1988 No. 282

COUNTY COURTS

County Court (Criminal Injuries to the Person) (Compensation) Rules (Northern Ireland) 1988

Made . . . . . *27th July 1988*

Coming into operation . . *12th September 1988*

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 14, 15, 16 and 21 of the Criminal Injuries (Compensation) (Northern Ireland) Order 1988(**b**), hereby make the following rules:

PART I

GENERAL

Citation

1. These rules may be cited as the County Court (Criminal Injuries to the Person) (Compensation) Rules (Northern Ireland) 1988.

Interpretation, revocation and transitional

2.—(1) In these rules—

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

"the County Courts Order" means the County Courts (Northern Ireland) Order 1980;

"the County Court Rules" means the County Court Rules (Northern Ireland) 1981(**c**); and

any reference to a Form by number is a reference to the Form as numbered in Schedule 1 to these rules.

(2) Without prejudice to section 24 of the Interpretation Act (Northern Ireland) 1954(**d**), service of any document under these rules 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) The County Court (Criminal Injuries to the Person) (Compensation) Rules (Northern Ireland) 1983(**e**) and the County Court (Criminal Injuries to the Person) (Compensation) (Amendment) Rules (Northern Ireland) 1988(**f**)

(**a**) S.I. 1980/397 (N.I. 3)
(**b**) S.I. 1988/793 (N.I. 4)
(**c**) S.R. 1981 No. 225
(**d**) 1954 c. 33 (N.I.)
(**e**) S.R. 1983 No. 433
(**f**) S.R. 1988 No. 18

are hereby revoked, except in relation to any application in respect of a criminal injury sustained before 1st July 1988.

PART II

APPEALS UNDER ARTICLE 16 OF THE ORDER

Lodging of appeals to the county court under Article 16 of the Order

3.—(1) Subject to any directions under Article 4 of the County Courts Order, an appeal under Article 16 of the Order shall be heard at the ordinary sittings of the county court for the division in which the criminal injury was sustained at such times as the Lord Chancellor may appoint in accordance with Article 6 of the County Courts Order.

(2) An appeal shall be by notice in Form 1 and the appellant shall serve a copy on the Secretary of State at the address of the department dealing with claims for compensation under the Order.

(3) 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 the notice of determination served on the appellant under Article 12(1) or (2) of the Order 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 5(4)(*b*) of the Order; and

(*d*) a copy of any written form of application for compensation made under Article 4 of the Order.

(4) 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.

(5) 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.

(6) 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 24 and the appellant shall serve a copy on the Secretary of State at the address of the department dealing with claims for compensation under the Order.

(7) 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.

(8) 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 a certificate of readiness has not been delivered by the appellant.

(9) A certificate for the purposes of section 25 of the Crown Proceedings Act 1947(**a**) of an order allowing an appeal under Article 16 of the Order shall be in Form 2 and an order dismissing such appeal shall be in Form 3.

Notice of evidence

4.—(1) Notice specifying any new matter in respect of which the appellant is to adduce evidence in accordance with Article 16(4)(*b*) of the Order shall be in Form 25 and shall be served on the Secretary of State not less than 7 days before the day on which the appeal is to be heard.

(2) Where the Secretary of State intends at the hearing of the appeal to adduce evidence of any matter relevant to Article 5(9) or Article 6(1)(*b*) of the Order, such evidence shall not be admitted at the hearing of the appeal unless—

(*a*) the Secretary of State, not less than 7 days before the day on which the appeal is to be heard, serves on the appellant written notice specifying particulars of that evidence, including a list of any convictions which he intends to adduce in evidence; or

(*b*) the appellant consents to that evidence being adduced; or

(*c*) the court gives leave for that evidence to be adduced.

Provided that where the Secretary of State fails to comply with the requirements of sub-paragraph (*a*) the judge may adjourn the appeal in order to allow the required notice to be served on the appellant and any costs occasioned by any such adjournment shall be in the discretion of the judge.

Payment into court under Article 16(3) of the Order, acceptance etc.

5.—(1) Payment into court by the Secretary of State under Article 16(3) of the Order 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 or of the sum payable under Article 13(2) of the Order or both as is in dispute and hence the subject of the appeal; and

(*b*) 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 notice of his determination under Article 12(1) or (2) of the Order and the date of lodgment.

(2) Notice to the appellant in Form 4 of payment into court by the Secretary of State under Article 16(3) of the Order shall be given at the time of such lodgment.

(3) 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, of the County Court Rules and where any money is lodged a copy of the notice sent to the appellant under paragraph (2) 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".

(4) 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.

(**a**) 1947 c. 44 as extended to Northern Ireland by S.I. 1981/233

(5) 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 4 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 5 accepting the amount in satisfaction of his claim.

(6) Subject to paragraph (9), where the money is accepted by the appellant under paragraph (5) 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 necessity of any decree or order of the court and the Secretary of State shall not be liable to any further costs other than those payable under the undertaking referred to in paragraph (1)(*b*).

(7) Where the costs and expenses referred to in paragraph (1)(*b*) are not agreed between the Secretary of State and the appellant, they shall be settled by the circuit registrar subject to an appeal to the judge, notice of which appeal shall be served on the Secretary of State and the circuit registrar not more than 2 days after the costs are so settled.

(8) The Secretary of State shall, within 14 days from the day on which the parties agree on the sum due under the undertaking referred to in paragraph (1)(*b*) or on which the sum is settled by the circuit registrar or, as the case may be, determined by the judge, pay that sum to the appellant.

(9) Where notice of acceptance under paragraph (5) is served by, or on behalf of, an appellant under a legal disability—

(*a*) the money paid into court shall not be paid out without an order of the judge;

(*b*) a notice of intention to apply to the judge for approval of such acceptance shall also be served on the Secretary of State and lodged in the office of the chief clerk;

(*c*) the application to the judge shall be made at the time the appeal would, if no notice of acceptance had been served, have been heard by the judge; and

(*d*) the appellant shall be entitled to his costs of the application unless the judge otherwise directs.

(10) An order approving acceptance by a person under a disability in satisfaction of a sum lodged by the Secretary of State shall be in Form 6.

Costs where payment into court by Secretary of State not accepted

6.—(1) Where money has been paid into court by the Secretary of State under Article 16(3) of the Order and the appellant does not serve notice of acceptance in accordance with rule 5(5) and does not on appeal obtain an order for the recovery, in relation to such items in the decision or determination of the Secretary of State as are the subject of the appeal, of an amount of compensation or, where appropriate, any sum payable under Article 13(2) of the Order greater than the amount paid into court, then, where the appellant is not under a legal disability, he shall not be entitled to any costs against the Secretary of State and shall be liable for the costs of the Secretary of State in such amount as the court may determine.

(2) Where the Secretary of State becomes entitled to costs under this rule such costs shall be paid to him out of the money paid into court before any payment out of the said money is made to the appellant.

Payment into court not to be communicated to the judge

7. Where money has been paid into court under Article 16(3) of the Order that fact shall not be communicated to the judge before the determination of the appeal.

Form of order where notice of acceptance not served

8. Where money has been paid into court by the Secretary of State and the appellant does not serve notice of acceptance, an order made on the appeal shall be in one of Forms 7 to 9, as may be appropriate.

Lodgment and payment out

9.—(1) All moneys paid into court by the Secretary of State under Article 16(3) of the Order shall be lodged to the credit of the Criminal Injuries Account.

(2) All moneys paid into the Criminal Injuries Account in the County Court Bank to be paid out in accordance with rule 5(6) or in accordance with an order made by the judge shall be paid out by cheque signed by the chief clerk and drawn on the said account.

Costs

10.—(1) The scale of costs set out in Schedule 2 shall apply to appeals under Article 16 of the Order.

(2) The costs awarded on any application under Article 14 of the Order shall be in the discretion of the judge.

(3) The costs awarded on an application under Article 15, Article 16(6), Article 17 and Article 18(4) of the Order shall be in the discretion of the judge both as to incidence and amount.

PART III

APPROVAL OF AWARDS TO PERSONS UNDER A DISABILITY

Applications under Article 14 of the Order

11.—(1) Order 44 of the County Court Rules shall apply to compensation awarded under the Order as if the amount determined as payable to the person under a disability by the Secretary of State had been damages agreed to be paid in proceedings in the county court.

(2) An application under Article 14 of the Order shall be made to the court by which an appeal would have been heard under rule 3(1) had there been an appeal against the determination.

(3) Notice of application under Article 14 shall be in Form 10 and shall—

(*a*) be served on the Secretary of State; and

(*b*) be lodged in the office of the chief clerk duly endorsed as to service together with any certificate of posting.