
STATUTORY INSTRUMENTS

1987 No. 2201

**The Foreign Compensation (People's
Republic of China) Order 1987**

PART III

GENERAL PROVISIONS CONCERNING THE ESTABLISHMENT OF CLAIMS

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

- (a) being an application under Part IV, it has reached the Commission on or before 30th June 1988, or, being an application under Part V or VI, it has reached the Commission on or before 31st August 1988; and
- (b) it is made in accordance with the Rules of the Commission.

Provided that no such application shall be entertained by the Commission if it is made by the Crown, the Duchy of Lancaster or the Duke of Cornwall or by any person acting in their name or on their behalf.

7.—(1) Each application made under 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 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:—
 - (i) may if they think fit direct that an application be the subject of an oral hearing and
 - (ii) shall not refuse a request for an oral hearing in respect of any application except by decision of not less than two members of the Commission.

(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.

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

9. If, for the purposes of this Order, it is necessary for the Commission to determine the rate of exchange between foreign currency and sterling on any date, that rate shall be deemed to be the middle rate for telegraphic transfers ruling in the London market on that date or, if the Commission consider that middle rate to be inappropriate, such rate as the Treasury may determine.

10. In assessing the amount of loss with respect to any claim established under this 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 shall be deemed to be the principal amount outstanding on the relevant date irrespective of whether any contract provided for the payment of interest.

11. In assessing the amount of loss with respect to any claim established under this 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.

12.—(1) An application under Part IV or V of this Order may be made by a trustee qualified under Articles 14 or 16 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 an application under this 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 to make the application under 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. The Commission shall report, in such manner as the Secretary of State may direct, upon any applications made under this Order, upon any claims established and upon the amount of loss assessed with respect to the claims so established.