
STATUTORY INSTRUMENTS

1977 No. 1248 (N.I. 15)

NORTHERN IRELAND

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

Laid before Parliament in draft

Made

26th July 1977

Coming into Operation

9th August 1977

ARRANGEMENT OF ORDER

Article

1. Title and commencement.
2. Interpretation.
3. Payment of compensation for criminal injuries.
4. Applications for compensation.
5. Assessment of compensation.
6. Exclusions from compensation, etc.
7. Earnings etc. in relation to compensation.
8. Discretionary payments.
9. Death from causes not connected with a criminal injury.
10. Ancillary provisions as to applications.
11. Ancillary provisions as to payments.
12. Application of Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 to compensation for criminal injuries.
13. Approval of awards to minors.
14. Appeals to county court.
15. Delay by Secretary of State in determining compensation.
16. Recovery from offender.
17. Recovery from victim, etc.
18. Evidence.
19. Offences.
20. Procedure etc.
21. Payments into Consolidated Fund.
22. Orders and regulations.

SCHEDULE—Certificate under Article 6 of the Criminal Injuries (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. This Order may be cited as the Criminal Injuries (Compensation) (Northern Ireland) Order 1977 and shall come into operation on the fourteenth day after the day on which it 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;

“the court” means the county court;

“criminal injury” means an injury (including an injury which results in death) directly attributable to—

(a) a violent offence;

(b) the lawful arrest or attempted arrest of an offender or suspected offender, or the prevention or attempted prevention of an offence, or the giving of help to any constable, member of Her Majesty's forces or prison officer who is engaged in arresting or attempting to arrest an offender or suspected offender or in preventing or attempting to prevent an offence;

“dependants”, in respect of a deceased victim, means such of the relatives of the victim as were wholly or substantially dependent upon his income at the time of his death or would have been so dependent but for any incapacity due to the criminal injury from which the death resulted; and, for the purposes of this definition, a child of a victim conceived prior to the criminal injury which caused the victim's death, but born after that death, shall be deemed to have been wholly dependent upon the victim's income at the time of that death;

“injury” includes any disease, any impairment of a person's physical or mental condition and pregnancy;

“motor vehicle” has the same meaning as in the Road Traffic Act (Northern Ireland) 1970 (c);

(a) 1974 c. 28. (b) 1954 c. 33 (N.I.). (c) 1970 c. 2 (N.I.).

‘prescribed’ means prescribed by regulations made by the Secretary of State;

‘related offence’ means—

(a) aiding, abetting, counselling, procuring or inciting the commission of a violent offence;

(b) attempting to commit a violent offence;

‘relative’, in respect of a victim (including a victim who is illegitimate), means his or her spouse (including any wife by any former marriage), parent, grandparent, great-grandparent, step-father, stepmother, child, grandchild, great-grandchild, brother, sister, half-brother, half-sister or spouse’s parent;

‘representative’, in relation to an unborn child, means a relative, lawful guardian or person having the care of the child;

‘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;

‘traffic offence’ means an offence arising from the driving or use of a motor vehicle unless the vehicle was, at the time of the commission of the offence, being primarily used for the purpose of—

(a) causing injury; or

(b) committing, or facilitating the commission of, a violent offence; or

(c) avoiding arrest, or escaping detection, in connection with a violent offence;

‘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 (a) or any Act re-enacting that Act (whether with or without modifications);

‘victim’ means a person (including an unborn child) who has sustained a criminal injury in Northern Ireland;

‘violent offence’ means—

(a) any offence which was intended to cause death, personal injury or damage to property;

(b) any offence committed by causing the death or injury of any person, or damage to property, where the state of mind of the person committing the offence consisted of recklessness as to whether he caused death, personal injury or damage to property;

(c) any offence under the Explosive Substances Act 1883 (b);

(d) any offence under the Firearms Act (Northern Ireland) 1969 (c);

(e) riot, rout or unlawful assembly;

(f) kidnapping or false imprisonment; or

(g) a related offence;

but does not include a traffic offence.

(3) For the purposes of this Order, an act shall be deemed to be a violent offence notwithstanding that the person performing it cannot be convicted of an offence arising out of the act because of his age or incapacity.

(a) 1973 c. 53. (b) 1883 c. 3. (c) 1969 c. 12 (N.I.).

- (4) For the purposes of this Order—
- (a) “child” includes stepchild, illegitimate child, adopted person and, in the case of a deceased victim, a person of whom the victim was the lawful guardian;
 - (b) an illegitimate child shall be treated as the legitimate child of his mother and natural father; and
 - (c) an adopted person shall be treated as the child of the person or persons by whom he was adopted and not as the child of any other person.
- (5) In this Article “adopted” includes—
- (a) adopted in pursuance of an adoption order made under the Adoption Act (Northern Ireland) 1967 (a) or any previous enactment relating to children or any corresponding enactment in force at the time of the adoption in any other part of the United Kingdom, or in the Channel Islands or the Isle of Man; and
 - (b) adopted under the law for the time being in force in any other country where—
 - (i) under that law the adoption operates to effect substantially the same change in status, relative to one another, of the parties to the adoption as any adoption duly made pursuant to any such order as is referred to in sub-paragraph (a) would effect; and
 - (ii) the parties to the adoption were then resident in that country.
- (6) For the purposes of any proceedings under this Order, an adoption authorised by such an order as is referred to in paragraph (5) (a) may be proved by the production of any document which is receivable as evidence of the order in the country where the order is made.

Payment of compensation for criminal injuries

3.—(1) Subject to and in accordance with the provisions of this Order, where a person sustains a criminal injury in Northern Ireland on or after the commencement of this Order the Secretary of State shall, on application made to him, pay compensation—

- (a) to or for the benefit of the victim; or
- (b) where the compensation is in respect of pecuniary loss suffered or expenses incurred, as a result of the victim’s injury, by any person responsible for the maintenance of the victim, to that person; or
- (c) where the victim has died as a result of the injury—
 - (i) to or for the benefit of the victim’s dependants or any one or more of them; or
 - (ii) if the victim has no dependants and the compensation is in respect of reasonable expenses necessarily incurred as a result of his death, to the person who incurred those expenses, or
 - (iii) to any relative of the victim in respect of any reasonable expenses necessarily incurred or to be so incurred by him as a result of the victim’s death; or
- (d) where the victim has died otherwise than as a result of the injury—
 - (i) in respect of pecuniary loss suffered by the victim between the date of the injury and the date of the death, to the victim’s dependants;
 - (ii) in respect of reasonable expenses necessarily incurred by any person in connection with the injury, to that person.

(a) 1967 c. 35 (N.I.).

- (2) No compensation shall be paid—
- (a) unless, on a balance of probabilities, the victim sustained a criminal injury as a result of an act of another person; or
 - (b) if the victim was, at the time when the criminal injury was sustained, living with the offender as his wife or her husband or as a member of the same household as the offender; or
 - (c) if the victim fails, without reasonable cause—
 - (i) to undergo any medical examination which he may be required by the Secretary of State to undergo; or
 - (ii) to produce or cause or permit to be produced to the Secretary of State any medical records, X-rays or other documents relating to his injury or medical history which the Secretary of State may require to be produced; or
 - (d) unless the victim, or in the event of his death, one of his dependants, or, in either event, a representative of the victim or such a dependant—
 - (i) makes forthwith to a constable or, within forty-eight hours from the commission of the criminal injury, to a constable at a police station in Northern Ireland, a report of the commission of the injury; and
 - (ii) serves on the Secretary of State within twenty-eight days from the commission of the criminal injury, a notice of intention to apply for compensation containing full and true disclosure of all facts, within his knowledge or belief, material to the determination of the application;

or does so within such periods as the Secretary of State considers reasonable having regard to all the circumstances.

(3) Where the victim is an unborn child, paragraph (2) (d) (ii) shall have effect with the substitution for the words from “twenty-eight” to “injury” of the words “three months from the date of birth of the child”.

(4) The Criminal Injuries to Persons (Compensation) Act (Northern Ireland) 1968 (a) shall cease to have effect, except in relation to any criminal injury (within the meaning of that Act) sustained before the commencement of this Order.

Applications for compensation

4.—(1) An application for compensation—

- (a) shall be made in such manner as may be prescribed; and
- (b) must be so made within three months from the date on which a notice is served on the Secretary of State under Article 3 (2) (d) (ii) in relation to the application unless there was reasonable cause for not making the application within that period.

(2) Where the victim is an unborn child, paragraph (1) shall have effect with the substitution for the words from “three months” to “application” of the words “six months from the date of birth of the child”.

(3) Any such application may be made by any of the persons mentioned in Article 3 (1) but so that—

- (a) where the victim has died as a result of the criminal injury, the application may be made by the victim’s spouse on behalf of both the applicant and of such children, if any, as are the victim’s dependants;

(b) where there is no surviving spouse of a deceased victim or the victim or other person entitled to apply for compensation is, by reason of age or otherwise, incapable of making the application, it may be made by such person as may be prescribed.

(4) Where any such application is made to the Secretary of State in accordance with this Order, he shall determine the amount (if any) of compensation payable to the applicant.

(5) A determination under paragraph (4) shall specify the amount (if any) of compensation payable in respect of—

- (a) pecuniary loss;
- (b) expenses; and
- (c) other matters.

Assessment of compensation

5.—(1) Compensation shall, subject to the following provisions of this Article, be payable in respect of any one or more of the following matters only—

- (a) expenses actually and reasonably incurred as a result of the victim's injury or death;
- (b) pecuniary loss to the victim as a result of total or partial incapacity for work;
- (c) other pecuniary loss resulting from the victim's injury or death;
- (d) any other expenses resulting directly from the victim's injury or death which it is reasonable and proper to make good to the victim or his dependants out of public funds;
- (e) pain and suffering of, and loss of amenities by, the victim.

(2) In determining whether any compensation should be paid 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 any provocative or negligent behaviour of the victim which contributed, directly or indirectly, to the criminal injury.

(3) The Secretary of State, in determining the amount of compensation, shall deduct from the amount which, but for this paragraph, would be payable—

- (a) any sums paid to or for the benefit of the victim or any of his dependants, by way of compensation or damages from the offender or any person on the offender's behalf, consequent on the criminal injury or on death resulting therefrom; and
- (b) any pension, gratuity or social security benefit payable to or for the benefit of the victim or any of his dependants which has been or will be paid consequent on the criminal injury or on death resulting therefrom.

(4) Any sum required to be deducted under paragraph (3) shall be deducted from the amount of any compensation in respect of pecuniary loss and the balance (if any) of that sum shall be deducted first from the amount of any compensation in respect of expenses and then from the amount of any other compensation.

(5) For the purposes of paragraph (3)—

- (a) social security benefit shall be deemed to be payable if it would be payable but for the wilful failure at any time of the victim to pay contributions which he was liable to pay; and

- (b) social security benefit is consequent on a criminal injury or on a death resulting from such an injury if, but for the criminal injury or that death, the benefit would not otherwise have been paid or be payable at the same time or to the same extent as it was or will be paid following the death or injury;
- (c) a pension or gratuity shall not be taken into account unless it is payable by or on behalf of the Crown or the employer of the victim or by any person with whom the employer has made any contract or arrangement.
- (6) In determining the amount of compensation payable to the widow of a victim, her prospects of remarriage shall be disregarded.
- (7) In this Article—
 - “the Crown” means the Crown in right of Her Majesty’s government in the United Kingdom or in Northern Ireland;
 - “pension” includes any payment of a lump sum in respect of a person’s employment;
 - “social security benefit” means—
 - (a) benefit under the Social Security (Northern Ireland) Act 1975 (a), the Supplementary Benefits &c. Act (Northern Ireland) 1966 (b) or the Family Income Supplements Act (Northern Ireland) 1971 (c) or any corresponding enactment in force in Great Britain;
 - (b) any similar benefit under the law of any country, state or territory whatsoever.

Exclusions from compensation, etc.

- 6.—(1) Subject to paragraph (2), compensation in respect of any pecuniary loss shall not (after applying Article 5 (3)) exceed one hundred and four times the amount of average weekly industrial earnings multiplied by such factor as is appropriate having regard to the age of the victim and such other matters as are relevant.
- (2) Paragraph (1) does not apply where the criminal injury was caused by a person acting on behalf of or in connection with an unlawful association.
- (3) Without prejudice to Article 5 (2), compensation shall not be payable to or for the benefit of, or in respect of a criminal injury to, 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 to or for the benefit of any person by virtue of Article 5 (1) (e) in respect of any injury which is caused by his mental reaction to the act arising out of which the application for compensation is made, or to the consequences of that act, if the amount of that compensation which, but for this paragraph, would be so payable is less than £1,000.
- (5) Compensation shall not be payable to or for the benefit of any person if the amount of compensation which, but for this paragraph, would be so payable (after applying Article 5 (3)) is less than £150.
- (6) Compensation shall not, where the criminal injury was caused by a sexual offence and, as a result of the offence, the victim gives birth to a child, be payable in respect of the maintenance of that child.

(a) 1975 c. 15. (b) 1966 c. 28 (N.I.). (c) 1971 c. 8 (N.I.).

(7) Where the chief constable is of the opinion that any criminal injury was caused by a person acting on behalf of or in connection with an unlawful association he shall, if an applicant makes an application to him, issue to the applicant a certificate in the form set out in the Schedule or in such other form as may be prescribed.

(8) A certificate purporting to be issued by the chief constable under paragraph (7) shall, until the contrary is proved, be evidence that the criminal injury referred to in the certificate was caused by a person acting on behalf of or in connection with an unlawful association.

(9) If the chief constable certifies that it is in the public interest not to disclose the information on which any certificate issued under paragraph (7) is based that information shall not be disclosed in any court in proceedings under this Order.

(10) 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 offender.

(11) In this Article "average weekly industrial earnings" means the average gross weekly earnings for all full-time men aged 21 and over in all industries and services (excluding those whose pay was affected by absence) as set out in the Digest of Statistics prepared by the Department of Finance and published from time to time by Her Majesty's Stationery Office.

Earnings etc. in relation to compensation

7.—(1) Where the victim of a criminal injury survives, the compensation payable in respect of the matter mentioned in Article 5 (1) (b) shall be determined on the basis of a weekly rate which shall have regard to all relevant circumstances, and, in particular, to his actual earnings, if any, during the six months immediately preceding the date on which the criminal injury was sustained.

(2) The compensation, if any, payable in respect of the matter mentioned in Article 5 (1) (b) or (c) shall be determined—

- (a) where the victim dies, having regard to the total annual income of the victim, both earned and unearned;
- (b) without regard to the Fatal Accidents Acts (Northern Ireland) 1846 to 1959 (a) or to Part III of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937 (b); and
- (c) save as expressly provided by this Order, without reference to any loss or gain to his estate consequent on the injury.

(3) In calculating the compensation payable to the dependants of a victim who dies, he shall, until the contrary is proved, be taken to have spent one-fifth of his income on himself.

(4) In this Article "income" means the amount of a person's income after taking account of—

- (a) income tax;
- (b) social security contributions under the Social Security (Northern Ireland) Act 1975 or any corresponding enactment in force in Great Britain or similar contributions under the law of any country, state or territory whatsoever;
- (c) in the case of an employed person, any amount deducted from his remuneration by his employer by way of superannuation contributions.

(a) 1846 c. 93; 1864 c. 95; 1959 c. 18 (N.I.).

(b) 1937 c. 9 (N.I.).

Discretionary payments

8.—(1) Where the aggregate of the compensation (if any) payable by virtue of Article 5 (1) (c) to or for the benefit of the widow and child (if any) of a victim who has died as a result of a criminal injury is, by virtue of Article 5 (3) (b), less than the aggregate of the widow's and child's amounts, the Secretary of State may pay to the widow or, if she is dead, for the benefit of the child such sum as, when added to the compensation payable to or for the benefit of the widow and child, equals the aggregate of the widow's and child's amounts.

(2) Paragraphs (1) and (5) apply in relation to any compensation paid under the Criminal Injuries to Persons (Compensation) Act (Northern Ireland) 1968 before the commencement of this Order or payable under that Act on or after that commencement as they apply in relation to compensation payable under this Order with the substitution of references to section 4 (6) (c) of that Act for the references to Article 5 (3) (b).

(3) Paragraphs (1) and (5) apply as mentioned in paragraph (2) notwithstanding that an application for compensation was not made under the said Act of 1968, if the Secretary of State is satisfied that, if such an application had been made, the conditions set out in those paragraphs would have been satisfied.

(4) Where, but for Article 6 (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.

(5) In this Article—

“the child's amount” means—

(a) £500 where, but for Article 5 (3) (b), £500 or more compensation is payable to or for the benefit of a child;

(b) where the amount of compensation payable to or for the benefit of a child but for Article 5 (3) (b) is less than £500, that amount;

“the widow's amount” means—

(a) £5,000 where, but for Article 5 (3) (b), £5,000 or more compensation is payable to or for the benefit of the widow;

(b) where the amount of compensation payable to or for the benefit of the widow but for Article 5 (3) (b) is less than £5,000, that amount.

Death from causes not connected with a criminal injury

9. Where the victim of a criminal injury dies otherwise than as a result of the injury—

(a) any compensation or balance of compensation to which he was entitled immediately prior to his death shall cease to be payable; and

(b) so much of Articles 3 and 4 as requires a notice to be served or an application made within a specified time shall not apply to—

(i) an application by the victim's dependants for compensation in respect of pecuniary loss between the date of the injury and the date of death; or

(ii) an application by any person for compensation in respect of reasonable expenses necessarily incurred by that person in connection with the injury,

but any such application shall be made within three months from the date of the victim's death unless there was good cause for not making the application within that period.

Ancillary provisions as to applications

10. Without prejudice to Article 11, where, by virtue of any assignment or act or event in the 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.

Ancillary provisions as to payments

11.—(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 Article 4 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 compensation, such sum as is reasonable having regard to the circumstances and references to compensation in this Article and Articles 16 and 20 (2) shall be construed as including references to any such sum.

(3) Compensation may be paid on such terms and conditions as the Secretary of State thinks fit as to the payment, disposal, allotment or apportionment of the compensation to or for the benefit of the victim or the dependants, or any of them, or to any other person.

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

12.—(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 (a) as respects any compensation payable under the Criminal Injuries to Persons (Compensation) Act (Northern Ireland) 1968 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.

Approval of awards to minors

13.—(1) Where—

- (a) the Secretary of State determines the amount (if any) of compensation payable to or for the benefit of any person; and
- (b) at the date of the determination, that person is a minor,

the Secretary of State shall apply to the county court, in accordance with county court rules, for its approval of the determination.

(2) On an application under paragraph (1), the county court—

- (a) shall, if it is satisfied that the determination is in the interests of the minor, approve the determination;
- (b) shall, if it is not so satisfied, make such an order as it could have made under Article 14 if there had been an appeal to it against that determination,

and, in either case, may make such an order as to the investment or payment of the compensation as appears to it to be just.

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

Appeals to county court

14.—(1) The Secretary of State shall serve notice of any decision or determination made by him on or in connection with an application for compensation on the applicant.

(2) A notice served under paragraph (1) shall set out any amounts required to be specified by Article 4 (5).

(3) Any person aggrieved by a decision or determination of the Secretary of State notified to him under paragraph (1) may, within six weeks from the service of the notice, appeal to the county court in accordance with county court rules against the decision or determination (unless it is under Article 8) but, unless he so appeals within that time, the decision or determination shall become in all respects final and binding.

(4) Where an appeal under paragraph (3) relates to the amount of any compensation or costs to be paid by the Secretary of State under this Order, 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.

(5) The county court may, on an application made to it on notice to the Secretary of State and in accordance with county court rules, extend the time for making or serving any report, notice or application referred to in Article 3 (2) (d), 4 (1) or 9, or amend or otherwise deal with, in such manner and on such terms as the court thinks just, any such notice or application.

(6) A notice served under paragraph (1) shall inform the persons to whom it is addressed of the terms of paragraph (3).

Delay by Secretary of State in determining compensation

15.—(1) Subject to paragraph (2), if, on an application made in accordance with county court rules by an applicant, a county court considers, having regard to all the circumstances—

(a) that the Secretary of State has had sufficient information to enable him to determine the applicant's application for compensation; but

(b) that the Secretary of State has not determined the application within such period after he received or obtained that information as is reasonable,

the court may make a declaration to that effect.

(2) An applicant shall not make an application under paragraph (1) until—

(a) after the expiration of six months beginning with the date of his application for compensation; and

(b) after the expiration of one month beginning with the date of the service on the Secretary of State by him of a notice of his intention to make an application under this Article.

(3) The county court shall, before making a declaration under paragraph (1), afford to the Secretary of State an opportunity of being heard.

(4) Where—

(a) a county court makes a declaration under paragraph (1), and

(b) the Secretary of State does not, within two months after the date of that declaration, determine the application for compensation to which the declaration relates,

the Secretary of State shall be deemed to have determined that no compensation is payable in pursuance of the application and to have served on the applicant a notice to that effect under Article 14 (1).

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 a criminal injury directly attributable to that offence,

a county 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 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 any 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 reimbursed to the Secretary of State under this Article and under Article 17 in respect of any criminal injury exceeds the amount of compensation paid by him in respect of that injury, the Secretary of State shall repay the excess to the offender.

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

(a) any costs awarded, on an appeal under Article 14, 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 in pursuance of this Article.

Recovery from victim, etc.

17.—(1) Where—

- (a) compensation is paid to or for the benefit of any victim or other person consequent on any criminal injury; and
- (b) there has been or is subsequently paid to or for the benefit of the victim or that person, by way of compensation or damages from the offender or any person on the offender's behalf, any sum which has not been deducted under Article 5 (3) (a),

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 victim or that person, 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 consequent on the criminal injury.

(2) Where compensation is paid to or for the benefit of any victim or other person consequent on a criminal injury and civil proceedings have been or are subsequently instituted in any court against the offender as a result of the injury and—

- (a) that court awards damages against the offender in favour of the victim or that other person, as the case may be; or
- (b) the parties agree to settle the proceedings in consideration of the payment by the offender to or for the benefit of the victim or that other person 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 victim or other person, and
- (ii) that the balance, if any, of the money paid into court under this Order shall be paid to the victim or the other person, as the case may be, or otherwise dealt with for the benefit of the victim or person 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 compensation 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.

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

(a) 1950 c. 7 (N.I.).

(b) 1969 c. 16 (N.I.).

- (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) 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.

Procedure etc.

20.—(1) Nothing in any transferred provision (as defined in section 1 (g) of the Interpretation Act (Northern Ireland) 1954) shall authorise a county court to extend the time for bringing an appeal under Article 14.

(2) Where—

- (a) the Secretary of State receives notice of any assignment, or of any act or event in the law, affecting any compensation;
- (b) the person entitled to compensation or to whom or for whose benefit any sum is payable under this Order is a minor or is out of the United Kingdom; or
- (c) the Secretary of State is satisfied that the address of such a person cannot be ascertained without undue expense or delay;

the Secretary of State may, in accordance with county court rules, pay the compensation or sum into such county court as appears to him to be appropriate.

(3) A payment into court under paragraph (2)—

- (a) shall to that extent be a sufficient discharge to the Secretary of State; and
- (b) shall, subject to any county court rules regarding money paid into court under section 63 of the Trustee Act (Northern Ireland) 1958 (a), be dealt with in accordance with the orders of the court.

(4) Subject to Article 14 (4) and to section 21A of the Crown Proceedings Act 1947 (b), the county court may award costs to or against any party to or person appearing on any proceedings before it 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 (except an application under Article 15) 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 (c) and the appeal were brought under the County Court Appeals Act (Northern Ireland) 1964 (d).

Payments into Consolidated Fund

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

(a) 1958 c. 23 (N.I.). (b) 1947 c. 44.
(c) 1959 c. 25 (N.I.). (d) 1964 c. 3 (N.I.).

Orders and regulations

22.—(1) The Secretary of State may by order substitute different amounts for those for the time being specified in Article 6.

(2) The Secretary of State may by order amend the definition of “average weekly industrial earnings” in Article 6 (11) to such extent as appears to him to be necessary or expedient in view of any change in the headings or sub-divisions used in the Digest of Statistics referred to in that Article.

(3) Orders under paragraphs (1) and (2) 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.

SCHEDULE

Article 6.

CERTIFICATE UNDER ARTICLE 6 OF THE CRIMINAL INJURIES (COMPENSATION)
(NORTHERN IRELAND) ORDER 1977

Application by

I, [Assistant] [Deputy] Chief Constable of the Royal Ulster Constabulary, hereby certify that the criminal injury specified below was, in my opinion, caused by a person acting on behalf of or in connection with an unlawful association within the meaning of the Criminal Injuries (Compensation) (Northern Ireland) Order 1977.

[I further certify that it is not in the public interest to disclose the information on which this certificate is based.]

.....
Date

Particulars of criminal injury

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides for the payment of compensation by the Secretary of State to the victims of violent offences in Northern Ireland and to certain other persons, including relatives and dependants of those victims. Applications for compensation must be made to the Secretary of State, who may have regard to all relevant circumstances in determining any entitlement to compensation. Compensation is payable in respect of the matters specified in Article 5 (1). Certain sums have to be deducted from compensation (Article 5 (3)). The maximum compensation for pecuniary loss is a multiple of average weekly industrial earnings unless the injury was caused by a person acting on behalf of an unlawful association (Article 6 (1) (2)). Discretionary payments may be made in certain circumstances (Article 8). The Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 is applied 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 on applications for compensation. Offenders may be ordered to reimburse to the Secretary of State compensation paid by him and persons who receive compensation may have to make payments to the Secretary of State if they receive damages from the offender.

STATUTORY INSTRUMENTS

1977 No. 1248 (N.I. 15)

NORTHERN IRELAND

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

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