

1980 No. 1720

FOREIGN COMPENSATION

**The Foreign Compensation (People's Republic of China)
(Registration) Order 1980***Made* - - - - 11th November 1980*Laid before Parliament* 19th November 1980*Coming into Operation* 5th January 1981

At the Court at Buckingham Palace, the 11th day of November 1980

Present,

The Queen's Most Excellent Majesty in Council

Whereas it appears to Her Majesty expedient to provide, in case agreement is reached between Her Majesty's Government in the United Kingdom and the Government of the People's Republic of China for the payment of compensation by the latter Government, for the registration, investigation and determination by the Foreign Compensation Commission (hereinafter referred to as "the Commission") of claims to such compensation, and for the making of reports by the Commission with respect to such claims:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in that behalf vested in Her Majesty by section 3 of the Foreign Compensation Act 1950(a) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

GENERAL

Citation and commencement

1. This Order may be cited as the Foreign Compensation (People's Republic of China) (Registration) Order 1980 and shall come into operation on 5th January 1981.

Interpretation

2. In this Order:—

"Applicant" means the person by or on whose behalf the application under Article 3 of this Order is made;

(a) 1950 c. 12; section 3 was amended by the Foreign Compensation Act 1969 (c.20), section 2

“Debt” means any debt due or owing from, or a claim for unliquidated damages against, a person, corporation, firm or association (other than a United Kingdom national) resident in the territory or a public authority in the territory, and includes:—

- (a) a balance held at a bank in the territory;
- (b) a pension due from a person, corporation, firm or association (other than a United Kingdom national) resident in the territory or from a public authority in the territory, except a pension in respect of which the applicant is actually in receipt of payments by Her Majesty’s Government in the United Kingdom, whether by way of *ex gratia* loan or otherwise;
- (c) a bond or other document of title in respect of a loan or obligation issued or guaranteed by a public authority in the territory except one denominated in a currency other than a Chinese currency;

“Material time” means any time at which it is material for the purposes of this Order whether or not a person is a United Kingdom national;

“Property” includes all rights or interests of any kind in property, whether corporeal or incorporeal, movable or immovable, and includes a debt;

“The territory” means the territory which is on the date on which this Order comes into operation controlled by the authorities of the People’s Republic of China;

“United Kingdom national” means:—

- (a) Her Majesty’s Government in the United Kingdom and the Government of any territory for whose international relations Her Majesty’s Government in the United Kingdom are responsible;
- (b) any individual who was at the material time a citizen of the United Kingdom and Colonies, a British subject by virtue of sections 2, 13 or 16 of the British Nationality Act 1948(a) or the British Nationality Act 1965(b), or a British protected person within the meaning of the said Act of 1948; except that any individual who was a British subject at any time before the date of the commencement of the said Act of 1948 only by virtue of the provisions of the Act of 1705(c), intituled “An Act for the Naturalization of the Most Excellent Princess Sophia Electress and Duchess Dowager of Hanover and the Issue of Her Body”, shall be deemed not to be a United Kingdom national;
- (c) any corporation, firm or association incorporated or constituted under the laws in force in the United Kingdom or in any territory for whose international relations Her Majesty’s Government in the United Kingdom were, at the material time, responsible;
- (d) any individual who as regards any material time after 31st December 1949 and prior to 18th April 1980 was a citizen of Southern Rhodesia or a citizen of Rhodesia and Nyasaland, and any individual who as regards any material time after 31st October 1957 and prior to 17th September 1963 was a citizen of Singapore.

(a) 1948 c. 56.
(c) 1705 c. 14.

(b) 1965 c. 34.

PART II
REGISTRATION OF CLAIMS

3. An application to the Commission to register a claim in accordance with the provisions of this Order may be made by or on behalf of any person who on the date on which this Order comes into operation:—

- (a) is a United Kingdom national; and
- (b) is beneficially entitled to the property to which the claim relates or would have been so entitled but for confiscation, nationalisation, expropriation or dispossession, whether direct or indirect, or through the application of governmental measures effectively causing dispossession.

4.—(1) Subject to the provisions of Article 3 of this Order, the Commission shall register a claim in respect of which they receive an application containing the information specified in Article 5(1) of this Order, if:—

- (a) it is a claim in respect of property in the territory of which the person beneficially entitled thereto has subsequent to 1st October 1949 been deprived of the ownership or enjoyment by confiscation, nationalisation, expropriation or dispossession, whether direct or indirect or through the application of governmental measures effectively causing dispossession; and
- (b) the person who was beneficially entitled to the property at the date of the deprivation as aforesaid was a United Kingdom national at that date.

(2) For purposes of sub-paragraph (a) of paragraph (1) of this Article, the Commission may, if they think fit, assume, without proof of any specific act of deprivation, that a person has been deprived of the ownership or enjoyment of the property by any act of the kind referred to in that sub-paragraph, if they are satisfied that he has lost the use or enjoyment of the property as a result of any action or course of conduct, on or after 1st October 1949, of the authorities of the area in which the property was situated.

5.—(1) An application made under Article 3 of this Order shall contain the following information:—

- (a) the location and condition of the property, the date of deprivation and its value at that date and, in the case of a debt, the debtor, his nationality and place of residence at the date of deprivation and at the date of the application insofar as such matters are known to the applicant;
- (b) the amount and source of any compensation or payment actually received in respect of the claim at any time, either by the applicant or by any other person;
- (c) whether an application has been made to any other person, body or Government in respect of the claim, either by the applicant or by any other person.

(2) Where the applicant is unable to state the value of the property at the date of deprivation, the Commission may make such assessment of the value of the property at that date as seems just and equitable to them having regard to all the circumstances.

6.—(1) An application shall not be entertained under this Order unless notification of the application, in such form as the Commission may specify, has reached the Commission on or before 5th July 1981.

(2) The Commission may refuse further to entertain an application under this Order unless the information specified in Article 5(1) of this Order, together with such other information relating to the claim as the Commission may reasonably request, has reached the Commission on or before 5th January 1982.

7. The Commission shall report, in such manner as Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs may direct, upon any claims registered in accordance with the provisions of this Order.

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

N. E. Leigh,
Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order enables certain claims relating to property in the People's Republic of China owned by United Kingdom nationals or relating to debts owed or pensions payable by persons resident in the People's Republic of China to United Kingdom nationals to be registered with, and reported upon by, the Foreign Compensation Commission.

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