
STATUTORY INSTRUMENTS

1976 No. 1154

The Foreign Compensation (Romania) Order 1976

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.