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STATUTORY INSTRUMENTS

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**1986 No. 2222**

**FOREIGN COMPENSATION**

**The Foreign Compensation (Union of  
Soviet Socialist Republics) (Registration  
and Determination of Claims) Order 1986**

<i>Made</i>	- - - -	<i>16th December 1986</i>
<i>Laid before Parliament</i>		<i>6th January 1987</i>
<i>Coming into Operation</i>		<i>1st February 1987</i>

At the Court at Buckingham Palace, the 16th day of December 1986

Present,

The Queen's Most Excellent Majesty in Council

Whereas Her Majesty is authorised to make provision by Order in Council under section 3 of the Foreign Compensation Act 1950(1) for the registration 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 the making of reports by the Commission with respect to such claims and for the determination of such claims by the Commission.

And Whereas by an Agreement entered into between Her Majesty's Government in the United Kingdom and the Government of the Union of Soviet Socialist Republics on 15th July 1986(2) (hereinafter referred to as "the Agreement") it is provided that Her Majesty's Government shall have full title to certain assets and shall be solely responsible for the settlement of claims and any distribution from such assets:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in that behalf by the Act of 1950 or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

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(1) Section 3 was amended by the Foreign Compensation Act 1969 (c.20), section 2.  
(2) Cm.30.

## PART I

### COMMENCEMENT, CITATION AND INTERPRETATION

1. This Order shall come into operation on 1st February 1987, and may be cited as the Foreign Compensation (Union of Soviet Socialist Republics) (Registration and Determination of Claims) Order 1986.

2. In this Order:—

“Authority” means the Foreign Claims Office of the Foreign Office or the Russian Claims Department of the Board of Trade or such other public office as may have been charged from time to time with the duty of maintaining the Register.

“Bond” means a bond or other document of title in respect of a loan or obligation issued or guaranteed before 7th November 1917 by a former Government of the Russian Empire or by any part of the Russian Empire or by the authorities governing such a part.

“British national” (in relation to any relevant date) means:

- (a) any individual who was on that date a British subject;
- (b) any corporation, firm or association incorporated or constituted under the laws in force in the United Kingdom or in any other territory forming part of Her Majesty's dominions at that date.

“Debt” means a sum due or owing, or a claim for unliquidated damages, but shall not include a balance in a bank, or any such sum or claim in respect of which a bond or share has been issued.

“Predecessor in title” means any person through 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 or claim to which the application relates.

“Property” includes all rights or interests of any kind in property.

“Relevant date” means 7th November 1917 or such later date before 1st January 1939 on which the applicant, or his predecessor in title, was deprived of title to or enjoyment of property, or of the right to recover a debt, or suffered loss in respect of a share, or became unable to recover a bank balance, or upon which a debt first became due for repayment.

“Register” means the Register of Russian Claims established in September 1918 and maintained until 1951.

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

“Russia” means, in relation to any date before 7th November 1917, the territory of the former Russian Empire or, in relation to any date thereafter, the territory of the Union of Soviet Socialist Republics; and “Russian” shall be construed accordingly.

“Share” includes stock, a debenture, debenture stock and any funded obligation of a corporation.

“Secretary of State” means Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs.

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

## PART II

### REGISTRATION OF CLAIMS IN RESPECT OF BONDS

3.—(1) An application to the Commission to register a claim in respect of a bond under this Part of the Order may be made by any person who:

- (a) was on 14th July 1986 (or, if he is a trustee, is a trustee for a person who was on 14th July 1986) either:
  - (i) a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject or a British Protected Person, or
  - (ii) a corporation, firm or association incorporated or constituted under the laws in force in the United Kingdom or in any country or territory for whose international relations Her Majesty's Government in the United Kingdom were on 14th July 1986 responsible, and
- (b) is and was on 14th July 1986 the beneficial owner of the bond to which the application relates, or who is a trustee for a person who was the beneficial owner of the bond on 14th July 1986 and who has since died.

(2) Any person making application to the Commission in accordance with paragraph (1) shall be required to deliver to the Commission the bond to which the application relates and to make a statutory declaration in such form as may be prescribed by the Commission in relation to the matters specified in paragraph (1)(b) above.

4. An application shall not be entertained by the Commission under this Part of this Order unless:
- (a) it has reached the Commission on or before 31st March 1987 and
  - (b) it was made in accordance with the Rules of the Commission.

5. The Commission shall register any claim in respect of which they are satisfied that an application has been duly received under the provisions of Articles 3 and 4 and shall for that purpose assign to each bond in respect of which a claim is so registered the appropriate value specified in Article 6.

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

- (a) the value to be assigned to a bond denominated in sterling shall be the amount specified as the nominal capital value on the bond;
- (b) the value a bond denominated in a currency other than sterling but bearing on its face the sterling equivalent of its nominal capital value shall be taken to be the amount so specified in sterling;
- (c) the value any other bond denominated in a currency other than sterling shall be the amount of that currency specified as the nominal capital value on the bond converted at the rate of exchange ruling between that currency and sterling on the date of issue of the bond.

7. The Commission shall report, in such manner as the Secretary of State may direct, upon any claims registered under Article 5 and upon the values assigned thereto under Articles 5 and 6.

8. In exercising their functions under this Part of the Order, the Commission shall act in their administrative capacity.

## PART III

### GENERAL PROVISIONS CONCERNING THE ESTABLISHMENT OF CLAIMS UNDER PARTS IV AND V OF THIS ORDER

**9.** An application shall not be entertained by the Commission under Part IV or V of this Order unless:

- (a) it has reached the Commission on or before 30th June 1987, and
- (b) it is made in accordance with the Rules of the Commission.

**10.** For the purposes of Parts IV and V of this Order, the Commission—

- (a) shall accept the entry by the Authority on the Register of a claim by or on behalf of any person in respect of the loss, damage or injury in question as conclusive evidence of the fact that that person was a British national at the relevant date or (as the case may be) was a British subject at the date on which the treatment causing death or personal injury was suffered;
- (b) may if such entry specifies the location in Russia of any person or any property accept an entry by the Authority on the Register as sufficient evidence of the location of such person or property at the relevant date;

and shall for such purposes take judicial notice of the contents of the Register.

**11.—(1)** Each application made under Part IV or V of this Order shall be determined by a single member of the Commission, who may proceed directly to a final determination of the application solely on the written evidence and submissions, provided that, notwithstanding the foregoing:

- (a) no claim shall be dismissed except upon determination by not less than two members of the Commission;
- (b) where the aggregate of all amounts claimed by an applicant under Parts IV and V of this Order exceeds £100,000, the application shall in any event be determined by not less than two members of the Commission;
- (c) the Commission may if they think fit direct that an application be the subject of an oral hearing.

(2) Nothing in paragraph (1) of this Article shall be taken as limiting or restricting the power of the Commission to review any determination in accordance with the Rules of the Commission.

**12.—(1)** An application under Part IV or V of the Order may be made by a trustee qualified under Articles 14 or 22 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 property or in the claim to which the application relates was, at the material times, owned by a British national.

(2) If application under Part IV or V 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.

**13.** The Commission shall report, in such manner as the Secretary of State may direct, upon any claims established under Part IV or V of this Order and upon the amount of loss assessed with respect to claims established under Part IV or the amount of compensation awarded with respect to claims established under Part V.

## PART IV

### CLAIMS IN RESPECT OF DEBTS, BANK BALANCES, SHARES AND OTHER PROPERTY

#### *Qualifications to make Application*

**14.** 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) any person who was on 15th July 1986 a Commonwealth citizen within the meaning of section 51(2) of the British Nationality Act 1981;
- (b) a trustee for any person qualified under sub-paragraph (a) above;
- (c) any corporation, firm or association incorporated or constituted under the laws in force in the United Kingdom or in any country or territory for whose international relations Her Majesty's Government in the United Kingdom were, on 15th July 1986, responsible or in a Commonwealth country.

#### *Property*

**15.—(1)** To establish a claim under this Part of the Order in respect of property (other than a debt, a balance in a bank or a share), 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 14 of this Order to make such application;
- (b) that immediately before the relevant date the property to which the application relates was situated in Russia and was British property (as provided in paragraph (2) of this Article);
- (c) that he or his predecessor in title (or, if he is a trustee, the person for whom he is a trustee or the predecessor in title of such person) was deprived on a relevant date of title to or enjoyment of such property by any act of confiscation, nationalisation, expropriation, destruction or other similar act of dispossession and has suffered loss thereby; and
- (d) that a claim in respect of such property was entered on the Register.

(2) Property shall be deemed to be British property for the purposes of this Article to the extent that it was beneficially owned by a British national.

#### *Debts and Bank Balances*

**16.** 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 14 of this Order to make such application;
- (b) that his application relates, either
  - (i) to a debt which at the relevant date was owing to a British national from a person resident or carrying on business in Russia and which is still unpaid; or
  - (ii) to a balance which was held by a British national immediately before the relevant date in a bank in Russia or in a branch of a Russia bank outside Russia and which is still outstanding;
- (c) that he or his predecessor in title (or, if he is a trustee, the person for whom he is a trustee or the predecessor in title of such person) is the person to whom the debt or the outstanding bank balance is owing; and

- (d) that a claim in respect of the debt or outstanding bank balance was entered on the Register.

### *Shares*

**17.** To establish a claim under this Part of the Order in respect of a share, 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 14 of this Order to make such application;
- (b) that the share was beneficially owned at the relevant date by a British national;
- (c) that the company to which the share related was incorporated or constituted under the laws in force in Russia;
- (d) that he or his predecessor in title (or, if he is a trustee, the person for whom he is trustee or the predecessor in title of such person) has suffered loss in respect of the share as a result of any act of confiscation, nationalisation, expropriation or other similar act of dispossession applied in Russia on a relevant date to the share or to the company or to any of its assets; and
- (e) that a claim in respect of the share was entered on the Register.

**18.** For the purposes of this Part of this Order, the Commission may, if they think fit, assume, without proof of any specific act of dispossession, that any person has been deprived of title to or enjoyment of any property, or that such a person has suffered loss in respect of a share, and that such deprivation or loss was the result of an action or course of action or omission of the authorities of the area in which the property or share was situated.

**19.** Subject to the provisions of this Order, the Commission shall assess the amount of loss with respect to each claim established under this Part of the Order as may seem just and equitable to them having regard to all the circumstances, provided that:

- (a) where the Commission are satisfied that the amount of a claim was verified and accepted by the Authority before its entry on the Register, that amount shall be deemed to be the amount of loss actually suffered without further proof or assessment;
- (b) in cases other than those referred to under sub-paragraph (a), the Commission may if they think fit accept without further assessment the valuation that had been placed on a claim by or on behalf of a claimant for the purposes of its entry on the Register.

**20.** In assessing the amount of loss with respect to any claim established under this Part of the Order the Commission shall take into account the principal value only of the claim and shall not include any element in respect of interest thereon; and for this purpose the principal value of a claim under Article 15 or Article 16 of this Order shall be deemed to be the principal amount outstanding on the relevant date irrespective of whether any contract provided for the payment of interest.

**21.** In assessing the amount of loss with respect to any claim established under this Part of the Order, the Commission shall have regard to any compensation, recoupment or payment received in respect of that loss from any source by 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.

## PART V

### CLAIMS IN RESPECT OF PERSONAL INJURY OR DEATH

**22.—(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) any person who was a British subject at the time when the treatment on which the claim is based occurred;
- (b) any person who was at that time a dependant of a person qualified under sub-paragraph (a) above;
- (c) a trustee for any person qualified under sub-paragraph (a) above;

provided that no person shall be so qualified unless:—

- (d) he was on 15th July 1986 a Commonwealth citizen within the meaning of section 51(2) of the British Nationality Act 1981.

(2) 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 this Article to make such application;
- (b) that he (or, if he is a trustee, the person for whom he is a trustee or, if he makes application as a dependant, the person of whom he was at the time when the treatment occurred a dependant) suffered personal injury or death in Russia at the hands of any Russia authority or State official.
- (c) that the treatment on which the claim is based occurred on or after 7th November 1917 but before 1st January 1939;
- (d) a claim in respect of the personal injury, imprisonment or death in question was entered on the Register.

(3) For the purposes of this Part imprisonment suffered in Russia at the hands of any Russia authority or State official shall be deemed to be personal injury so suffered and the time when the imprisonment began shall be taken to be the time at which the personal injury was suffered.

(4) With respect to any claim established under this Part of the Order the Commission shall without further investigation make an award in the appropriate amount set out in the Schedule to this Order;

provided that if claims are established by more than one dependant in respect of treatment suffered by one person, the amount to be awarded as set out in the Schedule shall be divided in equal shares between the claims so established.

*G.I. de Deney*  
Clerk of the Privy Council

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## SCHEDULE

Article 22

### **Claims in respect of death**

1. The appropriate amount to be awarded by the Commission in respect of death suffered in Russia at the hands of any Russia authority or State official shall be £1,000.

### **Claims in respect of personal injuries**

2. The appropriate amount to be awarded by the Commission in respect of personal injury suffered in Russia at the hands of any Russian authority or State official shall be £250 or such greater sum not exceeding £1,000 as the Commission may think fit according to the nature and gravity of the injury suffered.

Provided that no such amount shall be awarded by the Commission if an award under paragraph 1 of this Schedule is due in respect of the death of the person who suffered the personal injury.

### **Claims by dependants**

3. The appropriate amount to be awarded by the Commission to a person claiming as a dependant shall be one half of the amount specified in paragraph 1 or 2 of this Schedule, as the case may be.

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## **EXPLANATORY NOTE**

This Order provides:

- (i) for the registration and determination by the Foreign Compensation Commission of claims to participate in sums received by Her Majesty's Government under the Agreement between them and the Government of the Union of Soviet Socialist Republics signed in London on 15th July 1986 concerning the Settlement of Mutual Financial and Property Claims arising before 1939; and
- (ii) for the making of reports thereon to the Secretary of State.