

A Guide to Compensation under Schedule 4 of the Justice and Security (NI) Act 2007

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Summary

* You may obtain information and advice on claiming compensation under Schedule 4 of the Justice & Security (NI) Act 2007 (“the Act”) from the Northern Ireland Office.
* If your claim for compensation **does not** arise under the Justice & Security (NI) Act 2007 you should contact Compensation Services on 0300 200 7887 for information and advice.
* You may consider seeking professional advice to assist you in taking forward your claim. **However, applications can be made without legal assistance.**
* An application for compensation can **only** be obtained by contacting the Northern Ireland Office on 028 90 765159 or by emailing TheSecretary@nio.gov.uk.You must ensure you provide your full address, including postcode, date of birth, National Insurance number and specific dates of damage. Only original forms will be accepted (no photocopies), and should only be completed by the applicant or the applicant’s representative.
* Ensure an application for compensation is **obtained, completed and returned** to the Northern Ireland Office **within 28 days from the date of damage.**
* Ensure you provide the information required to substantiate your claim. This may include title deeds, lease agreements, invoices for work carried out, copies of search dockets etc.
* Maintain close contact with the Loss Adjusters acting on behalf of the Northern Ireland Office and its staff so that you are aware of the progress of your claim. If you are in any doubt about your claim ask for further information from the Northern Ireland Office.

Introduction

1. The Act provides a right to claim compensation for loss or damage suffered as a result of action taken under the Act.
2. The aim of this guide is to explain the provisions of the legislation in relation to claiming compensation:
* following a police search for munitions and/or transmitters.
* in cases involving land requisitions or road closures.

and to provide applicants with information to help when applying for compensation. **The guide is intended as an aid and not a substitute for the legislation itself,** which can be accessed at <http://www.legislation.gov.uk/ukpga/2007/6/contents>.

1. Every application for compensation is determined on its own merits and in accordance with the relevant provisions of the Act.
2. **An application can be made without legal assistance.** We consider that in most circumstances legal assistance will not be necessary, and therefore we will not normally pay solicitor’s costs or loss assessor’s fees.
3. The Northern Ireland Office may arrange for 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:

Northern Ireland Office

Stormont House

Stormont Estate

Belfast

BT4 3SH

Telephone: 028 90 765159

Email: TheSecretary@nio.gov.uk

1. 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?

1. Compensation will be paid when property is damaged, requisitioned or removed for examination under the Act.
2. Compensation is payable for damage caused by the security forces to fences, agricultural produce, machinery, motor vehicles, livestock, buildings (both residential and business), their contents, plus fixtures and fittings and consequential loss where liability has been established. Compensation may be payable for other acts but only where this interferes with a private right of property.

## Who can apply?

1. Any person who has an estate or interest in the property or is entitled to the rights and suffers loss or damage as a result of an act carried out under sections 21 - 32 of the Act.

Property for which compensation is not payable

1. Compensation will not be paid:
2. Where liability has not been established.
3. Where ammunition/ firearms/ transmitters etc. are found during a search and the applicant or person having an interest in the claim is convicted of an offence arising from the search. (The right to claim compensation will not be enforceable while any legal proceedings arising from the search have not concluded)
4. Where damage is as a result of negligence.
5. Where damage is as a result of helicopter activity.
6. Following house searches carried out under PACE and other legislation.
7. Where the applicant has not attempted to mitigate his/her loss.

Are you insured?

1. If the damaged property is domestic property and its contents, including livestock or vehicle(s), are insured a claim should be made to the relevant insurance company as well as the Northern Ireland Office. Normally in these circumstances the insurance company makes payment to the applicant based on the insurance cover provided and compensation awards are paid by the Northern Ireland Office to the insurers.

What can applicants do to help progress their claim?

1. Applicants should present claims quickly and provide documentation such as completed application form, search dockets, title deeds, lease agreements and farm maps. All documentation should be complete at the time of the inspection.

How and when to apply

1. **The Application for Compensation can only be obtained by contacting the Northern Ireland Office on 028 90 765159** or by emailing TheSecretary@nio.gov.uk.An application should be completed by the applicant and 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.
* The applicant’s National Insurance number.
* The applicant’s VAT registration number, if appropriate.
* The applicant’s Tax reference number, if appropriate.
* Title deeds or land certificate folio number.
* Witness details.

### Applications for compensation must be made to the Northern Ireland Office within the statutory 28 day period. If you do not think you will be able to meet the 28 day deadline, or where an application is outside the 28 day period, the applicant you should submit a written request seeking an extension of the time in accordance with Section 3 of Schedule 4.

1. **Applications not lodged within six months from the date of damage will automatically be refused.**
2. Where an application for compensation has not been submitted within the 28 days and the applicant has not requested an extension of time under Section 3 of Schedule 4 of the Act, within six months of the date of damage, the application will not be considered.
3. **Only original application forms will be accepted. The form should be completed by the applicant or their representative and should not be used by any other person.**
4. The Northern Ireland Office may appoint an independent Loss Adjuster to adjust the claim on our behalf. If appointed, the Loss Adjuster will arrange to meet with the applicant on site to be shown the area(s) affected. In the case of farms, you must have a copy of the Farm Map, clearly marked with the area and type of damage available at the meeting; otherwise the Loss Adjuster will rearrange a suitable time to view the damage being claimed for. The speed of processing your claim will be determined by your co-operation in arranging and, most importantly, attending the site inspection.

Refusal or reduction of compensation

1. Compensation will be reduced or disallowed in the following circumstances:
* When an application for compensation is received out of time.
* When an applicant fails to comply with all 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 e.g. due to gates being left open between fields.
* Where damage is the result of negligence.

How applications are assessed

Entitlement to compensation

1. The Northern Ireland Office must determine whether or not the claim comes within the terms of the Justice & Security (NI) Act 2007 and will rely on the information provided by the applicant to make our determination.
2. The Northern Ireland Office must be satisfied that the applicant is responsible for repairing the damage in question. The applicant will therefore have to provide documentary evidence that they own the property (Title Deeds, a Land Certificate, Vehicle Registration Document) or are responsible for the repairs (e.g. because of a lease or other agreement).

Assessment

1. The Northern Ireland Office may also engage a **Loss Adjuster** who will examine and photograph the damaged property, negotiate with the applicant and make recommendations to the NIO for the settlement. Generally Loss Adjusters make contact with applicants within a few days of the claim.

Basis of Compensation

1. 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 therefore need to liaise closely with the NIO’s Loss Adjusters.

Betterment

1. The underlying intention of the scheme is to restore the applicant, 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

1. It is important to identify exactly where and when the damage was caused. It is also important to give details about previous damage to that property, and previous repairs.

Completion of the claim

1. If compensation is to be paid applicants will receive a written offer and will be asked to confirm that the amount is acceptable in full and final settlement. However, if the Northern Ireland Office 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

1. Applicants who are dissatisfied with the Northern Ireland Office’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.**
2. 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

1. If you wish to complain you should write to the Northern Ireland Office, addressing your letter to:

The Complaints Officer

Northern Ireland Office

Stormont House

Stormont Estate

Belfast

BT4 3SH

Telephone: 028 90 765159

Email: TheSecretary@nio.gov.uk

Offences and penalties

1. It is an offence under the legislation for any person:
* to obtain compensation for him or herself or any other person by any deception; or
* to knowingly make a false or misleading statement or to fail to disclose a material fact; or
* fail to disclose any damage or compensation received from any other source.
1. On conviction an offender is liable **to a fine or to imprisonment.**