
STATUTORY INSTRUMENTS

1988 No. 793

**Criminal Injuries (Compensation)
(Northern Ireland) Order 1988**

Assessment of compensation

6.—(1) In determining whether any compensation should be paid and, if so, its amount, the Secretary of State shall have regard to all such circumstances as are relevant and, without prejudice to the generality of the foregoing, shall have regard to—

- (a) any provocative or negligent behaviour of the victim which contributed, directly or indirectly, to the criminal injury;
- (b) any criminal convictions which are indicative of the character and way of life of the victim and, where the applicant is a person other than the victim, of the character and way of life of the applicant.

(2) The Secretary of State, in determining the amount of compensation, shall deduct from the amount which, but for this paragraph, would be payable—

- (a) any sums paid to the victim or any of his relatives, by way of compensation or damages from the offender or any person on the offender's behalf, consequent on the criminal injury or on death resulting therefrom; and
- (b) any pension, gratuity or social security benefit which has been or will be paid to or for the benefit of the victim or any of his relatives consequent on the criminal injury or on death resulting therefrom.

(3) Any sum required to be deducted under paragraph (2) shall be deducted from the amount of any compensation in respect of pecuniary loss and the balance (if any) of that sum shall be deducted first from the amount of any compensation in respect of expenses and then from the amount of any other compensation.

(4) For the purposes of paragraph (2)(b)—

- (a) a pension or gratuity shall not be taken into account unless it has been or will be paid—
 - (i) by or on behalf of the Crown or the government of any country, state or territory outside the United Kingdom;
 - (ii) by or on behalf of the employer of the victim or by any person with whom the employer has made any contract or arrangement;
 - (iii) out of the resources of an occupational pension scheme, within the meaning of the Social Security Pensions (Northern Ireland) Order 1975 or of an appropriate personal pension scheme within the meaning of Article 3 of the Social Security (Northern Ireland) Order 1986; or
 - (iv) under the Parliamentary and other Pensions Act 1972, the Parliamentary and other Pensions Act 1987, the European Assembly (Pay and Pensions) Act 1979 or the Assembly Pensions (Northern Ireland) Order 1976 or in respect of the service of the victim as a member of any parliamentary or legislative assembly in any country, state or territory outside the United Kingdom;

- (b) social security benefit shall be deemed to be payable if it would be payable but for the wilful failure at any time of the victim to pay contributions which he was liable to pay; and
- (c) social security benefit is consequent on a criminal injury or on a death resulting from such an injury if, but for the criminal injury or that death, the benefit would not otherwise have been paid or be payable at the same time or to the same extent as it was or will be paid following the death or injury.

(5) In determining the amount of compensation payable to the widower or widow of a victim, his or her prospects of remarriage shall be disregarded.

(6) In determining the amount of compensation payable to a person who is a relative of the victim by virtue of sub-paragraph (b) of the definition of “relative” in Article 2(2), there shall be taken into account the fact that that person had no enforceable right to financial support by the victim as a result of their living together.

(7) Any saving to a victim which is attributable to his maintenance wholly or partly at public expense in a hospital, nursing home or other institution for a period of time shall, subject to paragraph (8), be deducted from the amount which, but for this paragraph, would be payable in respect of the matter mentioned in Article 3(2)(a)(ii).

(8) Paragraph (7) does not apply to any saving in respect of—

- (a) a period of less than 8 weeks; or
- (b) the first 8 weeks of a period longer than 8 weeks.

(9) In this Article—

“the Crown” means the Crown in right of Her Majesty’s government in the United Kingdom or in Northern Ireland;

“employer” includes a former employer;

“gratuity” includes any payment of money whether made in consequence of a legally enforceable right or not;

“pension” includes any payment of a lump sum in respect of a person’s employment;

“social security benefit” means—

- (a) social security benefit payable under the laws of any part of the United Kingdom;
- (b) any similar benefit under the laws of any other country, state or territory.

(10) Nothing in this Article applies to—

- (a) compensation payable by virtue of Article 3(2)(a)(v); or
- (b) compensation for bereavement payable by virtue of Article 3(3)(b).