



Home Office

Draft Riot Compensation Bill

March 2015



Draft Riot Compensation Bill

Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty

March 2015



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CONTENTS

Claims for compensation

- 1 Claims for compensation for riot damage etc
- 2 Property in respect of which claims may be made
- 3 Regulations about claims procedure

The decision-maker

- 4 The decision-maker on a claim
- 5 Transfer of claims to the Secretary of State
- 6 Delegation of Secretary of State's functions

Decisions on claims

- 7 Decision on validity of claim
- 8 Amount and payment of compensation
- 9 Reviews and appeals

General

- 10 Repeal of Riot (Damages) Act 1886 and consequential amendments etc
- 11 Regulations
- 12 Commencement, extent and short title

Schedule – Motor vehicles in respect of which claims may be made

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TO

Make provision about compensation for property damaged, destroyed or stolen in the course of riots.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Claims for compensation

1 Claims for compensation for riot damage etc

(1) Where—

- (a) a person's property has been damaged, destroyed or stolen in the course of a riot,
- (b) the property is property in respect of which a claim may be made under this subsection (see section 2(1)), and
- (c) the property was not insured (or was not adequately insured) for the damage, destruction or theft,

the person may claim compensation from the appropriate local policing body.

(2) Where—

- (a) a person's property has been damaged, destroyed or stolen in the course of a riot,
- (b) the property is property in respect of which a claim may be made under this subsection (see section 2(2)), and
- (c) an insurance company has (to any extent) met a claim by the person under a policy of insurance in respect of the damage, destruction or theft,

the insurance company may claim compensation from the appropriate local policing body.

(3) The appropriate local policing body is the local policing body which is responsible for the police area in which the property was situated at the time of the riot.

(4) A claim under this section must be made in accordance with regulations made under section 3.

- (5) For the purposes of subsection (1)(c), property is not adequately insured if –
 - (a) it is insured for an amount that is less than its value, or
 - (b) it is insured subject to an excess.
- (6) In this Act, “riot” is to be construed in accordance with section 1 of the Public Order Act 1986, but does not include a riot in any of the following places –
 - (a) a prison, young offender institution or secure training centre;
 - (b) a hospital where persons are detained under Part 2 or 3 of the Mental Health Act 1983;
 - (c) a removal centre, a short-term holding facility or pre-departure accommodation (within the meaning given by section 147 of the Immigration and Asylum Act 1999).

2 Property in respect of which claims may be made

- (1) A claim may be made under section 1(1) only in respect of –
 - (a) a building,
 - (b) property falling within subsection (3), or
 - (c) a motor vehicle falling within any of the paragraphs of the Schedule (motor vehicles in respect of which claims may be made).
- (2) A claim may be made under section 1(2) only in respect of –
 - (a) property falling within subsection (3), or
 - (b) a motor vehicle falling within paragraph 4 of the Schedule (vehicle forming part of stock in trade of a business).
- (3) Property falls within this subsection if it is property (other than a motor vehicle) which at the time of the riot was situated –
 - (a) within a building,
 - (b) within the curtilage of a building, or
 - (c) on land being used for the purposes of a business carried on by the claimant.
- (4) The Secretary of State may by regulations –
 - (a) amend subsection (3);
 - (b) make provision about the meaning of terms used in that subsection.
- (5) In this section –
 - “building” includes –
 - (a) a permanent or semi-permanent structure in the nature of a building [(including a caravan or houseboat), and]
 - (b) a building in the course of construction;
 - “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads.

3 Regulations about claims procedure

- (1) The Secretary of State must make regulations about the procedure for making a claim under section 1.
- (2) The regulations may include provision about –

- (a) the appropriate person to make a claim (in particular where more than one person has an interest in property that has been damaged, destroyed or stolen), and
 - (b) the circumstances in which a single claim must cover a number of different items or types of property.
- (3) The regulations may also include provision about—
- (a) the person to whom a claim must be addressed;
 - (b) the time period within which a claim must be made;
 - (c) the details and evidence that must be submitted by the claimant;
 - (d) the time period within which details and evidence must be submitted;
 - (e) the submission of new evidence relating to a claim already made or determined.
- (4) Regulations under subsection (3)(c) may include a requirement that any estimates of the cost of repairs are to be prepared by contractors approved by the Secretary of State or a local policing body.

The decision-maker

4 The decision-maker on a claim

- (1) The decision on a claim is to be made by the appropriate local policing body, except where—
- (a) the body delegates functions to another person in accordance with regulations made under subsection (2)(b), or
 - (b) the Secretary of State makes a direction under section 5(1)(b) (transfer of claims to the Secretary of State).
- (2) The Secretary of State may make regulations allowing a local policing body to delegate to another person either or both of the following functions—
- (a) dealing with procedural matters on a claim;
 - (b) making a decision on a claim.
- (3) Regulations under subsection (2) may in particular make provision about—
- (a) the persons to whom functions may be delegated,
 - (b) the types of claim in relation to which functions may be delegated (by reference to the nature of the property, the amount of the claim, the identity of the claimant or otherwise), and
 - (c) the payment and auditing of persons to whom functions are delegated.

5 Transfer of claims to the Secretary of State

- (1) The Secretary of State may direct a local policing body to transfer to the Secretary of State either or both of the following functions—
- (a) dealing with procedural matters on a claim;
 - (b) making a decision on a claim.
- (2) A direction under this section may relate to—
- (a) all claims to the local policing body (whether made before or after the time of the direction), or
 - (b) claims of a particular description.

- (3) The Secretary of State may make a direction only if—
 - (a) riots have occurred in two or more police areas at or about the same time,
 - (b) a riot has moved from one police area to another, or
 - (c) a local policing body has requested the Secretary of State to make a direction in respect of claims that have been or may be made to it.
- (4) Before making a direction in the circumstances described in subsection (3)(a) or (b), the Secretary of State must consult all local policing bodies that may be affected by the direction.
- (5) The Secretary of State must publish a direction made under this section.

6 Delegation of Secretary of State's functions

- (1) The Secretary of State may by regulations establish a body in connection with a direction under section 5 that the Secretary of State has made, or is considering making (the "riot claims bureau").
- (2) The regulations must provide that the principal function of the riot claims bureau is to exercise either or both of the following functions on behalf of the Secretary of State—
 - (a) dealing with procedural matters on claims that have been transferred to the Secretary of State under section 5;
 - (b) making decisions on claims that have been transferred to the Secretary of State under section 5.
- (3) The regulations may make provision about—
 - (a) additional functions of the riot claims bureau;
 - (b) its status and constitution;
 - (c) the appointment of its members;
 - (d) the payment of remuneration and allowances to its members;
 - (e) the delegation of its functions to other persons;
 - (f) reporting and audit requirements;
 - (g) any other matters in connection with its operation and establishment.
- (4) The Secretary of State may make regulations allowing the Secretary of State to delegate to another person either or both of the following functions—
 - (a) dealing with procedural matters on claims that have been transferred to the Secretary of State under section 5;
 - (b) making decisions on claims that have been transferred to the Secretary of State under section 5.
- (5) Regulations under subsection (3)(e) or (4) may in particular make provision about—
 - (a) the persons to whom functions may be delegated;
 - (b) the types of claim in relation to which functions may be delegated (by reference to the nature of the property, the amount of the claim, the identity of the claimant or otherwise), and
 - (c) the payment of persons to whom functions are delegated.

*Decisions on claims***7 Decision on validity of claim**

- (1) Where a person makes a claim under section 1, the decision-maker must first decide whether the claim is valid.
- (2) A claim is valid if—
 - (a) it meets the conditions set out in—
 - (i) section 1(1)(a) to (c) (in the case of a claim under section 1(1)), or
 - (ii) section 1(2)(a) to (c) (in the case of a claim under section 1(2)), and
 - (b) it is made in accordance with regulations under section 3.
- (3) The Secretary of State may issue guidance on assessing the validity of claims, which may in particular include guidance on deciding whether property was damaged, destroyed or stolen in the course of a riot.
- (4) Decision-makers must have regard to any guidance issued under subsection (3).

8 Amount and payment of compensation

- (1) If the decision-maker decides that a claim is valid, the decision-maker must then decide the amount of compensation, up to a maximum of £1 million per claim (the “compensation cap”), that is fair and reasonable.
- (2) The Secretary of State may make regulations setting out—
 - (a) considerations that decision-makers must take into account in deciding the amount that reflects the claimant’s loss,
 - (b) other factors that may affect the amount of compensation to be paid, and
 - (c) the process for deciding and paying compensation.
- (3) Regulations under subsection (2)(a) must provide that the amount of compensation must reflect only the loss directly resulting from the damage, destruction or theft of the property, and in particular must not reflect any consequential economic loss resulting from it.
- (4) Regulations under subsection (2)(a) may also make provision about—
 - (a) the appropriate method for deciding the amount of compensation for different types of property or different types of damage;
 - (b) the effect of the property being insured (or partially insured) on the amount of compensation.
- (5) Regulations under subsection (2)(b) may in particular provide for—
 - (a) the amount of compensation to be increased to reflect costs or expenses incurred by the claimant in making a claim;
 - (b) the amount of compensation to be decreased to reflect the costs of administering the compensation scheme;
 - (c) the amount of compensation to be decreased, or for no compensation to be awarded, where the decision-maker considers this appropriate in view of any act or omission of the claimant;
 - (d) a claim to be refused where the decision-maker believes that the claim, or any other claim made by the claimant, is fraudulent (to any extent).

- (6) Regulations under subsection (2)(c) may in particular –
 - (a) provide for a claim to lapse where a claimant fails to provide the required details or evidence;
 - (b) provide for interim payments to be made before a claim is finally decided;
 - (c) provide for the payment of compensation in instalments;
 - (d) provide that, instead of monetary compensation, the decision-maker may arrange for repairs to be carried out on property that has been damaged, at the expense of the appropriate local policing body;
 - (e) make provision about administrative requirements that must be satisfied before any payment is made or repairs carried out.
- (7) The appropriate local policing body must pay to the claimant the amount of compensation decided under this section.
- (8) The Secretary of State may by regulations change the amount of the compensation cap for the time being specified in subsection (1).

9 Reviews and appeals

The Secretary of State must make regulations giving a person affected by a decision under section 7 or 8 –

- (a) a right to request a review of the decision;
- (b) a right to appeal against the decision, or any decision following a review by virtue of paragraph (a).

General

10 Repeal of Riot (Damages) Act 1886 and consequential amendments etc

- (1) The Riot (Damages) Act 1886 is repealed.
- (2) In section 235 of the Merchant Shipping Act 1995 (liability for damage in case of plundered vessel) –
 - (a) in subsection (2) –
 - (i) for “compensation authority” substitute “appropriate local policing body”;
 - (ii) for “Riot (Damages) Act 1886” substitute “Riot Compensation Act 2015”;
 - (b) after subsection (2) insert –

“(2A) In subsection (2), “appropriate local policing body” has the same meaning as in the Riot Compensation Act 2015 (see section 1(3) of that Act).”
- (3) Omit the following provisions –
 - (a) in the table in Schedule 9 to the Police Act 1964, the entry relating to the Riot (Damages) Act 1886;
 - (b) section 10(1) of the Public Order Act 1986;
 - (c) paragraphs 9 to 11 of Schedule 7 to the Police Act 1996;
 - (d) paragraph 6 of Schedule 27 to the Greater London Authority Act 1999;
 - (e) paragraph 61 of Schedule 16 to the Police Reform and Social Responsibility Act 2011.

11 Regulations

- (1) Regulations under this Act are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under this Act, other than –
 - (a) regulations under section 2(4) which restrict, or are capable of restricting, the categories of property in respect of which a claim may be made, and
 - (b) regulations under section 12(1) (commencement regulations),is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing regulations described in subsection (2)(a) may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
- (4) Regulations under this Act may –
 - (a) make different provision for different purposes;
 - (b) make different provision for different areas;
 - (c) make transitional, transitory or saving provision;
 - (d) make incidental, supplementary or consequential provision.

12 Commencement, extent and short title

- (1) Sections 1 to 11 and the Schedule come into force on whatever day or days the Secretary of State by regulations appoints.
- (2) This section comes into force on the day on which this Act is passed.
- (3) This Act extends to England and Wales.
- (4) This Act may be cited as the Riot Compensation Act 2015.

SCHEDULE

Section 2

MOTOR VEHICLES IN RESPECT OF WHICH CLAIMS MAY BE MADE

Vehicles not insured for riot damage

- 1 A motor vehicle falls within this paragraph if, at the time of the riot –
 - (a) it was covered by a policy of insurance or a security in respect of third party risks that complied with the requirements of Part 6 of the Road Traffic Act 1988, but was not covered, or (disregarding any excess) not adequately covered, in respect of the damage, destruction or theft resulting from the riot, and
 - (b) the appropriate amount of vehicle excise duty had been paid in respect of the vehicle.

Vehicles not insured because exempt from insurance requirement

- 2 A motor vehicle falls within this paragraph if, at the time of the riot –
 - (a) it fell within one of the exceptions to the requirements of Part 6 of the Road Traffic Act 1988 mentioned in section 144(1) or (2) of that Act,
 - (b) it was not covered by a policy of insurance or security in respect of the damage, destruction or theft resulting from the riot, and
 - (c) the appropriate amount of vehicle excise duty had been paid in respect of the vehicle.

Vehicles not kept or used on public road

- 3 A motor vehicle falls within this paragraph if, at the time of the riot, the condition mentioned in section 144B(5) or (6A) of the Road Traffic Act 1988 was met in respect of the vehicle (vehicle not kept or used on public road).

Vehicles part of stock in trade

- 4 A motor vehicle falls within this paragraph if, at the time of the riot, it was part of the stock in trade of a business.

DRAFT RIOT COMPENSATION BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the draft Riot Compensation Bill as published on 12 March 2015. These have been prepared by the Home Office in order to assist the reader of the draft Bill. They do not form part of the draft Bill and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the draft Bill. They are not, and are not meant to be, a comprehensive description of the draft Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY

3. The Bill repeals the Riot (Damages) Act 1886 and creates a new scheme which allows compensation to be claimed for property that is damaged, destroyed or stolen in the course of a riot. Claims for compensation may be made in respect of property that was not insured, or was not adequately insured, against such loss or damage. The Bill also allows an insurance company which has settled a claim in respect of riot loss or damage to reclaim the compensation they have paid out.
4. Claims for compensation may be made to the appropriate local policing body, which will normally itself decide the amount of compensation that it will pay but may be able to delegate some of its claims handling and decision-making functions in accordance with regulations made under the Bill. The Secretary of State will also have the power to assume responsibility for making decisions on claims in the event of any future widespread civil disturbances,

and may call upon another person or body (such as a riot claims bureau) to discharge claims handling and decision-making functions on her behalf.

5. Many of the detailed procedural and technical features of the compensation scheme will be set out in regulations made under the Bill. .

BACKGROUND

6. An unprecedented amount of businesses and individuals suffered losses during the civil disturbances of August 2011. The majority of those whose property was damaged in the riots were covered by insurance, however there was a significant minority who were uninsured or under insured. For these people, the Riot (Damages) Act 1886 (“the 1886 Act”) provided the legislative vehicle under which they could make a claim for compensation.
7. Since its introduction and until the civil disturbances in 2011, the 1886 Act had not been the subject of any substantial revision. The archaic language of the 1886 Act contributed to a general uncertainty around entitlements to compensation and led to difficulties for decision-makers in determining claims. It became clear that there was a need to reform the Act, in order to ensure that the arrangements that govern claims for riot damage compensation are clear, transparent and fit for modern day needs.
8. After conducting an internal review the Government commissioned an independent review of the current Riot (Damages) Act 1886. This was led by Neil Kinghan and was published on 8 November 2013¹. The Government considered this report and outlined its proposed approach to riot compensation payments in a public consultation, which was published on 5 June 2014². A response to the consultation is being published at the same time as this draft Bill.

¹ Independent Review of the Riot (Damages) Act - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255990/riot_damages_act_review.pdf

² Public consultation - <https://www.gov.uk/government/consultations/reform-of-the-riot-damages-act--2>

TERRITORIAL EXTENT AND APPLICATION

9. The provisions of the draft Bill extend only to England and Wales. It is not considered that the Bill deals with matters within the competence of the Welsh Assembly, and as such would not require an LCM. .
10. The Bill does not extend to Scotland or Northern Ireland and as such does not raise any other devolution issues and would not require an LCM. The Department of Justice in Northern Ireland is currently conducting a review of Northern Ireland's equivalent legislative scheme for riot compensation. The Riotous Assemblies (Scotland) Act 1822 provides the legislative platform for riot compensation payments in Scotland. We will consult with the Scottish Government to determine whether similar provision to that contained in this Bill is required for Scotland.

COMMENTARY ON CLAUSES

Claims for compensation

Clause 1: Claims for compensation for riot damage etc

11. *Subsection (1)* provides the entitlement to make a claim for compensation in respect of property that has been damaged, destroyed or stolen in the course of a riot. The compensation may be claimed from the appropriate local policing body. "Local policing body", by virtue of the Interpretation Act 1978, is defined in accordance with s.101(1) of the Police Act 1996; under that section the local policing body is a police and crime commissioner, the Mayor's Office for Policing and Crime (in the metropolitan police district) or the Common Council (in the City of London police area).
12. Claims for compensation may only be made where the property was not insured, or was not adequately insured. Subsection (5) clarifies that for these purposes property is inadequately insured either where it is insured for an amount which is less than its value, or where it is insured subject to an excess. Where the property is insured subject to an excess, the insurance is deemed inadequate because the claimant, having paid the excess, will receive an insurance payment from the insurance company that is not adequate to cover the full value of the insured property.

13. *Subsection (2)* entitles an insurance company that has settled a claim for loss or damage caused by a riot to claim compensation in respect of the amount they have paid out from the appropriate policing body. This right for insurers to make a subrogated claim was previously conferred by section 2(2) of the 1886 Act.
14. *Subsection (3)* clarifies that claims should be directed to the local policing body responsible for the police area in which the property was situated at the time of the riot. This ensures that claims are directed to the local policing body in which the riot occurred. This is an important principle, particularly in relation to motor vehicle claims where riot damage may occur away from the place where a vehicle is normally kept.
15. *Subsection (4)* provides that claims for compensation must be made in accordance with procedures to be outlined in regulations. Lack of compliance with these procedures could result in a claim being refused.
16. *Subsection (6)* supplies a definition of “riot”, adopting the definition supplied in section 1 of the Public Order Act 1986. Section 1(1) provides as follows—

“Where 12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using unlawful violence for the common purpose is guilty of riot.”
17. The 1886 Act provides for compensation to be paid where damage to property has been caused by “persons riotously and tumultuously assembled together”, but the terms “riot” and “riotously” in that Act are also defined by reference to the definition in section 1 of the Public Order Act 1986 (see section 10(1) of that Act). The definition supplied in the draft Bill replaces the archaic language in the 1886 Act, using only the Public Order Act definition, with the aim of making it easier for the decision-maker to determine whether a riot has occurred.
18. *Subsection (6)(a) to (c)* exempts the local policing body from liability to pay compensation where a riot has occurred in various types of secure facilities

where people are detained. This is on the basis that another party has responsibility for maintaining order.

Clause 2: Property in respect of which claims may be made

19. *Subsection (1)* provides that a person claiming compensation under clause 1(1) may make a claim only in relation to specified types of property. The 1886 Act provided for compensation to be claimed only in relation to damage to a house, shop or building. Clause 2 encompasses a wider class of property damage and loss in respect of which claims may be made. Under the draft Bill, the property in respect of which a claim can now be made includes a building, a motor vehicle which falls within the Schedule or property which otherwise falls within subsection (3).
20. *Subsection (2)* equally provides that an insurance company claiming under clause 1(2) may only claim compensation in respect of specified types of property loss. An insurance company may also make a claim in respect of a building or property falling within subsection (3). However the basis on which insurers may make claims in respect of motor vehicles is more limited, so that they can only make subrogated claims in respect of vehicles that fall within paragraph 4 of the Schedule (where the vehicles concerned are part of the stock in trade of a business).
21. *Subsection (3)* identifies other types of property in respect of which claims may be made. In addition to property kept within a building, claims may also be made for property which was kept at the time of the riot within the curtilage of a building or on land being used for the purpose of the claimant's business. Accordingly, subsection (3)(c) would permit a claim to be made by a market stall holder where, for example, market stalls erected on a temporary site were damaged during the course of a riot.
22. *Subsection (4)* allows the Secretary of State to make changes, via regulations, to the property identified in subsection (3) in respect of which claims may be brought. It also allows the Secretary of State to make provision about the meaning of terms used in that subsection – for example, the power under subsection (4) could be used to supply a wider definition of types of buildings in respect of which claims may be made.

23. *Subsection (5)* supplies a definition of “buildings” in respect of which claims may be made, to include permanent or semi-permanent structures and buildings being constructed. It also supplies a definition of motor vehicles for the purposes of section 2 and the Schedule.

The Schedule

24. The Schedule deals with the types of motor vehicles in respect of which claims may be made. Claims may be made by the owner of a vehicle under clause 1(1) if the vehicle falls within any of the paragraphs, but insurance companies may only make a claim under clause 1(2) in respect of motor vehicles where, at the time of the riot, the vehicle was part of the stock in trade of the insured’s business. Insurance companies are not able to seek recovery, under the Bill, of sums paid out for riot damage or loss to vehicles under motor insurance policies.
25. *Paragraph 1* of the Schedule covers motor vehicles that were not covered or were inadequately covered for riot damage by the policy of insurance when the loss or damage was sustained. It should be noted that, unlike the position for other property claims, the payment of an excess will not render the insurance inadequate for the purposes of making a claim under the Schedule. This acts as a bar to claims for recovery of the payment of any excess paid for motor vehicles damaged in the course of a riot.
26. A claim may also be made for riot damage in respect of vehicles that are exempt from the legal requirement to obtain insurance (see *paragraph 2*). This deals mainly with vehicles owned by certain public bodies, as set out in section 144(1) and (2) of the Road Traffic Act 1988.
27. In the case of a claim in respect of a motor vehicle falling within paragraph 1 or 2 of the Schedule, it is a condition that the appropriate amount of vehicle excise duty has been paid in respect of the vehicle (so claims cannot be made in respect of a vehicle that has not been properly taxed).
28. A claim may also be made in respect of loss or damage to a motor vehicle kept off-road at the time of the riot, provided that the claimant has kept the vehicle in accordance with the standard off-road notification requirements set out sections 144B(5) or (6A) of the Road Traffic Act 1988 (see *paragraph 3*).

29. Under *paragraph 4* of the Schedule, claims may be made in respect of vehicles that are part of the stock in trade of a business (such as a car dealer). As explained above, claims may be made in respect of these types of vehicle both by an owner or by an insurance company who has paid out under an insurance policy in respect of riot damage caused to such vehicles.

Clause 3: Regulations about claims procedure

30. *Subsection (1)* requires the Secretary of State to make regulations specifying the procedures that will attach to making claims.
31. *Subsection (2)* makes clear that these regulations may include provision about the appropriate person to make a claim, and the circumstances in which a single claim must cover a number of different items or types of property. This will ensure that the Secretary of State can make provision to deal with circumstances where the ownership of the property is not straightforward (e.g. because the property has been leased or hired, or in respect of freehold and leasehold buildings), and will ensure that the correct claimant can more easily be identified.
32. *Subsection (2)* will also ensure that claims are appropriately consolidated e.g. where the leaseholder and freeholder of a building wish to bring a claim in respect of the same damage, or where claimants would wish to bring multiple claims in respect of multiple items damaged within the same building. This is particularly important given that clause 8(1) provides that there will be a maximum amount of compensation payable per claim.
33. *Subsection (3)* also allows the Secretary of State to set out in regulations the procedural requirements which will attach to making claims, including provision as to the evidential requirements. Within this, the Secretary of State may make provision about the submission of new evidence, even after a claim has been determined. This may, for example, allow someone to seek compensation for a valuable item where proof of ownership was not discovered until a later date.
34. *Subsection (4)* specifically makes clear that the regulations may provide that estimates for the cost of repairs must be prepared by contractors approved by the Secretary of State or a local policing body. This is a measure designed to reduce the potential scope for fraud.

The decision-maker

Clause 4: The decision-maker on a claim

35. *Subsection (1)* specifies that the local policing body is responsible for making a decision on a claim except where; (a) they have delegated their claims handling and decision-making functions in accordance with subsection (2); or (b) the Secretary of State makes a direction to transfer claims in accordance with clause 5.
36. *Subsection (2)* allows for regulations to be made by the Secretary of State permitting the local policing body to delegate some or all of their claims handling and decision making functions.
37. *Subsection (3)* expands on subsection (2) and makes clear that the Secretary of State may make specific provision about the persons to whom these functions may be delegated and the types of claim in relation to which the functions may be delegated. This would, for example, allow claims of a limited value, or of a particular type, to be delegated by the local policing body to specialist loss adjusters. The regulations may also make specific provision about the payment of any delegates (e.g. specialist loss adjusters) by the local policing body, and as to the auditing of decisions made by any of these delegates.

Clause 5: Transfer of claims to the Secretary of State

38. *Subsection (1)* allows the Secretary of State to direct a local policing body to transfer to her claims handling and/or decision-making functions in relation to claims. In accordance with subsection (3), the power is only intended to be used in the event of widespread civil disturbances or at the behest of a local policing area.
39. *Subsection (2)* specifies that any direction made by the Secretary of State may apply to all claims within a force area or to particular types of claims. It is considered prudent to allow some flexibility for the Secretary of State, taking into account the views of the relevant local policing bodies, to decide which types of claim should be transferred. This would, for example, permit a local policing body with claims handling expertise to make decisions on smaller claims but to utilise e.g. the expertise of a riot claims bureau formed by the Secretary of State pursuant to clause 6 in relation to complex cases of a higher value.

40. *Subsection (3)* makes clear that the Secretary of State can only make a direction where there have been riots in more than one policing area, or where riots have spread from one area to another. The conditions for the transfer of police functions in relation to claims are limited, but there is scope for a local policing body to ask the Secretary of State to take on claims handling functions if a riot only occurs within their force area. This could cover a scenario whereby a single force receives an unexpected and high number of claims following a large disturbance occurring only within their area. There is no obligation on the part of the local policing body to request a transfer of their functions to the Secretary of State or for the Secretary of State to accept such a request.
41. *Subsection (4)* imposes a requirement on the Secretary of State to consult local policing areas affected by the making of a direction before making it (in the case of a direction made because riots have occurred in two different policing areas or which have moved between policing areas). *Subsection (5)* imposes the requirement to publish any direction that is made.

Clause 6: Delegation of Secretary of State's functions

42. *Subsection (1)* permits the Secretary of State to establish a riot claims bureau where she has made, or is considering making, a direction under clause 5. The riot claims bureau is intended to be an ad hoc body which is capable of being formed on every occasion that the Secretary of State makes a direction under clause 5, and dissolved once it has discharged the procedural or decision-making functions allocated to it by the Secretary of State.
43. *Subsection (2)* provides that the regulations must confirm that the principal function of the riot claims bureau is to exercise the claims handling and/or decision-making functions in relation to claims on behalf of the Secretary of State.
44. *Subsection (3)* outlines detail that may be set out in regulations dealing with the composition and running of the bureau.
45. *Subsections (4) and (5)* allows for the Secretary of State to make regulations to delegate claims handling and decision-making functions to a person other than the riot claims bureau. This power could, for example, be exercised where the

Secretary of State wished to delegate decision-making in relation to motor vehicle claims to a specialist organisation. It also provides flexibility for the Secretary of State to deal with a limited number or type of claims transferred to her pursuant to a direction under section 5 without necessarily establishing a riot claims bureau.

Decisions on claims

Clause 7: Decisions on validity of claim

46. *Subsection (1)* imposes a primary obligation on the decision-maker to determine whether a claim for compensation is valid.
47. *Subsection (2)* makes clear that this decision on validity will be made with reference to whether the claim is in respect of riot damage as defined in clause 1, and whether the claim is in respect of property covered by the Bill as defined in clauses 1 and 2. The decision-maker will also need to be satisfied that the claim has been made in accordance with the procedural requirements set out in regulations made under clause 3. Failure to comply with the requirements of the claims procedure e.g. as to time limits for the submission of claims could lead to the claim being held to be invalid by the decision-maker.
48. *Subsection (3)* states that the Secretary of State may issue guidance to decision-makers on matters that will be material to decisions as to validity of claims, such as whether the civil disturbance in which losses were sustained amounted to a riot.

Clause 8: Amount and payment of compensation

49. *Subsection (1)* states that the decision-maker must decide on the amount of compensation to be paid that is fair and reasonable up to a maximum payment per claim of £1 million.
50. *Subsection (2)* specifies that the Secretary of State may make regulations which set out the particular factors to be taken into account by decision-makers when determining compensation.
51. *Subsection (3)* makes clear that any regulations about the amount of compensation must provide that compensation shall not reflect any consequential loss resulting from the loss or damage to the property. This will

mean, for example, that loss of rent or profit caused as a result of a riot will not be covered.

52. *Subsection (4)(a)* allows the regulations to prescribe with particularity the basis upon which compensation will be calculated in relation to different types of property. This will permit detailed provision to be made which entitles claimants to new-for-old values when replacing some kinds of goods, but indemnity or depreciated value in relation to other types of goods. The intention here is for the basis of payments to be consistent with the insurance industry; for example insurers do not pay new-for-old values on cars or perishable stock.
53. *Subsection (4)(b)* makes clear that the regulations may require local policing bodies to take account of what has been paid out on any related insurance claim when deciding the level of compensation that is fair and reasonable. This is to ensure propriety and to prevent double recovery in relation to claims made to the local policing body that arise from inadequate insurance.
54. *Subsection (5)(a)* specifies that regulations may allow the decision-maker to award increased compensation to allow claimants to recoup costs or expenses. For example, this may include recovery of the costs incurred by successful claimants who have engaged their own loss adjusters to provide further evidence for the local policing body.
55. *Subsection (5)(b)* will allow the regulations to provide that the decision-maker may decrease the amount of compensation to reflect the costs of administering the scheme. This could amount to a deduction equivalent to an excess which could be applied to claimants who make a claim under the scheme.
56. *Subsection (5)(c)* makes clear that the regulations may set out what will be the effect of the claimant's conduct on the calculation of compensation. It is the Government's intention that regulations will allow the local policing body to take a claimant's conduct into account when making a decision on the case. So, for example, if there were evidence to suggest that a claimant incited a riotous group or allowed them free access to their property to steal goods, then compensation might be reduced or refused. Equally if the claimant's negligence contributed to the losses he sustained in the course of a riot, it

could be open to the decision-maker to make a reduction in the amount of compensation payable.

57. *Subsection (5)(d)* states that regulations will provide a mechanism for decision-makers to refuse a claim where they believe (on balance of probabilities) that fraud has been employed in connection with the claim. The regulations may also give the decision-maker the ability to refuse other claims brought by the same individual even where fraud is only found to have occurred in another claim.
58. *Subsection (6)(a)* allows the regulations to deal with the lapsing of claims. In order to be consistent with insurance claims, it is intended that the regulations will provide a time limit by which claims will lapse if the claimant has failed to provide the requisite evidence or has simply not maintained contact. Insurance policies typically state this to be six years in line with the statute of limitations.
59. *Subsection (6)(b)* refers to provision to be made in regulations allowing local policing bodies to make an interim payment on a claim. This may be helpful to a business in, for example, circumstances where there has been a difficulty in establishing one element of the claim, but where the rest of the claim not in dispute. A payment could be made on the settled aspects of the claim, which might assist the business to continuing trading.
60. *Subsection (6)(c)* is an additional mechanism to *subsection (6)(b)*, by which the regulations may provide that the local policing body or a riot claims bureau may release money in instalments. In total loss claims this will allow money to be released in stages as building work progresses.
61. *Subsection (6)(d)* points to flexibility that may be provided in regulations so as to allow local policing bodies to use approved repairers instead of providing financial settlements. This is included with the intention that it will help speed up resolution of minor damage claims.
62. *Subsection (6)(e)* permits the regulations to deal with the administrative requirements that must be satisfied before money may be released or repairs carried out. This may include the need for obtaining quotes from a number of different repairers.

63. *Subsection (7)* requires the local policing body to pay the compensation decided upon, taking into account the requirements of the Bill and the regulations made under it.
64. *Subsection (8)* allows the Secretary of State to change the compensation cap by regulations.

Clause 9 – Review and appeals

65. *Clause 9* requires the Secretary of State to make regulations dealing with the rights of review and repeal of decisions in relation to the validity of claims and the amount and payment of compensation. It is envisaged that, pursuant to these regulations, if a claimant is unhappy with the decision on their case they will first be required to seek a review, which will be carried out by a limb of the decision-making authority. If the claimant remains dissatisfied with the decision then the claimant will have the right of appeal. Further details as to the scope of the appeal and its venue will be provided in the regulations that the Secretary of State is required to make under clause 9.

General

Clause 10 - Repeal of the Riot (Damages) Act 1886 and consequential amendments

66. *Clause 10* repeals the 1886 Act and provides for consequential amendments.

Clause 11: Regulations

67. *Subsections (2) and (3)* provide that regulations to be made under the Bill are to be subject to the negative resolution procedure. This is with two exceptions. First, any regulations made under clause 2(4) which restrict or are capable of restricting the categories of property in respect of which a claim may be made are to be subject to the affirmative procedure. Secondly, regulations dealing with commencement will not be subject to any parliamentary procedure.

Clause 12: Commencement, extent and short title

68. *Clause 12* provides that clauses 1 to 11 and the Schedule will be commenced by commencement regulations. Clause 12 of the Bill will come into force on the day of Royal Assent.

FINANCIAL EFFECTS OF THE BILL

69. The impact assessment estimates an average net annual cost of £0.1m. This includes average annual net costs of £2.4m to businesses and net annual average benefit of £2.3m to public funds. The financial impacts of the draft proposals fall to local policing bodies, which remain financially liable for the costs of compensation, and to the insurance industry making claims on behalf of policy holders.
70. For local policing bodies, the costs are increased by proposed changes to the basis for compensation, by the addition of liability for limited motor vehicle damages and by the provisions to be made in regulations which may allow a longer time for claims to be submitted (with the effect that more claims potentially would be valid). However the claims cap of £1m reduces the overall costs of potential claims.
71. The proposals will have an impact upon the insurance industry, which will only be able to make claims for compensation to a maximum of £1m per claim. There will also be an impact on uninsured businesses or individuals who experience a loss in excess of £1m.
72. The proposals will result in some additional costs to Government in respect the staffing and administration of any riot claims bureau formed by the Secretary of State pursuant to *clause 6*. It should be noted that there has only been one riot that has occurred over the last ten years in two or more policing areas at the same time, or which has moved from one policing area to another. These are two of the three circumstances which would permit the Secretary of State to make a direction under *clause 5* (the other is where the police request such a direction). It is only where the Secretary of State makes, or is considering making, a direction that the power to establish a riot claims bureau is triggered. Annual cost is estimated for the purposes of the impact assessment at around half a million pounds over ten years but could, in practise, be lower.

EFFECTS ON PUBLIC SECTOR MANPOWER

73. The Bill will replace the obligations that are currently imposed on local policing bodies under the 1886 Act to assess and pay compensation with

similar duties in respect of processing and making decisions on claims for compensation. However, the Bill contains provision permitting the delegation of these claims handling and decision making functions by the local policing body, whether to a decision-maker identified in regulations or to the Secretary of State in prescribed circumstances. Delegation of these functions by local policing bodies may have the effect of reducing demands on local staff in respect of claims handling.

74. In the event that a riot claims bureau is required to be established in response to a riot, there will be some additional impact on central Government associated with the establishment and administration of the bureau. It is not possible to predict expected levels of staffing at this stage as the size of the bureau operation will depend on the volume and type of compensation claims made. Decisions on any bureau will require attention from the Secretary of State, which itself will require a small additional resource within central Government.

SUMMARY OF IMPACT ASSESSMENT

75. The Bill will be accompanied by an impact assessment which will be published alongside the Bill. This provides an illustrative assessment based on the number of riots that have occurred in the last ten years. This assessment indicates that the Bill will create an additional liability of around £11.6m (over the next ten years) principally as a result of offering replacement value for goods instead of indemnity value. However this would be offset by a £42m saving as a result of introducing a claims cap (in most circumstances this would mean insurers having to meet the any costs of claims over £1m themselves). It should be noted that these costs are based on events in the last ten years. Whilst this gives an idea of what the cost might be over the next ten years, it is by no means a certain indicator.
76. The Bill provides a number of important non-monetary benefits. The Bill and the regulations to be made under it will provide local policing bodies and the Government with a clearer framework for dealing with claims following a riot. This should lead to an improved level of service for claimants in the aftermath of a riot. For local policing bodies and Government administration, time should be saved as the provisions allow for a more rapid assessment of the potential maximum liability, and give improved clarity on key matters

affecting claims, for example by providing a clearer legal definition of what constitutes a riot.

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