



THE
COMPENSATION
Agency

**A Guide to the
Justice and Security (NI)
Act 2007
Compensation in Northern Ireland**



INVESTOR IN PEOPLE

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Summary

- You may obtain information and advice on claiming under the Terrorism legislation from the Compensation Agency (the Agency).
- You may consider if you require professional advice to assist you in taking forward your claim. **However, applications can be made without legal assistance.** Schedule 4 of the Justice and Security (NI) Act 2007 states that the payment of legal costs in this type of claim is entirely at the discretion of the Agency.
- An application for compensation can **only** be obtained by contacting the Agency on **028 9024 9944**. You must ensure you have the full address, including postcode, date of birth, National insurance number and specific dates of damage. Only original forms will be accepted (no photocopies), and are to be completed by the applicant and should not be used by any person.
- Ensure on Application for Compensation is **obtained, completed and returned** to the Compensation Agency **within 28 days from the date of damage**.
- Ensure you bring together and furnish the information required to substantiate your claim. This may include title deeds, lease agreements,

invoices for work carried out, copies of search docket etc.

- Maintain close contact with the Loss Adjusters acting on behalf of the Agency and Agency 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 the Agency.

Introduction

1. The Justice and Security (NI) Act 2007 compensation scheme provides a right to claim compensation from the Secretary of State for the loss or damage suffered as a result of the action taken under the Act.
2. The aim of this guide is to explain the main provisions of the legislations and to provide applicants with information to help when applying for compensation. **It must be emphasized, however, that the guide is intended as an aid and not a substitute for the legislation itself**, copies of which can be obtained from:

The Stationery Office Bookshop
16 Arthur Street
Belfast
BT4 4GD

3. Every application for compensation is determined on its own merit and in accordance with the relevant provisions of the Act. **Application can be made without legal assistance.** Schedule 4 of the Act states that the payment of legal cost in this type of claim is entirely at the discretion of the Agency. The agency considers that in most circumstances legal assistance will not be necessary, and therefore the Agency will **not** normally pay the solicitor's costs,

and my not pay loss assessor's fees. The Agency will however arrange for any damage to be inspected by an independent loss Adjuster.

4. Applications for compensation can only be obtained by telephone on the number below. Requests for further information or advice about the scheme should be made to:

The Compensation Agency

Royston House

34 Upper Queen Street

Belfast

BT1 6FD

Telephone: (028) 9024 9944

Fax: (028) 9054 7399

You should ensure you have the full address, including post code, date of birth, National Insurance number and specific dates of damage when requesting an application form.

When is compensation payable?

5. Compensation will be paid when property is damaged, requisitioned or removed for examination under the Act.

Who can apply?

6. The owner or anyone who claims to have an interest in the damaged property.

What can an applicant be compensated for?

7. Compensation is payable for damage caused by the security forces to fences, agricultural produce, machinery, motor vehicles, livestock, building (both residential and business), their contents, plus fixtures and fittings and consequential loss where liability has been established.

Property for which compensation is not payable

8. Compensation will not be paid:
 - a. Where liability has not been established.
 - b. Where ammunition/ firearms/ transmitters etc are found during searches and when charges are brought against the applicant or person having an interest in the claim.
 - c. Where damage is as a result of negligence on the behalf of the army.
 - d. Where damage is as a result of helicopter activity.
 - e. Following house searches carried out under PACE and prevention of Terrorism Acts.

- f. Where the applicant has not attempted to mitigate his/her loss e.g. gates left open between silage fields.

Are you insured?

9. If the damaged property is insured and is domestic property and contents, livestock or vehicles, a claim should be made to the relevant insurance company as well as the Agency. Normally in these circumstances the insurance company makes payments to the applicant based on the insurance cover provided and compensation awards are paid by the Agency to the insurers.

What can applicants do to help progress their claim?

10. Applicants should present claims quickly and provide documentation such as completed application form, search docket, title deeds, lease agreements and farm maps. All documentation should be complete and given to loss Adjuster at time of inspection.

How and when to apply

11. **The Application for Compensation can only be obtained by contacting the Agency directly on 028 9024 9944.** An Application for Compensation should be completed fully by the applicant to include:

- Full details of the location of the damaged property.
- Precise date(s) of damage and nature of damage.
- Name of the owner and name of the person responsible for repairs.
- National Insurance number.
- VAT registration number.
- Tax reference number.
- Title deeds or land certificate folio number.
- Witness details.

Application for Compensation must be made to the Agency within the statutory 28 days. Where the application is outside the 28 day period the applicant should request an extension of the time from the Secretary of State.

Claims not lodged within 6 months from the date of damage will automatically be denied.

Please note only original application forms will be accepted. The form should be completed by the applicant and should not be used by any other person.

12. The Agency will appoint an independent Loss Adjuster to adjust the claim on our behalf. The

Loss Adjuster will arrange to meet with the applicants on site to be shown the areas affected. You must have a copy of the Farm Map clearly marked with the area and type of damage – otherwise the Loss Adjuster will rearrange a suitable time to view the damage being claimed for. The speed of the processing your claim will be determined by your co-operation in arranging and most importantly, attending the site inspection.

Refusal or reduction of compensation

13. Compensation will be reduced or disallowed in the following circumstances:

- When application for compensation is received out of time.
- When applicants fail to comply with all the requests to substantiate the claim.
- When criminal proceedings against the applicant are successful.
- Where the applicant fails to mitigate his/her own loss in cases of silage claims eg. due to gates being left open between fields.
- Where damage is the result of negligence on behalf of the army or applicant.

How applications are accessed

Entitlement

14. The Agency must determine whether or not the claim comes within the terms of the legislation and relies heavily on police and army information to make this decision.

Entitlement to compensation

15. The Agency must be satisfied that the applicant is responsible for repairing the damage in question. This can be done by providing documentary evidence that the applicant owns the property or is responsible for the repairs (e.g. lease or other agreement). It is not necessary to supply a copy of the deeds if you can give the folio Number of your land certificates.

Assessment

16. The Agency will engage a **Loss Adjuster** who will examine and photograph the damaged property, negotiate with the applicant and make recommendations to the Agency for the settlement. Generally Loss adjusters make contact with applicants within a few days of receipt by the agency of the claim. Applicants should inform the Agency without delay if they have not been contacted within 2 days of receipt of the application form.

Basis of compensation

Costs of repairs

17. Generally compensation for any physical damage to fences, machinery, motor vehicles, buildings, contents and any other property is based on the cost of repair or reinstatement.

Applicants need to liaise closely with the Agency's Loss Adjusters.

Betterment

18. The underlying intention of the scheme is to restore the applicants, as far as it is possible to do so financially, to the position he/she was in immediately prior to the damage.

Nature of damage

19. It is important to identify exactly where and when the damage was caused, by clearly marking the farm map, stating the type of damage (e.g. stretched wire, broken post, trampled silage). It is also important to give details about previous damage to that property, and previous repairs.

Completion of the claim

20. 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.

However, if the Agency decides that no compensation is payable, or agreement on the amount cannot be reached by negotiation, the applicant will be sent a formal **Notice of Decision**.

Rights of appeal

21. Applications who are dissatisfied with the Agency's decision have a right of appeal to the County Court. **An appeal must be lodged within six weeks from the service of the Notice of Decision otherwise the decision becomes final and binding.**
22. 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, reasonable legal costs and expenses will be paid in addition to the compensation awarded.

Complaints*, comments*, compliments

23. We recognize the trauma and difficulties suffered by applicants 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 – you may have. They could help us to improve our service in the future.

24. If you have a problem you should write to the Compensation Agency addressing your letter to the complaints officer. Alternatively, you may wish to phone the office on the number below to discuss the matter.

If you prefer, you can ask a friend to write or phone on your behalf. The address is:

The Complaints Officer
The Compensation Agency
Royston House
34 Upper Queens Street
BELFAST BT1 6FD
Telephone: (028) 9024 9944
Fax: (028) 9024 6956

Your problem will be thoroughly and objectively investigated in confidence. When you contact us you will need to provide the following information:

- The claim number if known.
- The name and address of the applicant and date of the incident.
- Full details of your problem.

- A phone number where you can be contacted during working hours (if available).

25. We hope your problem will be resolved at this stage, but if you are not satisfied please write to the Chief Executive who will be glad to look again at the matter on your behalf. Please write to:

Chief Executive
The Compensation Agency
Royston House
34 Upper Queens Street
BELFAST BT1 6FD

26. If after having written to the Chief executive you are still not satisfied with our response you can ask your local member of parliament to raise the matter on your behalf. You may also contact the parliamentary ombudsman, whose function is to investigate complaints by members of the public about the way they have been treated by the government departments and their executive agencies.

Offences and penalties

27. It is an offence under the legislation for any person:
- a. to obtain compensation for him or herself or any other person by any deception;
- or

- b. to knowingly make a false or misleading statement or to fail to disclose a material fact;
or
- c. fail to notify the Secretary of State 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 of up to 5 years or both.**

Customers with disabilities

28. The Compensation Agency 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 the Agency can provide the services of a signer.

To help the Agency provide this service please arrange appointments through our Customer Information Officer, telephone no (028) 9054 7417.

- **Access to a quiet room**

Should you find that you have a difficulty in hearing or understanding what is being said because of noise at 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 to the Agency's Charter Standard statement are available in large print, tape or 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. Prior notice is required for the ramp to be put in place.

For further information on access please contact our Customer Information Officer.

- **Access to toilets for disabled customers**

Toilets for disabled customers are available within the building.



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www.compensationni.gov.uk