1992 No. 249

COUNTY COURTS

County Court (Amendment No. 2) Rules (Northern Ireland) 1992

Made	*3rd June 1992*
Coming into operation . .	*1st July 1992*

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(**a**), in exercise of the powers conferred on us by Article 47 of that Order, and in accordance with Articles 12, 14 and 15 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977(**b**) and Articles 14, 15, 16 and 21 of the Criminal Injuries (Compensation) (Northern Ireland) Order 1988(**c**), hereby make the following rules:—

Citation

1. These Rules may be cited as the County Court (Amendment No. 2) Rules (Northern Ireland) 1992.

Interpretation

2. In these Rules a reference to an Order, an Appendix, a Table or a Form by number is a refereence to that Order, Appendix, Table or Form as numbered in the County Court Rules (Northern Ireland) 1981(**d**).

Criminal Damage, Criminal Injuries to the Person and Emergency Provisions Compensation Appeals

3.—(1) The new Order set out in Schedule 1 shall be inserted after Order 53.

(2) Appendix 1 shall be amended by inserting after Form 323 the new Forms 324 to 388 set out in Schedule 2.

Revocations

4. The Statutory Rules mentioned in Schedule 3 are revoked to the extent specified in the third column of that Schedule.

(a) S.I. 1980/397 (N.I. 3)
(b) S.I. 1977/1247 (N.I. 14)
(c) S.I. 1988/793 (N.I. 4)
(d) S.R. 1981 No. 225

We the undersigned members of the County Court Rules Committee, having by virtue of the powers vested in us in this behalf made the foregoing rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

John K. Pringle
Barry Valentine
P. Kelly
Bernard McCloskey
Brian F. Walker
K. G. Nixon

Dated 5th May 1992.

After consultation with the Lord Chief Justice I allow these rules which shall come into operation on 1st July 1992.

Dated 3rd June 1992. *Mackay of Clashfern*, C.

RULES TO BE INSERTED AS ORDER 54
IN THE COUNTY COURT RULES (NORTHERN IRELAND) 1981

ORDER 54

Criminal Damage, Criminal Injuries to the Person and Emergency Provisions Compensation Appeals

PART I

INTERPRETATION

Interpretation

1.—(1) In this Order—

"the 1977 Order" means the Criminal Damage (Compensation) (Northern Ireland) Order 1977(**a**);

"the 1988 Order" means the Criminal Injuries (Compensation) (Northern Ireland) Order 1988(**b**);

"the 1978 Act" means the Northern Ireland (Emergency Provisions) Act 1978(**c**);

"the 1991 Act" means the Northern Ireland (Emergency Provisions) Act 1991(**d**).

(2) Without prejudice to section 24 of the Interpretation Act (Northern Ireland) 1954(**e**), service of any document under this Order may be by registered post or by the first class postal recorded delivery service and, in either case, using the advice of delivery form.

(3) In the application of this Order to an application for compensation under the 1977 Order a reference to a determination includes a reference to a decision or order.

(4) For the purposes of appeals under the 1978 Act:

(*a*) references in this Order and in Forms 373 to 386 to section 63, section 63(2), section 63(3) and section 63(4) of the 1991 Act shall be construed as references to section 28, section 28(2), section 28(4) and section 28(5) of the 1978 Act respectively; and

(*b*) a reference in the Forms to any other provision of the 1991 Act shall be construed as a reference to the corresponding provision in the 1978 Act.

PART II

APPEALS TO THE COUNTY COURT

Lodging of certain appeals to the county court

2.—(1) This rule shall apply to an appeal to the county court under—

(*a*) Article 15 of the 1977 Order;

(*b*) Article 16 of the 1988 Order;

(**a**) S.I. 1977/1247 (N.I. 14)
(**b**) S.I. 1988/793 (N.I. 4)
(**c**) 1978 c. 5
(**d**) 1991 c. 24
(**e**) 1954 c. 33 (N.I.)

(*c*) Section 28(4) or (5) of the 1978 Act and for the purposes of appeals under the 1978 Act references in this Order and in Forms 373 to 386 to section 63(3) of the 1991 Act shall be construed as references to section 28(4) of the 1978 Act and references to section 63(4) of the 1991 Act shall be construed as references to section 28(5) of the 1978 Act;

(*d*) Section 63(3) or (4) of the 1991 Act.

(2) Subject to any directions under Article 4 of the Order, an appeal shall be heard at the ordinary sittings of the county courts mentioned in paragraph (3) at such times as the Lord Chancellor may appoint in accordance with Article 6 of the Order.

(3) An appeal to which this rule applies shall—

(*a*) in respect of applications for compensation under the 1977 Order, lie to the county court for the division specified in Article 2(3) of the 1977 Order;

(*b*) in respect of applications for compensation under the 1980 Order, lie to the county court for the division in which the criminal injury was sustained; and

(*c*) in respect of applications for compensation under the 1978 Act or the 1991 Act, lie to the county court for the division in which the property taken, occupied, destroyed, damaged or otherwise interfered with is situated or, in the case of moveable property, was situated at the time when the act giving rise to the claim for compensation was committed.

(4) An appeal shall be by notice in one of Forms 324 to 327, 347 or 373 to 375 as appropriate and the appellant shall serve a copy on the Secretary of State at the address of the department dealing with the application for compensation.

(5) The appellant shall lodge the appeal by delivering the notice to the chief clerk at his office duly endorsed as to service and attach to it—

(*a*) any certificate of posting;

(*b*) a copy of any notice of determination served on the appellant under Article 15(1) of the 1977 Order, Article 12(1) or (2) of the 1988 Order or section 63(3) or (4) of the 1991 Act as appropriate endorsed with a certificate as to the date of service of the notice on him;

(*c*) a copy of any written notice of intention to apply for compensation served on the Secretary of State in accordance with Article 7(1) of the 1977 Order or Article 5(4)(*b*) of the 1988 Order; and

(*d*) a copy of any written form of application for compensation made under Article 8 of the 1977 Order, Article 4 of the 1988 Order or section 63(2) of the 1991 Act.

(6) The notice shall state whether the appeal is against the entire determination or only against so much thereof as the appellant disputes and in every case the grounds of appeal.

(7) Nothing in this rule shall prevent the court from considering other items specified in the determination or from considering grounds of appeal not referred to in the notice.

(8) The appellant shall request the chief clerk to enter the appeal for hearing by delivering to the chief clerk at his office a certificate of readiness in Form 346 and the appellant shall serve a copy on the Secretary of State at the address of the department dealing with the application for compensation.

(9) Upon receipt of a certificate of readiness the chief clerk shall enter the appeal for hearing at the first sitting he deems practicable, and shall cause notice of such hearing to be given to the parties.

(10) Without prejudice to paragraph (7), the chief clerk may enter an appeal for hearing and shall cause notice of such hearing to be given to the parties notwithstanding that a certificate of readiness has not been delivered by the appellant.

(11) A certificate for the purposes of section 25 of the Crown Proceedings Act 1947(**a**) of an order allowing an appeal under Article 15 of the 1977 Order, Article 16 of the 1988 Order or section 63 of the 1991 Act shall be in one of Forms 328 to 331, 348 or 376 to 377 as appropriate and an order dismissing such appeal shall be in one of Forms 332 to 334, 349 or 378 to 381 as appropriate.

Payment into court

3.—(1) This rule shall apply to a payment into court made by virtue of—

(*a*) Article 15(3) of the 1977 Order; or

(*b*) Article 16(3) of the 1988 Order; or

(*c*) paragraph (2) of this rule.

(2) The Secretary of State may make a payment into court in accordance with this rule in respect of a claim to compensation made under section 63 of the 1991 Act.

(3) Payment into court by the Secretary of State may be made at any time within 21 days from service of the copy of the notice of appeal upon him by lodging in court—

(*a*) such sum of money as the Secretary of State thinks sufficient to satisfy so much of the appellant's claim to compensation under Article 3 of the 1977 Order, Article 3 of the 1988 Order or section 63 of the 1991 Act as is in dispute and hence the subject of the appeal;

(*b*) such sum of money as the Secretary of State thinks sufficient in respect of the costs and expenses incurred by the appellant in making out and verifying his claim to compensation;

(*c*) a written undertaking to pay to the appellant any costs or expenses reasonably incurred by him between the date on which the Secretary of State served on him his determination and the date of lodgment.

(4) Notice to the appellant in Form 335, 350 or 382 as appropriate of payment into court by the Secretary of State shall be given at the time of such lodgment.

(5) Money shall be paid into court by lodging it in the County Court Bank to the credit of the Criminal Injuries Account in accordance with Order 45, Part I and where any money is lodged a copy of the notice sent to the appellant under paragraph (4) shall be lodged with the chief clerk and a copy shall also be lodged with the bank, such last-mentioned copy being headed with the additional words "Criminal Injuries Account".

(6) Money paid into court shall remain in court subject to further order unless the appellant elects to take it out as provided by this rule.

(7) The appellant may, either before the expiration of a period of 21 days commencing on the date of service upon him of the notice in Form 335, 350 or 382 as appropriate or before the commencement of the sittings at which the appeal is to be heard, whichever first occurs, or subsequently with the consent of the Secretary of State, sign and serve on the Secretary of State and lodge with the chief clerk a notice in Form 336, 351 or 383 as appropriate accepting the amount in satisfaction of his claim.

(8) Subject to paragraph (11), where the money is accepted by the appellant under paragraph (7) all further proceedings in the appeal by the appellant shall be stayed and the money paid into court shall be paid out to the appellant without the

(**a**) 1947 c. 44