1973. No. 166 **[C]**

COUNTY COURT RULES

Criminal Injuries to Property (Compensation)

RULES, DATED 31ST MAY 1973, MADE BY THE SECRETARY OF STATE UNDER SECTION 146 OF THE COUNTY COURTS ACT (NORTHERN IRELAND) 1959.

I, THE RIGHT HONOURABLE WILLIAM WHITELAW, M.C., M.P., in exercise of the powers conferred on me by section 146 of the County Courts Act (Northern Ireland) 1959(a), sections 5(3), 6(3) and 8(1) and (2) of the Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971(b), section 1(1) of the Northern Ireland (Temporary Provisions) Act 1972(c) and all other powers enabling me in that behalf, do hereby, upon the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, make the Rules hereinafter set forth.

Citation

1. These Rules may be cited as the County Court (Criminal Injuries to Property) (Compensation) Rules (Northern Ireland) 1973.

Interpretation

2. In these Rules—

"the Act" means the Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971;

any reference to an Order or Appendix is to the relevant Order or Appendix in the County Court Rules (Northern Ireland) 1965(d);

any reference to a Form by number is a reference to that Form as numbered in Schedule 3 to these Rules.

Revocation and amendment of existing rules

3.—(1) So much of the County Court (Criminal Injuries) Rules (Northern Ireland) 1969(e) as applies to compensation for criminal injuries to property shall cease to have effect in relation to any proceedings for such compensation as a result of an act causing damage committed on or after 1st April 1973 or for the unlawful removal of property on or after that date.

(2) Accordingly, the provisions of those Rules specified in column 1 of Schedule 1 to these Rules are in relation to such proceedings amended or revoked to the extent specified in column 2 of that Schedule.

(3) Part VII in Appendix ZL (costs in applications for criminal injuries) shall apply only to applications for compensation under the Criminal Injuries to Persons (Compensation) Act (Northern Ireland) 1968(f) or under the Criminal Injuries Acts (Northern Ireland) 1956 to 1970(g) (as modified by any

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(a) 1959. c. 25.
(b) 1971. c. 38. (N.I.).
(c) 1972. c. 22.
(d) S.R. & O. (N.I.) 1965, No. 261.
(e) S.R. & O. (N.I.) 1969, No. 18.
(f) 1968. c. 9 (N.I.).
(g) 1956. c. 19; 1957. c. 8; 1958. c. 11; 1964. c. 7 (N.I.); 1970. c. 26 (N.I.).

order under section 133 or 134 of the Local Government Act (Northern Ireland) 1972(**h**)) for damage to property caused as a result of an act committed before 1st April 1973 or for the unlawful removal of property before that date.

(4) The scale of costs set out in Schedule 2 shall apply to appeals under section 8 of the Act.

Application under section 5(3) of Act to extend time for service of preliminary notice or application to Ministry.

4.—(1) The provisions of Rule 1 of Order 14 shall apply to applications under section 5(3) of the Act as those provisions apply to applications on notice in the course of an action or matter.

(2) The notice of an application under the said section 5(3) shall be given in Form 1 and the applicant shall serve a copy of the notice on every person having an estate or interest in the property, the subject matter of the application, who has or may have suffered loss from the damage to or unlawful removal of the property.

(3) Subject to paragraph (4), any order made on the application shall be endorsed on the notice.

(4) An order dismissing an application under the said section 5(3) shall be in Form 2.

Payment into Court under section 6(3) or section 7(1)(ii) of the 1971 Act

5. The provisions of Order 26 shall apply to payment into Court under section 6(3) or section 7(1)(ii) of the Act with the following modifications:—

(*a*) in Rule 1(1) of that Order the reference to section 63 of the Trustee Act (Northern Ireland) 1958(**i**) shall be construed as a reference to the said section 6(3) or section 7(1)(ii), as the case may be, and the form of affidavit in Appendix V may be modified by the Ministry as may be necessary;

(*b*) in Rule 1(5) for the reference to Form 2 in Appendix V there shall be substituted a reference to Form 3 or 4 in the Schedule to these Rules;

(*c*) in Rule 1(6) for the reference to Form 3 in Appendix V there shall be substituted a reference to Form 5 in the Schedule to these Rules.

Appeals to County Court under section 8 from decision of Ministry

6.—(1) Appeals under section 8 of the Act shall be heard at a sitting for which the appointed entry day occurs next after a period of twenty-one days from the date on which the appeal is lodged under paragraph (4).

(2) Subject to any order under section 2(2)(*c*) of the County Courts Act (Northern Ireland) 1959, such appeals shall be heard at the ordinary sittings 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.

(3) The appeal shall be by notice in Form 6 or 7 and shall state the sitting at which the appeal is to be heard in accordance with paragraph (1)

(**h**) See S.R. & O. (N.I.) 1973. Nos. 51 and 60
(**i**) 1958. c. 23 (N.I.).

and the appellant shall serve a copy thereof on the Ministry and on each person who appears to the appellant to be likely to be affected by the decision, determination or order made on appeal as having an estate or interest in the property, the subject matter of the application for compensation.

(4) The appellant shall at the time of such service 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 certificates of posting;

(*b*) a copy of the decision, determination or order as served on the appellant under section 8(1) of the Act; and,

(*c*) where the appellant was the applicant for compensation, a copy of the application for compensation served on the Ministry under section 5;

and the clerk of the Crown and peace shall forthwith upon receipt of the notice and documents as aforesaid enter the appeal for hearing at the sitting specified in paragraph (1).

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

(6) Where the appeal is against part only of the decision, determination or order the notice shall specify briefly the grounds of appeal against each item which is the subject of the appeal.

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

(8) Where the property damaged is let to the applicant or is held under a fee farm grant, unless the court otherwise directs, paragraph (3) shall not operate so as to require service of a copy of the notice referred to in that paragraph on a lessor other than the applicant's immediate lessor or a recipient from the applicant of a fee farm rent.

(9) Service of any notice, copy or document under this Rule may, without prejudice to section 24 of the Interpretation Act (Northern Ireland) 1954(j), be by registered post or by first-class post using the recorded delivery service or otherwise in accordance with that section.

(10) The copy of the notice required to be served on the Ministry shall be served on it at the official address of the branch dealing with criminal injury claims.

(11) A certificate for the purposes of section 25 of the Crown Proceedings Act 1947(k) of an order allowing an appeal under section 8 shall be in Form 8 or 9, as appropriate, and an order dismissing such appeal shall be in Form 10.

(12) Without prejudice to paragraph (4), before proceeding to hear an appeal under section 8 of the Act, the court shall ascertain that the appellant has served copies of his notice of appeal in accordance with paragraph (3) upon the persons upon whom the Ministry served notice of its decision, determination or order in accordance with section 8(1) of the Act.

(j) 1954. c. 33. (k) 10 & 11 Geo. 6. c. 44.

Payment into court under section 8(2) of the Act, acceptance, etc.

7.—(1) Payment into court by the Ministry under section 8(2) of the Act may be made at any time within fourteen days from service of the copy of the notice of appeal upon it by—

(*a*) lodging in court such sum of money as the Ministry thinks sufficient to satisfy so much of the appellant's claim to compensation or of the sum payable by the Ministry under section 6(2) of the Act 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 Ministry served on him its decision, determination or order under section 8(1) of the Act until the date of lodgment.

(2) Notice to the appellant in Form 11 of payment into court by the Ministry under section 8(2) shall be given at the time of such lodgment.

(3) Money shall be paid into court by lodging it at the county court bank to the credit of the Criminal Injuries Account in accordance with Order 41, Part I, 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 6(1) or subsequently with the consent of the Ministry, sign and serve on the Ministry and lodge with the clerk of the Crown and peace a notice in Form 12 accepting the amount in satisfaction of his claim.

(6) Subject to paragraph (9), where the money is accepted by an appellant under paragraph (5) all further proceedings in the appeal by that 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 Ministry shall not be liable to any further costs other than those payable under the undertaking given under paragraph (1)(*b*).

(7) Where the costs and expenses referred to in paragraph (1)(*b*) are not agreed between the Ministry 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 shall be served on the Ministry and the clerk of the Crown and peace not less than two days after the costs are so settled.

(8) The Ministry shall, within fourteen 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 Ministry and lodged in the Office; and

(*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;

(*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 Ministry shall be in Form 13.

Costs where payment in by Ministry not accepted

8.—(1) Where money has been paid into court by the Ministry under section 8(2) of the Act and the appellant does not serve notice of acceptance in accordance with Rule 7(5) and does not on appeal obtain an order for the recovery, in relation to such items in the decision, determination or order of the Ministry as are the subject of the appeal, of an amount of compensation or, where appropriate, any sum payable under section 6(2) of the Act, greater than the amount paid into court, then he shall not be entitled to any costs against the Ministry and shall be liable for the costs of the Ministry in such amount as the court may determine.

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

Payments into court not to be communicated to the Judge

9. Where money has been paid into court under section 8(2) of the Act that fact shall not be communicated to the Judge before the determination of the appeal.

Form of order where notice of acceptance not served

10. Where money has been paid into court by the Ministry and the appellant does not serve notice of acceptance, an order made on the appeal shall be in one of the Forms 14 to 16, as may be appropriate.

Amendment of Order 41 to provide for Criminal Injuries Account

11.—(1) All moneys paid into court by the Ministry under section 8(2) of the Act shall be lodged to the credit of a separate account at the county court bank to be known as "the Criminal Injuries Account" and, accordingly, Order 41 and Appendix ZG shall have effect subject to paragraph (2) and to the amendments specified in Schedule 4 to these Rules.

(2) Rules 5 to 10 inclusive of Order 41 shall not apply to moneys so lodged, and in lieu thereof the following provisions shall have effect, that is to say—

(*a*) all moneys paid into the Criminal Injuries Account in the County Court Bank to be paid out in accordance with Rule 7(6) or in accordance with an order made by the Judge or in accordance with sub-paragraph (*b*) shall be paid out by cheque signed by the clerk of the Crown and peace and drawn on the said account; and

(*b*) any interest accruing to the said Account shall be paid to the Ministry for the credit of the Exchequer at such intervals as the said Ministry may from time to time direct.

Dated this 31st day of May 1973.

W. S. I. Whitelaw,
One of Her Majesty's Principal
Secretaries of State.