1990 No. 279

COUNTY COURTS

County Court (Criminal Damage Compensation) (Amendment) Rules (Northern Ireland) 1990

Made . . . . . *25th July 1990*

Coming into operation . . *3rd September 1990*

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(**a**), in exercise of the powers conferred on us by Article 47 of that Order and in accordance with Article 15 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977(**b**), hereby make the following rules:

Citation and interpretation

1.—(1) These rules may be cited as the County Court (Criminal Damage Compensation) (Amendment) Rules (Northern Ireland) 1990.

(2) In these rules "the principal rules" means the County Court (Criminal Damage Compensation) Rules (Northern Ireland) 1983(**c**), and a reference to a Form by number is a reference to the Form so numbered in Schedule 1 to the principal rules.

Revocation

2. The County Court (Criminal Damage Compensation) (Amendment) Rules (Northern Ireland) 1989(**d**) are hereby revoked.

Lodging of appeals to the County Court

3.—(1) In Rule 3 of the principal rules—

(*a*) paragraph (2) shall be omitted;

(*b*) in paragraph (3) the words "and shall state the sitting at which the appeal is to be heard in accordance with paragraph (2)" shall be omitted;

(*c*) in paragraph (4) the words "and the chief clerk shall forthwith upon receipt of the notice enter the appeal for hearing at the sitting specified in paragraph (2)" shall be omitted;

(*d*) the following new paragraphs shall be inserted after paragraph (8)—

"(8A) The appellant shall request the chief clerk to enter the appeal for hearing by delivering to the chief clerk at his office a

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(**a**) S.I. 1980/397 (N.I. 3)
(**b**) S.I. 1977/1247 (N.I. 14)
(**c**) S.R. 1983 No. 434; to which the most recent relevant amendment was made by S.R. 1989 No. 298
(**d**) S.R. 1989 No. 298

certificate of readiness in Form 24 and the appellant shall serve a copy on the Secretary of State at the address of the department dealing with claims for compensation under the Order.

(8B) Upon receipt of a certificate of readiness the chief clerk shall enter the appeal for hearing at the first sitting he deems practicable, and shall cause notice of such hearing to be given to the parties.

(8C) Without prejudice to paragraph (8B), the chief clerk may enter an appeal for hearing and shall cause notice of such hearing to be given to the parties notwithstanding a certificate of readiness has not been delivered by the appellant.''.

(2) For Forms 1 to 4 there shall be substituted the Forms 1 to 4 in Schedule 1 to these rules.

(3) After Form 23 there shall be inserted the Form 24 in Schedule 1 to these rules.

Increase in party and party costs

4. For Schedule 2 to the principal rules there shall be substituted the new Schedule set out in Schedule 2 to these rules.

We, the undersigned members of the County Court Rules Committee, having by virtue of the powers vested in us in this behalf made the foregoing rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

John K. Pringle
John J. Curran
Brian F. Walker
Barry Valentine
Ken Nixon
S. D. Massey

Dated 5th July 1990.

After consultation with the Lord Chief Justice I allow these rules which shall come into operation on 3rd September 1990.

Dated 25th July 1990 *Mackay of Clashfern,* C.

SCHEDULE 1 Rule 3(2) and (3)

NEW FORM 1 TO BE INSERTED IN PRINCIPAL RULES

FORM No. 1 Rule 3(3)

Notice of Appeal (by applicant) to County Court under Article 15 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977

IN THE COUNTY COURT/RECORDER'S COURT for the Division of

IN THE MATTER OF an appeal under Article 15 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977.

Between

of

Appellant

and

the Secretary of State

Respondent

Application No.

TAKE NOTICE that the Appellant hereby appeals to the County Court against the decision/determination/order of the Secretary of State dated the day of 19 in respect of the above-numbered application served on him on the day of 19 (in case of postal service state date on which notice of decision/determination/order was delivered to applicant or his solicitor) and the appeal will be heard at the sitting of the Court for the above-named Division to be held at on a date to be notified to the parties by the chief clerk.

The appeal is against the entire decision/determination/order on the grounds set out below [or so much of the decision/determination/order as relates to the items set out below in numerical order on the grounds specified against each item] — [(add if applicable) The applicant has already been paid the sum of £ on account of compensation under Article 12(1) of the said Order of 1977.]

Dated this day of 19 .

Signature of Appellant/Solicitor for Appellant

Name and address of Agent/Solicitor

To:—

(*a*) The Chief Clerk at
(address of Courthouse)

(*b*) The Secretary of State at
(address of Department)

[(*c*)

(name(s) of person(s) upon whom notice has been served by the Secretary of State under Article 15(1) of the Criminal Damage (Compensation) (Northern Ireland) Order 1977).]

NOTE:

A copy of—

(*a*) the decision/determination/order of the Secretary of State served on the appellant under Article 15 of the Order endorsed with a certificate as to the date of service of the notice on the appellant;

(*b*) a copy of any written form of application for compensation served on the Secretary of State under Article 8 of the Order;

must be delivered to the chief clerk with this notice of appeal.

NEW FORM 2 TO BE INSERTED IN PRINCIPAL RULES

FORM No. 2 Rule 3(3)

Notice of Appeal (by person other than applicant) to County Court under Article 15 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977

[*Title as in Form No. 1*]

Application No.

TAKE NOTICE that I of being a person affected by the decision/determination/order of the Secretary of State in respect of the above-numbered application served on me on the day of 19 (in the case of postal service state date on which notice of decision/determination/order was delivered to applicant or his solicitor) do hereby appeal to the county court against such decision/determination/order and the appeal will be heard at the sitting of the court for the above-named Division to be held at on a date to be notified to the parties by the chief clerk.

The appeal is against the entire decision/determination/order on the grounds set out below [or so much of the decision/determination/order as relates to the items set out below in numerical order on the grounds specified against each item]—

Dated this day of 19 .

Signature of Appellant/Solicitor for Appellant

Name and address of Agent/Solicitor

To:—

(*a*) The Chief Clerk at
(address of Courthouse)

(*b*) The Secretary of State at
(address of Department)

[(*c*)
(name(s) of person(s) upon whom notice has been served by the Secretary of State under Article 15(1) of the Criminal Damage (Compensation) (Northern Ireland) Order 1977).]

NOTE:

A copy of the decision/determination/order of the Secretary of State served on the appellant under Article 15 of the Order endorsed with a certificate as to the date of service of the notice on the appellant must be delivered to the chief clerk with this notice of appeal.

NEW FORM 3 TO BE INSERTED IN PRINCIPAL RULES

FORM No. 3 Rule 3(3)

Notice of Appeal to County Court under Article 15 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977 against decision of Secretary of State upon request submitted to him under Article 7(3) of that Order

[*Title as in Form 1*]

TAKE NOTICE that the appellant hereby appeals to the county court for the above-named Division sitting at on a date to be notified to the parties by the chief clerk against the decision of the Secretary of State dated the day of 19 served on him on the day of 19 (in case of postal service state date on which notice of decision was delivered to appellant or his solicitor) to refuse the request of the appellant dated the day of 19 that the period within which preliminary notice of his claim to compensation under the Criminal Damage (Compensation) (Northern Ireland) Order 1977 in accordance with Article 7(1) of that Order may be extended under Article 7(3) thereof.

Dated this day of 19 .

Signature of Appellant/Solicitor for Appellant

Name and address of Agent/Solicitor

To:—

(*a*) The Chief Clerk at (address of Courthouse)

(*b*) The Secretary of State at (address of Department)

[(*c*)

(name(s) of person(s) upon whom notice has been served by Secretary of State under Article 15(1) of the Criminal Damage (Compensation) (Northern Ireland) Order 1977).]

NOTE:

A copy of the preliminary notice sought to be served under Article 7(1) must be attached to this notice served on the chief clerk.

NEW FORM 4 TO BE INSERTED IN PRINCIPAL RULES

FORM No. 4 Rule 3(3)

Notice of Appeal to County Court under Article 15 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977 against decision of Secretary of State to refuse to extend time under Article 8 for making application for compensation

[*Title as in Form 1*]

TAKE NOTICE that the appellant hereby appeals to the county court for the above-named Division sitting at on a date to be notified to the parties by the chief clerk against the decision of the Secretary of State dated the day of 19 served on him on the day of 19 (in case of postal service state date on which notice of decision was delivered to appellant or his solicitor) to refuse the request of the appellant dated the day of 19 that the period of four months from the date on which the appellant served on the Secretary of State the preliminary notice (a copy of which is attached hereto) of his claim for compensation under the Criminal Damage (Compensation) (Northern Ireland) Order 1977 in accordance with Article 7(1) thereof, namely the day of 19 , be extended under Article 8(1) thereof to a longer period not exceeding twelve months from the date of such service.

Dated this day of 19 .

Signature of Appellant/Solicitor for Appellant

Name and address of Agent/Solicitor

To:—

(*a*) The Chief Clerk at
(address of Courthouse)

(*b*) The Secretary of State at
(address of Department)

[(*c*)
(name(s) of person(s) upon whom notice has been served by the Secretary of State under Article 15(1) of the Criminal Damage (Compensation) (Northern Ireland) Order 1977).]

NOTE:

A copy of the preliminary notice served under Article 7(1) and any application sought to be served on the Secretary of State under Article 8 of the Order must be attached to this notice served on the chief clerk.

NEW FORM 24 TO BE INSERTED IN PRINCIPAL RULES

FORM No. 24 Rule 3(8A)

Certificate of Readiness

[*Title as in Form 1*]

To the Chief Clerk

Sir,

I/We request that you enter this appeal for hearing.

I/We certify on behalf of the appellant—

(1) that, so far as concerns the appellant, the appeal is ready for hearing; and

(2) that the appellant estimates that the hearing will last not more than hour(s).*

Signed

Appellant/Solicitor for the Appellant

(Date)

To: the Chief Clerk and to the respondent Secretary of State.

*Note: this information will assist the Chief Clerk in assessing the likely duration of the hearing.

SCHEDULE 2 Rule 4

AMENDMENT TO THE PRINCIPAL RULES

SCHEDULE 2 Rule 9(1)

Party and party costs in appeals under Article 15 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977 in relation to claims for compensation under that Order

A. Appellant's Costs

Where the amount awarded is greater than the Secretary of State's determination and does not excced—	*Solicitor's Costs*	*Counsel's Fee*
(1)	(2)	(3)
£	£	£
250	103	39
500	126	49
750	159	65
1,000	181	77
2,000	205	85
3,000	229	95
4,000	253	101
5,000	275	108
6,000	300	115
7,000	324	123
8,000	346	129
9,000	371	138
10,000	395	145
15,000	504	183
20,000	624	226
25,000	733	266
30,000	853	314
35,000	963	356
40,000	1,079	405
45,000	1,190	435
50,000	1,300	500
60,000	1,474	577
70,000	1,646	657
80,000	1,813	739
90,000	1,986	827
100,000	2,150	914
125,000	2,262	973
150,000	2,380	1,038
175,000	2,498	1,121
200,000	2,609	1,172
250,000	2,836	1,305
300,000	2,893	1,343
350,000	2,949	1,377
400,000	3,003	1,411

Where the amount awarded is greater than the Secretary of State's determination and does not excced—	*Solicitor's Costs*	*Counsel's Fee*
(1)	(2)	(3)
£	£	£
450,000	3,059	1,444
500,000	3,114	1,482
600,000	3,229	1,557
700,000	3,340	1,631
800,000	3,454	1,705
900,000	3,569	1,786
1,000,000	3,680	1,863

NOTE:

1. Subject to the discretion of the judge to certify otherwise, the scale of counsel's fees in column (3) above relates only to the item or items in dispute and not to the value of the claim as a whole.

2. Where a case is settled more than 2 days prior to the court hearing, 85% of the appropriate amount in column (3) of the above table is payable as counsel's fees.

3. Where the judge considers it was proper for an applicant to instruct senior as well as junior counsel, the senior counsel's fee will be one and a half times the appropriate figure in column (3) of the above table.

4. Where the amount awarded is in excess of £1,000,000 the judge shall, unless the parties otherwise agree, certify the amount of solicitor's costs and the amount allowed for counsel's fees.

5. Where the case is one of exceptional complexity or difficulty the judge may certify an amount exceeding the scale figures in columns (2) or (3) of the above table.

6. Nothing in this Schedule shall derogate from the provisions of rule 5 or Article 15(3) of the Order.

7. The scale of solicitor's costs in column (2) of the above table is inclusive of any costs (but not expenses) payable under Article 12(2) of the Order in respect of making out and verifying the claim to compensation up to the date of the Secretary of State's determination.

8. (*a*) Where a solicitor conducts an appeal without counsel he shall, if the judge so allows, be entitled to an enhancement of his costs in addition to the scale costs in column (2) of the above table; and

   (*b*) the amount of any enhancement so allowed shall be in the discretion of the judge, but shall not exceed 50 per cent. of the scale fee in column (3) of the above table to which counsel, if conducting the appeal, would have been entitled.

B. Respondent's Costs

1. Where an appeal is dismissed, the judge may order the appellant to pay the Secretary of State an amount for his solicitor's costs or counsel's fees.

2. Where he does so, that amount shall, in default of agreement, be such as the judge may determine, whether equal to or less than the costs actually incurred or the fees paid by the Secretary of State in resisting the appeal.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These rules amend the County Court (Criminal Damage Compensation) Rules (Northern Ireland) 1983 so as to:—

(*a*) revise the procedure for lodging an appeal to the County Court;

(*b*) introduce a new scale of costs payable to solicitors and counsel in appeals to the county court under Article 15 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977;

(*c*) provide for an enhancement of a solicitor's costs where he conducts such an appeal without counsel.