1971. No. 178 **[C]**

COUNTY COURT RULES

Report of Commissioner for Complaints : Application to Court by party aggrieved for damages etc.

RULES, DATED 17TH JUNE 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) and all other powers thereunto enabling, on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, do hereby make the Rules hereinafter set forth.

Dated this 17th day of June, 1971.

Brian Faulkner,
Minister of Home Affairs
for Northern Ireland.

Citation and commencement

1. These Rules may be cited as the County Court (Commissioner for Complaints) (Compensation) Rules (Northern Ireland) 1971 and shall come into force on the 21st day of June 1971.

Notice of application under section 7 of Act

2.—(1) Notice of application under section 7 of the Commissioner for Complaints Act (Northern Ireland) 1969(b) (in these Rules referred to as "the Act") shall be in Form 1 in the Schedule.

(2) The applicant or his solicitor shall serve such notice upon the clerk of the Crown and peace for the County Court division in which the respondent body has its principal office not more than six months after the day on which the report of the Commissioner for Complaints under section 11(1) of the Act was sent to the applicant together with a certified copy of the said report authenticated in the manner required by section 7(8) thereof.

(3) The applicant or his solicitor shall, when serving the documents referred to in paragraph (2), serve a copy of the notice upon—

(*a*) the Commissioner for Complaints;

(*b*) the body against whom the complaint was made; and

(*c*) any person who in the report is stated to have taken or authorised the action complained of or to have been otherwise involved in such action.

(a) 1959. c. 25. (b) 1969. c. 25 (N.I.).

Manner of service of notice of application and entry for hearing

3.—(1) The applicant or his solicitor may, in accordance with Order 6 of the County Court Rules (Northern Ireland) 1965(c), serve the notice of application or copy referred to in Rule 2 by posting it by registered post or by the recorded delivery service.

(2) Where service is on the clerk of the Crown and peace, the said Commissioner or such body, the documents shall be addressed to his or its office and, where service is on a person referred to in Rule 2(3)(*c*), addressed to such person at his residence, or at the address of the body referred to in Rule 2(3)(*b*) if that person is in the employment or a member thereof.

(3) Production of the certificate of posting shall be evidence of such service.

(4) Such service shall not be less than fifteen days before the day appointed for the first sitting of the court at which the application is sought to be heard and accordingly the clerk of the Crown and peace shall enter (without the need for production of an entry sheet) the application for hearing at the appropriate sitting of the court for the hearing of ordinary civil bills.

Costs

4. The Court may make such order as to costs and witnesses' expenses as it thinks fit.

Enlargement, etc., of periods referred to in Rules 2 and 3

5. Rule 10 of Order 39 of the County Court Rules (Northern Ireland) 1965 shall apply to Rules 2 and 3 of these Rules as it applies to the said Rules of 1965.

Form of Order awarding damages under section 7 of the Act

6. An order of the court under section 7 of the Act may be in Form 2 in the Schedule and an order dismissing the application in Form 3 in the Schedule.

(c) S.R. & O. (N.I.) 1965, No. 261.

SCHEDULE

Forms

FORM 1

Notice of application for award of damages or other relief under section 7 of the Commissioner for Complaints Act (Northern Ireland) 1969

[Rule 2]

IN THE COUNTY COURT/RECORDER'S COURT
for the DIVISION OF

IN THE MATTER OF THE Commissioner for Complaints Act (Northern Ireland) 1969

AND IN THE MATTER OF the application of for an order awarding damages as compensation for injustice or for other relief in consequence of maladministration by or on behalf of a [local] [public] body reported by the Commissioner for Complaints.

BETWEEN

of in the County of and the division of Applicant

AND

and having its principal office in the division of Respondent

being a [local] [public] body
[and of

in the County of and the division of
an officer [*or* member] of that body],

Respondent

TAKE NOTICE that
of (hereinafter referred to as "the applicant") intends to apply to the County Court/Recorder's Court at sitting for the above-named Division [at the sitting of the Court commencing] on the day of 19 , for an order awarding him/her damages under section 7 of the Commissioner for Complaints Act (Northern Ireland) 1969 to compensate the applicant for loss or injury suffered in consequence of such maladministration by (*name of local or public body*) [and being an officer [*or* member] of that body] as is specified in the report, dated 19 , of the Commissioner for Complaints made upon a Complaint by the applicant to the Commissioner.

The claim of the applicant will be for £ being £ for such expenses as are referred to in section 7(2)(*a*) of the said Act of 1969 and £ for such loss as is specified in section 7(2)(*b*) thereof and for
(*here particularise any other relief sought in accordance with section* 7(3)) together with a certain sum for the costs of this application and for witnesses expenses.

Dated this day of 19 .

Applicant/Solicitor for Applicant.

FORM 2

Order awarding damages under section 7 of the Commissioner for Complaints Act (Northern Ireland) 1969 [and making a direction or granting an injunction under section 7(3) thereof]

[Rule 6]

BY THE COUNTY COURT JUDGE/RECORDER in the County Court/Recorder's Court for the Division of

IN THE MATTER OF THE Commissioner for Complaints Act (Northern Ireland) 1969

AND IN THE MATTER OF the application of for an order awarding damages as compensation for injustice or for other relief in consequence of maladministration of a [local] [public] body reported by the Commissioner for Complaints.

BETWEEN

of in the County of

and the division of

Applicant

AND in the County of

and having its principal office in the division of

Respondent

being a [local] [public] body [and of

in the County of and the division of

an officer [*or* member] of that body]

Respondent

UPON AN APPLICATION made by the applicant on the day of 19 , under section 7 of the Commissioner for Complaints Act (Northern Ireland) 1969;

AND UPON READING the notice of application and the report of the Commissioner for Complaints dated the day of 19 ;

AND UPON HEARING

IT IS ORDERED that the applicant be awarded damages to compensate him as follows; namely, against the respondent [and the respondent] the sum £ on account of expenses reasonably incurred by the applicant in connection with the subject matter of the maladministration on which the complaint of the applicant was founded and £ on account of his loss of opportunity of acquiring the benefit as follows

being a benefit which he might reasonably be expected to have had but for such maladministration;

[AND IT IS FURTHER ORDERED that

(here add the terms of any direction or injunction made by the Court under section 7(3) of the Act of 1969 on the application)].

AND IT IS FURTHER ORDERED that the applicant be paid by the respondent [and by the respondent] the sum of £ for the costs of this application and the sum of £ for witnesses' expenses [to be apportioned between the respondents as follows:—

].

Dated at this day of 19 ,

Clerk of the Crown and peace.

(Seal)

Solicitor for the Applicant.

FORM 3

Order dismissing application for award of damages under section 7 of the Commissioner for Complaints Act (Northern Ireland) 1969

[Title as in Form 2]

It appearing to the Court that the applicant caused the respondent(s) to be served with notice of intention to apply for the award of damages or other relief under section 7 of the Commissioner for Complaints Act (Northern Ireland) 1969 and that the applicant has failed to prove that he is entitled to such award or other relief against the respondent(s) [*or* the respondent
(*name respondent against whom dismiss ordered where only one to be named*)];

IT IS THEREFORE DECREED by the Court that the application be and the same is hereby dismissed and that the respondent(s) [*or* the said respondent] do recover against the applicant the sum of £ , for costs and the sum of £ for witnesses' expenses.

Dated at this day of 19

Clerk of the Crown and Peace.

Solicitors for the Respondent.

(Seal)

EXPLANATORY NOTE

(*This Note is not part of the Rules but is intended to indicate their general purport.*)

These Rules prescribe the procedure under section 7 of the Commissioner for Complaints Act (Northern Ireland) 1969 upon an application to the County Court for damages or other relief by a person who is reported by the Commissioner as having suffered injustice in consequence of maladministration by or on behalf of a local or public body listed as subject to investigation in Schedule 1 to that Act.