

Amended Scheme of Acknowledgement, Remembrance and Assistance for victims in this Jurisdiction of the Conflict in Northern Ireland

Background

This Scheme arises from the recommendations of the Report of the Victims Commission, which was established on foot of a commitment by the Government in the Good Friday Agreement to conduct a review of the services and arrangements in place in this jurisdiction to meet the needs of those who have suffered as a result of violent action arising from the conflict in Northern Ireland. In this context, the Government in June 2003 approved the establishment of a Remembrance Fund and Commission, the functions of which are set out below.

Definitions

In this Scheme –

"Administration of the Scheme" includes staff costs and other expenditure required for the day-to-day operation of the Scheme;

"Dependent child" shall be determined with reference to the definition of a "qualified child" as per the Social Welfare (Consolidation) Act, 1993 and shall be understood to mean dependence at the time the parent became a victim;

"Economic hardship" should be determined by reference to social welfare assessments for receipt of State supports, such as unemployment assistance, medical cards or family income supplements;

"Injury" means a physical injury incurred as a direct result of an act of violence arising from the conflict in Northern Ireland. Psychological effects consequent to the suffering of a physical injury are included in this definition, but psychological trauma alone is not;

"Minister" means the Minister for Justice, Equality and Law Reform;

"Northern Ireland Memorial Fund" means the Fund commissioned by the Government of the United Kingdom and Northern Ireland to provide, inter alia, financial assistance to victims and survivors of the Troubles in Northern Ireland;

"relevant information" may include (without prejudice to the generality of the term):

- Information relating to the circumstances of the death or injury incurred;
- information relating to medical matters;
- information relating to the financial circumstances of the applicant;
- information relating to current and previous residence;

"Secretariat" refers to persons acting on behalf of the Commission for the purpose of administering the Scheme;

"Surviving spouse" means each person of a married couple who were living together or a man and woman who were not married to each other but were cohabiting as husband and wife at the time the fatal injury was incurred;

"Surviving family" means the surviving spouse and children of a victim fatally injured, as a unit;

"Victim" refers to a person who sustained an injury (including a fatal injury) as a direct result of the conflict in Northern Ireland.

Functions of the Remembrance Fund and Commission

1. The Remembrance Commission ("the Commission") established under section 10 below may within a period of three years from the date of its establishment make payments to persons injured, or to the survivors of persons fatally injured, since 1969 as a direct result of the conflict in Northern Ireland, where the injury or death occurred in this jurisdiction or where the victim was normally resident in this jurisdiction at the time of their injury or death.

The Commission may make payments to victims or surviving families who have had to move their normal place of residence from Northern Ireland or this jurisdiction as a direct consequence of the conflict and wish to return. The types of payments that can be made in this regard and the conditions that attach to each are set out in sections 9(a)-(c) below.

2. The Commission may make payments to victim support groups for the purpose of meeting the counselling needs of victims or members of surviving families in this jurisdiction as a direct result of the conflict. The conditions attaching to such payments are set out in section 9(d) below.
3. The Commission shall decide upon requests for a memorial or memorials or other form(s) of commemoration for victims of the Northern Ireland conflict. A sum of €250,000 is available for this purpose. Any decision should be made following consideration of any submissions or suggestions received from victims or victims' groups.
4. The Commission shall, at the request of the Minister and on the recommendation of the Taoiseach, make a grant to the Northern Ireland Memorial Fund of such amount as may be specified in that request from moneys remaining in the Fund.
5. All payments shall be determined on the basis of assessments of applications received by the Commission and shall be made from the Remembrance Fund ("the Fund") established under section 14 below.
6. All costs incurred by the Commission in carrying out their functions will be paid out of the Fund.

Nature, extent and conditions of payments

7. All payments under this Scheme shall be on an ex gratia basis and the Commission's decision will be final.
8. Payment under each category shall be provided as a lump sum, although it shall be open to the Commission to make an interim payment and postpone making a final payment in a case in which further material relevant to the application remains outstanding.

9. There are four categories under which payments may be made under the Scheme:

- (a) An acknowledgement payment of €15,000 to the surviving spouse or, if there is no surviving spouse, to the surviving child or children equally of a victim who was either fatally injured in this jurisdiction or was normally resident in this jurisdiction at the time the fatal injury was sustained. If the victim has no surviving spouse or child, the payment is to the surviving parent or parents equally.

If a victim who was either fatally injured in this jurisdiction or was normally resident in this jurisdiction at the time the fatal injury was sustained, has no surviving spouse nor child nor parent, the payment shall be made to a near family member, ie. to or between his or her brothers or sisters in equal shares, and, if any brother or sister is no longer surviving, the surviving children of the victim's brother or sister shall, where any other brother or sister of the victim survives him or her, take in equal shares the payment that their parent would have taken if he or she had survived the victim. If the victim has neither spouse nor child nor parent nor brother nor sister surviving, the payment shall be distributed in equal shares among the surviving children of the victim's brothers and sisters. If a victim has neither spouse, nor child, nor parent, nor child of the victim's brothers or sisters, nor brother, nor sister surviving the payment shall be made in equal shares between any surviving siblings of the parents of the victim. And a near family member of the victim shall be so defined.

If a victim who was fatally injured in this jurisdiction or was normally resident in this jurisdiction at the time the fatal injury was sustained has no surviving spouse nor child nor parent nor near family member may surviving, then the Remembrance Commission at its discretion, issue the payment to a wider family member or members, or, at its discretion, apply the acknowledgement payment to a public purpose or charity. The Remembrance Commission may, at its discretion, consult the member or members of the wider family. Otherwise, the public purpose or charity shall be determined by the Commission at its complete and unfettered discretion. The donation to the public purpose or charity shall be made in the name of the victim.

Payments under this category may be accompanied by an official scroll or other memento of the Commission's choice and design.

Approximately €1,500,000 should be allocated to this category.

- (b) An economic hardship payment:
- (i) of up to €15,000 to the surviving spouse and dependent children of a victim fatally injured in this jurisdiction or whose normal residence at the time the fatal injury was sustained was in this jurisdiction;
 - (ii) of up to €15,000 to any victim rendered permanently incapable of working as a result of an injury or injuries sustained who either
 - was injured in this jurisdiction, or
 - was normally resident in this jurisdiction at the time he or she was injured, or

- is normally resident in this jurisdiction and has been for at least three years prior to the date of application;
- (iii) of up to €15,000 to a victim who had to move his or her normal place of residence from Northern Ireland to this jurisdiction as a direct consequence of the conflict or to the surviving family of such a victim and now wishes to return;
- (iv) of up to €7,500 to a victim who had to move his or her normal place of residence from this jurisdiction as a result of the conflict or to the surviving family of such a victim and now wishes to return.

Payments under (b)(i), (b)(iii) and (b)(iv) should be confined to those who, in the opinion of the Commission, continue to suffer economic hardship as a result of the bereavement or displacement, as relevant. In addition, payments to dependent children who are in adulthood at the time of application for assistance should be confined to those children who are assessed as not having developed independence since their parent was killed. In addition, payments under (b)(i) should only be made where, and to the extent that, in the Commission's opinion they are not already covered by payments made under (b)(iii) or (b)(iv).

Payments under (b)(ii) should only be made where, and to the extent that, in the Commission's opinion, they are not already covered by payments made under (b)(iii), (b)(iv) or (c).

Approximately €750,000 should be allocated to (b)(i) and (b)(ii).

Approximately €250,000 should be allocated to (b)(iii) and (b)(iv).

- (c) Medical Payments to cover vouched unmet and continuing medical expenses to any victim who either,
- was injured in this jurisdiction, or,
 - was normally resident in this jurisdiction at the time he or she was injured, or
 - is normally resident in this jurisdiction and has been for at least three years prior to the date of application.

Other payments may be made at the discretion of the Commission towards home help expenses (in the manner of respite payments), prostheses or such other forms of assistance to injured victims deemed appropriate by the Commission.

Payments in relation to home help expenses should be confined to persons who care for victims requiring a high degree of such care and attention as a direct result of their injuries.

Applications in relation to vouched unmet and continuing expenses must be submitted during the three-year lifetime of the Scheme.

The Commission will have the discretion to make once-off payments of up to €25,000 in exceptional cases. In this instance, exceptional cases include (without prejudice to the generality of the term) cases wherein an applicant may, in obtaining medical treatment prior to the commencement of the Scheme, have amassed considerable debts which he or she would otherwise, in the opinion of the Commission, be likely to have great difficulty discharging.

All applications made under category 9(c) must be certified by a qualified medical doctor.

Approximately €3,000,000 should be allocated to this category.

- (d) Payments, up to a total of €1,500,000 over the three-year duration of the Commission, to victim support groups for the purpose of meeting the counselling needs of victims or members of the surviving families of victims in this jurisdiction as a result of the conflict. The services of any group receiving a payment under this section should be available to all such persons and should include bereavement counselling, trauma management counselling and access to a support network enabling persons to share similar experiences.

If a person sustains an injury in the circumstances set out in the Scheme and would be entitled to claim compensation (whether statutory or non-statutory) otherwise than under the Scheme, the person will not be prohibited from also claiming payment under the Scheme but the Commission will decide the claim on the basis that no payment under the Scheme should result in payment being duplicated and may accordingly decide either to make no award or to make a reduced award and may, moreover, decide that an award will be subject to conditions as to its repayment in whole or in part in the event of compensation being subsequently received from another source.

Payments under category 9(d) may be made only on application from the Chief Executive Officer (or equivalent) of the victim support group making such an application.

Finance and administration

10. The Scheme shall be administered by a Commission to be known as the Remembrance Commission, the members (Commissioners) of which shall be appointed by the Minister. The Commission shall consist of five members including a chairperson. The Commission shall decide on its own method of operation and shall be supported by a Secretariat. The amounts spent on administration of the Scheme shall be subject to an agreement between the Minister and the Commission.
11. The term of office of a Commissioner shall run from the date of appointment to the date set for dissolution of the Commission, but the appointment may be terminated by the Minister at any time. A Commissioner may notify the Minister of his or her resignation at any time, such notification to be in writing, and the resignation shall take effect at the commencement of the first meeting of the Commission that follows the notification to the Minister, if the notification is not withdrawn in writing to the Minister before that meeting.

12. A vacancy arising from the death or resignation of a Commissioner or by the termination by the Minister of an appointment shall be filled by an appointment made by the Minister.
13. The Commissioners shall act on a part-time basis.
14. All financial assistance provided under the Scheme shall be made from a dedicated fund, to be known as the Remembrance Fund, the moneys for which shall be provided by the Oireachtas.
15. This Commission shall operate for a period of three years from the date of its establishment.
16. The Commission shall submit annually three months after the anniversary of its establishment to the Minister a report on the operation of the Scheme together with accounts, which shall include details of the amounts spent on the administration of the Scheme. The Report shall be laid before both Houses of the Oireachtas. The Commission shall also submit to the Minister such further reports as the Minister may request, and may at its own discretion submit other reports to the Minister from time to time.

Procedures, etc.

17. The Commission will be free to draw up and publish any instructions it considers necessary regarding the procedure for administering the Scheme. However, these instructions will be consistent with the provisions of the Scheme and with the general intention that the administration of the Scheme and, in particular, proceedings before the Commission, should be informal.
18. An application may only be made on the Commission's official application form, which shall be obtainable from the Secretariat. Completed application forms should contain all relevant information accompanied by any relevant supporting documentation.
19. The Commission shall not pay the costs of any representation for applicants.
20. The Commission may, where it is considered necessary, seek from the applicant evidence that the act giving rise to the victim's injury or death was reported to the relevant authorities, and in this connection may also seek information on that act from said authorities.
21. The Commission shall in no case be obliged to meet with an applicant or his or her representative. However, the Commission, should it be considered necessary, shall have the discretion to invite an applicant to attend at a meeting to discuss the matter.
22. Any meetings that the Commission may decide to hold shall be held in private.
23. The Commission shall be entitled to make any practical arrangements that it considers necessary for making payment of moneys it awards.
24. The Commission may fix a date within the last twelve months of the duration of the Scheme by which all applications must be received.

5 October, 2004.