
Changes to legislation: There are currently no known outstanding effects for the Justice and Security (Northern Ireland) Act 2007, SCHEDULE 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4 **N.I.**

Section 38

COMPENSATION

Right to compensation

- 1 (1) This paragraph applies where under sections 21 to 32—
- (a) real or personal property is taken, occupied, destroyed or damaged, or
 - (b) any other act is done which interferes with private rights of property.
- (2) Where this paragraph applies in respect of an act taken in relation to any property or rights the Secretary of State shall pay compensation to any person who—
- (a) has an estate or interest in the property or is entitled to the rights, and
 - (b) suffers loss or damage as a result of the act.
- 2 No compensation shall be payable unless an application is made to the Secretary of State in such manner as he may specify.

Time limit

- 3 (1) Subject to sub-paragraphs (2) and (3), an application for compensation in respect of an act must be made within the period of 28 days beginning with the date of the act.
- (2) The Secretary of State may, in response to a request made to him in writing, permit an application to be made—
- (a) after the expiry of the period mentioned in sub-paragraph (1), and
 - (b) within such longer period, starting from the date of the act and not exceeding six months, as he may specify.
- (3) Where the Secretary of State refuses a request under sub-paragraph (2)—
- (a) he shall serve a notice of refusal on the person who made the request,
 - (b) that person may, within the period of six weeks beginning with the date of service of the notice, appeal to the county court against the refusal, and
 - (c) the county court may exercise the power of the Secretary of State under sub-paragraph (2).

Determination

- 4 Where the Secretary of State determines an application for compensation he shall serve on the applicant a notice—
- (a) stating that he has decided to award compensation and specifying the amount of the award, or
 - (b) stating that he has decided to refuse the application.
- 5 (1) An applicant may appeal to the county court against—
- (a) the amount of compensation awarded, or

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- (b) the refusal of compensation.
- (2) An appeal must be brought within the period of six weeks beginning with the date of service of the notice under paragraph 4.
- 6 (1) This paragraph applies where the Secretary of State considers that in the course of an application for compensation the applicant—
 - (a) knowingly made a false or misleading statement,
 - (b) made a statement which he did not believe to be true, or
 - (c) knowingly failed to disclose a material fact.
- (2) The Secretary of State may—
 - (a) refuse to award compensation,
 - (b) reduce the amount of compensation which he would otherwise have awarded, or
 - (c) withhold all or part of compensation which he has awarded.
- 7 Where the Secretary of State makes an award of compensation he may make a payment to the applicant in respect of all or part of the costs of the application.

Assignment of right

- 8 (1) This paragraph applies where—
 - (a) a person has made an application for compensation, and
 - (b) his right to compensation has passed to another person by virtue of an assignment or the operation of law.
- (2) The Secretary of State shall treat the person mentioned in sub-paragraph (1)(b) as the applicant.

Offenders

- 9 (1) This paragraph applies where a person has a right to compensation in respect of an act and—
 - (a) the act was done in connection with, or revealed evidence of the commission of an offence, and
 - (b) proceedings for the offence are brought against the person.
- (2) The person's right to compensation shall not be enforceable while the proceedings have not been concluded.
- (3) If the person stands convicted of the offence he shall have no right to compensation.

Notices

- 10 A notice served under paragraph 3(3)(a) or 4 shall contain particulars of the right of appeal under paragraph 3(3)(b) or 5.
- 11 (1) The Secretary of State may serve a notice under this Schedule on an individual—
 - (a) by delivering it to him,
 - (b) by sending it by post addressed to him at his usual or last-known place of residence or business, or
 - (c) by leaving it for him there.

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- (2) The Secretary of State may serve a notice under this Schedule on a partnership—
- (a) by sending it by post to a partner, or to a person having the control or management of the partnership business, at the principal office of the partnership, or
 - (b) by addressing it to a partner or to a person mentioned in paragraph (a) and leaving it at that office.
- (3) The Secretary of State may serve a notice under this Schedule on a body corporate—
- (a) by sending it by post to the secretary or clerk of the body at its registered or principal office, or
 - (b) by addressing it to the secretary or clerk of the body and leaving it at that office.
- (4) The Secretary of State may serve a notice under this Schedule on any person—
- (a) by delivering it to his solicitor,
 - (b) by sending it by post to his solicitor at his solicitor's office, or
 - (c) by leaving it for his solicitor there.

Offences

- 12 (1) A person commits an offence if he obtains compensation or increased compensation for himself or another person by deception.
- (2) In sub-paragraph (1) “deception” means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person.
- (3) A person commits an offence if for the purposes of obtaining compensation he—
- (a) knowingly makes a false or misleading statement,
 - (b) makes a statement which he does not believe to be true, or
 - (c) knowingly fails to disclose a material fact.
- (4) A person guilty of an offence under this paragraph shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding one year, to a fine not exceeding the statutory maximum or to both.

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