Draft Order laid before Parliament under Section 85(3) of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2002 No.

NORTHERN IRELAND

Criminal Injuries Compensation (Northern Ireland) Order 2002

Made - - - - 2002
Coming into operation on days to be appointed under Article 1(2)

At the Court at , the day of 2002

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 section 85 of the Northern Ireland Act 1998(**1**) 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:—

PART I

INTRODUCTORY

Citation and commencement

1.—(1) This Order may be cited as the Criminal Injuries Compensation (Northern Ireland) Order 2002.

(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint.

(**1**) 1998 c. 47.

Interpretation

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

(2) In this Order, unless the context otherwise requires—

"award" means an award of compensation made in accordance with the provisions of the Scheme;

"the Board" means the Commissioners of Inland Revenue;

"compensation" means compensation payable under an award;

"criminal injury", "loss of earnings" and "special expenses" have such meaning as may be specified;

"income-based jobseeker's allowance" and "joint-claim couple" have the same meaning as in the Jobseeker's (Northern Ireland) Order 1995(**3**);

"the Scheme" means the Northern Ireland Criminal Injuries Compensation Scheme;

"specified" means specified by the Scheme; and

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

(3) Any reference in this Order to the making of an award, or the payment of any sum, to a person includes a reference to the making of the award, or the payment of the sum, for the benefit of that person.

PART II

NORTHERN IRELAND CRIMINAL INJURIES COMPENSATION SCHEME

Compensation for criminal injuries

3.—(1) The Secretary of State shall make arrangements for the payment out of monies voted to him by Parliament of compensation to, or in respect of, persons who have sustained one or more criminal injuries in Northern Ireland.

(2) Any such arrangements shall include the making of a scheme providing, in particular, for—

(a) the circumstances in which awards may be made; and

(b) the categories of person to whom awards may be made.

(3) The scheme shall be known as the Northern Ireland Criminal Injuries Compensation Scheme.

(4) The Scheme may, in particular, include provision as to the circumstances in which an injury is to be treated for the purposes of the Scheme as having been sustained in Northern Ireland.

(5) The Scheme shall come into operation on such day or days as the Secretary of State may appoint.

(6) Where the Secretary of State appoints a day under paragraph (5) for the coming into operation of any provision of the Scheme, he may make such transitional provision as appears to him to be necessary or expedient in connection with the coming into operation of that provision.

(7) The Secretary of State shall lay before each House of Parliament a statement of any appointment made under paragraph (5) and any transitional provisions made under paragraph (6).

(**2**) 1954 c. 33 (N.I.)
(**3**) S.I. 1995 N.I. 15.

Basis on which compensation is to be calculated

4.—(1) The amount of compensation payable under an award shall be determined in accordance with the provisions of the Scheme.

(2) Provision shall be made for—

(a) a standard amount of compensation, determined by reference to the nature of the injury;

(b) in such cases as may be specified, an additional amount of compensation calculated with respect to loss of earnings;

(c) in such cases as may be specified, an additional amount of compensation calculated with respect to special expenses; and

(d) in cases of fatal injury to a person, a bereavement support payment to acknowledge the grief and sorrow caused by the death of that person and the loss of that person's care, guidance and society, and such additional amounts as may be specified or otherwise determined in accordance with the Scheme.

(3) Provision shall be made for the standard amount to be determined—

(a) in accordance with a table ("the Tariff") prepared by the Secretary of State as part of the Scheme and such other provisions of the Scheme as may be relevant; or

(b) where no such provision is made in the Tariff with respect to the injury in question, in accordance with such provisions of the Scheme as may be relevant.

(4) The Tariff shall show, in respect of each description of injury mentioned in the Tariff, the standard amount of compensation payable in respect of that description of injury.

(5) An injury may be described in the Tariff in such a way, including by reference to the nature of the injury, its severity or the circumstances in which it was sustained, as the Secretary of State considers appropriate.

(6) The Secretary of State may at any time alter any provision of the Scheme, and may in particular alter the Tariff—

(a) by adding to the descriptions of injury mentioned there;

(b) by removing a description of injury;

(c) by increasing or reducing the amount shown as the standard amount of compensation payable in respect of a particular description of injury; or

(d) in such other way as he considers appropriate.

(7) The Scheme may—

(a) provide for amounts of compensation not to exceed such maximum amounts as may be specified;

(b) include such transitional provision with respect to any alteration of its provisions relating to compensation as the Secretary of State considers appropriate.

Claims and awards

5.—(1) The Scheme shall include provision for claims for compensation to be determined and awards and payments of compensation to be made by the Secretary of State.

(2) The Scheme may, in particular, include provision—

(a) as to the circumstances in which an award may be withheld or the amount of compensation reduced;

(b) for an award to be made subject to conditions;

(c) for the whole or any part of any compensation to be repayable in specified circumstances;

(d) for compensation to be held subject to trusts, in such cases as may be determined in accordance with the Scheme;

(e) requiring claims under the Scheme to be made within such periods as may be specified by the Scheme; and

(f) imposing other time limits.

(3) Where, in accordance with any provision of the Scheme, it falls to one person to satisfy another as to any matter, the standard of proof required shall be that applicable in civil proceedings.

(4) Where, in accordance with any provision of the Scheme made by virtue of paragraph (2)(c), any amount falls to be repaid it shall be recoverable as a debt due to the Crown.

(5) The Scheme may include provision requiring the Chief Constable to provide to a person making a claim under the Scheme a copy of any document relevant to that claim which he supplies to the Secretary of State, unless the Chief Constable would not be compelled to give that document in evidence or produce it in civil proceedings before the High Court.

Reviews

6. The Scheme shall include provision for the review, in such circumstances as may be specified, of any decision taken in respect of a claim for compensation.

Appeals

7.—(1) The Scheme shall include provision—

(a) for rights of appeal against decisions taken on reviews under provisions of the Scheme made by virtue of Article 6; and

(b) for such appeals to be determined by persons ("adjudicators") appointed for the purpose by the Secretary of State.

(2) The Scheme may include provision—

(a) for adjudicators to be appointed as members of a body having responsibility (in accordance with the provisions of the Scheme) for dealing with appeals;

(b) for the appointment by the Secretary of State of one of the members of that body to be its chairman;

(c) for the appointment of staff by the Secretary of State for the purpose of administering those provisions of the Scheme which relate to the appeal system.

(3) Any person appointed under this Article by the Secretary of State—

(a) shall be appointed on such terms and conditions as the Secretary of State considers appropriate; but

(b) shall not be regarded as having been appointed to exercise functions of the Secretary of State or to act on his behalf.

(4) No decision taken by an adjudicator shall be regarded as having been taken by, or on behalf of, the Secretary of State.

(5) The Scheme shall include provision as to the giving of advice by adjudicators to the Secretary of State.

(6) The Secretary of State may at any time remove a person from office as an adjudicator if satisfied that—

(a) he has been convicted of a criminal offence;

(b) he has become bankrupt or has made an arrangement with his creditors; or

(c) he is otherwise unable or unfit to perform his duties.

(7) The power conferred by Article 5(2)(a) to provide for the reduction of an amount of compensation includes power to provide for a reduction where, in the opinion of the adjudicator or adjudicators determining an appeal, the appeal is frivolous or vexatious.

Reports, accounts and financial records

8.—(1) As soon as possible after the end of each financial year, the Secretary of State shall make an annual report on the operation of the Scheme during that financial year.

(2) The Scheme shall include provision—

(a) for such person as the Secretary of State considers appropriate to make an annual report to him on the operation of those provisions of the Scheme which relate to the appeal system; and

(b) for the report—

(i) to be made as soon as possible after the end of each financial year; and

(ii) to cover the operation of those provisions during the year to which it relates.

(3) The Secretary of State shall lay before each House of Parliament a copy of every annual report made under paragraph (1) or (2).

(4) The Scheme shall also include provision—

(a) for such person as the Secretary of State considers appropriate—

(i) to keep proper accounts in connection with the administration of those provisions of the Scheme which relate to the appeal system;

(ii) to keep proper records in relation to the accounts;

(iii) to prepare a statement of accounts in each financial year in such form as the Secretary of State may direct;

(b) requiring such a statement of accounts to be submitted to the Secretary of State at such time as the Secretary of State may direct.

(5) Where such a statement of accounts is submitted to the Secretary of State, he shall send a copy of it to the Comptroller and Auditor General within one month of receiving it.

(6) The Comptroller and Auditor General shall—

(a) examine, certify and report on any statement of accounts sent to him under paragraph (5); and

(b) lay copies of the statement and of his report before each House of Parliament.

(7) In this Article "financial year" means the period beginning with the day on which this Article comes into operation and ending with the following 31st March and each successive period of 12 months.

Approval of the Scheme

9.—(1) Before making the Scheme, the Secretary of State shall lay a draft of it before Parliament.

(2) The Secretary of State shall not make the Scheme unless the draft has been approved by a resolution of each House.

Alterations to the Scheme

10.—(1) Before making any alteration to—

(a) the Tariff,