

1988 No. 221

EMERGENCY PROVISIONS**Emergency Provisions (Compensation) Rules
(Northern Ireland) 1988**

<i>Made</i>	.	.	.	.	<i>1st June 1988</i>
<i>Coming into operation</i>	.	.	.	.	<i>1st July 1988</i>

The Lord Chief Justice in exercise of the powers conferred on him by section 28A(1) of the Northern Ireland (Emergency Provisions) Act 1978(a) after consultation with the Secretary of State, hereby makes the following rules:

PART I

GENERAL

Citation, commencement, revocation and saving

1.—(1) These rules may be cited as the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988 and shall come into operation on 1st July 1988.

(2) The Emergency Provisions (Compensation) (Northern Ireland) Rules 1982(b) are hereby revoked except in relation to any question as to compensation which before 1st July 1988 has been referred to the county court or an arbitrator appointed by the court in accordance with section 28(2) and (3) of the Act as originally enacted.

Interpretation

2.—(1) In these rules—

“the Act” means the Northern Ireland (Emergency Provisions) Act 1978;

“respondent” means the Secretary of State;

“the chief clerk” means the chief clerk of the county court for the division in which the application is being made;

(2) Any reference in these rules to a rule, paragraph or schedule by number is a reference to that rule, paragraph or schedule as numbered in these rules.

(3) Any reference to a form by number is a reference to the form as numbered in the Schedule to these rules and shall include a reference to a form to the like effect with such variations as the circumstances may require.

(a) 1978 c. 5 as substituted by section 12 of 1987 c. 30

(b) Printed at page 1622 in Part II of the 1982 Statutory Rules

(4) Without prejudice to section 7 of the Interpretation Act 1978(a), service of any document under these rules may be by registered post or by the recorded delivery service, using the advice of delivery form, or in any of the ways in which a civil bill may be served.

PART II

APPEALS UNDER SECTION 28 OF THE ACT

Lodging of appeals under section 28 of the Act

3.—(1) Subject to any directions under Article 4 of the County Courts (Northern Ireland) Order 1980, appeals under section 28(4) or section 28(5) of the Act shall be heard at such times as the Lord Chancellor may appoint under Article 6 of that Order and at the equity sittings of the county court having jurisdiction in the division in which the property taken, occupied, destroyed, damaged or otherwise interfered with is situated or, in the case of moveable property, was situated at the time when the act giving rise to the claim for compensation was committed.

(2) Such appeals shall be heard at the sitting for which the appointed entry day occurs next after a period of 28 days from the date on which the appeal is lodged under paragraph (4).

(3) An appeal under section 28(4) of the Act shall be by notice in Form 1 and an appeal under section 28(5) of the Act shall be by notice in Form 2 or 3 as may be appropriate, and shall state the sitting at which the appeal is to be heard in accordance with paragraph (2) and the appellant shall serve a copy thereof on the Secretary of State at the address of the department dealing with claims for compensation under the Act and on any person having an estate or interest in the property in respect of which an application for compensation has been made.

(4) The appellant shall at the time of service under paragraph (3) lodge the appeal by delivering the notice to the chief clerk at his office duly endorsed as to service and shall attach to it—

- (a) any certificate of posting;
- (b) where the appeal is under section 28(4) of the Act, a copy of the notice under section 28(4) or, where the appeal is under section 28(5) of the Act, a copy of the notice under section 28(5)(a) or (b), as the case may be, endorsed in every case with a certificate as to the date of service of the notice on him; and
- (c) a copy of the application made to the Secretary of State under section 28(2) of the Act;

and the chief clerk shall forthwith upon receipt of the notice enter the appeal for hearing at the sitting specified in paragraph (2).

(5) The notice of appeal shall specify the grounds of appeal and, where the appeal is under section 28(5), shall in relation to any item compensation for which is disputed, state the ground of appeal in relation to that item.

(6) Nothing in this rule shall prevent the court from considering grounds of appeal not referred to in the notice or from considering items other than those referred to in it.

(7) A certificate for the purposes of section 25 of the Crown Proceedings Act 1947(a) of an order allowing an appeal under section 28(4) of the Act shall be in Form 4 and a certificate for those purposes of an order allowing an appeal against the decision of the Secretary of State to award the amount of compensation specified in a notice under section 28(5)(a) shall be in Form 5 or against his decision to refuse an application for compensation stated in a notice under section 28(5)(b) shall be in Form 6.

(8) An order dismissing an appeal under section 28(4) of the Act shall be in Form 7.

(9) An order dismissing an appeal against the decision of the Secretary of State to award the amount of compensation specified in a notice under section 28(5)(a) of the Act shall be in Form 8.

(10) An order dismissing an appeal against the decision of the Secretary of State to refuse an application for compensation stated in a notice under section 28(5)(b) of the Act shall be in Form 9.

Payment into court by respondent, acceptance etc.

4.—(1) The respondent may at any time before entry day make a payment into court by lodging in court—

(a) such sum of money as the respondent thinks sufficient to satisfy the appellant's claim to compensation under section 28 of the Act or so much of it as is the subject of the appeal; and

(b) a written undertaking to pay to the appellant any costs or expenses reasonably incurred by him between the date on which the respondent served on him notice of his decision under section 28(5)(a) or (b) of the Act and the date of the lodgment.

(2) Notice to the appellant in Form 10 of payment into court by the respondent shall be served on the appellant and a copy on the chief clerk at the time of the lodgment and a copy shall also be lodged at the County Court Bank headed "Criminal Injuries Account."

(3) Money paid into court shall remain in court subject to further order unless the appellant elects to take it out as provided by this rule.

(4) The appellant may, at any time before the commencement of the sittings at which the appeal is to be heard or subsequently with the consent of the respondent, serve on the respondent and lodge with the chief clerk a notice in Form 11 accepting the amount in satisfaction of his claim.

(5) Subject to paragraph (8), where the money is accepted by the appellant under paragraph (4) all further proceedings in the appeal by the appellant shall be stayed and the money paid into court shall be paid out to the appellant without the necessity of any decree or order of the court and the respondent shall not be liable to any further costs other than those payable under the undertaking referred to in paragraph (1)(b).

(6) Where the costs and expenses referred to in paragraph (1)(b) are not agreed between the parties, they shall be settled by the circuit registrar subject to an appeal to the judge, notice of which appeal shall be served on the other party and the circuit registrar not more than two days after the costs are so settled.

(7) The respondent shall, within fourteen days from the day on which the parties agree on the sum due under the undertaking referred to in paragraph (1)(b) or on which the sum is settled by the circuit registrar, or as the case may be, determined by the judge, pay that sum to the appellant.

(8) Where notice of acceptance under paragraph (4) is served by, or on behalf of, an appellant under a legal disability—

- (a) the money paid into court shall not be paid out without an order of the judge;
- (b) a notice of intention to apply to the judge for approval of such acceptance shall also be served on the respondent and lodged in the office of the chief clerk;
- (c) the application to the judge shall be made at the time when the appeal would, if no notice of acceptance had been served, have been heard by the judge; and
- (d) the appellant shall be entitled to the costs of the application unless the judge otherwise directs.

(9) An order approving acceptance by a minor in satisfaction of a sum lodged by the respondent shall be in Form 12.

Costs where payment into court by respondent not accepted

5.—(1) Where money has been paid into court by the respondent under rule 4(1) and the appellant does not serve notice of acceptance in accordance with rule 4(4) and does not on appeal obtain an order for the recovery of an amount of compensation greater than the amount paid into court, then, where the appellant is not under a legal disability, he shall not be entitled to any costs against the respondent and shall be liable for the costs of the respondent in such amount as the court may determine.

(2) Where the appellant is under a legal disability the costs shall be in the discretion of the judge.

(3) Where the respondent becomes entitled to costs under this rule such costs shall be paid to him out of the money paid into court before any payment out of the said money is made to the appellant.

Payment into court not to be communicated to the judge

6. Where money has been paid into court under rule 4(1) that fact shall not be communicated to the judge before the determination of the appeal.

Form of order where notice of acceptance not served

7. Where money has been paid into court by the respondent and the appellant does not serve notice of acceptance, an order made on the appeal shall be in one of Forms 13 to 15 as may be appropriate.

Payment out

8. All moneys paid into the Criminal Injuries Account in accordance with rule 4 to be paid out in accordance with rule 4(5) or in accordance with an order made by the judge shall be paid out by cheque signed by the chief clerk and drawn on the said account.

Costs on appeal

9.—(1) Where the appeal is under section 28(4) of the Act the costs shall be in the discretion of the judge both as to incidence and as to amount.

(2) The scale of costs set out in Schedule 2 shall apply to appeals under section 28(5) of the Act.

Application of Order 28 of County Court Rules to payment into court by Secretary of State

10.—(1) Where compensation is payable under an award by the county court on appeal under section 28(5) of the Act by the respondent under section 28 of the Act and—

- (i) the respondent receives notice that by virtue of any assignment or operation of law the rights of the appellant have passed to another person;
- (ii) the appellant is under a disability or out of the United Kingdom; or
- (iii) the address of the person entitled to compensation cannot be ascertained without undue expense or delay,

the respondent may pay the compensation into court.

(2) The provisions of Order 28 of the County Court Rules (Northern Ireland) 1981(a) shall apply to payment into court under paragraph (1) with the following modifications—

- (a) in rule 1(1) the reference to section 63 of the Trustee Act (Northern Ireland) 1958(b) shall be construed as a reference to paragraph (1) and Form 132 (affidavit on payment into court under section 63 of the Trustee Act (Northern Ireland) 1958) in Appendix 1 to the said Rules may be modified as necessary;
- (b) in rule 1(5) for the reference to Form 133 in the said Appendix 1 there shall be substituted a reference to Form 16 in Schedule 1 to these rules; and
- (c) in rule 1(6) for the reference to Form 134 in the said Appendix 1 there shall be substituted a reference to Form 17 in Schedule 1 to these rules.

(3) Where a person desires to apply for payment out of court of any compensation paid into court under paragraph (1)—

- (a) the application shall be made to the judge *ex parte*;
- (b) the judge on the hearing of the *ex parte* application may require notice of the application to be served on such persons as he thinks fit, and fix a day for the further hearing;
- (c) evidence in support of the application may be given by affidavit or in such other manner as the judge may direct.

Dated 1st June 1988.

Lowry
Lord Chief Justice
of Northern Ireland

List of Forms in Schedule 1

1. Notice of appeal to county court under section 28(4) of the Northern Ireland (Emergency Provisions) Act 1978 to extend the time to apply for compensation.
2. Notice of appeal to county court under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 against amount of compensation awarded by the Secretary of State.
3. Notice of appeal to county court under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 against the decision of the Secretary of State to refuse an application for compensation.
4. Certificate of order by county court allowing an appeal under section 28(4) of the Northern Ireland (Emergency Provisions) Act 1978 against the refusal of a request made to the Secretary of State to extend the time to apply for compensation.
5. Certificate of order by county court allowing an appeal against the decision of the Secretary of State against the amount of compensation awarded by the Secretary of State under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978.
6. Certificate of order by county court allowing an appeal against the decision of the Secretary of State to refuse compensation under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978.
7. Order by county court dismissing an appeal under section 28(4) of the Northern Ireland (Emergency Provisions) Act 1978 against refusal of a request made to the Secretary of State to extend the time to apply for compensation.
8. Order by county court dismissing an appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 against the amount of compensation awarded by the Secretary of State.
9. Order by county court dismissing an appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 against the refusal of compensation.
10. Notice to appellant of payment into court by respondent Secretary of State under rule 4 of the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988.
11. Notice of acceptance of sum lodged in court by respondent Secretary of State under rule 4 of the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988.
12. Order approving acceptance by minor, in satisfaction, of sum lodged by Secretary of State under rule 4 of the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988.
13. Order where appellant does not on appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 obtain a sum greater than the amount lodged under rule 4 of the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988 (with directions as to application of funds in court).

14. Order where appellant does not on appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 obtain a sum greater than the amount lodged under rule 4 of the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988 and is a minor.
15. Certificate of order allowing appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 and ordering payment to credit of a minor, in part satisfaction, of sum lodged by Secretary of State.
16. Notice of payment into court by Secretary of State under rule 10(1) of the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988.
17. Certificate of chief clerk of payment into court under rule 10(1) of the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988.

SCHEDULE 1

FORMS FOR THE PURPOSE OF PROCEEDINGS IN THE COUNTY COURT ON
APPEAL UNDER SECTION 28 OF THE NORTHERN IRELAND (EMERGENCY
PROVISIONS) ACT 1978

FORM No. 1

Rule 3(3)

**Notice of appeal to county court under section 28(4) of the Northern
Ireland (Emergency Provisions) Act 1978 to extend the time to apply for
compensation**

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

IN THE MATTER OF an appeal under section 28(4) of the Northern Ireland
(Emergency Provisions) Act 1978.

Between

Appellant

of

and

The Secretary of State
Respondent

TAKE NOTICE that the appellant hereby appeals to the County Court/Recorder's
Court for the above-named Division sitting at _____ on the _____ day of
_____ 19 _____ at _____ a.m./p.m. against the refusal of a request
made to the respondent by the appellant in writing on the _____ day of
_____ 19 _____ to allow the appellant to extend the period during
which an application for compensation under section 28(2) of the Northern Ireland
(Emergency Provisions) Act 1978 may be made to him.

The grounds of appeal are as follows—

(Here state grounds of appeal)

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 Crown and County Court Office)
- (b) The Secretary of State at
(address of Department)
- (c) The following person(s)
(name(s) and address(es)) having an estate or interest in the property in
respect of which an application for compensation has been made.

Note:

Attached to this notice served on the chief clerk must be—

- (a) any certificate of posting;
- (b) a copy of the notice served on the appellant by the Secretary of State under section 28(4) of the Act endorsed with a certificate as to the date of service of the notice on the appellant;
- (c) a copy of the application made to the Secretary of State under section 28(2) of the Act.

Notice of appeal to county court under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 against the amount of compensation awarded by the Secretary of State

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

IN THE MATTER OF an appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978.

Between

Appellant

of

The Secretary of State
Respondent

and

Application No.

TAKE NOTICE that the appellant hereby appeals to the County Court/Recorder's Court for the above-named Division sitting at _____ on the _____ day of _____ 19 at _____ a.m./p.m. against the decision of the Secretary of State under the above section served on [the appellant] on the _____ day of _____ 19 awarding [the appellant] the sum of £ _____ as compensation.

The appeal is made on the following grounds:—

(Here state the precise grounds on which appeal is based and, where the appeal is against so much of the award as relates to specified items which are the subject of compensation, set out those items in numerical order giving the ground for appealing against the amount of the award relating to 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 Crown and County Court Office)
- (b) The Secretary of State at
(address of Department)
- (c) The following person(s)
(name(s) and address(es)) having an estate or interest in the property in respect of which an application for compensation has been made.

Note:

Attached to this notice served on the chief clerk must be—

- (a) any certificate of posting;
- (b) a copy of the notice served on the appellant by the Secretary of State under section 28(5)(a) of the Act endorsed with a certificate as to the date of service of the notice on the appellant;
- (c) a copy of the application made to the Secretary of State under section 28(2) of the Act.

FORM No. 3

Rule 3(3)

Notice of appeal to county court under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 against the decision of the Secretary of State to refuse an application for compensation

[Title as in Form No. 2]

Application No.

TAKE NOTICE that the appellant hereby appeals to the County Court/Recorder's Court for the above-named Division to be held at _____ on the day of _____ 19 ____ at _____ a.m./p.m. against the decision of the Secretary of State stated in a notice under section 28(5)(b) of the Northern Ireland (Emergency Provisions) Act 1978 served on [the appellant] on the _____ day of _____ 19 ____ refusing an application for compensation.

The appeal is made on the following grounds:—

(Here state the precise grounds on which the appeal is based.)

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 Crown and County Court Office)
- (b) The Secretary of State at
(address of Department)
- (c) The following person(s)
(name(s) and address(es)) having an estate or interest in the property in respect of which an application for compensation has been made.

Note:

Attached to this notice served on the chief clerk must be—

- (a) any certificate of posting;
- (b) a copy of the notice served on the appellant by the Secretary of State under section 28(5)(b) of the Act endorsed with a certificate as to the date of service of the notice on the appellant;
- (c) a copy of the application made to the Secretary of State under section 28(2) of the Act.

Certificate of order by county court allowing an appeal under section 28(4) of the Northern Ireland (Emergency Provisions) Act 1978 against the refusal of a request made to the Secretary of State to extend the time to apply for compensation

[Title as in Form No. 1]

Application No.

UPON AN APPEAL made by the appellant on the _____ day of _____ 19____ under section 28(4) of the Northern Ireland (Emergency Provisions) Act 1978 heard at the _____ sitting;

AND WHEREAS the appellant made a request in writing on the _____ day of _____ 19____ to the respondent under section 28(2)(b) of that Act to extend the period during which an application may be made under section 28(2) to him for compensation in respect of the following act—

(Here specify the act by which the property of the appellant is alleged to have been taken, occupied, destroyed or damaged or specify any other act alleged to have been done under the Northern Ireland (Emergency Provisions) Act 1978 interfering with the appellant's private rights of property.)

and the respondent on the _____ day of _____ 19____ served notice of his refusal on [the appellant] of the request;

AND THE COURT HAVING EXAMINED into the matter of such appeal;

IT WAS ORDERED that the appellant be allowed to make an application for compensation under section 28(2) of that Act not later than the _____ day of _____ 19____ ;

AND IT WAS ORDERED that the appellant be paid by the respondent Secretary of State the sum of £ _____ for the costs of this appeal;

I THEREFORE CERTIFY for the purposes of section 25 of the Crown Proceedings Act 1947 that the aforesaid sum for costs is payable by the respondent Secretary of State.

Dated at _____ this _____ day of _____ 19____ .

(Seal)

Chief Clerk
Solicitor for Appellant

Certificate of order by county court allowing an appeal against the amount of compensation awarded by the Secretary of State under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978

[Title as in Form No. 2]

Application No.

UPON AN APPEAL made by the appellant on the _____ day of _____ 19____ under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 heard at the _____ sitting;

AND WHEREAS the appellant was awarded the amount of £ _____ as compensation by a decision of the respondent stated in a notice under section 28(5)(a) of the Northern Ireland (Emergency Provisions) Act 1978 and served on the applicant on the _____ day of _____ 19____ and the appellant has appealed under that section against that decision on the grounds specified in the notice of appeal;

AND THE COURT HAVING EXAMINED into the matter of such appeal and having found that the sum of £ _____ is payable by the respondent Secretary of State to the appellant as compensation under section 28(1) of that Act;

IT WAS ORDERED that the sum of £ _____ be paid to the appellant by the respondent;

AND IT WAS FURTHER ORDERED that the appellant be paid by the respondent the sum of £ _____ for the costs of this appeal and the sum of £ _____ for witnesses' expenses;

[AND IT WAS FURTHER ORDERED that the sum of £ _____ lodged in court by the respondent be forthwith paid out to the appellant in part satisfaction of the amount ordered, costs and expenses.]

I THEREFORE CERTIFY for the purposes of section 25 of the Crown Proceedings Act 1947 that the aforesaid sums are payable by the respondent Secretary of State.

Dated at _____ this _____ day of _____ 19____ .

(Seal)

Chief Clerk
Solicitor for Appellant

Order by county court dismissing an appeal under section 28(4) of the Northern Ireland (Emergency Provisions) Act 1978 against the refusal of a request made to the Secretary of State to extend the time to apply for compensation

[Title as in Form No. 1]

IT APPEARING to the court that on the day of 19 the appellant served notice of appeal under section 28(4) of the Northern Ireland (Emergency Provisions) Act 1978 against the refusal of a request made to the respondent Secretary of State by [the appellant] in writing on the day of 19 to allow [the appellant] to extend the period during which an application for compensation under section 28(2) of that Act may be made to him;

AND THE COURT HAVING EXAMINED into the matter of such appeal;

IT WAS ORDERED by the court that the appeal be and the same is hereby dismissed [and that the respondent Secretary of State do recover against the appellant the sum of £ for costs and the sum of £ for witnesses' expenses].

Dated at this day of 19 .

(Seal)

Chief Clerk
Solicitor for Respondent

FORM No. 8

Rule 3(7)

Order by county court dismissing an appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 against the amount of compensation awarded by the Secretary of State

[Title as in Form No. 2]

IT APPEARING to the court that on the day of 19 the appellant served notice of appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 against the decision of the Secretary of State to award the sum of £ as compensation under section 28 of that Act specified in a notice under section 28(5)(a) of that Act served on the appellant on the day of 19 ;

AND IT FURTHER APPEARING that the appellant has failed to prove that an amount of compensation greater than that specified in that notice is payable to the appellant by the respondent;

IT IS THEREFORE ORDERED by the court that the appeal be and the same is hereby dismissed [and that the respondent Secretary of State do recover against the appellant the sum of £ for costs and the sum of £ for witnesses' expenses].

Dated at this day of 19 .

(Seal)

Chief Clerk
Solicitor for Respondent

Order by county court dismissing an appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 against the refusal of compensation

[Title as in Form No. 2]

IT APPEARING to the court that on the day of 19 the appellant served notice of appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 against the decision of the respondent Secretary of State refusing an application for compensation stated in a notice under section 28(5)(b) of that Act served on the appellant on the day of 19

AND IT FURTHER APPEARING that the appellant has failed to prove that any compensation is payable under section 28 of that Act;

IT IS THEREFORE ORDERED by the court that the appeal be and the same is hereby dismissed [and the respondent Secretary of State do recover against the appellant the sum of £ for costs and the sum of £ for witnesses' expenses].

Dated at this day of 19

(Seal) :

Chief Clerk
Solicitor for Respondent

FORM NO. 10

Rule 4(2)

Notice to appellant of payment into court by respondent Secretary of State under rule 4 of the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988

[Title as in Form No. 2]

TAKE NOTICE that the respondent Secretary of State has paid into Court the sum of £ [being £] in satisfaction of the appellant's claim for compensation under section 28 of the Northern Ireland (Emergency Provisions) Act 1978 and that in the event of the appellant agreeing to an award in the terms specified in this notice, the respondent undertakes to pay to the appellant the amount of any costs reasonably incurred by the appellant between the date on which the respondent served on him notice of his decision under section 28(5) *(a)/(b) of that Act and the date of the lodgment as may be agreed between the appellant and the respondent or in default of agreement as may be settled by the circuit registrar or by the judge on appeal.

Dated this day of 19

Signed:
(Rank) on behalf of the
Secretary of State/Solicitor
for Secretary of State

To:—

- (a) The Chief Clerk at
(address of Crown and County Court Office)
- (b) The Appellant/Solicitor for Appellant

*Delete as appropriate.

**Order approving acceptance by minor, in satisfaction of sum lodged by
Secretary of State under rule 4 of the Emergency Provisions
(Compensation) Rules (Northern Ireland) 1988**

[Title as in Form No. 2]

IT APPEARING TO THE COURT that notice of appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 was duly served on the respondent Secretary of State for hearing at the present sittings and that the sum of £ is payable by the Secretary of State as compensation under section 28 of that Act;

IT IS THEREFORE ORDERED that the chief clerk do [out of the sum lodged in court by the Secretary of State on foot of this claim pay the sum of £ to and] transfer the [balance, namely] [sum of £] from the Criminal Injuries Account to the Separate Credit of , a minor, without prejudice to the appellant's rights on foot of the respondent's undertaking regarding costs and expenses, to which there shall be added the sum of £ costs of this application and order;

AND IT IS FURTHER ORDERED that the sum when so transferred be invested by the Accountant General in to abide further order;

AND IT APPEARING TO THE COURT that the said is a minor having been born on day of 19 and that it is necessary to appoint for him a Guardian of his fortune and that his is a fit and proper person to be appointed as such Guardian, has no interest in this matter adverse to the said minor and consents to be so appointed;

IT IS ORDERED that the said be and he is hereby appointed Guardian of the fortune of the said minor during his minority or until further order.

Dated at this day of 19 .

Signed:
Chief Clerk

Signed:
Solicitor for Appellant

Order where appellant does not on appeal under section 28(5) of Northern Ireland (Emergency Provisions) Act 1978 obtain a sum greater than the amount lodged under rule 4 of the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988 (with directions as to application of funds in court)

[Title as in Form No. 2]

IT APPEARING TO THE COURT that notice of appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 was duly served on the respondent for hearing at the present sittings and the sum of £ is payable by the respondent Secretary of State to the appellant as compensation under section 28 of that Act;

AND IT FURTHER APPEARING TO THE COURT that the respondent Secretary of State did on the day of 19 pay into Court the sum of £ in satisfaction of the appellant's claim to compensation which said sum so lodged is not less than the amount payable as recited above;

IT IS THEREFORE ORDERED by the Court that there be paid out of the sum so lodged in Court as aforesaid (1) to the Secretary of State the sum of £ for costs and (2) to the appellant the sum of £ *in satisfaction of his claim for compensation;

AND IT IS FURTHER ORDERED that the balance of the sum so lodged in Court, namely £ , be paid out to the Secretary of State.

Dated at this day of 19 .

Signed:
Chief Clerk

Signed:
Solicitor for Appellant

*Amount awarded for compensation under section 28 of the Act less the Secretary of State's costs of the appeal.

Order where appellant does not on appeal under section 28(5) of Northern Ireland (Emergency Provisions) Act 1978 obtain a sum greater than the amount lodged under rule 4 of the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988 and is a minor

[Title as in Form No. 2]

IT APPEARING TO THE COURT that notice of appeal under section 28(5) of the Northern Ireland (Emergency Provisions) Act 1978 was duly served on the respondent for hearing at the present sittings and that the sum of £ is payable by the respondent to the appellant as compensation under section 28 of that Act and that the respondent has lodged in Court the sum of £ in satisfaction of the appellant's claim for such compensation as is the subject of the appeal from the Secretary of State's decision;

IT IS ORDERED that the chief clerk do out of the sum lodged in Court [pay the sum of £ to for the use and benefit of the said minor and do] transfer the [balance, namely] [sum of £] from the Criminal Injuries Account to the separate credit of , a minor;

AND IT IS FURTHER ORDERED that the sum when so transferred be invested in

AND IT APPEARING TO THE COURT that the appellant is a minor, having been born on the day of 19 , and it is necessary to appoint for him a Guardian of his fortune and that his is a fit and proper person to be appointed such Guardian and has no interest in the matter adverse to the said minor and consents to be so appointed;

IT IS ORDERED THAT the said be and he is hereby appointed Guardian of the fortune of the appellant during his minority or until further order.

Dated at this day of 19 .

Signed:
Chief Clerk

Signed:
Solicitor for Appellant

(Seal)

**Notice of payment into court by Secretary of State under rule 10(1) of the
Emergency Provisions (Compensation) Rules (Northern Ireland) 1988**

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

IN THE MATTER OF the Northern Ireland (Emergency Provisions) Act 1978;

AND IN THE MATTER of payment into Court as provided by rule 10(1) of the
Emergency Provisions (Compensation) Rules (Northern Ireland) 1988.

Between

Appellant

of

and

The Secretary of State
Respondent

WHEREAS, in pursuance of an affidavit filed in the Court on the _____ day of
_____ 19____ (a copy of which is attached hereto) the Secretary of State
on the _____ day of _____ 19____ did pay the sum of £ _____ being
compensation to which the appellant named in the said affidavit is entitled under
section 28 of the Northern Ireland (Emergency Provisions) Act 1978, into the County
Court/Recorder's Court for the above-named Division in accordance with rule 10(1)
of the Emergency Provisions (Compensation) Rules (Northern Ireland) 1988, to be
dealt with in accordance with the orders of the Court.

TAKE NOTICE that any person interested in or entitled to the said compensation
may apply to this Court respecting the investment, payment out, or mode of dealing
with the said sum or the income thereof.

Chief Clerk

To:

(Full names of person appearing to have
right to receive compensation)

of

(address)

1344

Emergency Provisions

No. 221

FORM No. 17

Rule 10(2)(c)

**Certificate of chief clerk of payment into court under rule 10(1) of the
Emergency Provisions (Compensation) Rules (Northern Ireland) 1988**

[Title as in Form No. 16]

I HEREBY CERTIFY THAT _____ has on the
day of _____ 19 _____, filed with me, the chief clerk of this Court, an
affidavit entitled as above-mentioned, with reference to a payment into Court by the
Secretary of State of £ _____ which sum was duly paid into the [County Court
Account] of the County Court Bank under the provisions of rule 10 of the Emergency
Provisions (Compensation) Rules (Northern Ireland) 1988 on the _____ day of
19 _____.

Dated this _____ day of _____ 19 _____.

Chief Clerk

To:—

SCHEDULE 2

Rule 9(2)

**Party and party costs in appeals under section 28(5) of the Northern
Ireland (Emergency Provisions) Act 1978**

A. *Appellant's costs*

<i>Where the amount awarded is greater than the Secretary of State's decision and does not exceed—</i>	<i>Solicitor's Costs</i>	<i>Counsel's Fee</i>
(1)	(2)	(3)
£	£	£
250	85·00	33·00
500	105·00	41·00
750	131·00	54·00
1,000	151·00	64·00
2,000	171·00	71·00
3,000	190·00	78·00
4,000	210·00	84·00
5,000	230·00	90·00
6,000	250·00	96·00
7,000	269·00	102·00
8,000	289·00	107·00
9,000	309·00	115·00
10,000	329·00	121·00
15,000	420·00	152·00
20,000	519·00	188·00
25,000	610·00	221·00
30,000	709·00	261·00
35,000	801·00	297·00
40,000	899·00	338·00
45,000	991·00	363·00
50,000	1,083·00	416·00

Notes:

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 the subject of the appeal 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 appellant 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 £50,000 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.
 7. The scale of solicitor's costs in column (2) above is inclusive of any costs (but not expenses) payable by the Secretary of State in respect of making out and verifying the claim to compensation up to the date of service of notice of the Secretary of State's decision under section 28(5) of the Act.
 8. Where an appeal under section 28(5) of the Act is in respect of an act authorised by or on behalf of the Secretary of State under section 19(2) of the Act and the judge considers that the scale of costs in this Schedule is inappropriate, the amount of solicitor's costs or of counsel's fees shall be in the discretion of the judge and, unless the parties otherwise agree, he shall certify the amount he allows for such costs and fees.
- B. *Respondent's costs*
1. Where an appeal is dismissed, the judge may order the appellant to pay to 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 govern the procedure in the county court on appeal under section 28(4) or (5) of the Northern Ireland (Emergency Provisions) Act 1978.

Section 28 of the 1978 Act was amended by section 12 of the Northern Ireland (Emergency Provisions) Act 1987 so as to provide time limits within which application has to be made to the Secretary of State for compensation for acts done under the 1978 Act interfering with private rights of property.

Section 28 confers a right of appeal to the county court against refusal by the Secretary of State to extend the normal period within which application has to be made. It also gives a right of appeal against the amount of compensation awarded or a refusal to award it.

These rules provide for the lodging of appeals, the procedure where the Secretary of State makes a payment into court and otherwise and for the award or recovery of costs in connection with the appeal.

1988 Nos. 222, 223, 224

These Orders have been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. Summaries are given in the List of Statutory Rules of a Local Character under the heading ROADS.