



Department of  
**Justice**  
www.dojni.gov.uk

A GUIDE TO  
**CRIMINAL DAMAGE**  
COMPENSATION  
IN NORTHERN IRELAND

Contents

Summary

Introduction  
-----

Contents

- ❖ When is Compensation Payable?
- ❖ Who can apply?
- ❖ What can an Applicant be Compensated for?
- ❖ Property for which Compensation is not payable
- ❖ Are you insured?
- ❖ What can applicants do to help progress their claims?
- ❖ How and when to apply?
- ❖ Refusal or reduction of compensation
- ❖ How applicants are assessed?
- ❖ Basis of compensation
- ❖ Rights of appeal
- ❖ Complaints – Comments – Compliments
- ❖ Offences and Penalties
- ❖ Customers with disabilities

## Summary

You may wish to consult a solicitor. You may also obtain information and advice from DOJ Compensation Services.

Consider what professional advice you require to assist you in taking forward your claim. Remember, reasonable costs incurred for these professional services will be reimbursed in the event of a successful claim.

Make contact with loss adjusters acting on behalf of DOJ Compensation Services to decide what needs to be done.

Ensure a 'Notice of Intention to Claim Compensation' is sent to Compensation Services, the PSNI and other interested parties within 10 days of the incident.

Submit an application form to claim compensation to Compensation Services within 4 months of serving the Notice of Intention.

Ensure you bring together and furnish the information required to substantiate your claim. This may include title deeds, leases, stock records, financial accounts, invoices for work carried out etc.

Maintain close contact with your professional advisers, loss adjusters and Compensation Services staff so that you are aware of the state and progress of your claim. If you are in any doubt about your claim ask for further information from your solicitor or Compensation Services.

## Introduction

1. The Criminal Damage (Compensation) (Northern Ireland) Order 1977 provides a right to claim compensation from the Department of Justice for loss suffered as a result of malicious or wanton damage to agricultural property and, in the case of other property, as a result of damage caused by an unlawful assembly of three or more persons or by terrorist acts. In all cases the damage must have occurred within Northern Ireland.

2. The aim of this guide is to explain the provisions of the legislation and to provide applicants with information to help when applying for compensation. **It must be emphasised, however, that this guide is intended as an aid and not a substitute for the legislation itself.**

3. Every application for compensation is determined on its own merits and in accordance with the relevant provisions of the 1977 Order. **Applications can be without legal assistance but applicants are often best advised to obtain the services of a solicitor.** If a claim is successful, legal and other costs and expenses reasonably incurred in making out and verifying the claim will be paid in addition to any compensation awarded.

4. Applications for compensation and requests for further information or advice about the scheme should be made to:

Compensation Services NI  
5th Floor, Queens Court  
56-66 Upper Queen Street  
Belfast  
BT1 6FD

Telephone number: 0300 200 7887

When is compensation payable?

5. For compensation to be paid under the scheme there must be **physical** damage property.

6. Compensation is payable for non agricultural property where it can be shown that the damage was caused:

- a) unlawfully, maliciously or wantonly by three or more persons unlawfully, riotously or tumultuously assembled together; or
- b) as a result of an act committed maliciously by a person acting on behalf of, or in connection with, an unlawful association an act of terrorism.

7 In the case of agricultural property, or property which is exempt from rates under Article 41(2)(e) or Article 41A of the Rates (Northern Ireland) Order 1977, compensation is payable if the damage was caused maliciously or wantonly.

Who can apply?

8. Anyone who has an interest in the property which has been damaged in any of the circumstances described above and who suffers a loss of more than £200 because of that damage may apply for compensation. For example, in the case of a damaged building the applicant is usually the owner or landlord but could also be a tenant who may be responsible for carrying out repairs under the terms of a lease.

What can an Applicant be compensated for?

9. Claims may include the following categories:

- cost of repairs or reinstatement or reduction in market value of property;
- damage to stock, contents and fixtures and fittings;
- consequential loss (eg loss of profits or rental of alternative accommodation or bank interest arising from extra costs incurred as a direct result of the damage);
- damage to vehicles.

Property for which compensation is not payable

10. Compensation will not be paid in respect of:

- a. any damage to, destruction or theft of
  - i. coins, bank notes, foreign currency, postal orders, money orders, or any postage stamps;
  - ii. any articles of personal adornment, including watches and jewellery unless kept by the owner as part of stock in trade; or
- b. property taken from a damaged vehicle or building except in certain circumstances eg if the property was stolen from a damaged building in the course of a riot.

Are you Insured?

11. If the damaged property is insured a claim should be made to the relevant insurance company as well as to Compensation Services. Normally in these circumstances the insurance company makes payments to the applicant based on the insurance cover provided. If compensation is awarded, it can then be paid by Compensation Services to the insurers.

What can Applicants do to help progress their claims?

12. Applicants and their professional advisers should present claims quickly and respond promptly to requests for documentation such as title deeds, leases, invoices for purchases relating to the claim, stock records and financial accounts.

## How and when to apply

### **Preliminary Notice of Intention**

13. It is imperative that a prompt investigation of the damage is carried out by the DOJ loss adjuster as soon as possible after it occurs. **An applicant, or any other person with an interest in the damaged property, must serve, within 10 days from the day on which the act giving rise to the claim was committed, a preliminary Notice of Intention on –**

- a. the Department of Justice, Compensation Services (address at paragraph 3 above);
- b. **the Divisional Commander** of the police division in which the damage occurred; and
- c. **any other person** who has an interest in the property (eg. a building society or hire purchase company).

The Notice of Intention can be obtained from DOJ Compensation Services or from solicitors or via the DOJ website. Details of where to serve the notice on the Divisional Commander of the police can be obtained from the local PSNI Station.

**This ten day period for service of the Notice of Intention may be extended if a written request for an extension is made to DOJ Compensation Services within six months of the date of the incident. It is important to note, however, that where these time-limits are exceeded neither DOJ Compensation Services nor the County Court has authority to extend them and so late claims automatically become void.**

### **Application Form**

14. On receipt of a Notice of Intention Compensation Services will send the applicant an application form, which needs to be returned **within four months of the date of serving the Notice of Intention**. However, Compensation Services or, on appeal to the County Court, may allow up to 12 months for serving the Application.

**A claim will automatically become void if an application is not received within 12 months from the date the Notice of Intention was served.**

### **Notice for Particulars**

15. Compensation Services will also send the applicant a Notice for Particulars, which asks for the information to enable the claim to be assessed.

## **Statutory Deduction**

16. Compensation is not payable if the loss is **£200** or less. Where compensation of more than **£200** is payable a statutory deduction of **£200** will be made from the total compensation due. An applicant, however, will not have more than one deduction made from compensation in respect of damage to the same property in any period of 12 months

### Refusal or reduction of compensation

17. Compensation will be reduced or disallowed in the following circumstances

- a. Compensation is not payable where the loss incurred has been, or can be recovered, under any other statutory provision or common law.
- b. Compensation is not payable where the applicant planned, assisted in or actively and willingly facilitated the act which resulted in the damage (or looting) or was associated or connected with the person(s) who caused it.
- c. Compensation is not payable to, or for the benefit of, anyone who at any time whatsoever was a member of an unlawful association or was engaged in the commission, preparation or instigation of acts of terrorism.
- d. All or part of compensation may be withheld if the applicant fails to co-operate with the police in identifying and apprehending offenders.
- e. In determining whether compensation will be paid and, if so, what amount, Compensation Services will take into account:
  - i. failure on the part of the applicant to take all reasonable precautions to reduce or avoid the loss;
  - ii. failure on the part of the applicant to comply with any statutory provisions relating to the security of the property;
  - iii. any unlawful use of the property by the applicant or anyone with his/her consent immediately before the damage occurred eg. property which was being used for the illegal sale and consumption of intoxicating liquor or a motor vehicle which was untaxed;
  - iv. any provocative or negligent behaviour which contributed directly or indirectly to the loss or which increased the chances of it being sustained.

### How Applications are assessed

## **Entitlement**

18. Compensation Services must determine whether or not the claim comes within the terms of the legislation and relies heavily on police information to make this decision. In the case of terrorist related damage, the evidence normally

provided to establish entitlement is a Chief Constable's Certificate and applicants can apply for this by completing the appropriate section of the Notice of Intention.

## **Assessment**

19. In most cases applicants employ **loss assessors** to help make a detailed claim. If a claim is successful reasonable loss assessors' costs incurred in making out and verifying the claim will be paid. DOJ Compensation Services will engage a loss adjuster who will examine the damaged property, negotiate with the applicant and/or his representatives and make recommendations to Compensation Services for settlement. Generally loss adjusters make contact with applicants within a few days of a major incident occurring or the date of service of the 'Notice of Intention'. Applicants should inform DOJ Compensation Services without delay if they have not been contacted.

### Basis of Compensation

## **Costs of Repairs/Reinstatement or Market Value?**

20. Generally compensation for any physical damage to buildings, fixtures and fittings, stock, vehicles and other property is based on the cost of repairs or reinstatement. Applicants and their advisers need to liaise closely with the DOJ's loss adjusters to ensure that the plan to repair or reinstate the business, property, etc. is agreed in advance. This will minimise any delay in processing the claim at a later stage. In the case of certain property, such as that used for investment purposes a compensation figure may be arrived at on the basis of a reduction in market value arising from the damage. In these circumstances applicants can engage valuers to represent them in negotiations with the Valuation and Lands Agency who act on behalf of Compensation Services.

## **Consequential Loss**

21. In addition to receiving compensation for physical damage to property an applicant may also be entitled to compensation for financial loss or increased costs which arise as a direct result of the physical damage. Consequential loss can include:

- a. loss of profits due to the temporary cessation or interruption of trade. Normally historical financial accounts are required to substantiate a claim;
- b. increased costs such as the rent of temporary premises, industrial cleaning services, reconnection of telephone services and additional bank interest charges (or reduced investment income). It is important that these details are separated from other normal costs eg. in the case of additional bank interest, a separate and specific account should be opened.

Compensation for consequential loss will be limited to the period reasonably required to repair the physical damage, bearing in mind the applicant's duty to mitigate the loss. In certain cases, eg. where the applicant is a tenant, the period may be limited to that considered necessary to re-establish the business elsewhere. Compensation will take into account savings in operating expenses such as reduced wages and rates. It is important that applicants minimise their losses by all possible means.

### **Betterment**

22. The underlying intention of the criminal damage scheme is to restore the applicant, as far as it is possible to do so financially, to the position he was in immediately prior to the damage. Thus, for example, a deduction from compensation may be made where reinstatement is carried out to a higher specification than previously existed and the property is thereby improved.

### **Interim Payments**

23. As it takes time for claims to be finalised, pending settlement, interim payments may be made provided the Notice of Intention and Application have been served and entitlement to compensation has been established. In the case of reinstatement of buildings, interim payments are usually advanced after receipt of architect's certificates.

### **Fees and Costs**

24. Where compensation is payable, applicants will also be entitled to the reasonable costs and expenses incurred in making out and verifying claims, including legal and other professional fees.

### **Completion of the Claim**

25. If compensation is to be paid applicants will receive a written offer and will be asked to sign a **Form of Discharge** confirming that the amount is acceptable in full and final settlement. If, however, DOJ Compensation Services decides that no compensation is payable, or agreement on the amount payable cannot be reached by negotiation, the applicant will be sent a formal **Notice of Decision**.

### **Rights of appeal**

26. Applicants who are dissatisfied with the DOJ Compensation Services decision have a right of appeal to the County Court. **An appeal must be lodged within six weeks from the service of the decision otherwise the decision becomes final and binding.**



27. If an appeal is lodged the case will be heard before the appropriate County Court, where all relevant issues will be put before the Judge. If the appeal is successful, reason legal costs and expenses will be paid in addition to the compensation awarded.

Complaints

Comments

Compliments

28. We recognise the trauma and difficulties suffered by victims of violent crime and we aim to provide a service which is efficient, sensitive and confidential. If you are not entirely satisfied with the service you receive please let us know and we will do our best to put the matter right as quickly as possible This will include providing a full explanation within 10 working days and, where appropriate, an apology. We also value any general comments - good or bad -that you may have. They could help us to improve our service in the future.

29. If you are unhappy with our service you should write to DOJ Compensation Services addressing your letter to the Complaints Officer at the address below. Alternatively, you may wish to phone the Complaints Officer to discuss the matter.

The Complaints Officer  
Compensation Services NI  
5th Floor, Queens Court  
56-66 Upper Queen Street  
Belfast  
BT1 6FD

Telephone: 0300 200 7887

30. If, after using our complaints procedure you are still not happy with our service, you may send your complaint to the Northern Ireland Ombudsman by contacting your local MLA.

## Offences and penalties

31. It is an offence under the legislation for any person:

- a. to obtain compensation for him or herself or for any other person by any deception; or
- b. knowingly to make a false or misleading statement or to fail to disclose a material fact; or
- c. to fail to notify the Department of Justice of any damages or compensation received from any other source.

On conviction, an offender is liable **to a fine or to imprisonment for a period up to 5 years or to both.**

## Customers with disabilities

32. Compensation Services is committed to promoting and developing equal opportunities both for its staff and customers. As part of this policy, special assistance is available for customers with disabilities.

### **a. Assistance for deaf and hard of hearing customers**

- **Signers for the deaf and hard of hearing customers.** If you have any queries regarding your application for compensation we can provide the services of a signer. To help us provide this service, please arrange appointments through our Customer Information Officer. Telephone number 0300 200 7887.

- **Access to a quiet room.** Should you find that you have difficulty hearing or understanding what is being said because of noise etc. at the reception area, our staff can ensure that they answer your queries in a quiet room.

**b. Assistance for the blind and partially sighted customers**

- **Agency literature.** Guides to Compensation and our Customer Charter are available in large print, tape and Braille versions on request.

To obtain copies please contact our Customer Information Officer

**c. Customers who use wheelchairs**

- **Wheelchair Access.** Customers who use wheelchairs can gain access to our offices by ramp and lift.

For further information on access for customers with disabilities please contact our Customer Information Officer.

- **Access to toilets for disabled customers.** Toilets for disabled customers are available within the building.