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UNITED KINGDOM: COMPENSATION FOR VICTIMS OF TERRORISM

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UNITED KINGDOM
COMPENSATION FOR VICTIMS OF TERRORISM

Executive Summary

There are two programs in operation in the United Kingdom for victims of acts of terrorism that occur on British soil, one in Northern Ireland and the other in Great Britain. The programs are criminal injury compensation plans and thus are not restricted to just those who suffer from acts of terrorists.

I. Introduction

The “troubles” in Northern Ireland have caused great suffering to many people in the United Kingdom. Those injured and the families of those killed in terrorist acts related to Northern Ireland can claim compensation from the government. The compensation programs that exist are not restricted solely to victims of terrorism, but are available to those who incur personal injury, death, property damage, or physical and financial losses as a result of a crime. There are currently two different systems of criminal compensation in the UK, although they are now virtually identical since amendments were made to the plan in Northern Ireland in 2001.

II. Northern Ireland

Northern Ireland operates its own compensation scheme that changed in the early 2000s from a common law system of assessed damages, whereby the amount of compensation awarded was determined by the loss suffered by each victim, to a tariff-based system. The tariff-based system provides a comprehensive set of fixed awards for various mental and physical injuries sustained as a result of a crime committed after May 1, 2002.¹ More serious injuries continue to be addressed on the common law basis of assessing damages. In certain cases, where injuries have an impact on employment or result in incapacity for longer than twenty-eight weeks, additional compensation can be granted for loss of earnings, special expenses, or both. The Compensation Agency, an executive agency within the Northern Ireland Office, is the body responsible for administering the compensation program² on behalf of the Secretary of State.

a. Factors Taken into Account when Awarding Compensation

A number of requirements must be met for an application to be considered under the program. The injury must have been caused by a crime that occurred in Northern Ireland. The victim must apply within two years of the incident’s occurrence, although if there is good reason for the delay and it serves the interests of justice, this time limit can be waived.³

While compensation is not dependent on the offender being apprehended or convicted, the victim’s actions after the crime do play a factor in an application’s consideration. The relevant crime or crimes must have been reported. If the victim had failed to file a report, the application will be rejected. Other

¹ Criminal Injuries Compensation (Northern Ireland) Order SI 2002/796.

² The program was established under the Criminal Injuries Compensation Act 1995, c. 53.

³ The Compensation Agency, A Guide to the Northern Ireland Criminal Injuries Compensation Scheme 2002, ¶ 3.4 (May 2002).

issues that are considered are the victim's behavior prior to, during, and after the injury and the victim's criminal record⁴ or failure to cooperate with the police. As the program is not intended to benefit the offender, applications will normally not be considered from victims who reside with the person who caused the injury.

Awards paid under the program can be recovered from the convicted perpetrator of the crime when the Secretary of State submits an application to the county court.⁵ In cases where award recipients receive compensation from another source for the injury – i.e., through damages awarded in a civil claim – they must reimburse the Secretary of State for the compensation awarded through the program.⁶

b. Bereavement Support

A bereavement support payment is available to families or those who “had a close relationship of love and affection” with a victim who has suffered a fatal injury. The purpose of this payment is to “acknowledge the grief and sorrow caused by the death of that person and the loss of that person's care, guidance and society.”⁷

If an applicant is not satisfied with a decision from the Compensation Agency, that decision can be reviewed. If the review is not satisfactory, an applicant has a right to appeal the decision to an independent Criminal Injuries Appeal Panel for Northern Ireland. The program does not provide funding for any legal advice that may be needed during the application or appeals process.

III. Great Britain

The procedure and general principles for awarding compensation in Great Britain are virtually identical to those in Northern Ireland. The British scheme is the largest and oldest criminal compensation scheme in the world.⁸ It started in 1964 when the government established:

[A] non-departmental public body, the Criminal Injuries Compensation Board (CICB), to administer compensation throughout Great Britain on the basis of common law damages to victims of a crime of violence. The scheme was introduced to provide an acknowledgment of society's sympathy for such victims.⁹

The current program was created under the Criminal Injuries Compensation Act 1995¹⁰ and is administered by the Criminal Injuries Compensation Authority. No funding for legal advice is provided by the scheme, but guidance for the scheme refers applicants to an independent charity that can provide practical support. There are limits on compensation awards, with a minimum of £1,000 (approximately US\$2,000) and a maximum of £500,000 (approximately US\$1,000,000).¹¹

a. Operation of the British Scheme in Relation to the July 2005 Bombings

⁴ Only convictions that are not spent under the Rehabilitation of Offenders (NI) Order 1978 can be taken into account.

⁵ Criminal Injuries Compensation (Northern Ireland) Order 2002, SI 2002/796, ¶ 14.

⁶ *Id.* ¶ 15.

⁷ *Id.*

⁸ CRIMINAL INJURIES COMPENSATION AUTHORITY, GUIDE TO THE CRIMINAL INJURIES COMPENSATION SCHEME B9 (2001). Compensation awarded under the scheme totals approximately £200 million (approximately US\$390 million) each year.

⁹ Criminal Injuries Compensation Authority, <http://www.cica.gov.uk> (last visited May 1, 2006).

¹⁰ Criminal Injuries Compensation Act 1995, c. 53.

¹¹ Home Office, *The Criminal Injuries Compensation Scheme 2001*, available at https://www.cica.gov.uk/pls/portal/docs/PAGE/INFORMATION_PAGES/INFO_BOX_BOTTOM_ABOUTCICA/SCHEME2001_1.PDF.

The July 2005 bombings presented the Criminal Injuries Compensation Scheme with criminal acts on a scale that it had never had to previously address. It made £15 million (approximately US\$30 million) available to people injured and bereaved by the July 2005 bombings in London. This compensation applied to all persons affected, regardless of nationality. An additional £12 million (approximately US\$24 million) was raised by the London Bombings Relief Charitable Fund that was established in the wake of the bombings to provide support to affected individuals.¹² The British government donated £3.5 million (approximately US\$7 million) to this fund, which shut down in October 2006 after fulfilling its purposes.¹³

Individuals impacted by the bombings were dissatisfied with the operation of the government program, citing slow performance and low payments, which personal injury lawyers have noted is commonplace, with delays normally extending for up to fifteen months.¹⁴ As stated above, the amount of government compensation provided to those seriously injured is capped at a maximum of £500,000 (approximately US\$1,000,000). Bereaved families are entitled to a payment of £11,000 (approximately US\$22,000) as a “mark of public sympathy.”¹⁵ Charitable donations increased these amounts to £100,000 (approximately US\$200,000) and £575,000 (approximately US\$1,150,000) respectively.¹⁶ Individuals that were financially dependent upon the person killed in the attacks were entitled to financial compensation for this loss, and children of persons killed are entitled to receive an annual payment for the “loss of parental services” of up to £2,000 (approximately US\$4,000) until they reach eighteen.¹⁷ These payments are not allowed to exceed the cap of £500,000 (approximately US\$1,000,000). Applicants to the scheme have up to two years to file a claim with the Criminal Injuries Compensation Authority. As of December 2006, the government has paid over £1 million (approximately US\$2 million) to 106 victims of the London attacks.¹⁸

Changes to the current Criminal Injuries Compensation Scheme have been proposed in which payments to victims that suffer minor injuries would be replaced with “practical care” provided through a newly established Victim Care Unit, and the £500,000 cap on payments to those with serious injuries would be removed.¹⁹ The government has stated that it is “unworkable” to apply the changes retrospectively to the victims of the July bombings.²⁰

IV. Compensation for British Nationals that are Victims of Terrorism Overseas

¹² *July Bombing Fund Hands Out £5m*, BBC NEWS, Feb. 21, 2006, available at http://news.bbc.co.uk/2/hi/uk_news/4736594.stm; London Bombings Relief Charitable Fund, *Timeline*, <http://www.lbrcf.org.uk/timeline.jsp> (last visited Oct. 11, 2007).

¹³ London Bombings Relief Charitable Fund, *Charity Bombings Fund Closes – £12 Million Distributed for 7/7 Victims*, Oct. 26, 2006, available at <http://www.lbrcf.org.uk/pr251006.jsp>.

¹⁴ *July Bombing Fund Hands Out £5m*, *supra* note 12.

¹⁵ CRIMINAL INJURIES COMPENSATION AUTHORITY, COMPENSATION FOR THE VICTIMS OF THE LONDON BOMBINGS OF JULY 7, 2005, ¶ 8 (2005), https://www.cica.gov.uk/pls/portal/docs/PAGE/INFORMATION_PAGES/INFO_BOX_BOTTOM_ABOUTCICA/BKL4%20COMPENSATION%20FOLLOWING%20LONDON%20BOMBINGS.PDF (last visited May 1, 2006).

¹⁶ *July Bomb Victims Get Further £3m*, BBC NEWS, Nov. 15, 2005, available at http://news.bbc.co.uk/2/hi/uk_news/4439710.stm.

¹⁷ CRIMINAL INJURIES COMPENSATION AUTHORITY, COMPENSATION FOR THE VICTIMS OF THE LONDON BOMBINGS OF JULY 7, 2005, ¶¶ 8-11 (2005), https://www.cica.gov.uk/pls/portal/docs/PAGE/INFORMATION_PAGES/INFO_BOX_BOTTOM_ABOUTCICA/BKL4%20COMPENSATION%20FOLLOWING%20LONDON%20BOMBINGS.PDF (last visited May 1, 2006).

¹⁸ *Minor Victims Could Loose Cash*, BBC NEWS, Dec. 7, 2006, available at http://news.bbc.co.uk/2/hi/uk_news/4505530.stm.

¹⁹ Home Office et al, *Rebuilding Lives - Supporting Victims of Crime*, 2005, Cm. 6705.

²⁰ PARL. DEB., H.C. (6th ser.) (Jan. 16, 2006) 1118W.

UK residents who are victims of terrorism while overseas are eligible for assistance from the Red Cross Relief Fund for UK Victims of Terrorism Abroad, which began operations on May 17, 2007. The fund was given a £1 million donation from the Government. Those who are seriously injured or who are bereaved receive immediate, payments of £3,000 to cover costs that may arise following the incident. A further payout of £12,000 will be available to those who have been bereaved, and those who have to stay in hospital for five days or more, or need continued outpatient appointments. There is no general compensation program for UK victims of terrorist acts overseas, but under European Council Directive 2004/80/EC, adopted April 29, 2004, victims of violent crimes occurring within the EU may apply for compensation from the country in which the crime was committed. Each Member State determines the level of compensation it provides.²¹ Many other nations may not provide compensation at all.

To remedy the situation, Lord Brennan of the Labour Party, has proposed a statutory compensation program. It would benefit the families of the more than 40 Britons that have been killed and the numerous individuals who have been injured in terrorist attacks outside of the UK since September 11, 2001, including those who were victims of the bombings in Bali, Egypt, and Turkey.²²

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²¹ PARL. DEB., H. L. (5th ser.) (June 13, 2007) 251 WA; *Fund for Overseas Terror Victims*, BBC NEWS, May 17, 2007, available at http://news.bbc.co.uk/2/hi/uk_news/6666601.stm.

²² *Compensation Bid for Bomb Victims*, BBC NEWS, Apr. 19, 2007, available at http://news.bbc.co.uk/2/hi/uk_news/politics/6572457.stm.