

Argentina



10 DOWNING STREET

From the Private Secretary

30 September, 1982

FALKLAND ISLANDS: COMPENSATION FOR CIVILIAN
LOSSES

The Prime Minister has noted the contents of the minute of 16 September by the Foreign and Commonwealth Secretary.

A. L. COLES

J E Holmes, Esq.,
Foreign and Commonwealth Office

8-11



CONFIDENTIAL

Prime Minister (2)

To note

[Handwritten signature]

MUS 16/9

PM/82/78

THE PRIME MINISTER

Falkland Islands: Compensation for Civilian
Losses

1. In my minute on this subject of 27 July, I undertook to report to members of OD(FAF) progress on the compensation scheme for civilian losses in the Falkland Islands.
2. Provisional guidelines for the scheme were established last month and a team of MOD claims assessors, who have taken on the implementation of the scheme in the Falklands, have already made considerable progress in registering claims and in making payments on the less contentious. About £250,000 has already been paid out in the Islands to private individuals. Officials have now completed work on an explanatory leaflet giving details of the guidelines governing the scheme. This is being prepared for distribution in the Islands and here in London. I attach a copy of the text of the leaflet.
3. No significant problems have yet arisen on the functioning of the scheme and it is hoped that the great majority of claims will be settled before the end of the financial year, although some of the larger and more complex (for example, those relating to losses of livestock and of profits) may take more time to complete.
4. I am copying this minute to OD(FAF) colleagues and to Sir Robert Armstrong.

[Handwritten initials]

16 September 1982
Foreign and Commonwealth Office

(FRANCIS PYM)

CONFIDENTIAL

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COMPENSATION FOR CIVIL LOSSES IN THE FALKLAND ISLANDS

Explanatory leaflet

This leaflet sets out the basis on which compensation will be paid for civil losses suffered as a direct result of the Argentine invasion and the subsequent armed conflict. It also tries to answer some of the questions that claimants and others interested in the Scheme will want to know. Enquiries should be addressed to:

- a) the Falkland Islands Department, Foreign and Commonwealth Office, King Charles Street, London SW1; or
- b) the Civil Commissioner, Port Stanley, Falkland Islands.

Purpose of Scheme

1. The Scheme will provide ex gratia compensation for all civil persons and bodies who suffered death, personal injury or loss of or damage to their property as a direct result of the Argentine invasion and the subsequent armed conflict.

Who will qualify?

2. Individuals, bodies corporate or any others who suffered as mentioned in the preceding paragraph.

Timescale

3. The Scheme will cover all cases of death, personal injury or loss of, or damage to, property or consequential loss resulting from activities by British or Argentine forces in the period from the Argentine invasion of 2 April 1982 to the surrender of 14 June 1982. The position in respect of cases of death, personal injury or loss of, or damage to, property or consequential loss, arising after 14 June 1982, but also resulting from activities by British or Argentine forces, will be slightly different. Where such cases give rise to a legal liability on the part of the Ministry of Defence, the claims concerned will be met by them under their normal operating procedures. Where no such legal liability exists claims will be dealt with under the present Scheme. In neither case will there be any time

limit on the incidents in respect of which a claim for compensation may be presented.

4. Claims for compensation should be notified to the Civil Commissioner, Port Stanley, on or before 31 January, 1983, or within six months of the incident which gives rise to the claim (whichever is later) even if the precise amount of the claim may by that date not be quantifiable.

Basis for Compensation

5. In the case of loss or damage to property compensation will be assessed as appropriate either at the cost of repair, or at replacement cost at Falkland levels less an allowance in respect of the age and condition of the article at the time of loss/damage. Consequential loss, in particular loss of profits, will be covered for a period not exceeding six months after the time of the incident which gives rise to the claim. In exceptional circumstances and where loss which is clearly a result of the incident arises after this period of six months, special consideration will be given to the claim.

6. In the case of death and personal injury, the common law principles for assessing financial compensation will apply, subject to the condition that the costs of private treatment will be payable only if, in all the circumstances, both the private treatment and the cost of it are reasonable.

7. Compensation may be refused or the amount reduced in any case where the victim by his negligence contributed to the death, personal injury or loss of or damage to property or any other loss which gave rise to the claim, or where the victim did not take reasonable steps to mitigate the loss or damage.

8. Compensation will be in money. The Secretary of State for Foreign and Commonwealth Affairs reserves the right, where he thinks it appropriate, to insist upon restoration, restitution or replacement of any item in respect of which compensation may be paid.

Duplication

9. Compensation will be off-set by the monetary value of any repairs and rehabilitation ^ameasures carried out by Her Majesty's Government (including the British Armed Forces) or by the Falkland Islands Government; and in respect of all instances where satisfaction is otherwise provided, such as under insurance policies or by private charitable or relief funds. No account will, however, be taken of

any payments in respect of death that may be paid under life assurance policies. Claims will not be entertained from insurance companies in respect of any payments they may make to policy-holders in connection with any incident which could give rise to a claim under the Scheme. All claimants will, before payment of compensation is made, have to certify that they have disclosed to the relevant Claims Officers any assistance that they have received in respect of qualifying losses.

Assessment and Settlement of Claims

10. MOD Claims officers in the Falkland Islands will receive, assess and negotiate claims, where appropriate on behalf of the FCO. They will have authority to settle and pay compensation in the great majority of cases without reference to London. Where agreement can be reached with claimants, therefore, it will be possible for compensation to be paid very rapidly.

Disagreed Cases

11. Where agreement between the claimant and the Claims Officers is not possible, it will be open to either party to refer the claim to an arbitrator, to be chosen by the Secretary of State for Foreign and Commonwealth Affairs. The arbitrator's decision will be final.

Argentina

Compensation

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