
STATUTORY INSTRUMENTS

1977 No. 1247 (N.I. 14)

NORTHERN IRELAND

**The Criminal Damage (Compensation)
(Northern Ireland) Order 1977**

Laid before Parliament in draft

Made

26th July 1977

Coming into operation in accordance with Article 1 (2)

ARRANGEMENT OF ORDER

Article

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SCHEDULE—Certificate under Article 5 (2) of the Criminal Damage (Compensation) (Northern Ireland) Order 1977.

At the Court at Buckingham Palace, the 26th day of July 1977

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Criminal Damage (Compensation) (Northern Ireland) Order 1977.

(2) This Order, except Article 13, shall come into operation on 1st April 1978 and Article 13 shall come into operation on the fourteenth day after the day on which the Order is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“applicant” means a person who has made an application for compensation;

“Chief Constable” includes an Assistant Chief Constable and a Deputy Chief Constable of the Royal Ulster Constabulary;

“compensation” means compensation under this Order;

“damage”, in relation to property, includes the total or partial destruction of, and any injury to, property;

“prescribed” means prescribed by regulations made under Article 21 (2);

“statutory provision” has the meaning assigned to it by section 1 (f) of the Interpretation Act (Northern Ireland) 1954;

“terrorism” means the use of violence for political ends and includes any use of violence for the purpose of putting the public or any section of the public in fear;

“unlawful association” means any organisation which is engaged in terrorism and includes an organisation which at any relevant time is a proscribed organisation within the meaning of the Northern Ireland (Emergency Provisions) Act 1973 (c) or any Act re-enacting that Act (whether with or without modifications).

(3) References in this Order to the county court shall, in relation to—

(a) an application under this Order for compensation for loss from damage to, or for loss of, any property; or

(a) 1974 c. 28. (b) 1954 c. 33 (N.I.). (c) 1973 c. 53.

(b) any matter arising on or in connection with such an application, be construed as referring to a county court having jurisdiction over the whole or any part of the division in which that property or any part of that property is situated or, in the case of movable property, was situated at the time when the act which caused the loss was committed.

Compensation to be payable in accordance with this Order

3.—(1) Subject to and in accordance with the provisions of this Order, compensation shall be payable by the Secretary of State for damage caused as a result of an act committed on or after 1st April 1978 to any property or for the unlawful removal on or after that date of property in the circumstances described in Article 6.

(2) The Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971 (a) shall cease to have effect, except in relation to any damage (within the meaning of that Act) caused as a result of an act committed before, or in relation to property unlawfully removed before, 1st April 1978.

Compensation for damage to agricultural buildings and property

4. Where damage has been maliciously or wantonly caused to—

(a) any building which is an agricultural building within the meaning of the Rates (Northern Ireland) Order 1972 (b); or

(b) any of the following kinds of property, found present or growing on, or unlawfully removed from, any land which is agricultural land within the meaning of the Agriculture Act (Northern Ireland) 1949 (c) or found present in, or unlawfully removed from, any building to which paragraph (a) applies, that is to say—

(i) any livestock,

(ii) any agricultural or dairy machinery and utensils, implements and utensils of husbandry, any harness, fuel oil or spirit, and any power or horse-drawn farm vehicles and trailers (including farm vehicles and trailers constructed or adapted for the conveyance of goods),

(iii) any fruit trees or growing crops,

(iv) any corn, hay, straw, flax, wool, potatoes or other agricultural produce, feeding stuffs, fertilizers or insecticides,

(v) any cut turf intended for use as fuel,

the Secretary of State shall, subject to the provisions of this Order, pay compensation to any person having an estate or interest in that building or property who suffers loss from that damage.

Compensation for damage to other property

5.—(1) Where damage has been unlawfully, maliciously or wantonly caused to any property—

(a) by any three or more persons unlawfully, riotously or tumultuously assembled together; or

(b) as a result of an act committed maliciously by a person acting on behalf of or in connection with an unlawful association;

the Secretary of State shall, subject to the provisions of this Order, pay compensation to any person having an estate or interest in that property who suffers loss from that damage.

(a) 1971 c. 38 (N.I.). (b) S.I. 1972/1633 (N.I. 16). (c) 1949 c. 2 (N.I.).

(2) Where the Chief Constable is of the opinion that any act was committed maliciously by a person acting on behalf of or in connection with an unlawful association he shall issue a certificate in the form set out in the Schedule, or in such other form as may be prescribed, to any person who requests him to issue such a certificate for the purposes of an application by that person for compensation for loss resulting from damage alleged to have been caused by an act so committed.

(3) A certificate purporting to be issued by the Chief Constable under paragraph (2) shall, until the contrary is proved, be evidence that the act therein referred to was committed maliciously by a person acting on behalf of or in connection with an unlawful association.

(4) If the Chief Constable certifies that it is not in the public interest to disclose the information on which any certificate issued under paragraph (2) is based, that information shall not be disclosed in any court in proceedings under this Order.

Compensation for unlawful removal of property

6. Where—

- (a) three or more persons who are tumultuously and riotously assembled together unlawfully, maliciously or wantonly cause damage, the aggregate value of which exceeds £100, to a building or to property within the curtilage of a building; and
- (b) in the course of the riot a person unlawfully removes any property from such a building;

the Secretary of State shall, subject to the following provisions of this Order, pay compensation to any person having an interest in the property removed who suffers loss as the result of the unlawful removal.

Preliminary notice of damage or removal

7.—(1) Subject to the provisions of this Article, an applicant shall not be entitled to compensation unless he or some other person having an estate or interest in the property to which the applicant's claim to such compensation relates has, within ten days from the day on which the act giving rise to that claim was committed, served or caused to be served a preliminary notice of intention to apply for such compensation on—

- (a) the Secretary of State;
- (b) the divisional commander of police for the police division in which the damage or removal giving rise to that claim or the greater part of that damage or removal occurred; and
- (c) such other persons, if any, as may be prescribed.

(2) A preliminary notice shall be in such form as may be prescribed and shall fully and truthfully disclose the following facts, in so far as they are within the knowledge and belief of the person by or on behalf of whom the notice is served, that is to say—

- (a) the place, date and time at which the act giving rise to the claim to compensation was committed; and
- (b) the nature of the property damaged or removed.

(3) Subject to Article 15 (1), the Secretary of State may, upon a request being submitted to him in writing within six months of the commission of the

act giving rise to the claim for compensation, extend the period within which a preliminary notice may be served in respect of that claim.

Applications for compensation

8.—(1) An application for compensation shall be made in such manner as the Secretary of State may direct and shall be so made within four months (or such longer period not exceeding twelve months as the Secretary of State, or on an appeal under Article 15 (1) the county court, may in any particular case allow) from the date of service upon the Secretary of State of a preliminary notice under Article 7 (1).

(2) The Secretary of State may require to be submitted to him, within such period as he may specify, such further information in relation to the application as he thinks fit and where the applicant fails to submit that information within that period the Secretary of State may determine the application forthwith and Article 15 (1) shall apply to such a determination.

(3) Where, by virtue of any assignment or act or event in law, the right of any person to apply for or receive any compensation has passed to any other person, that other person, or, if he is under any legal disability, the person appearing to the Secretary of State to be entitled to act on his behalf, may be treated as an applicant for the purposes of any provision of this Order.

Assessment of compensation

9.—(1) In determining whether any compensation should be paid in respect of any loss and, if so, its amount, the Secretary of State shall have regard to all such circumstances as are relevant and, without prejudice to the generality of the foregoing, shall have regard to—

- (a) any failure on the part of the applicant to take all reasonable precautions to reduce or avoid the loss;
- (b) any failure on the part of the applicant to comply with any statutory provision relating to the safety of property;
- (c) any unlawful purpose for which the property was being used and any unlawful use of the property (including its use for the unlawful sale and consumption of intoxicating liquor or, where the property is a motor vehicle, its use without there being in force in respect of that vehicle a licence under the Vehicles (Excise) Act 1971 (a) or the Vehicles (Excise) Act (Northern Ireland) 1972 (b)), by the applicant, or by any other person with his consent whether express or implied, immediately before the occurrence of the act giving rise to the claim for compensation in respect of that property;
- (d) any provocative or negligent behaviour of the applicant which contributed, directly or indirectly, to the loss or increased the chances of its being sustained.

(2) To enable him to determine for the purposes of paragraph (1) (a) whether the applicant failed to take all reasonable precautions to reduce or avoid loss, the Secretary of State may serve a notice on the applicant requiring him to state the precautions which he took to reduce or avoid the loss.

Reduction or exclusion of compensation

10.—(1) Compensation shall not be payable in respect of—

- (a) any loss suffered by reason of the total or partial destruction or

(a) 1971 c. 10. (b) 1972 c. 10 (N.I.).

unlawful removal of any coins, Treasury or bank notes, or currency of any country, any postal orders or post office money orders or any postage or other adhesive stamps;

- (b) any loss suffered by reason of damage of any kind to, or unlawful removal of, articles of personal ornament (including watches and jewellery) unless kept by the owner as part of his stock in trade; or
- (c) any loss if, and to the extent which, reparation or damage therefor has previously been recovered or is recoverable under any other statutory provision or has been recovered under the common law.

(2) Compensation shall not be payable for any loss where the person suffering the loss connived at, assisted in or actively and willingly facilitated the occurrence of or contributed to the damage or unlawful removal from which the loss arose or was, at or about the time of that damage or unlawful removal, associated or combined or in league with the person or persons causing it.

(3) Without prejudice to Article 9 (1) compensation shall not be payable to or for the benefit of any person—

- (a) who has been a member of an unlawful association at any time whatsoever, or is such a member; or
- (b) who has been engaged in the commission, preparation or instigation of acts of terrorism at any time whatsoever, or is so engaged.

(4) Compensation shall not be payable in respect of an incorporeal hereditament (including an easement or profit or other right) or a loss of mere pleasure or amenity.

(5) Compensation shall not be payable in respect of so much of any loss as is attributable to any neglect or failure on the part of the person suffering that loss to take reasonable steps to minimise the extent thereof.

(6) Compensation shall not be payable in respect of any loss suffered by an applicant arising out of a particular act if the amount of that loss does not exceed £100.

(7) Where any loss arising out of a particular act exceeds £100, the compensation payable in respect of that loss shall be reduced by that sum, so however that no applicant may suffer a reduction in respect of more than one claim for the same property as a result of acts occurring during any period of twelve months.

(8) The Secretary of State may withhold payment of all or part of compensation until the applicant has complied with all reasonable requests for information and assistance which might lead to the identification and apprehension of the person or persons who committed the act giving rise to the claim for compensation.

Repair or reinstatement of buildings

11.—(1) Where the amount of compensation payable in respect of any loss resulting from damage to a building (whether the application relates wholly or in part to that building) exceeds the diminution in the market value of that building immediately consequent on its damage, the Secretary of State may impose conditions as to the payment of so much of that compensation as exceeds that diminution in the market value, including the withholding of all or any part of it until the applicant has carried out works of repair or reinstatement of the building.

(2) Where the Secretary of State imposes conditions under paragraph (1), he shall serve upon the applicant a notice of decision specifying—

- (a) the amount of compensation payable in respect of the building;
- (b) the amount of the diminution in the market value of the building; and
- (c) the conditions to be fulfilled before payment of the balance of the compensation.

(3) Upon a request in writing being submitted to him by the applicant the Secretary of State may vary any condition imposed under paragraph (2) (c).

(4) Where—

- (a) a tenant of premises is bound by a repairing covenant, and
- (b) the premises are damaged in such circumstances that compensation for loss resulting from their damage is payable under this Order, and
- (c) any repairs necessary to comply with the covenant have not been carried out at the expense of the tenant,

any assessment of damages for breach of the covenant shall not include in respect of the cost of those repairs any sum greater than the diminution in the market value of the landlord's reversion.

(5) In this Article—

“lease” means any contract of tenancy whether or not contained in an instrument in writing and includes a sub-lease;

“market value”, in relation to a building, means the consideration which the landlord's or, as the case may be, the tenant's interest in that building might reasonably be expected to fetch on a sale in the open market;

“repairing covenant” means a covenant, agreement or condition contained or implied in a lease to put or keep the premises in repair during the currency of the lease, or to leave or put the premises in repair at the termination of the lease.

General provisions

12.—(1) The Secretary of State may, if he thinks fit, make one or more payments on account of the compensation payable but, subject to that, compensation shall be a lump sum.

(2) Where on an application under this Order the Secretary of State pays compensation to any person, the Secretary of State shall also pay to that person in respect of the costs and expenses incurred by him in making out and verifying his claim to that compensation such sum as is reasonable having regard to the circumstances and references to compensation in paragraph (1) and the succeeding provisions of this Article and in Articles 16 and 17 shall be construed as including references to any such sum.

(3) Where—

- (a) the Secretary of State receives notice of any assignment, or of any act or event at law, other than a mortgage within the meaning of Article 14, affecting compensation payable by the Secretary of State;
- (b) the person entitled to compensation is a minor or is out of the United Kingdom; or
- (c) the address of a person so entitled cannot be ascertained without undue expense or delay;

the Secretary of State may, in accordance with county court rules, pay such compensation into such county court as appears to be appropriate; and that payment into court shall to the extent thereof be a sufficient discharge to the Secretary of State and shall, subject to any county court rules regarding monies paid into court under section 63 of the Trustee Act (Northern Ireland) 1958 (a), be dealt with in accordance with the orders of that county court.

(4) Without prejudice to paragraph (2) or to Article 14, where the loss to which an application under this Order relates has been suffered by more than one person, payment of compensation may be subject to such conditions as the Secretary of State may determine with respect to the payment or apportionment of compensation.

(5) Where, but for Article 10 (3), compensation would be payable to or for the benefit of any person, the Secretary of State may, if he considers it to be in the public interest to do so, pay to him such sum as does not exceed the amount of that compensation.

Application of Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 to compensation for criminal damage

13.—(1) The Secretary of State shall be deemed to be, and be deemed always to have been, a government department for the purposes of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 (b) as respects any compensation or other sums payable under the Criminal Injuries Acts (Northern Ireland) 1956 to 1970 (c), the Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971 or this Order.

(2) In the application of section 1 of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 by virtue of paragraph (1), the reference in subsection (1) of that section to the Department of Finance shall be omitted.

Effect of certain agreements where property is maliciously damaged

14.—(1) Where—

- (a) an application is made to the Secretary of State for the payment of compensation in respect of any property which is the subject of separate estates or interests held by different persons; and
- (b) that property is damaged or unlawfully removed so that a person suffering loss from that damage or unlawful removal would obtain compensation therefor if he made an application to the Secretary of State under this Order; and
- (c) the damage significantly affects the value of the estate or interest in the property of a person other than the applicant;

the Secretary of State may, after affording to the applicant and all other persons appearing to have any estate or interest in the property an opportunity of making representations respecting such compensation (and whether or not any such representations have been made)—

- (i) by order make a determination for the payment to the applicant or to that other person of the whole of such compensation and costs related thereto or of such part thereof as appears to be fairly payable to him in all the circumstances; or

(a) 1958 c. 23 (N.I.).

(b) 1971 c. 30 (N.I.).

(c) 1956 c. 19 (N.I.); 1964 c. 7 (N.I.); 1970 c. 26 (N.I.).

(ii) may, upon notice to the applicant and all persons appearing to him to have any estate or interest in the property, pay the compensation and costs related thereto into the county court and the provisions of Article 12 (3) with respect to a payment into court under that paragraph shall also have effect with respect to a payment into court under this paragraph.

(2) An order under paragraph (1) may contain such consequential and other provisions as appear to be necessary, including (but without prejudice to the generality of the foregoing) provisions—

- (a) modifying the terms of, and providing for the future application of, any relevant agreement relating to the property, including providing for the suspending of repayments of capital due or outstanding thereunder or otherwise;
- (b) imposing conditions as to the application of the compensation whether in carrying out works of reinstatement or repair specified in the order or otherwise and requiring security to be given for the due performance of those conditions or requiring the lodgment of compensation in a joint account to be withdrawn therefrom only upon terms specified by the Secretary of State.

(3) If within six weeks after the date of an order made by the Secretary of State under paragraph (1) no appeal is brought against that order under Article 15 the Secretary of State may make payments in accordance therewith.

(4) Where compensation and costs are paid into the county court under paragraph (1) (ii), the county court may exercise any power exercisable by the Secretary of State under this Article.

(5) Where an order made by the Secretary of State under this Article or by the county court on any appeal from any such order imposes conditions as to the application of compensation—

- (a) any compensation paid by the Secretary of State to the applicant or to any other person shall be deemed to be held upon trust to be applied in accordance with those conditions; and
- (b) such trust may be enforced at the instance of any person who has an interest in the application of the compensation or who is or would be aggrieved by any breach of those conditions.

(6) A payment of compensation pursuant to an order made by the Secretary of State under this Article or by the county court on any appeal from any such order shall operate as a discharge, to the extent of the payment, of the debt due or outstanding under such mortgage or relevant agreement as may be specified in the order, or, on appeal, by the court.

(7) In this Article—

“conditional sale agreement”, “credit-sale agreement” and “hire-purchase agreement” have the same meanings as in section 189 (1) of the Consumer Credit Act 1974 (a);

“mortgage” includes a charge;

“relevant agreement” in relation to immovable property means a mortgage or agreement to purchase by instalments or lease or other agreement or

instrument relating to the occupation or ownership thereof and, in relation to movable property, means a conditional sale, credit-sale, hire-purchase or leasing agreement or arrangement.

Appeals

15.—(1) The Secretary of State shall serve notice of any decision, determination or order made by him on or in connection with an application (including a request submitted to him under Article 7 (3)) for compensation on every person who appears to him likely to be affected thereby and, subject to paragraph (2), any person aggrieved by that decision, determination or order may within six weeks from the service of notice thereof upon him appeal to the county court in accordance with county court rules against that decision, determination or order (unless it is under Article 12 (5)) but unless he so appeals within that time such decision, determination or order shall become in all respects final and binding.

(2) A notice served under paragraph (1) or under Article 11 (2) shall inform the persons to whom it is addressed of the terms of paragraph (1).

(3) Where an appeal under paragraph (1) relates to the amount of any compensation or costs to be paid by the Secretary of State, the Secretary of State shall have the like right to make a payment into the county court as a defendant has in an action in that court and—

(a) where such a payment is made by the Secretary of State it shall, notwithstanding any provision to the contrary contained in section 22 (c) of the Interpretation Act (Northern Ireland) 1954 or in any other enactment, have the like consequences as regards liability to pay the costs of the appeal as a payment made into court by a defendant has as regards liability to pay the costs of such an action;

(b) the procedure and practice relating to payments made by the Secretary of State under this paragraph may be regulated by county court rules.

(4) Subject to paragraph (3) and to section 21A of the Crown Proceedings Act 1947 (a), the county court may award costs to or against any party to or person appearing on any proceedings under this Order.

(5) Without prejudice to section 22 of the Crown Proceedings Act 1947, an appeal from any order made by a county court on or in connection with any proceedings under this Order, shall lie at the instance of—

(a) the Secretary of State; or

(b) any person who appeared or might have appeared on the hearing of those proceedings;

as if the order had been made in exercise of the jurisdiction conferred by Part III of the County Courts Act (Northern Ireland) 1959 (b) and the appeal were brought under the County Court Appeals Act (Northern Ireland) 1964 (c).

(6) Nothing in this Order or in any county court rule or in any other statutory provision whatsoever shall authorise the Secretary of State or the court to extend the time for bringing an appeal under this Article.

Recovery from offender

16.—(1) Where—

(a) any person is convicted of a criminal offence; and

(b) compensation has been paid or is payable in respect of any damage

(a) 1947 c. 44. (b) 1959 c. 25 (N.I.). (c) 1964 c. 3 (N.I.).

to, or unlawful removal of, property directly attributable to that offence,

a court may, on an application made to it by the Secretary of State, make an order directing the offender to reimburse to the Secretary of State an amount equal to the whole or any specified part of the amount of the compensation paid or payable.

(2) Any such order may be for the payment by the offender of a lump sum or of periodical payments during a specified period, or both, and, in any event, shall be enforceable in the same manner as a county court decree for a debt is enforceable.

(3) Before making an order under this Article, the court shall—

(a) give the offender an opportunity to be heard; and

(b) have regard to the financial position of the offender, his employment, the possibilities of his future employment, his liabilities to his family and otherwise and such other circumstances as the court considers relevant;

and may, for the purposes mentioned in sub-paragraph (b), obtain and consider a report from a probation officer.

(4) The court may at any time, on the application of the Secretary of State or of the offender, vary an order under this Article in such manner as it thinks fit.

(5) In considering an application under paragraph (4), the court shall have regard to—

(a) any fresh evidence which has become available;

(b) any change of circumstances which has occurred since the making of the order or, as the case may be, any previous variation of the order, or which is likely to occur; and

(c) any other matter which the court considers relevant.

(6) Where the total amount paid to the Secretary of State under this Article and under Article 17 in respect of any loss suffered for damage to, or unlawful removal of, property exceeds the amount of compensation paid by him in respect of that damage or unlawful removal the Secretary of State shall repay the excess to the offender or, as the case may be, to the applicant.

(7) In this Article and in Article 17 “compensation” includes—

(a) any costs awarded, on an appeal under Article 15, to any person other than the Secretary of State;

(b) any expenses incurred by the Secretary of State in recovering, or attempting to recover, any compensation from the offender or the applicant; and

(c) any sum paid by the Secretary of State under Article 12 (5).

Recovery from applicant

17.—(1) Where—

(a) compensation is paid to or for the benefit of any applicant under this Order; and

(b) there has been or is subsequently paid to or for the benefit of the applicant by way of reparation or damages from the offender or on the offender's behalf any sum which has not been taken into account under Article 10 (1) (c) at the time of assessing compensation,

the person receiving any such sum shall forthwith notify the Secretary of State and shall, subject to paragraph (2), forthwith reimburse to the Secretary of State—

- (i) the amount of the compensation paid to or for the benefit of the applicant, if that amount is equal to or less than that sum; or
- (ii) that sum, if the amount of the compensation paid is greater;

but so that no person shall be required by virtue of this paragraph to reimburse, in all, to the Secretary of State more than the amount of the compensation paid by the Secretary of State in respect of the application to which the compensation relates.

(2) Where compensation is paid to or for the benefit of any applicant and civil proceedings have been or are subsequently instituted in any court against the offender as a result of the act which gave rise to the claim for compensation and—

- (a) that court awards damages against the offender in favour of the applicant; or
- (b) the parties agree to settle the proceedings in consideration of the payment by the offender to or for the benefit of the applicant of an agreed amount of damages;

that court may order the offender to pay the damages so awarded or agreed, or any part thereof, into court.

(3) Where a court makes an order under paragraph (2)—

(a) it shall direct—

- (i) the payment to the Secretary of State out of any money paid into court under its order of such amount or sum as would have been reimbursed to him under paragraph (1) if that money had been paid to or for the benefit of the applicant, and
- (ii) that the balance, if any, of the money paid into court under this Order shall be paid to the applicant or otherwise dealt with for the benefit of the applicant as the court may, in the circumstances of the case, consider proper; and

(b) any amount or sum so paid to the Secretary of State by virtue of the direction of the court shall be deemed to have been paid to the Secretary of State under paragraph (1).

(4) Where, on an application made to it by the Secretary of State, the county court is satisfied—

- (a) that the Secretary of State has paid compensation to any person; but
- (b) that that person failed to make full and true disclosure of all the facts material to the determination of the application,

the county court may make an order requiring that person to reimburse to the Secretary of State the compensation or such part of it as the court may specify.

(5) Any sum required to be reimbursed under paragraph (1), (3) or (4) and not so reimbursed—

- (a) shall be recoverable as a debt due to the Secretary of State;
- (b) may, without prejudice to the right of the Secretary of State to sue in the High Court or to any other remedy for the recovery thereof, and irrespective of the amount thereof, be recoverable by the Secretary of State in the county court by civil bill or summarily as a civil debt.

(6) Any person who, being required by paragraph (1) to notify the Secretary of State of the receipt of any sum by way of reparation or damages, fails to do so without reasonable cause shall, without prejudice to his liability under that paragraph to reimburse any sum to the Secretary of State, be guilty of an offence and shall, on summary conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding £500 or to both.

(7) In this Article "offender" includes any person who committed the act which gave rise to the claim for compensation.

Evidence

18.—(1) In any application or appeal under this Order—

(a) the fact that a person has been convicted of an offence by or before any court in the British Islands shall be admissible in evidence for the purpose of proving the acts, omissions or conduct on which the conviction was based, whether he was so convicted upon a plea of guilty or otherwise, but no conviction other than a subsisting conviction shall be admissible in evidence;

(b) in which a person is proved to have been convicted of an offence by or before any court in the British Islands—

(i) he shall be taken to have been guilty of the acts, omissions or conduct on which the conviction was based, except in so far as the contrary is proved; and

(ii) without prejudice to the reception of any other admissible evidence for the purpose of identifying the acts, omissions or conduct on which the conviction was based, the contents of any document which is admissible as evidence of the conviction shall be admissible in evidence for that purpose.

(2) In paragraph (1)—

"conduct" includes the state of mind or manner in which anything was done or omitted;

"conviction" includes, notwithstanding section 8 of the Probation Act (Northern Ireland) 1950 (a), a conviction for an offence in respect of which an order is made under that Act placing the offender on probation or discharging him absolutely or conditionally;

"court" includes a court-martial;

"subsisting conviction" includes, where a conviction for an offence has been replaced on appeal by a conviction for another offence, the conviction for that other offence.

Offences

19.—(1) Any person who—

(a) by any deception (as defined in section 15 (4) of the Theft Act (Northern Ireland) 1969 (b)) obtains compensation or increased compensation for himself or for any other person; or

(b) for the purposes of obtaining any compensation, knowingly, in or in connection with an application to the Secretary of State or otherwise, makes a false or misleading statement or a statement which he does not believe to be true or fails to disclose a material fact,

shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) shall be liable—

(a) 1950 c. 7 (N.I.). (b) 1969 c. 16 (N.I.).

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both; or
- (b) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding one year, or to both.

Payments into Consolidated Fund

20. Any sums received by the Secretary of State under this Order shall be paid into the Consolidated Fund of the United Kingdom.

Orders and regulations

21.—(1) The Secretary of State may by order substitute a different amount for that for the time being specified in Article 6 and in paragraphs (6) and (7) of Article 10.

(2) The Secretary of State may make regulations prescribing any matter which is required or permitted to be prescribed under this Order or which is necessary or expedient for giving effect to the provisions of this Order.

(3) Regulations under this Article may require the Chief Constable to furnish to the Secretary of State such reports and information as the Secretary of State may require regarding any damage or loss in respect of which a preliminary notice has been served under this Order or in respect of which an application for compensation has been made or as may otherwise appear to the Secretary of State to be necessary for the purposes of the due execution of this Order.

(4) Orders under paragraph (1) and regulations made by the Secretary of State under this Order shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (a) shall apply accordingly.

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

(a) 1946 c. 36.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides for the payment of compensation by the Secretary of State in respect of damage to property in Northern Ireland arising out of criminal acts. Application is to be made to the Secretary of State who is to have regard to all relevant circumstances in determining any entitlement to compensation. Articles 4 to 6 specify the types of property and the circumstances in respect of which compensation is payable. Compensation is to be assessed in accordance with Article 9 and may be reduced or excluded by reference to the matters set out in Article 10. Article 11 provides that where the amount of compensation payable in respect of any loss resulting from damage to a building exceeds the diminution in the value of the building the Secretary of State may impose conditions as to the payment of that part of the compensation which exceeds the diminution in the market value, including the withholding of some or all of it, until the applicant has carried out works of repair or reinstatement. Article 13 applies the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 to compensation under the Order and the legislation which it replaces. An appeal lies to the county court against decisions of the Secretary of State (other than decisions under Article 12 (5)) on applications for compensation. Offenders may be ordered to reimburse the Secretary of State in respect of compensation paid by him and persons who receive compensation may have to make payments to the Secretary of State if they receive reparation or damages from the person who committed the act which gave rise to the claim for compensation.

