**1971 No. 363** **[C]**

# COUNTY COURT RULES

## Criminal Injury Claims

RULES, DATED 6TH DECEMBER 1971, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 146 OF THE COUNTY COURTS ACT (NORTHERN IRELAND) 1959.

I, THE RIGHT HONOURABLE BRIAN FAULKNER, D.L., Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by section 146 of the County Courts Act (Northern Ireland) 1959(**a**), section 7(1) of the Criminal Injuries Act (Northern Ireland) 1956(**b**), and all other powers thereunto enabling, 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.

Dated this 6th day of December 1971.

*Brian Faulkner,*
Minister of Home Affairs
for Northern Ireland

*Citation and commencement*

**1.** These Rules may be cited as the County Court (Criminal Injuries) (Amendment) Rules (Northern Ireland) 1971 and shall come into operation on 20th December 1971.

*Amendments to the Rules of 1969*

**2.** The provisions of the County Court (Criminal Injuries) Rules (Northern Ireland) 1969(**c**) referred to in column 1 of the Schedule shall have effect subject to the amendments specified in column 2 thereof.

(**a**) 1959. c. 25.
(**b**) 1956. c. 19.
(**c**) S.R. & O. (N.I.) 1969, No. 18.

SCHEDULE

**Amendments to the County Court (Criminal Inujries) Rules (Northern Ireland) 1969**

| Provision amended | Amendments |
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| Rule 4 | In Rule 4—<br>the word "and" where it firstly and secondly occurs shall be omitted;<br>after "1968" where it first occurs there shall be inserted the words "and the Criminal Injuries (Amendment) Act (Northern Ireland) 1970";<br>after the words "the Act of 1968" there shall be inserted the words "and the Act of 1970". |
| Rule 10 | For paragraph (2) of Rule 10 there shall be substituted the following paragraph:—<br>"(2) Such service may be effected by posting the document or copy in an envelope addressed—<br>(*a*) where it is to be served on the secretary or clerk to a local authority, the Clerk of the Crown and peace or Chief Crown Solicitor, to him at the official address of his office, or<br>(*b*) where it is to be served on the divisional commander of the Royal Ulster Constabulary, to him at the constabulary station nearest to the place where the act causing the criminal injury, damage or loss was committed." |
| Rule 11 | At the end of Rule 11 there shall be added the following words—<br>"; but the date of sitting of the appropriate court to be stated in every such application notice as is referred to in Rules 14(1) and 18(1) must conform with the date determined in accordance with paragraph (3) of each of the said Rules." |
| Heading to Part II | In the heading to Part II of the Rules after the words **"damage to"** there shall be inserted the words **"or loss resulting from the unlawful removal of".** |
| Rule 13 | For paragraph (1) of Rule 13 there shall be substituted the following paragraph—<br>"(1) The person who suffered the damage or loss (or, if for any reason he is under a legal disability or otherwise unable to act, any person who is lawfully entitled to take or conduct the proceedings on behalf of that person or his estate) shall cause a preliminary notice, as the case may be, in Form 1, Form 2, Form 2A or Form 3 in Schedule 1 of his intention to apply to the County Court for compensation under the Criminal Injuries Acts for the damage or loss to be served on—<br>(*a*) the secretary of the county council and, in addition, on the clerk of the rural or urban district council or borough council in whose area the damage or loss or the greater part thereof occurred; or |

| Provision amended | Amendments |
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| Rule 13 —*contd.* | (*b*) the clerk of the county borough council in whose area the damage or loss or greater part thereof occurred;<br>(*c*) in every case, the divisional commander of the constabulary division in which the damage or loss or the greater part thereof occurred; and<br>(*d*) where any person other than the applicant has a mortgage lien, charge or any other legal interest in the property damaged or unlawfully removed, such person".<br><br>In paragraph (2) of Rule 13 after the words "was committed" there shall be inserted the words "or, as the case may be, the property was unlawfully removed".<br><br>In paragraph (3)(*a*) of Rule 13 after the word "committed" there shall be inserted the words "or at which the property was unlawfully removed".<br><br>In paragraph 3(*b*) of Rule 13 for the words "damaged; and" there shall be substituted the words "damaged or unlawfully removed;".<br><br>After paragraph (3)(*c*) of Rule 13 there shall be added the following words:— "and<br>(*d*) the quantity or number of any items unlawfully removed". |
| Rule 14 | In Rule 14(1)—<br>after the word "damage" there shall be inserted the words "or loss";<br>after the expression "Form 5" there shall be inserted the expression "Form 5A";<br>and at the end there shall be added the words "and also upon any person having a mortgage, lien, charge or any other legal interest in the property damaged or unlawfully removed".<br><br>After paragraph (1) of Rule 14 there shall be inserted the following paragraph:—<br><br>"(1A) Where a mortgagee served with the application under paragraph (1) is a building society, as defined by the Building Societies Act (Northern Ireland) 1967, the applicant shall where practicable attach to the application served on the officer or officers of the council and to the copy served on the Clerk of the Crown and peace a certificate by the society in Form 6A in Schedule 1 or, where the person served under paragraph (1) is any other mortgagee or is the holder of any lien, charge or other interest in movable or immovable property, a certificate in Form 6B signed by that person as to the nature of that person's interest". |
| Rule 14A | After Rule 14 there shall be added the following Rule:—<br><br>*"Notice by mortgagees of intention to appear and be heard under section 3(3) of the Criminal Injuries (Amendment) Act (Northern Ireland) 1970*<br><br>**14A.** A mortgagee wishing to appear and be heard on application under the Act of 1956 or the Act of 1957 for compensa- |

| Provision amended | Amendments |
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| Rule 14A —*contd.* | tion for damage to property shall within seven days of receipt of a copy of the application serve notice in Form 6C in Schedule 1 of his intention to do so upon the applicant and copies thereof on the officer or officers of the councils named in the application and the clerk of the Crown and peace." |
| Rule 15 | In paragraph (1) of Rule 15 after the words "damage to" there shall be inserted the words "or loss resulting from the unlawful removal of". |
| | In paragraph (2) of Rule 15 after the words "A decree shall" there shall be inserted the words, "subject to paragraph (3)," and after the reference to Form 8 there shall be inserted a reference to Forms 8A and 8C. |
| | After paragraph (2) of Rule 15 there shall be added the following paragraph:— |
| | "(3) Where the court under section 3(4) of the Act of 1970 in a decree requires a county council to pay to the mortgagee of property part of the compensation decreed, the decree shall be in form 7A, 8B or 9A, as the case may be". |
| Rule 16 | In Rule 16(1) for paragraph (*c*) there shall be substituted the following paragraph:— |
| | "(*c*) Rule 13(1) shall apply as though any reference to the area or division in which the damage or loss occurred included a reference to the area or division nearest to the place where it occurred". |
| Rule 17 | In Rule 17 for paragraph (2)(*b*) there shall be substituted the following paragraph:— |
| | "(*b*) the divisional commander of the constabulary division in which the injury was sustained". |
| Schedules General | Throughout the Forms in the Schedules to the Rules of 1969 for references to a District Inspector or to the Commissioner of Police for the City of Belfast there shall be substituted a reference to the Divisional Commander of the appropriate Constabulary Division. |
| Schedule 1 | In Forms 1, 2 and 3 at the end of italicised directions commencing *"specify in detail type of property damaged"* and in Forms 4, 5 and 6 at the end of the italicised directions commencing *"give full particulars"* there shall be added the words *"and state full particulars of nature of applicant's interest, as absolute owner, mortgagee, lessee, purchaser under hire-purchase or credit-sale agreement and name and address of any person (ie Building Society, Finance Co. etc) having a mortgage, lien, charge or other legal interest in the property"*. |

| Provision amended | Amendments |
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| Form 2A | After Form 2 there shall be inserted the following Form:— |

"Form 2A

**Notice of intention to apply under section 3 of the Criminal Injuries Act (Northern Ireland) 1956 for compensation for damage to building [and/or property and/or unlawful removal of property therefrom]**

To the Secretary of the County Council and Clerk of the [District] [Borough] Council *or* Clerk of the [Belfast] [Londonderry] County Borough Council].

The Divisional Commander of the Constabulary Division.

TAKE NOTICE that on the day of 19 at a.m./p.m. damage, the aggregate amount of which exceeds £20, was unlawfully, wantonly or maliciously caused by three or more persons tumultuously and riotously [*or* (if claim for *damage* only) unlawfully, riotously *or* tumultuously] assembled together to the building known as (*address*) or to property hereinafter specified [within the curtilage of the said building and in the course of the riot property was unlawfully removed from such building]

(i) the damage to the said building and/or property was as follows:—

(*specify in detail the damage to the building and the items of property damaged*)

[(ii) the property unlawfully removed consisted of the following:—

(*specify in detail the items of property, quantity, number, etc.*)]

[(iii) the building was/or was not the subject of a mortgage or charge or other legal interest [and the name and address of the mortgagee/chargee/co-owner is:—

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[(iv) the following items of property were the subject of hire purchase or credit sale agreement etc. and the name and address of the respective owners or vendors are set opposite each item:—

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