
STATUTORY INSTRUMENTS

1982 No. 1073

The Foreign Compensation (Czechoslovakia) Order 1982

PART III

GENERAL PROVISIONS CONCERNING THE ESTABLISHMENT OF CLAIMS

6.—(1) An application shall not be entertained by the Commission for the purposes of this Order unless it has reached the Commission on or before 31st August 1983.

(2) An application shall not be entertained by the Commission for the purposes of this Order unless it is made in accordance with the Rules of the Commission.

7.—(1) The Commission shall not entertain an application for the purposes of this Order if that application is in respect of:—

- (a) any claim in respect of which a payment was made by the Commission under the Foreign Compensation (Czechoslovakia) Order in Council 1950 as amended⁽¹⁾; or
- (b) except as provided in Article 19 of this Order, any claim in respect of a bond denominated in any currency other than Czechoslovak currency; or
- (c) any claim in respect of the six per cent First Mortgage Debentures of the SKODA WORKS (limited company formerly the Skoda Works, Plzen).

(2) For the avoidance of doubt, it is hereby declared that, without prejudice to the provisions of Article 17 of this Order, the Commission shall not entertain an application for the purposes of this Order, if that application is in respect of any claim in respect of any property beneficially owned by a corporation incorporated or constituted under the laws in force in a country or territory other than the United Kingdom or any territory for whose international relations Her Majesty's Government in the United Kingdom were, at the material time, responsible, whether or not any of the shareholders in that corporation, or a majority of them, are United Kingdom nationals, and whether or not that corporation is controlled, directly or indirectly, by United Kingdom nationals.

8. Each application made under this Order shall be determined by not less than two members of the Commission, provided that:—

- (a) if the aggregate of all amounts claimed by an applicant under this Order does not exceed £10,000, the provisional determination of the application may be made by one member of the Commission;
- (b) notwithstanding paragraph (a) of this Article, no claim shall be dismissed except upon determination by not less than two members of the Commission.

9. 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, and shall dismiss each claim which is not so established.

10. 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 in respect of that loss

(1) S.I. 1951/1166, 1952/348, 1413, 1953/1209, 1902, 1956/831.

from any source other than the Fund that 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 (i) has received or (ii) may, if he exercises diligence, be reasonably expected to receive or (iii) might, if he had exercised diligence, reasonably have been expected to receive.

11.—(1) Where any amount which is material to the determination of an application under this Order is expressed in a unit of foreign currency, the value in sterling of that amount shall be determined:—

- (a) in the case of a debt or obligation expressed in a foreign currency where the sum is due or payable under a contract in which provision is made for a specified rate of exchange, at the rate of exchange so specified;
- (b) subject to subparagraph (a),
 - (i) in case of loss assessed under subparagraph (a) or (c) of Article 20, at the rate of exchange obtaining on 1st November 1945;
 - (ii) in case of loss assessed under subparagraph (f) of Article 20, at the rate of exchange obtaining on 19th October 1945;
 - (iii) in case of loss assessed with respect to a debt or obligation created on or after 1st June 1953, at the rate of exchange obtaining on the relevant date;
 - (iv) in case of loss assessed with respect to any other claim established under this Order (other than under subparagraph (d) of Article 20), at the rate of exchange obtaining on the relevant date or 31st May 1953, whichever is the earlier.

(2) For the purposes of this Article the rate of exchange between foreign currency and sterling on any of the said dates shall be deemed to be the middle rate for telegraphic transfers ruling in the London market on that date or, if there was no such rate, such rate as the Treasury may determine.

12. If any transfer of property to which a claim relates was effected in a part of Czechoslovakia under Hungarian occupation between 6th November 1938 and 9th May 1945, or under German occupation between 1st October 1938 and 9th May 1945, that transfer shall be deemed, for the purposes of this 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 belonged at the date of such transfer.