



Treasury Chambers

Parliament Street London SW1P 3AG

Telex 262405

Telephone:

01 - 233 .3364... (Direct Dialling)

01 - 233 3000 (Switchboard)

Department of Finance

RECEIVED (R)

2- AUG 1976

REGISTRY
STORMONT

A A Gatlish Esq
Northern Ireland Office
Great George Street
LONDON
SW1P 3AJ

Your reference

Our reference 2DM 153/609/01

Date 28 July 1976

ARMY OCCUPATION OF FACTORIES BELONGING TO THE NI DEPARTMENT OF COMMERCE

I enclose a copy of a letter from the Ministry of Defence dated 30 April on this topic.

I must say I have sympathy with the Ministry of Defence in their reluctance to pay the Department of Commerce the £30,000 or so per annum involved. As you know, the extra cost attributable to the Army's task in Northern Ireland, which is not included in PES Table 15, is about £59m in 1976-77. Equally, I can see that the Department of Commerce may have an accounting problem. The solution, at least in part, appears to lie in your interpretation of section 17(2) of the Northern Ireland (Emergency Provisions) Act 1973.

I am not at all sure I understand the significance of the reference in the first sentence of paragraph 3 of the Ministry of Defence letter, to the effect that the Department of Commerce is a "non-exchequer" department. Given the circumstances of the grant-in-aid which NIO makes to Northern Ireland, I would be inclined to doubt the relevance of the situation, even if it is technically correct.

As to the final sentence about the Treasury inviting the Departments of Commerce and Finance to waive any payment of rent, I am not at all sure that this action might not, under the terms of the NIO (Emergency Provisions) Act 1973, be more appropriate to you than to us. Certainly I would not think it appropriate for us to take any such action without your advice. Equally, if you had no objection, I would have thought that the Department of Finance could themselves give the necessary direction to their Department of Commerce to waive the payment involved. Copy of this letter (for information at this stage) goes to David Leeman.

Yours sincerely

MISS M E MOODY

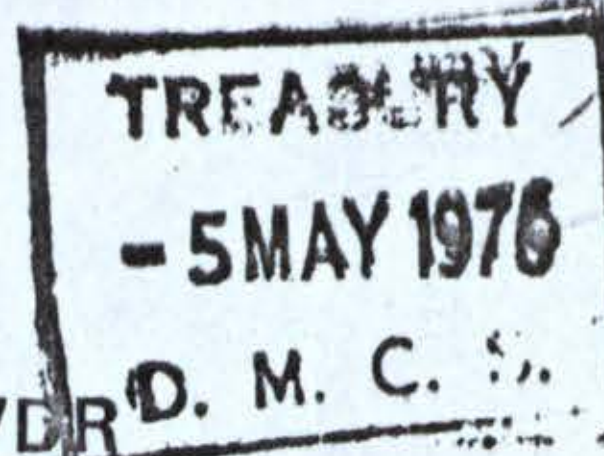
FROM: M H TALLBOYS Hd of DS23



Ministry of Defence

Tolworth Tower Ewell Road Surbiton Surrey KT6 7DR

Telephone 01-399 5281 ext



W A Allman Esq
Treasury Chambers
Parliament Street
LONDON SW1

Your reference

2DM 153/609/01

Our reference

D/DS23/868/25

Date

30 April 1976

Dear Wally,

NORTHERN IRELAND EMERGENCY - ARMY OCCUPATION OF FACTORIES BELONGING TO THE DEPARTMENT OF COMMERCE

1. I should be glad of your assistance in sorting out a problem that has arisen over the Army's occupation of two factories, the property of the Northern Ireland Department of Commerce, as emergency accommodation. When the emergency began in 1969, the Army occupied a number of factories as emergency accommodation, and two of these continue to be occupied. At the time, it was naturally assumed that the requirement would be of a short term nature, and that no question of rent need arise.
2. However, the Department of Commerce take a view that they have a statutory duty to put the factories in their ownership to commercial use, and that their loan of these factories to the Ministry of Defence without charge, other than on a temporary basis, is ultra vires. No statutory definition of 'temporary' exists, but the Department of Finance has ruled that in this context it should be taken to mean 'less than 5 years'. On this basis, they have asked us to pay rent with effect from 1 April 1974 on 2 factories - £16,780 per annum for the ex-Jersey Kapwood Factory, Lurgan, and £17,075 per annum for the ex-Light Alloy Factory, Carnmoney. In connection with our occupation being ultra vires, probably this would be technically true if it were not for Section 17(2) of the Northern Ireland (Emergency Provisions) Act 1973, which empowers the Secretary of State to take possession of any land or property necessary for the preservation of peace or the maintenance of order.
3. We are of course aware that the Department of Commerce is a non-exchequer department and therefore entitled in principle to require rent from the UK Government Department. On the other hand, we are concerned to maintain the principle that the Northern Ireland Government should bear the cost of any assistance they give to the Security Forces in the continuing emergency in Northern Ireland. The general principles governing the division of responsibility between MOD and the Northern Ireland Government during the emergency was set out in Patterson's letter (reference 2DM736/609/03 dated 6 October 1969), and it appears from our files that Patterson stated specifically in discussion with MOD at this time that the Ministry of Defence would not be expected to pay rent to Northern Ireland Government Departments in respect of military occupation of their premises.
4. The Department of Commerce has been very helpful to us in providing accommodation for the Army during the past 6 years, and we have no wish whatever to make difficulties for them. However, our discussions with them have led us to believe that their difficulties could be quite simply overcome by a ruling from Treasury, whereas the payment of rent by us will infringe a principle that we consider to be of great importance in relation to the Defence Budget viewed as a whole. It should not be overlooked here that our very substantial extra costs in Northern Ireland eat into the Defence Budget and are not of course being recovered. Any erosion of our

position therefore might well compel us to look more closely into the present financial arrangements as a whole.

5. I would therefore be grateful if you could consider whether the Treasury should not invite the Departments of Commerce and Finance to waive any payment of rent for the duration of the emergency. I am sending copies of this letter to Masterson (Department of Commerce) and to the Department of Finance.

Yours sincerely,
Mick Tallboy