1977 No. 313

COUNTY COURTS

County Court (Criminal Injuries to the Person) (Compensation) Rules (Northern Ireland) 1977

Made . . . . . *28th October* 1977

Coming into operation . . . *1st December* 1977

To be laid before Parliament

The Secretary of State in pursuance of section 146 of the County Courts Act (Northern Ireland) 1959(**a**) and articles 13, 14, 15 and 20 of the Criminal Injuries (Compensation) (Northern Ireland) Order 1977(**b**) hereby, on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, makes the following rules:

PART I

GENERAL

Citation and commencement

1. These rules may be cited as the County Court (Criminal Injuries to the Person) (Compensation) Rules (Northern Ireland) 1977 and shall come into operation on 1st December 1977.

Interpretation

2.—(1) In these rules—

"the Order" means the Criminal Injuries (Compensation) (Northern Ireland) Order 1977;

"the County Court Rules" means the County Court Rules (Northern Ireland) 1976(**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.

PART II

APPEALS UNDER ARTICLE 14 OF THE ORDER

Lodging of appeals to the County Court under article 14 of the Order

3.—(1) Subject to any order under section 2(2)(*c*) of the County Courts Act (Northern Ireland) 1959, appeals under Article 14 of the Order shall be heard at the ordinary sittings of the county court for the division in which the

(a) 1959 c. 25 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541)
(b) S.I. 1977/1248 (N.I. 15)
(c) S.R. 1976 No. 374
(d) 1954 c. 33 (N.I.)

criminal injury was sustained at such times as the judge for the county court division may appoint in accordance with section 4(2) of that Act or, in lieu of such appointment, at the sitting of the court for equity matters.

(2) Such appeals shall be heard at the sitting for which the appointed entry day occurs next after a period of 21 days from the date on which the appeal is lodged under paragraph (4).

(3) The appeal shall be by notice in Form 1 and shall state the sitting at which the appeal is to be heard in accordance with paragraph (1) and the appellant shall serve a copy thereof on the Secretary of State at the address of the department dealing with claims for compensation under the Order.

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

(*a*) any certificate of posting;

(*b*) a copy of the notice of decision or determination served on the appellant under article 14(1) of the Order endorsed with a certificate as to the date of service of the notice on him; and

(*c*) a copy of any written form of application for compensation made under article 4 of the Order;

and the clerk of the Crown and peace shall forthwith upon receipt of the notice and documents enter the appeal for hearing at the sitting specified in paragraph (2).

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

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

(7) A certificate for the purposes of section 25 of the Crown Proceedings Act 1947(e) of an order allowing an appeal under article 14 of the Order shall be in Form 2 and an order dismissing such appeal shall be in Form 3.

Payment into Court under article 14(4) *of the Order, acceptance, etc.*

4.—(1) Payment into court by the Secretary of State under article 14(4) of the Order may be made at any time within 14 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 11(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 decision or determination under article 14(1) 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 14(4) of the Order shall be given at the time of such lodgment.

(e) 10 & 11 Geo. 6 c. 44

(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 42, Part I, of the County Court Rules and where any money is so lodged a copy of the notice sent to the appellant under paragraph (2) shall be lodged with the clerk of the Crown and peace 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.

(5) The appellant may at any time before the entry day referred to in rule 3(2) or subsequently with the consent of the Secretary of State, sign and serve on the Secretary of State and lodge with the clerk of the Crown and peace 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 clerk of the Crown and peace subject to an appeal to the judge, notice of which appeal shall be served on the Secretary of State and the clerk of the Crown and peace 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 clerk of the Crown and peace 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 clerk of the Crown and peace;

(*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 minor 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

5.—(1) Where money has been paid into court by the Secretary of State under article 14(4) of the Order and the appellant does not serve notice of acceptance in accordance with rule 4(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 11(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

6. Where money has been paid into court under article 14(4) 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

7. 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 the Forms 7 to 9, as may be appropriate.

Amendment of Order 42 of County Court Rules to provide that moneys paid into Court under article 14(4) of Order be paid into Criminal Injuries Account

8.—(1) All moneys paid into Court by the Secretary of State under article 14(4) of the Order shall be lodged to the credit of the Criminal Injuries Account and accordingly in rule 3(2) and rule 13(3) of Order 42 of the County Court Rules after the words "the Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971" there shall be inserted the words "or article 14(4) of the Criminal Injuries (Compensation) (Northern Ireland) Order 1977".

(2) All moneys paid into the Criminal Injuries Account in the County Court Bank to be paid out in accordance with rule 4(6) or in accordance with an order made by the judge shall be paid out by cheque signed by the clerk of the Crown and peace and drawn on the said account.

Costs

9.—(1) The scale of costs set out in Schedule 2 shall apply to appeals under article 14 of the Order.

(2) The costs awarded on any application under article 13 of the Order shall be in the discretion of the judge, but in awarding the costs of the application under that article to a minor where, following an objection on behalf of the minor to approval of the determination, he makes an order under paragraph (2)(*b*) thereof (order such as could have been made under article 14 if there had been an appeal against a determination in connection with application for compensation) he shall have regard to that scale.

(3) The costs awarded on an application under article 14(5), article 15 or article 16 of the Order shall be in the discretion of the judge both as to incidence and amount.

PART III

APPROVAL OF AWARDS TO MINORS

Applications under article 13 of the Order

10.—(1) Order 41 of the County Court Rules shall apply to compensation awarded under the Order as if the amount determined as payable to the minor by the Secretary of State had been damages agreed to be paid in proceedings in the county court.

(2) An application under article 13 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 13 shall be in Form 10 and shall:

(*a*) be served on the solicitor acting for the minor or, where there is no solicitor so acting, upon the person by whom the application for compensation was made to the Secretary of State; and

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

(4) An order approving a determination by the Secretary of State under article 13(2)(*a*) shall be in Form 11 and an Order under article 13(2)(*b*) shall be in Form 12.

PART IV

APPLICATIONS UNDER ARTICLE 14(5) OR ARTICLE 15 OF ORDER

11.—(1) The provisions of rule 1 of Order 14 of the County Court Rules with any necessary modifications shall apply to an application under article 14(5) of the Order (applications to extend time for making or serving any report, notice or application referred to in article 3(2)(*d*), 4(1) or 9) or under article 15 of the Order (applications for declaration as to delay in determining compensation) as if it were an interlocutory application in the course of an action or matter.

(2) Any such application shall be made to the county court for the division in which the criminal injury was sustained.

(3) Notice of an application under article 14(5) of the Order shall be in Form 13.

(4) An order made on an application under article 14(5) shall be endorsed on the notice and an order dismissing the application shall be in Form 14.

(5) Notice of an application under article 15 of the Order shall be in Form 15 and a declaration under that article shall be in Form 16 and endorsed on the notice.

(6) An order dismissing an application for a declaration under article 15 shall be in Form 17.

(7) A notice of application to which this Part applies shall be lodged in the office of the clerk of the Crown and peace and a copy thereof shall be served on the solicitor for the Secretary of State.

(8) The notice lodged in the office shall be duly endorsed as to service and accompanied by any certificate of posting.