
STATUTORY INSTRUMENTS

1976 No. 1154

FOREIGN COMPENSATION

The Foreign Compensation (Romania) Order 1976

<i>Made</i>	- - - -	<i>23rd July 1976</i>
<i>Laid before Parliament</i>		<i>2nd August 1976</i>
<i>Coming into Operation</i>		<i>1st November 1976</i>

At the Court of Saint James, the 23rd day of July 1976

Present,

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 29th day of June 1976, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And Whereas Her Majesty is authorised to make provision by Order in Council under section 3 of the Foreign Compensation Act 1950 (hereinafter referred to as "the Act of 1950") as amended by section 2(1) of the Foreign Compensation Act 1969 (hereinafter referred to as "the Act of 1969") for the determination by the Foreign Compensation Commission (hereinafter referred to as "the Commission") of claims to participate in compensation received under an agreement with the Government of any other country, 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 Socialist Republic of Romania on 12th January 1976⁽¹⁾ provides that the Romanian Government shall pay to the United Kingdom Government the sum of £3,500,000 in full and final settlement of the claims mentioned in Article 1 of the Agreement:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Prince Charles, Prince of Wales, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by the Acts of 1950 and 1969 or otherwise in Her Majesty vested, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

1. This Order may be cited as the Foreign Compensation (Romania) Order 1976 and shall come into operation on 1st November 1976.

2.—(1) The Interpretation Act 1889 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) In this Order:—

“Bond” means a bond or other document of title in respect of a loan or obligation issued or guaranteed before 15th September 1947 by the Romanian Government or by any other public authority in Romania.

“Debt” means a sum due or owing, or a claim for unliquidated damages, or a sum deposited in a bank in Romania but not transferred, in respect of—

- (a) the Board of Trade guarantee, under an agreement of 12th July 1939, of Kingdom of Roumania 5 per cent. Guaranteed Sterling Bonds 1939/1959,
- (b) a contract for the sale of goods whether executed or not or a bill of exchange given for the discharge of obligations under any such contract,
- (c) the servicing, preservation, transport, insuring or advertising of goods, whether or not the goods are the subject of any such contract as aforesaid,
- (d) an agency contract, other than one relating to a contract of insurance or to a treaty or contract of reinsurance,
- (e) training, professional or agency charges or disbursements,
- (f) a contract for the payment of royalties or for the manufacture of goods under licence,
- (g) shipping or transport services,
- (h) a judgement debt,
- (i) an advance, loan, acceptance credit, or other similar facility, or
- (j) vehicles owned by Her Majesty's Government in the United Kingdom which were despatched to Romania in 1939 and subsequently sequestered by the Romanian Government.

“Fair Prices Claim” means a claim arising in connection with the prices paid by the Romanian Government for goods delivered by that Government on account of reparations in accordance with the Treaty of Peace with Romania and identified in a Note from Her Majesty's Legation to the Ministry of Foreign Affairs of that Government of 9th September 1950.

“Material time” means any time or date at which it is material for the purposes of this Order to determine whether or not a person is a United Kingdom national.

“Predecessor in title” means, subject to Article 13 of this Order, any person from whom, whether directly or indirectly, a person making application under this Order (including a trustee) has succeeded, whether by assignment or otherwise, to the property, right, interest or claim to which the application relates.

“Romanian national” means—

- (a) any individual possessing Romanian citizenship;
- (b) any corporation, firm or association incorporated or constituted under Romanian law.

“Rules of the Commission” means rules made by the Commission with the approval of the Lord Chancellor under section 4(2) of the Act of 1950 regulating the procedure of the Commission in determining applications made under this Order.

“Scheduled claimant” means a person mentioned in the Schedule to this Order.

“Trustee” includes a personal representative of a deceased person or a nominee; and “beneficiary” shall have a corresponding meaning.

“United Kingdom national” means—

- (a) any individual who was at the material time, or who as regards any material time prior to 1st January 1949 would have been had the British Nationality Act 1948 and the British Protectorates, Protected States and Protected Persons Order in Council 1949⁽²⁾ been in force at that time, a citizen of the United Kingdom and Colonies, a British subject by virtue of section 2, 13 or 16 of that Act or the British Nationality Act 1965, or a British protected person within the meaning of the said Act of 1948;

provided that, as regards any material time prior to 16th May 1948, the expression “British protected person” shall be deemed to include a person who was at that time a Palestinian citizen under the Palestinian Citizenship Orders 1925 to 1942⁽³⁾;

- (b) any individual who as regards any material time after 31st December 1949 was a citizen of Southern Rhodesia or a citizen of Rhodesia and Nyasaland;
- (c) any individual who as regards any material time after 31st October 1957 and prior to 17th September 1963 was a citizen of Singapore;
- (d) any corporation, firm or association incorporated or constituted under the laws in force in the United Kingdom or in any territory for whose international relations Her Majesty's Government in the United Kingdom were, at the material time, responsible.

“United Nations” means France and any Power which on 15th September 1947 was a member of the United Nations and whose diplomatic relations with Romania were broken off during the war.

PART II

THE FUND

3. The Commission shall pay into a fund to be called the Socialist Republic of Romania 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.

4.—(1) Any sums 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.

5. 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 Consolidated Fund.

(2) (1949 I, p. 522).

(3) S.R. & O. 1925/777, 1931/671, 1939/863, 1941/1121, 1942/1177 (1925 p. 474; 1931 p. 467; 1939 II, p. 1658; 1941 I, p. 356; 1942 I, p. 216).

PART III

GENERAL PROVISIONS CONCERNING THE ESTABLISHMENT OF CLAIMS

6.—(1) An application shall not be entertained by the Commission for the purposes of this Order unless it has reached the Commission on or before 1st August 1977.

(2) An application shall not be entertained by the Commission for the purposes of this Order unless it is made in accordance with the Rules of the Commission.

(3) Nothing in this Order shall enable the Commission to entertain any application for the purpose of establishing a claim by any person in respect of a debt arising out of a contract of insurance or treaty or contract of reinsurance concluded on or before 15th February 1941 and claimed to be due or owing by any insurance company, broker or agent, or by any bank, being a Romanian national, to any insurance company, underwriter, broker or agent, being a United Kingdom national.

7. Each application made under this Order shall be determined by not less than two members of the Commission, provided that one member of the Commission may provisionally determine any application which is not the subject of an oral hearing unless it is determined that such application be dismissed wholly or in part or the aggregate amount of the assessed loss thereon exceeds £10,000.

8. Subject to the provisions of this Order, the Commission shall assess the amount of loss with respect to each claim which is established under this Order as may seem just and equitable to them having regard to all the circumstances, and shall dismiss each claim which is not so established.

9.—(1) Where any amount which is material to the determination of an application made under Part IV of this Order or which is taken into account under the provisions of Article 17 of this Order is expressed in a unit of foreign currency, the value in sterling of that amount shall be determined—

- (a) in the case of loss assessed under subparagraph (a), (b), (c), (d) or (f) of Article 14 or paragraph (1) of Article 15, at the rate of exchange obtaining on 15th February 1941;
- (b) in the case of loss assessed under subparagraph (e) of Article 14, at the rate of exchange, subject to the provisions of paragraph (3) of this Article, obtaining on 15th September 1947 or at the date on which payment was initially due, whichever is the later;
- (c) in the case of loss assessed under subparagraph (g) or (h) of Article 14, or in the case of an amount which is to be taken into account under the provisions of Article 17, at the rate of exchange, subject to the provisions of paragraph (3) of this Article, obtaining on 15th September 1947 or at the date of payment, whichever is the later.

(2) Where any amount which is material to the determination of an application made under Part V, Part VI or Part VII of this Order is expressed in a unit of foreign currency, the value in sterling of that amount shall be determined at the rate of exchange obtaining on 15th February 1941, except that—

- (a) in the case of a debt or obligation expressed in a foreign currency where the sum is due or payable under a contract in which provision is made for a specified rate of exchange, the value in sterling of that sum shall be determined in accordance with the rate of exchange so specified;
- (b) in the case of a debt or obligation expressed in foreign currency and created after 15th February 1941, the rate of exchange shall, subject to the provisions of subparagraph (a) of this paragraph and of paragraph (3) of this Article, be that prevailing on 15th September 1947.

(3) Where the amount of a claim expressed in Romanian lei relates to a debt or obligation which arose between 15th February 1941 and 14th August 1947, that amount shall first be converted into “stabilised” lei by applying the conversion factor of 20,000 lei = one “stabilised” leu.

(4) For the purposes 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.

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

- (a) the Fund, or
- (b) the distribution made under the Treasury Directions dated 26th July 1954 to the Administrator of Roumanian Property in the United Kingdom, Channel Islands and the Isle of Man, given pursuant to Article 1(7) of the Treaty of Peace (Roumania) Order 1948(4), or by an Administrator of Roumanian Property in Colonial Territory (as defined in the said Treasury Directions).

PART IV

CLAIMS ARISING OUT OF THE TREATY OF PEACE WITH ROMANIA

11.—(1) The following persons shall be qualified to make application to the Commission for the purpose of establishing a Fair Prices Claim—

- (a) Phoenix Oil and Transport Company Limited (as assignees of the Fair Prices Claim of Arbanash (Roumania) Oil Company Limited), Dacia Romano Petroleum Syndicate Limited, and Steaua Romana (British) Limited;
- (b) any person who has on or after 12th January 1976 succeeded to the Fair Prices Claim of any person qualified under subparagraph (a) of this paragraph;
- (c) a trustee for any person qualified under subparagraph (a) or (b) of this paragraph.

(2) The following person shall be qualified to make application to the Commission for the purpose of establishing a claim arising out of Article 24 of the Treaty of Peace with Romania—

- (a) a scheduled claimant;
- (b) any person who has on or after 12th January 1976 succeeded to the claim under Article 24 of the Treaty of Peace with Romania of any person qualified under subparagraph (a) of this paragraph;
- (c) a trustee for any person qualified under subparagraph (a) or (b) of this paragraph.

12.—(1) An application under this Part of the Order may be made by a trustee qualified under Article 11 of this Order, or by a beneficiary so qualified.

(2) 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 Article 11 of this Order, 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.

13. To establish a claim arising out of Article 24 of the Treaty of Peace with Romania, any person making application to the Commission shall be required to establish to the satisfaction of the Commission—

- (a) that he is a person qualified under paragraph (2) of Article 11 of this Order to make such application;
- (b) that on and between 12th September 1944 and 15th September 1947 the property, right or interest to which the claim relates was directly or indirectly owned continuously by the applicant or by his predecessor in title who was then either—
 - (i) an individual who was a national of any of the United Nations; or
 - (ii) a corporation, firm or association incorporated or constituted under the laws of any of the United Nations;
- and
- (c) that on the date of the injury, loss or damage which is the subject matter or the claim, the property, right or interest to which the claim relates was owned directly or indirectly by an individual who was a national of any of the United Nations or by a corporation, firm or association incorporated or constituted under the laws of any of the United Nations.

14. If the applicant has satisfied the requirements of Article 13 of this Order, the Commission in determining the amount of the claim shall assess the amount of the loss suffered by the applicant or his predecessor in title by reason of one or more of the following, that is to say—

- (a) by reason of injury or damage to property in Romania as the result of the war;
- (b) by reason of injury or damage as the result of the war to the property in Romania 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 incorporated or constituted under the laws of any of the United Nations;
- (c) by reason of the non-restoration of property which was in Romania on 15th September 1947 or of any right or interest as it existed in Romania on 15th September 1947;
- (d) by reason of loss or damage (other than a loss of profit) due to special measures which were applied to the property, right or interest during the war, and which were not applicable to Romanian property;
- (e) 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 Romanian nationals;
- (f) by reason of encumbrances or charges to which the property, right or interest may have become subject as the result of the war;
- (g) by reason of the payment of any exceptional tax, levy or impost imposed on the capital assets in Romania of the applicant by the Romanian Government or any Romanian authority between 12th September 1944 and 15th 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;
- (h) by reason of any reasonable expenses (including the assessment of loss or damage) incurred in Romania by the applicant in establishing a claim under Article 24 of the Treaty of Peace with Romania.

15.—(1) In determining the amount of a Fair Prices Claim established under this Order, the Commission shall in assessing the amount of loss suffered by the applicant or his predecessor in title have regard to the difference between the price paid by the Romanian Government for the goods delivered and the average market value of those goods over the years 1936, 1937 and 1938.

(2) In determining any application to which this Part of the Order relates other than an application in respect of a Fair Prices Claim, the Commission shall estimate the value of the property, right or interest which is the subject matter of the claim by reference to its value on or immediately prior to 1st September 1939 without taking into account any subsequent change in property values.

16. For the purposes of this Part of the Order the duration of the war shall be deemed to be the period between 1st September 1939 and the entry into force of the Treaty of Peace with Romania on 15th September 1947, both dates inclusive.

17. If an application made under this Part of the 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 the 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

CLAIMS IN RESPECT OF MEASURES OF NATIONALISATION, EXPROPRIATION, STATE ADMINISTRATION, LIQUIDATION, OR OTHER SIMILAR MEASURES

18. For the purposes of this Part of the Order:—

“Property” means property of any kind, movable or immovable, whether owned or held directly or through a trustee, and includes any claim in respect of property.

“Interest in property” means shares or stock in a company incorporated in Romania; and if any such company had at the relevant date an interest in property within the meaning of this Article the property in which such interest is held 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.

“Romanian measure” means any measure of nationalisation, expropriation, state administration, liquidation or other similar measure taken by the Romanian Government.

“The relevant date” means the date of publication of the Romanian measure by or under which the property or interest in property was affected; or, if such Romanian 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.

19.—(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) a scheduled claimant;
- (b) any person who has on or after 12th January 1976 succeeded to the rights of any person qualified under subparagraph (a) of this paragraph in relation to the claim to which the application relates;
- (c) a trustee for any person qualified under subparagraph (a) or (b) of this paragraph.

(2) An application under this Part of the Order may be made by a trustee qualified under paragraph (1) of this Article, or by a beneficiary so qualified.

(3) 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.

20. 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—

- (a) that he is a person qualified under paragraph (1) of Article 19 of this Order to make such application;
- (b) that by or under any Romanian measure he or his predecessor in title has before 12th January 1976 been deprived of title to or enjoyment of the property to which the application relates or that any person for whom he is a trustee and who would himself be qualified to make an application under Article 19 of this Order has before the said date been so deprived of enjoyment of such property; or, if the application relates to an interest in any property owned or held by a company to which the definition of “interest in property” in Article 18 of this Order applies, that by or under such Romanian measure, the company has before the said date been deprived of title to or enjoyment of that property; and
- (c) 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 subparagraph (b) of this Article has suffered a loss as the result of such deprivation:

Provided that, if the property to which subparagraph (b) of this Article applies consists of a debt, it shall be necessary for the person making the application to prove that he or his predecessor in title has by any Romanian measure or by action taken under the authority thereof been deprived of the legal right to recover the debt.

21. If any transfer of property, or of any interest in property, to which a claim relates was effected in Romania between 15th February 1941 and 12th September 1944, that transfer shall be deemed for the purposes of this Part of the 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.

22. 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 by reference to its value on or immediately prior to 1st September 1939 without taking into account any subsequent change in property values:

Provided that if the claim relates to property in Northern Transylvania the Commission shall in assessing the amount of loss deduct the amount of loss, if any, in respect of the same property for which a claim has been or may be established under any other Order in Council made under the Acts of 1950 and 1969.

PART VI

CLAIMS IN RESPECT OF BONDS

23. To establish a claim in respect of a bond under this Part of the Order, any person making application to the Commission shall be required to establish to the satisfaction of the Commission—

- (a) that he or, if he is a trustee, the person for whom he is a trustee was the beneficial owner of the bond on the date of making application to the Commission; and

- (b) that the beneficial owner of the bond on 12th January 1976 was Her Majesty's Government in the United Kingdom or a United Kingdom national.

24. The Commission shall assess the amount of loss with respect to each claim established under this Part of the Order and, for this purpose, the value of a bond (in respect of both capital and interest) shall be deemed to be the nominal capital value of the bond multiplied by the factor of 2.

PART VII

CLAIMS IN RESPECT OF DEBTS AND BANK BALANCES

25. No application may be made under this Part of the Order—

- (a) in respect of a bond; or
- (b) by Shell International Petroleum Company Limited, their successors or assigns; or
- (c) in respect of any claim in respect of which a payment was made by the Commission under the Foreign Compensation (Roumania) Order 1961⁽⁵⁾ as amended⁽⁶⁾.

26.—(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 in the United Kingdom;
- (b) any person who was a United Kingdom national on 12th January 1976;
- (c) any person who has on or after 12th January 1976 succeeded to the claim of any person qualified under subparagraph (b) of this paragraph;
- (d) a trustee for any person qualified under subparagraph (b) or (c) of this paragraph.

(2) An application under this Part of the Order may be made by a trustee qualified under paragraph (1) of this Article or by a beneficiary 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 material times, owned by a United Kingdom national.

(3) 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.

27.—(1) To establish a claim under this Part of the Order in respect of a debt or a balance in a bank, any person making application to the Commission shall be required to establish to the satisfaction of the Commission—

- (a) that he is a person qualified under Article 26 of this Order to make such application;
- (b) that his application relates—
 - (i) to a debt which at any time before 15th September 1947 was owing to Her Majesty's Government in the United Kingdom or to a United Kingdom national from the Romanian Government or a Romanian national ordinarily resident or carrying on business in Romania and which is still unpaid; or
 - (ii) to a balance which was held by a United Kingdom national on 15th September 1947 in a bank in Romania and which is still outstanding; and

⁽⁵⁾ (1961 III, p. 3475).

⁽⁶⁾ S.I. 1964/494, 1966/444 (1964 I, p. 829; 1966 I, p. 954).

(c) that he or his trustee is the person to whom the debt or the outstanding bank balance is owing.

(2) For the purposes of paragraph (1) of this Article and of Article 10 of this Order, the Commission may assume, if they think fit, that a debt or balance was irrecoverable on or after 15th September 1947.

28. The Commission shall assess the amount of loss with respect to each claim established under this Part of the Order and, for this purpose—

(a) the value of a debt shall be taken to be the principal amount outstanding on 15th September 1947:

Provided that, if the contract expressly provided for the payment of interest, the value of the debt shall be deemed to be the principal amount outstanding on 15th September 1947 multiplied by the factor of 2;

(b) the value of a balance in a bank shall be taken to be the amount outstanding on 15th 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.

PART VIII

PAYMENTS OUT OF THE FUND

29.—(1) 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.

(2) If any person who has established a claim under this Order shall have died before the amounts payable to him under Articles 30 and 31 of the Order have been paid to him, such payments or the balance thereof shall be made to his personal representatives if they apply to the Commission for payment, provided that, if the Commission are satisfied that no grant of administration of his estate has been made in the United Kingdom and that the assets of his estate (including the amount payable under this Order) do not exceed £1,500 in value, the Commission may at their discretion and subject to such conditions as the Commission think proper, make such payment either to any person who has taken out administration in any other part of the Commonwealth, or to the person who shall appear to the Commission to be the person who, being a widower, widow, child, father, mother, brother or sister of the deceased person, would, under the law of England have the prior right to a grant of administration of the estate of the deceased person if such deceased person had died intestate domiciled in England.

(3) If any person whose claim has been established under this Order is a minor at the date when the amounts payable to him under Articles 30 and 31 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 £5,000, into the County Court for the district in which the minor resides, under the provisions of the Trustee Act 1925, or, if the amount does not exceed £50, may place the same on deposit in the name of the Commission in any bank for such time as the person remains a minor.

(4) The reference in paragraph (1) of this Article to a person who has established a claim under this Order includes a reference to any person who has become entitled to the amounts payable, or any part of them, in consequence of any assignment or transfer of the benefit thereof and who produces such evidence of his title as may be reasonably required by the Commission.

30.—(1) Subject to paragraph (2) of this Article, 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 amount of the claim, as determined by the Commission, bears to the total of the amounts so determined with respect to all claims established under the Order.

(2) The payment in respect of any claim established by Her Majesty's Government in the United Kingdom under Part VI of this Order shall be a fraction of the distributable amount of the Fund equal to the proportion which the amount of the claim, as determined by the Commission, bears to the total of the amounts so determined with respect to all claims established under the Order, less any amount notified in writing to the Commission by Her Majesty's Government in the United Kingdom as held or received by them otherwise than out of the Fund and applied to the reduction of the amount of their loss with respect to the said claim. Any amount so notified shall be disregarded for the purposes of Article 10 of this Order.

(3) The distributable amount shall be the total of all sums paid into the Fund and of any amounts notified to the Commission under paragraph (2) of this Article, after the deduction of any payments made or directed to be made therefrom into the Consolidated Fund in accordance with any Order in Council made under section 7(2) of the Act of 1950 as originally enacted and as applied by section 3(3) of the Foreign Compensation Act 1962.

31.—(1) Whether or not all claims under this Order against the Fund have been finally determined, the Commission may, at such time or times as they may decide, make from the Fund interim payments to any of the persons who have established claims under the Order.

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

- (a) on account of payments to be made in accordance with Article 30 of this Order, and
- (b) at a uniform rate upon the assessed amount of the claim, except that any deduction in accordance with paragraph (2) of Article 30 of this Order may be made at such time as the Commission shall decide. 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.

(3) For the purposes of this Article—

- (a) a claim shall be deemed to be established under this Order even though the determination thereof may be provisional and subject to review under the Rules of the Commission;
- (b) the assessed amount of the claim shall be deemed to be the amount so provisionally determined subject to review unless before the date of payment the Commission shall have made a final determination on review.

32.—(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 payment relates, and shall require him to sign and deliver to the Commission a document in such form as the Commission may determine declaring that he renounces all those claims which he has established under the Order.

(2) If the person for whose benefit a payment is to be made is a minor, the Commission shall, as a condition of the making of any payment into Court or placing the same on deposit under Article 29(3) of this Order, require the person who, in accordance with the Rules of the Commission, has made an application for payment on the minor'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 minor renounces all claims to which the payment relates; and the document so signed shall operate as a valid surrender by the minor of all such claims.

(3) The Commission shall retain all documents which are delivered to them under paragraphs (1) and (2) of this Article, and shall dispose of them in accordance with instructions to be given by the Secretary of State for Foreign and Commonwealth Affairs.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more***

N.E. Leigh

SCHEDULE

Article 2(2)

Phoenix Oil and Transport Company Limited
Arbanash (Roumania) Oil Company Limited
Dacia Romano Petroleum Syndicate Limited
Executors of the late F.J. Nettlefold, Esq.
Kern Oil Company Limited
Steaua Romana (British) Limited
Spies Petroleum Company Limited
Minerva (Roumania) Oil Company Limited

EXPLANATORY NOTE

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 Romanian Government under the Agreement between the two Governments of 12th January 1976 relating to the Settlement of certain Financial Matters (Cmnd. 6376); and
- (ii) for the distribution of the aforesaid compensation by the Commission to persons who have established claims under the Order. Provision is made for established claims in respect of bonds and certain debts to benefit from an element of special weighting in recognition of contractual interest.