

**EXPLANATORY MEMORANDUM TO
THE CRIMINAL DAMAGE (COMPENSATION) (AMENDMENT) (NORTHERN
IRELAND) ORDER 2009**

2009 No. 884 N1.1

1. This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 The Criminal Damage (Compensation) (Amendment) (Northern Ireland) Order 2009 amends the Criminal Damage (Compensation) (Northern Ireland) Order 1977 (1977 No. 1247 (N.I. 14)) (“the principal Order”) to create an additional criterion making community halls benefiting from specified rates exemption eligible to claim compensation for criminal damage without the need to satisfy the existing criteria of Article 5 of the principal Order, i.e. without the need to prove that the damage was caused by three or more persons, or by a person acting on behalf of or in connection with an unlawful association. The Government believes that it is right that additional steps are taken to support local communities’ facilities by creating this additional eligibility criterion to be added to the statutory criminal damage compensation scheme. Community halls not eligible to claim compensation under the new criterion are still eligible to claim if they satisfy the existing criteria of Article 5 of the principal Order.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 The principal Order comprises the legislative framework for the payment of criminal damage compensation in Northern Ireland. Compensation is not payable for damage of £200 or less. If compensation is payable, a statutory deduction (of £200) will be made, but if more than one claim is made for the same property in a 12 month period, the statutory deduction will only be made once. Article 4 of the principal Order contains qualifying criteria for criminal damage compensation for agricultural buildings and property. Article 5 of the principal Order sets out the qualifying criteria for criminal damage compensation for property (other than agricultural buildings and property). This instrument is being made to create an additional criterion making community halls which benefit from specified rates exemption eligible to claim compensation for criminal damage without the need to fulfil the criteria in Article 5 of the principal Order. Community halls ineligible to claim under the additional criterion are still eligible to claim if they satisfy the existing criteria of Article 5 of the principal Order.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland.

6. European Convention on Human Rights

Paul Goggins, Minister of State, Northern Ireland Office, has made the following statement regarding Human Rights:

In my view the provisions of the Criminal Damage (Compensation) (Amendment) (Northern Ireland) Order 2009 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 The Government shares the concern which has been expressed by all political parties about criminal attacks on community halls. The damage caused by these attacks, the loss of the facility and the costs falling to the community halls of repairing that damage can have a very negative impact on the local communities which use the halls. The role played by community halls is vital in maintaining and strengthening the social infrastructure in the areas they serve.

7.2 The aim of the instrument is to create a targeted approach to compensation for community halls that are criminally damaged but do not otherwise meet the criteria of the current scheme. The intention is to create an additional eligibility criterion that would compensate community halls, for criminal damage above the statutory deduction level, whilst protecting the public purse from acquiring significant liabilities.

7.3 The Government's aim is to enable community halls which are exempt from rates, under either Article 41(2)(e) or Article 41A of the Rates (Northern Ireland) Order 1977 (No. 2157 (N.I. 28)) to be eligible, through an additional route, for statutory compensation where they are criminally damaged, for damage costing more than the statutory deduction (currently £200). This will mean that if an eligible community hall cannot prove that damage was caused by three or more persons, or as a result of an act committed maliciously by a person acting on behalf of in connection with an unlawful association, they can still receive compensation. If a community hall is not eligible under the new criterion because it does not enjoy the specific rates exemption, it will still be eligible for compensation for criminal damage if it fulfils the existing criteria under the principal Order. The proposed amendment to the principal Order will cover a sufficiently wide range of community halls to ensure that the potential effect of the criterion would not be restricted to a single tradition. The level of public interest in this policy is likely to be moderate.

- *Consolidation*

7.2 The Northern Ireland Office has no plans at present to consolidate the principal Order.

8. Consultation outcome

8.1 The Northern Ireland Office consulted with a wide range of stakeholders over a period in excess of 12 weeks. A proposal of the instrument was also referred to the Northern Ireland Assembly. A copy of the Assembly's report is available at www.niassembly.gov.uk and is also laid before Parliament along with this instrument. Aside from the Northern Ireland Assembly, a total of 21 individuals and organisations made responses to the public consultation.

8.2 As a bloc the largest number of responses were made by the Orange Order, 10 in total. These all welcomed the proposed legislation and commented mainly on the proposed inclusion of a "sunset clause".

8.3 Broadly the legislation and its objective were welcomed by all respondents. The majority of responses (14 out of 21) called for the sunset clause to be removed. The SDLP expressed concerns that coverage was not wide enough and thought the measure had not been adequately equality proofed and called for an alternative, though unspecified, approach to deal with compensation for criminal damage attacks on community halls. The Gaelic Athletic Association (GAA) also called for the legislation to be amended to include the GAA and other organisations.

8.4 As a result of the consultation exercise the Northern Ireland Office has amended the legislation to remove the sunset clause. A more detailed analysis of the consultation outcome is available on the Northern Ireland Office's website at www.nio.gov.uk. A summary of responses to the consultation is laid before Parliament along with this instrument.

9. Guidance

9.1 The Compensation Agency makes available to the public, in print and on its website at www.compensationni.gov.uk, a free Guide to Criminal Damages Compensation in Northern Ireland. This guide will be updated with the additional criterion.

10. Impact

10.1 The impact on business, charities or voluntary bodies is limited to their eligibility to claim under the new criterion and any consequent payment of criminal damage compensation.

10.2 The impact on the public sector is minimal, and resources will be made available to ensure effective implementation of the provisions.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The level of claims for compensation under this additional criterion will be monitored by the NIO in order to determine the uptake by eligible applicants.

13. Contact

David Hamill at the Northern Ireland Office Tel: 028 90527382 or email: david.hamill2@nio.x.gsi.gov.uk can answer any queries regarding the instrument.