

2. Finland

THE TREATY OF PEACE (FINLAND) ORDER, 1948.

1948 No. 115

<i>Made</i>	- - -	26th January, 1948
<i>Laid before Parliament</i>		28th January, 1948
<i>Coming into Operation</i>		2nd February, 1948

At the Court at Buckingham Palace, the 26th day of January, 1948

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas at Paris on the tenth day of February, nineteen hundred and forty-seven a Treaty of Peace with Finland (hereinafter referred to as "the Treaty") was signed on behalf of His Majesty:

And whereas the Treaty contains amongst others the provisions set out in the First Schedule hereto:

And whereas by Section 1 of the Treaties of Peace (Italy, Roumania, Bulgaria, Hungary and Finland) Act, 1947 (hereinafter referred to as "the Act") it was provided that His Majesty might make such appointments, establish such offices, make such Orders in Council and do such things as appear to Him to be necessary for carrying out the Treaty, and for giving effect to any provisions of the Treaty:

And whereas the Treaty contained the provisions set out in the First Schedule to this Order, and it is expedient for giving effect to the aforesaid provisions of the Treaty that the provisions hereinafter contained should have effect:

And whereas by Treaty, grant, usage, sufferance or other lawful means His Majesty has power and jurisdiction in the territories specified in the Second Schedule hereto which territories are in this Order together referred to as "Protected Territories," and is pleased by virtue and in exercise of the power vested in Him by the Foreign Jurisdiction Act, 1890, or otherwise to extend the provisions of this Order to the Protected Territories:

Now, therefore, His Majesty, in pursuance of the said Section and of all other powers enabling Him in that behalf, is pleased, by and with the

10 & 11 Geo.
6. c. 23.

53 & 54 Vict.
c. 37.

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advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. So far as they are by their nature capable of so doing the provisions of the Treaty set out in the First Schedule hereto shall be and have effect as law.

2. The time at which the periods of prescription or limitation of right of action or of the right to take conservatory measures in respect of relations affecting persons or property referred to in paragraph 1 of Part B of Annex V of the Treaty shall begin again to run, shall be the date of the coming into force of the Treaty, subject, in the case of any period of limitation of right of action, to any provision of the Limitation (Enemies and War Prisoners) Act, 1945, fixing a later date.

8 & 9 Geo. 6.
c. 16.

3. The period to be allowed within which presentation of negotiable instruments for acceptance or payment and notice of non-acceptance or non-payment or protest may be made under paragraph 2 of Part C of Annex V of the Treaty shall be the period ending the 15th day of September, nineteen hundred and forty-eight.

4. The Comptroller-General of Patents, Designs and Trade Marks shall have power to refuse any application for the grant of a patent for any invention relating to any article of the nature specified in Annex III of the Treaty, being an invention referred to in paragraph 6 of Annex IVA of the Treaty, or to revoke a patent for any such invention, provided that he shall not exercise that power adversely to an applicant or patentee without giving the applicant or patentee an opportunity of being heard, if the applicant or patentee so requires.

5.—(1) This Order shall apply to the whole of His Majesty's dominions and Protected Territories except the Dominions;

(2) In its application to the parts of His Majesty's dominions, which are outside the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man and in its application to Protected Territories, this Order shall be subject to such modifications as may be made by the legislatures of those parts or those Protected Territories for adapting to the circumstances thereof the provisions of this Order.

6.—(1) For the purposes of the provisions of this Order—the expression “the Dominions” means a Dominion within the meaning of the Statute of Westminster, 1931, except Newfoundland, but including India, Pakistan and Ceylon and also including any territory administered by the Government of that Dominion.

23 & 24 Geo.
5. c. 4.

(2) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

52 & 53 Vict.
c. 63.

7. This Order shall come into operation on the 2nd day of February, 1948.

8. This Order may be cited as the Treaty of Peace (Finland) Order, 1948.

E. C. E. Leadbitter.

THE FIRST SCHEDULE

PART V.—ECONOMIC CLAUSES

ARTICLE 25

1. In so far as Finland has not already done so, Finland shall restore all legal rights and interests in Finland of the United Nations and their nationals as they existed on June 22nd, 1941, and shall return all property in Finland of the United Nations and their nationals as it now exists.

2. The Finnish Government undertakes that all property, rights and interests passing under this Article shall be restored free of all encumbrances and charges of any kind to which they may have become subject as a result of the war and without the imposition of any charges by the Finnish Government in connection with their return. The Finnish Government shall nullify all measures, including seizures, sequestration or control, taken by it against United Nations property between June 22nd, 1941, and the coming into force of the present Treaty. In cases where the property has not been returned within six months from the coming into force of the present Treaty, application shall be made to the Finnish authorities not later than twelve months from the coming into force of the Treaty, except in cases in which the claimant is able to show that he could not file his application within this period.

3. The Finnish Government shall invalidate transfers involving property, rights and interests of any description belonging to United Nations nationals, where such transfers resulted from force or duress exerted by Axis Governments or their agencies during the war.

4.—(a) The Finnish Government shall be responsible for the restoration to complete good order of the property returned to United Nations nationals under paragraph 1 of this Article. In cases where property cannot be returned or where, as a result of the war, a United Nations national has suffered a loss by reason of injury or damage to property in Finland, he shall receive from the Finnish Government compensation in Finnish marks to the extent of two-thirds of the sum necessary, at the date of payment, to purchase similar property or to make good the loss suffered. In no event shall United Nations nationals receive less favourable treatment with respect to compensation than that accorded to Finnish nationals.

(b) United Nations nationals who hold, directly or indirectly, ownership interests in corporations or associations which are not United Nations nationals within the meaning of paragraph 8 (a) of this Article, but which have suffered a loss by reason of injury or damage to property in Finland, shall receive compensation in accordance with sub-paragraph (a) above. This compensation shall be calculated on the basis of the total loss or damage suffered by the corporation or association and shall bear the same proportion to such loss or damage as the beneficial interests of such nationals in the corporation or association bear to the total capital thereof.

(c) Compensation shall be paid free of any levies, taxes or other charges. It shall be freely usable in Finland but shall be subject to the foreign exchange control regulations which may be in force in Finland from time to time.

(d) The Finnish Government shall accord to United Nations nationals the same treatment in the allocation of materials for the repair or rehabilitation of their property in Finland and in the allocation of foreign exchange for the importation of such materials as applies to Finnish nationals.

(e) The Finnish Government shall grant United Nations nationals an indemnity in Finnish marks at the same rate as provided in sub-paragraph (a) above to compensate them for the loss or damage due to special measures

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applied to their property during the war, and which were not applicable to Finnish property. This sub-paragraph does not apply to a loss of profit.

5. All reasonable expenses incurred in Finland in establishing claims, including the assessment of loss or damage, shall be borne by the Finnish Government.

6. United Nations nationals and their property shall be exempted from any exceptional taxes, levies or imposts imposed on their capital assets in Finland by the Finnish Government or any Finnish authority between the date of the Armistice and the coming into force of the present Treaty for the specific purpose of meeting charges arising out of the war or of meeting the costs of reparation payable to any of the United Nations. Any sums which have been so paid shall be refunded.

7. The owner of the property concerned and the Finnish Government may agree upon arrangements in lieu of the provisions of this Article.

8. As used in this Article:—

(a) “United Nations nationals” means individuals who are nationals of any of the United Nations, or corporations or associations organised under the laws of any of the United Nations, at the coming into force of the present Treaty, provided that the said individuals, corporations or associations also had this status at the date of the Armistice with Finland.

The term “United Nations nationals” also includes all individuals, corporations or associations which, under the laws in force in Finland during the war, have been treated as enemy;

(b) “Owner” means the United Nations national, as defined in sub-paragraph (a) above, who is entitled to the property in question, and includes a successor of the owner, provided that the successor is also a United Nations national as defined in sub-paragraph (a). If the successor has purchased the property in its damaged state, the transferor shall retain his rights to compensation under this Article, without prejudice to obligations between the transferor and the purchaser under domestic law;

(c) “Property” means all movable or immovable property, whether tangible or intangible, including industrial, literary and artistic property, as well as all rights or interests of any kind in property.

ARTICLE 27

In so far as any such rights were restricted on account of Finland's participation in the war on Germany's side, the rights of the Finnish Government and of any Finnish nationals, including juridical persons, relating to Finnish property or other Finnish assets on the territories of the Allied and Associated Powers shall be restored after the coming into force of the present Treaty.

ARTICLE 29

1. Finland waives all claims of any description against the Allied and Associated Powers on behalf of the Finnish Government or Finnish nationals arising directly out of the war or out of actions taken because of the existence of a state of war in Europe after September 1, 1939, whether or not the Allied or Associated Power was at war with Finland at the time, including the following:—

(a) Claims for losses or damages sustained as a consequence of acts of forces or authorities of Allied or Associated Powers;

(b) Claims arising from the presence, operations or actions of forces or authorities of Allied or Associated Powers in Finnish territory;

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- (c) Claims with respect to the decrees or orders of Prize Courts of Allied or Associated Powers, Finland agreeing to accept as valid and binding all decrees and orders of such Prize Courts on or after September 1, 1939, concerning Finnish ships or Finnish goods or the payment of costs;
 - (d) Claims arising out of the exercise or purported exercise of belligerent rights.
2. The provisions of this Article shall bar, completely and finally, all claims of the nature referred to herein, which will be henceforward extinguished, whoever may be the parties in interest.
3. Finland likewise waives all claims of the nature covered by paragraph 1 of this Article on behalf of the Finnish Government or Finnish nationals against any of the United Nations whose diplomatic relations with Finland were broken off during the war and which took action in co-operation with the Allied and Associated Powers.
4. The waiver of claims by Finland under paragraph 1 of this Article includes any claims arising out of actions taken by any of the Allied and Associated Powers with respect to Finnish ships between September 1, 1939, and the coming into force of the present Treaty, as well as any claims and debts arising out of the Convention on prisoners of war now in force.

ARTICLE 31

1. Any disputes which may arise in connection with Articles 24 and 25 and Annexes IV, V and VI, part B, of the present Treaty shall be referred to a Conciliation Commission composed of an equal number of representatives of the United Nations Government concerned and of the Finnish Government. If agreement has not been reached within three months of the dispute having been referred to the Conciliation Commission, either Government may require the addition of a third member to the Commission, and, failing agreement between the two Governments on the selection of this member, the Secretary-General of the United Nations may be requested by either party to make the appointment.
2. The decision of the majority of the members of the Commission shall be the decision of the Commission and shall be accepted by the parties as definitive and binding.

PART VI.—FINAL CLAUSES

ARTICLE 34

1. For a period not to exceed eighteen months from the coming into force of the present Treaty, the Heads of the Diplomatic Missions in Helsinki of the Soviet Union and the United Kingdom, acting in concert, will represent the Allied and Associated Powers in dealing with the Finnish Government in all matters concerning the execution and interpretation of the present Treaty.
2. The Two Heads of Mission will give the Finnish Government such guidance, technical advice and clarification as may be necessary to ensure the rapid and efficient execution of the present Treaty both in letter and in spirit.
3. The Finnish Government shall afford the said Two Heads of Mission all necessary information and any assistance which they may require for the fulfilment of the tasks devolving on them under the present Treaty.

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ARTICLE 35

1. Except where another procedure is specifically provided under any Article of the present Treaty, any dispute concerning the interpretation or execution of the Treaty, which is not settled by direct diplomatic negotiations, shall be referred to the Two Heads of Mission acting under Article 34, except that in this case the Heads of Mission will not be restricted by the time limit provided in that Article. Any such dispute not resolved by them within a period of two months shall, unless the parties to the dispute mutually agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country. Should the two parties fail to agree with a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

2. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

ANNEX IV

SPECIAL PROVISIONS RELATING TO CERTAIN KINDS OF PROPERTY

A. Industrial, Literary and Artistic Property

1.—(a) A period of one year from the coming into force of the present Treaty shall be accorded to the Allied and Associated Powers and their nationals without extension fees or other penalty of any sort in order to enable them to accomplish all necessary acts for the obtaining or preserving in Finland of rights in industrial, literary and artistic property which were not capable of accomplishment owing to the existence of a state of war.

(b) Allied and Associated Powers or their nationals who had duly applied in the territory of any Allied or Associated Power for a patent or registration of a utility model not earlier than twelve months before the outbreak of the war with Finland or during the war, or for the registration of an industrial design or model or trade mark not earlier than six months before the outbreak of the war with Finland or during the war, shall be entitled within twelve months after the coming into force of the present Treaty to apply for corresponding rights in Finland, with a right of priority based upon the previous filing of the application in the territory of that Allied or Associated Power.

(c) Each of the Allied and Associated Powers and its nationals shall be accorded a period of one year from the coming into force of the present Treaty during which they may institute proceedings in Finland against those natural or juridical persons who are alleged illegally to have infringed their rights in industrial, literary or artistic property between the date of the outbreak of the war and the coming into force of the Treaty.

2. A period from the outbreak of the war until a date eighteen months after the coming into force of the present Treaty shall be excluded in determining the time within which a patent must be worked or a design or trade mark used.

3. The period from the outbreak of the war until the coming into force of the present Treaty shall be excluded from the normal term of rights in industrial, literary and artistic property which were in force in Finland at the outbreak of the war or which are recognised or established under part A of this Annex and belong to any of the Allied and Associated Powers or their nationals. Consequently, the normal duration of such rights shall be deemed to be automatically extended in Finland for a further term corresponding to the period so excluded.

4. The foregoing provisions concerning the rights in Finland of the Allied and Associated Powers and their nationals shall apply equally to the rights in the territories of the Allied and Associated Powers of Finland and its nationals. Nothing, however, in these provisions shall entitle Finland or its nationals to more favourable treatment in the territory of any of the Allied and Associated Powers than is accorded by such Power in like cases to other United Nations or their nationals, nor shall Finland be thereby required to accord to any of the Allied and Associated Powers or its nationals more favourable treatment than Finland or its nationals receive in the territory of such Power in regard to the matters dealt with in the foregoing provisions.

5. Third parties in the territories of any of the Allied and Associated Powers or Finland who, before the coming into force of the present Treaty, had *bona fide* acquired industrial, literary or artistic property rights conflicting with rights restored under part A of this Annex or with rights obtained with the priority provided thereunder, or had *bona fide* manufactured, published, reproduced, used or sold the subject matter of such rights, shall be permitted, without any liability for infringement, to continue to exercise such rights and to continue or to resume such manufacture, publication, reproduction, use or sale which had been *bona fide* acquired or commenced. In Finland, such permission shall take the form of a non-exclusive licence granted on terms and conditions to be mutually agreed by the parties thereto or, in default of agreement, to be fixed by the Conciliation Commission established under Article 31 of the present Treaty. In the territories of each of the Allied and Associated Powers, however, *bona fide* third parties shall receive such protection as is accorded under similar circumstances to *bona fide* third parties whose rights are in conflict with those of the nationals of other Allied and Associated Powers.

6. Nothing in part A of this Annex shall be construed to entitle Finland or its nationals to any patent or utility model rights in the territory of any of the Allied and Associated Powers with respect to inventions, relating to any article listed by name in Annex III of the present Treaty, made, or upon which applications were filed, by Finland, or any of its nationals, in Finland or in the territory of any other of the Axis Powers, or in any territory occupied by the Axis forces, during the time when such territory was under the control of the forces or authorities of the Axis Powers.

7. Finland shall likewise extend the benefits of the foregoing provisions of this Annex to France, and to other United Nations, which are not Allied or Associated Powers, whose diplomatic relations with Finland have been broken off during the war and which undertake to extend to Finland the benefits accorded to Finland under the said provisions.

8. Nothing in part A of this Annex shall be understood to conflict with Articles 25 and 27 of the present Treaty.

B. Insurance

1. No obstacles, other than any applicable to insurers generally, shall be placed in the way of the resumption by insurers who are United Nations nationals of their former portfolios of business.

2. Should an insurer, who is a national of any of the United Nations, wish to resume his professional activities in Finland, and should the value of the guarantee deposits or reserves required to be held as a condition of carrying on business in Finland be found to have decreased as a result of the loss or depreciation of the securities which constituted such deposits or reserves, the Finnish Government undertakes to accept, for a period of eighteen months, such securities as still remain as fulfilling any legal requirements in respect of deposits and reserves.

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ANNEX V

CONTRACTS, PRESCRIPTION AND NEGOTIABLE INSTRUMENTS

A. Contracts

1. Any contract which required for its execution intercourse between any of the parties thereto having become enemies as defined in part D of this Annex, shall, subject to the exceptions set out in paragraphs 2 and 3 below, be deemed to have been dissolved as from the time when any of the parties thereto became enemies. Such dissolution, however, shall not relieve any party to the contract from the obligation to repay amounts received as advances or as payments on account and in respect of which such party has not rendered performance in return.

2. Notwithstanding the provisions of paragraph 1 above, there shall be excepted from dissolution and there shall remain in force such parts of any contract as are severable and did not require for their execution intercourse between any of the parties thereto, having become enemies as defined in part D of this Annex. Where the provisions of any contract are not so severable, the contract shall be deemed to have been dissolved in its entirety. The foregoing shall be subject to the application of domestic laws, orders or regulations made by any of the Allied and Associated Powers having jurisdiction over the contract or over any of the parties thereto and shall be subject to the terms of the contract.

3. Nothing in part A of this Annex shall be deemed to invalidate transactions lawfully carried out in accordance with a contract between enemies if they have been carried out with the authorization of the Government of one of the Allied and Associated Powers.

4. Notwithstanding the foregoing provisions, contracts of insurance and re-insurance shall be subject to separate agreements between the Government of the Allied or Associated Power concerned and the Government of Finland.

B. Periods of Prescription

1. All periods of prescription or limitation of right of action or of the right to take conservatory measures in respect of relations, affecting persons or property, involving United Nations nationals and Finnish nationals who, by reason of the state of war, were unable to take judicial action or to comply with the formalities necessary to safeguard their rights, irrespective of whether these periods commenced before or after the outbreak of war, shall be regarded as having been suspended, for the duration of the war, in Finnish territory on the one hand, and on the other hand in the territory of those United Nations which grant to Finland, on a reciprocal basis, the benefit of the provisions of this paragraph. These periods shall begin to run again on the coming into force of the present Treaty. The provisions of this paragraph shall be applicable in regard to the periods fixed for the presentation of interest or dividend coupons or for the presentation for payment of securities drawn for repayment or repayable on any other ground.

2. Where, on account of failure to perform any act or to comply with any formality during the war, measures of execution have been taken in Finnish territory to the prejudice of a national of one of the United Nations, the Finnish Government shall restore the rights which have been detrimentally affected. If such restoration is impossible or would be inequitable, the Finnish Government shall provide that the United Nations national shall be afforded such relief as may be just and equitable in the circumstances.

C. Negotiable Instruments

1. As between enemies, no negotiable instrument made before the war shall be deemed to have become invalid by reason only of failure within

the required time to present the instrument for acceptance or payment, or to give notice of non-acceptance or non-payment to drawers or endorsers, or to protest the instrument, nor by reason of failure to complete any formality during the war.

2. Where the period within which a negotiable instrument should have been presented for acceptance or for payment, or within which notice of non-acceptance or non-payment should have been given to the drawer or endorser, or within which the instrument should have been protested, has elapsed during the war, and the party who should have presented or protested the instrument or have given notice of non-acceptance or non-payment, has failed to do so during the war, a period of not less than three months from the coming into force of the present Treaty shall be allowed within which presentation, notice of non-acceptance or non-payment or protest may be made.

3. If a person has, either before or during the war, incurred obligation under a negotiable instrument in consequence of an undertaking given to him by a person who has subsequently become an enemy, the latter shall remain liable to indemnify the former in respect of these obligations, notwithstanding the outbreak of war.

D. General Provision

For the purposes of this Annex, natural or juridical persons shall be regarded as enemies from the date when trading between them shall have become unlawful under laws, orders or regulations to which such persons or the contracts were subject.

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- (i) British protectorates.
- (ii) Territories in respect of which a mandate from the League of Nations was accepted by His Majesty being a territory under the sole administration of His Majesty's Government in the United Kingdom.
- (iii) Territories administered under the trusteeship system of the United Nations being territories under the sole administration of His Majesty's Government in the United Kingdom.
- (iv) British protected states.
- (v) Other places in which, by treaty, capitulation, grant, usage, sufferance or other lawful means, His Majesty has jurisdiction over British subjects.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The Order in Council gives effect, as far as this is possible, to certain Articles of the Peace Treaty with Finland which came into force on September 15, 1947.