
DRAFT STATUTORY INSTRUMENTS

2002 No.

Criminal Injuries Compensation (Northern Ireland) Order 2002

PART III

MISCELLANEOUS

Advice, assistance and support for victims

11. The Secretary of State shall inform persons seeking compensation for criminal injuries sustained in Northern Ireland of any body designated by him for the purposes of this Article as a body providing advice, assistance and support to persons seeking compensation for such injuries.

Disclosure of information

12.—(1) The Secretary of State may supply the Department for Social Development with information about any award made to—

- (a) a person who is (either as an individual or as a member of a joint-claim couple) in receipt of income support or income-based jobseeker's allowance, or
- (b) a person whose capital is treated, for the purposes of income support or income-based jobseeker's allowance, as the capital of a person or joint-claim couple in receipt of that benefit.

(2) The Secretary of State may supply the Department of Finance and Personnel or the Northern Ireland Housing Executive with information about any award made to—

- (a) a person who is in receipt of housing benefit, or
- (b) a person whose capital is, for the purposes of housing benefit, treated as the capital of a person in receipt of that benefit.

(3) The Secretary of State may supply the Board or any officer of the Board with information about any award made to—

- (a) a person who is in receipt of working families' tax credit, or
- (b) a person whose capital is, for the purposes of working families' tax credit, treated as the capital of a person in receipt of that tax credit.

Financial provisions

13.—(1) The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of adjudicators, as he considers appropriate.

(2) The Secretary of State may make such payments by way of compensation for loss of office to any adjudicator who is removed from office under Article 7(6), as he considers appropriate.

(3) The Secretary of State may pay such remuneration, allowances or gratuities to or in respect of persons appointed by him under Article 7 (other than adjudicators) as he considers appropriate.

(4) Any sums received by the Secretary of State under any provision of the Scheme made by virtue of Article 5(2)(c) shall be paid by him into the Consolidated Fund of the United Kingdom.

Recovery from offender

14.—(1) Where—

- (a) any person is convicted of a crime of violence; and
- (b) an award has been paid or is payable in respect of a criminal injury directly attributable to that crime,

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 of the amount of the award or such part of that amount as may be specified in the order.

(2) Any such order may be for the payment by the offender of a lump sum or of periodical payments during such period as may be specified in the order, 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 15 in respect of any criminal injury exceeds the amount of the award made in respect of that injury, the Secretary of State shall repay the excess to the offender.

(7) In this Article and Article 15 “award” includes 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.

15.—(1) Where an award is made to a person in respect of a criminal injury, and a relevant sum has been or is subsequently paid to that person in respect of that injury, or that person becomes entitled to a relevant sum in respect of that injury, that person shall forthwith notify the Secretary of State and shall, subject to paragraph (3), forthwith reimburse to the Secretary of State—

- (a) the amount of the award if that amount is equal to or less than the relevant sum, or
- (b) the relevant sum, if the amount of the award is greater.

(2) In this Article, a “relevant sum” means—

- (a) any criminal injury compensation award made under or pursuant to arrangements in force in Great Britain;

- (b) any compensation award or similar payment from the funds of any other country; or
- (c) any award where—
 - (i) a civil court has made an order for the payment of damages, or
 - (ii) a claim for damages or compensation has been settled on terms providing for the payment of money, or
 - (iii) payment of compensation has been ordered by a criminal court in respect of personal injuries.

(3) Where an award is made to a person in respect of 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 that person; or
- (b) the parties agree to settle the proceedings in consideration of the payment by the offender to that 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.

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

- (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 the person to whom the award was made; and
 - (ii) that the balance, if any, of the money paid into court under its order shall be paid to that person or otherwise dealt with for the benefit of that 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).

(5) 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.

(6) Any sum required to be reimbursed under paragraph (1) or (5) 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.

(7) Any person who, being required by paragraph (1) to notify the Secretary of State of the receipt of any relevant sum, 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 6 months or to a fine not exceeding level 5 on the standard scale, or to both.

Appeals from the county court

16. Without prejudice to section 22 of the Crown Proceedings Act 1947(1), an appeal from any order made by a county court on or in connection with any proceedings under Article 14 or 15 shall lie at the instance of—

- (a) the Secretary of State; or
- (b) any person who appeared or who might have appeared on the hearing of those proceedings,

as if the order has been made in exercise of the jurisdiction conferred by Part III of the County Courts (Northern Ireland) Order 1980(2) and the appeal were brought under Part VI of that Order.

Offences

17.—(1) Any person who—

- (a) by any deception (as defined in section 15(4) of the Theft Act (Northern Ireland) 1969(3)) 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) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 5 years, or to both; or
- (b) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding one year, or to both.

Repeals and transitional provisions

18.—(1) The statutory provisions set out in the Schedule to this Order are hereby repealed to the extent specified in column 3 of that Schedule.

(2) The repeal by this Order of the Criminal Injuries (Compensation) (Northern Ireland) Order 1988(4) does not affect the operation of that Order in relation to any criminal injury sustained before the coming into operation of this Article.

(3) The Scheme and any Order under Article 1(2) may include such transitional provision as the Secretary of State considers appropriate in consequence of the coming into operation of this Order and the repeal of the Criminal Injuries (Compensation) (Northern Ireland) Order 1988.

(1) 1947 c. 44.
(2) 1980 N.I. 3.
(3) 1969 c. 16 (N.I.)
(4) 1988 N.I. 4.