regulations apply shall within six months from the date when these Regulations come into operation, or within thirty days after the occurrence of the event which caused the damage, whichever is the later, notify the Commission of the damage.

(2) Such notification shall contain such of the following particulars as the Commission may require when supplying the form :—

(*a*) The name and address of the person giving the notification and an address to which communications can be sent by the Commission to him ;

(*b*) the full postal address of the land ;

(*c*) particulars as to the land and the buildings and works thereon immediately before the occurrence of the war damage and as to the purposes for which they were normally used ;

(*d*) particulars as to the date, cause and extent of the war damage ;

(*e*) particulars as to any repairs which have already been done, or are intended to be done, by the person giving the notification or by any Government Department or Local Authority ;

(*f*) particulars of the interest in the land, immediately before the occurrence of the war damage, of the person giving the notification and of any other interests therein subsisting at that time of which he may be aware ;

(*g*) where the land at the date of the occurrence of the war damage was requisitioned land, or had been taken over by a Government Department or Local Authority under agreement at any time since the 24th August, 1939, particulars as to the requisition and taking over of the land ;

(*h*) references to the provisions of the principal Act and of the Act of 1949 under which the person giving the notification proposes to make a claim ; and

(*i*) any further particulars reasonably required by the Commission to enable them to verify the fact and extent of the war damage.

5.—(1) Where, before the coming into force of these Regulations, war damage has occurred to land and notification of the damage has been given by the person who proposes to make a claim to which these Regulations apply—

(*a*) to the Valuation Department of the Inland Revenue in the manner, and within the time, required by that Department, or

(*b*) to the Commission in the manner and within the time required under the War Damage (Notification and Claims) Regulations, 1941(**a**), or the War Damage (Notification and Claims) Regulations, 1944,

such notification shall be treated for the purposes of these Regulations as having been given by that person in accordance with the provisions of Regulation 4, but that person shall, if so required by the Commission and within thirty days after receipt of the request, furnish to the Commission any particulars specified in paragraph (2) of Regulation 4 which were not included in his notification to the Valuation Department or the Commission as the case may be.

(2) Where, before the coming into force of these Regulations, war damage has occurred to land and notification has been given by the person who proposes to make a claim to which these Regulations apply to any Government Department other than the Valuation Department of the Inland Revenue,

(**a**) S.R. & O. 1941 (No. 569) I, p. 1162.

the Commission may treat such notification for the purposes of these Regulations as having been given by that person in accordance with the provisions of Regulation 4, but that person shall, if so required by the Commission and within thirty days after receipt of the request, furnish to the Commission any particulars specified in paragraph (2) of Regulation 4 which were not included in his notification to the Government Department.

6.—(1) A remitted claim for a payment of cost of works or for a temporary works payment shall be made within thirty days after the receipt by the claimant of the form of claim, or within thirty days after the completion of the works in respect of which the claim is made, whichever is the later.

(2) The claimant shall, as and when required by the Commission and within thirty days after receipt of the request, furnish to the Commission:—

(*a*) particulars as to the works executed in respect of which the claim is made and as to the cost thereof;

(*b*) the time at which the works were commenced and completed;

(*c*) particulars as to any works not yet executed and necessary to reinstate the hereditament in the form in which it was immediately before the war damage and an estimate of the cost of executing such works;

(*d*) particulars as to any part of the hereditament the reinstatement of which could have been, or in the case of works not yet executed could be, omitted without detracting from the value of the hereditament or the omission of which has increased, or would increase, its value;

(*e*) particulars as to any alterations or additions to the hereditament made, or intended to be made, apart from reinstatement;

(*f*) particulars of any part of the damage which it is desired shall not be made good and for which it is intended to claim a value payment in lieu of a cost of works payment;

(*g*) if any further war damage has occurred to the hereditament since the delivery of the notification of damage, particulars as to the date, cause and extent thereof;

(*h*) particulars as to the disposal and value of any articles which formed part of the hereditament and have become available as materials in consequence, whether directly or indirectly, of the war damage, and of any articles provided for the purpose of works the proper cost of which has been or is to be included in a temporary works payment and which have become available as materials on the execution of subsequent works;

(*i*) particulars of any sums received, or expected to be received, from a Government Department or Local Authority in respect of the war damage;

(*j*) a statement of the amount claimed from the Commission, together with such particulars thereof as the Commission may reasonably require to enable them to verify the claim.

(3) The claimant shall, if the Commission so require, verify the particulars furnished under the foregoing paragraph by producing to the Commission:—

(*a*) a detailed account of the works executed by the builder or contractor employed by the claimant and of the cost of such works;

(*b*) a certificate by the builder or contractor employed by the claimant as to the works executed and the cost thereof in a form to be supplied by the Commission;

(*c*) if the claimant has employed an architect, engineer, surveyor, land agent, or other person in an advisory or supervisory capacity in connection with the execution of the works :—

(i) a certificate by that person as to the works executed and the cost thereof in a form to be supplied by the Commission ;

(ii) the account for that person's fee for advising on, or supervising, the execution of the works ;

(*d*) such other relevant invoices, vouchers, estimates and documents as the Commission may reasonably require.

7.—(1) A remitted claim for a value payment or a share thereof shall be made within six months after the receipt by the claimant of the form of claim.

(2) The claimant shall, as and when required by the Commission and within thirty days after receipt of the request, furnish to the Commission :—

(*a*) particulars of evidence of his title to the right to receive the value payment or a share thereof ;

(*b*) particulars as to any leases or tenancies from which the proprietary interest in respect of which the claim is made is derived or which are derived from that proprietary interest, and as to any notice of retention or effective disclaimers under the Landlord and Tenant (War Damage) Acts, 1939(**a**) and 1941(**b**), or the Landlord and Tenant (Requisitioned Land) Act, 1942(**c**), in respect of any of those leases or tenancies ;

(*c*) particulars as to any rentcharge created out of the proprietary interest in respect of which the claim is made, including the name and last known address of the person who was the owner of the rentcharge at the time by reference to which the vesting of the right to receive the value payment is regulated ;

(*d*) particulars as to any restrictive covenant, easement, quasi-easement or other right enuring for the benefit of other land, any public right of way, right of common or other right enuring for the benefit of the public or any section thereof, and any restriction or liability imposed by or under any enactment passed before the War Damage Act, 1941(**d**), to which the hereditament was subject immediately before, and immediately after, the occurrence of the war damage ;

(*e*) particulars as to any article, building or work, which formed part of the hereditament immediately before the occurrence of war damage, which a person had a right to remove so as to be entitled on removing it to it or to the materials of it, or which a person, not having a proprietary interest in the hereditament, had placed therein and could have been required to remove ;

(*f*) particulars as to the disposal and value of any articles which formed part of the hereditament and have become available as materials in consequence, whether directly or indirectly, of the war damage, and of any articles provided for the purpose of works the proper cost of which has been, or is to be, included in a temporary works payment ;

(*g*) particulars as to any chattels personal falling within the meaning in the principal Act of the expression "land" which were on, over or under the hereditament immediately before the occurrence of the war damage ;

(*h*) particulars of any sums received, or expected to be received, from a Government Department or Local Authority in respect of the war damage ;

(**a**) 2 & 3 Geo. 6. c. 72.
(**b**) 4 & 5 Geo. 6. c. 41.
(**c**) 5 & 6 Geo. 6. c. 13.
(**d**) 4 & 5 Geo. 6. c. 12.

(*i*) a statement of the amount claimed from the Commission, together with particulars showing, by reference to the value of the hereditament in the state in which it was immediately before, and the value of the hereditament in the state in which it was immediately after, the occurrence of the war damage, how the amount has been calculated or estimated, and such other particulars as the Commission may reasonably require to verify the claim.

(3) The claimant shall, if the Commission so require, verify the particulars furnished under the foregoing paragraph by producing to the Commission such relevant invoices, vouchers, estimates and documents as the Commission may reasonably require.

(4) The value for the purposes of sub-paragraph (i) of paragraph (2) shall be estimated in the manner prescribed by the principal Act.

8.—(1) A paragraph 2 claim shall be made within thirty days after the receipt by the claimant of the form of claim, or within thirty days after the completion of the works in respect of which the claim is made, whichever is the later, and a paragraph 3 claim shall be made within six months after the receipt by the claimant of the form of claim.

(2) The claimant shall, as and when required by the Commission and within thirty days after receipt of the request, furnish to the Commission :—

(*a*) a certificate by a responsible officer of the body in whom the right to a payment in respect of the war damage is vested under Section 1 of the Act of 1949 certifying that:—

(i) no payment by that body has been or will be made to the claimant in respect of the cost of the works executed by the claimant, or in respect of the damage to the removable articles, buildings or works, as the case may be ; and

(ii) in the opinion of that body the claimant is properly entitled to the payment which he is claiming ;

(*b*) such of the particulars specified in Regulations 6 and 7 as the Commission may require him to furnish, verified in such manner as is mentioned in those Regulations ; and

(*c*) in the case of a paragraph 3 claim, particulars of the removable articles, buildings or works in respect of which the claim is made, and a statement of the amount claimed from the Commission, together with such particulars thereof as the Commission may require to enable them to verify the claim.

(3) Where the claimant is unable to furnish such a certificate as is specified in sub-paragraph (*a*) of paragraph (2) of this Regulation, he shall supply to the Commission copies of all correspondence relating to his claim which has passed between himself and the body mentioned in that sub-paragraph, together with such other particulars as the Commission may reasonably require.

9. The Commission may require any information given to them under these Regulations to be verified by a Statutory Declaration.

10.—(1) It shall be a condition of the right to receive a payment of cost of works or a temporary works payment in respect of a remitted claim that—

(*a*) notification of the damage has been given, or has been treated as having been given, in accordance with the provisions of these Regulations ; and

(*b*) a claim for payment in respect thereof has been duly made in accordance with the provisions of these Regulations by the person who at the time the claim was made was entitled to receive the payment; and

(*c*) the requirements of these Regulations and of the Commission thereunder have been duly observed.

(2) Where the Commission determine that a value payment shall be made in respect of a remitted claim relating to war damage to any hereditament, it shall be a condition of the receipt of a payment in respect of any proprietary interest in that hereditament that—

(*a*) notification of the occurrence of the war damage to the land in respect of which the claim is made, being land comprised in that hereditament or of which that hereditament forms part, has been given, or has been treated as having been given, in accordance with the provisions of these Regulations by the owner of that proprietary interest, or by the mortgagee if the claimant claims as a mortgagee of that proprietary interest under a mortgage subsisting immediately before the occurrence of the war damage; and

(*b*) a claim for payment has been duly made in accordance with the provisions of these Regulations by the person who at the time the claim was made was entitled to receive the payment; and

(*c*) the requirements of these Regulations and of the Commission thereunder have been duly observed.

(3) It shall be a condition of the right to receive a payment in respect of a paragraph 2 claim or a paragraph 3 claim that the requirements of these Regulations and of the Commission thereunder have been duly observed.

11. For the purposes of these Regulations any document sent under these Regulations to any person by the Commission or by any person to the Commission shall, in the first case, if addressed and posted to the person either at the address specified by him in the notification of damage sent by him to the Commission or at his place of residence last notified to the Commission, and, in the second case, if addressed and posted to the Commission at the office of the Commission specified in the document, be deemed to be received by the addressee at the time when it would reach the address in the ordinary course of post.

12. A person may make a claim under these Regulations either personally or by an agent authorised by him in that behalf and, in the case of a notification of damage, the Commission may accept, as a notification given by any person, a notification given on his behalf by any person who, in the opinion of the Commission, is interested in the land or by any member of his family or other person accustomed to act in relation to his affairs.

13.—(1) These Regulations shall in their application to Scotland have effect subject to the following modifications:—

(*a*) for references to the War Damage (Notification and Claims) Regulations, 1941 and to the War Damage (Notification and Claims) Regulations, 1944 there shall be respectively substituted references to the War Damage (Notification and Claims) (Scotland) Regulations, 1941(**a**) and to the War Damage (Notification and Claims) (Scotland) Regulations, 1944(**b**);

(a) S.R. & O. 1941 (No. 660) I, p. 1169.
(b) S.R. & O. 1944 (No. 817) I, p. 1055.

(*b*) paragraph (2) of Regulation 7 shall have effect as if—

(i) for any reference to a notice under any of the Acts mentioned in sub-paragraph (*b*) there were substituted a reference to abandonment of a lease;

(ii) for the reference in sub-paragraph (*c*) to a rentcharge created out of a proprietary interest there were substituted a reference to a feu duty or ground annual payable in respect of a proprietary interest;

(iii) for references in sub-paragraph (*d*) to a restrictive covenant and to an easement there were respectively substituted references to a real burden or restriction, and to a servitude; and

(iv) for the reference in sub-paragraph (*g*) to chattels personal there were substituted a reference to corporeal moveables.

(2) In their application to Northern Ireland these Regulations shall have effect as if for the reference in Regulation 7 to the Landlord and Tenant (War Damage) Acts, 1939 and 1941, there were substituted a reference to the Landlord and Tenant (War Damage) Act (Northern Ireland), 1941(a).

Dated the 31st day of October, 1949.

Wm. Hannan,
Richard Adams,
Two of the Lords Commissioners
of His Majesty's Treasury.

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These Regulations set out the procedure for the notification of, and the submission of claims for, war damage to their land and buildings by undertakings which are now to be dealt with under the general War Damage Act, 1943, in accordance with Sections 9 and 17 of the War Damage (Public Utility Undertakings, &c.) Act, 1949. The main provisions are that notifications of intention to make a claim shall be given within six months from the date of the Regulations, or within 30 days of any new damage, any notifications already made to any Government Department being regarded as complying with this requirement; that claims for cost of works or temporary works payments shall be made within 30 days of the receipt of a claim form from the War Damage Commission or 30 days after the completion of the works, whichever is the later; and that claims for value payments shall be made within six months of the receipt of a claim form from the Commission.

The Regulations also provide for similar periods for the submission of claims in the special classes of case arising under the Third Schedule to the War Damage (Public Utility Undertakings, &c.) Act, 1949, where the payment under that Act to a Public Utility Undertaking has not covered the loss incurred by other interests in the damaged buildings.

(a) 5 & 6 Geo. 6. c. 9 (N.I.).