
STATUTORY INSTRUMENTS

1976 No. 1154

The Foreign Compensation (Romania) Order 1976

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

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(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

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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.