

To: All District Valuers

ARMY SEARCH CASES

A recent meeting with NIO representatives clarified the background to these cases.

In the course of their normal duties the security forces may cause damage to property varying from cut fences to damage to buildings and contents. Where such damage causes a loss then compensation can be claimed under Section 12 of the Emergency Provisions (NI) Act 1987.

Because the legislation is vague the NIO treat such cases on the same basis as criminal damage cases but without the £100 statutory deduction.

As damage is usually slight most of the cases can be dealt with by Civil Representatives who can agree compensation on the spot up to £300 and make recommendations up to £600. Over this amount a Loss Adjuster is instructed.

The VLO are only instructed in cases where the property is vacant or in poor repair prior to the army damage. This is because the NIO wish to compare our DMV figure with the cost of repair.

In the case of vacant property where the damage is slight it is likely that the DMV will be equal to the cost of repair, while in the latter case of poor property it is often the case that there is no DMV in which case the NIO will probably issue a decision of NIL quantum.

The circumstances before damage, the amount of damage, cost of repair must naturally all be considered and each case decided on its merits.

If no DMV is identified but repairs are still completed then the NIO must decide if it was reasonable to do the work before compensation will be paid on a cost of repair basis.

N D WOODS
Assistant Commissioner

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CRIMINAL DAMAGE GENERAL FILE

ARMY SEARCH CASES

Background

In the course of normal everyday patrol and search duties the security forces cause damage to property which can be in the form of cut fences, lost crops and search damage to buildings and their contents. Compensation can be claimed for such damage where loss occurs.

Authority for Compensation

The authority to pay compensation is found in Section 12 of the Emergency Provisions (NI) Act 1987. The legislation is vague and gives no guidance on the method of assessment of compensation but the NIO legal officers treat the cases on the same basis as criminal damage under the 1977 Order but without the £100 statutory deduction.

Procedure

The majority of cases are in NIHE estates and involve only small sums for buildings and contents. The Executive do their own repair work and bill the NIO en bloc.

In rural areas most cases involve damage to fences and agricultural buildings. Damage is usually of a limited nature.

Most cases are dealt with by Civil Representatives who spend much of their time negotiating with applicants as they are authorised to agree compensation up to £300 (irrespective of repairs being done) and can recommend settlements up to £600.

This works because the majority of cases are small and it enables a politically sensitive issue to be dealt with on the spot.

Because the Civil Reps spend so much time on the ground and are in regular contact with the same applicants (usually farmers) they can check if the repairs have actually been carried out. For amounts over £600 a loss adjuster is instructed and again the Civil Rep can check on repairs.

VLO Involvement

The VLO is instructed only in those cases where the property is either vacant or in poor condition prior to the damage occurring. This is because the NIO want to compare our estimate of DMV with the cost of repair.

In the case of vacant property where the damage is slight it is likely that the DMV will equate to the cost of repair, while in the latter case of poor property it is likely that no DMV will be identifiable hence the NIO will probably issue a decision of NIL quantum.

The important points in each case include the circumstances before damage, the amount of damage, cost of repair and in some extreme cases, the value of the site. No specific instructions can be laid down and each case should be decided on its merits. If no DMV is identified and repairs are still carried out then the NIO must decide whether it was prudent or advisable to do the work before compensation will be paid on a cost of repair basis.

G BLEAKLEY

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