

Riot Compensation Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office with the consent of Mike Wood, the Member in charge of the Bill, are published separately as Bill 13 – EN.

Riot Compensation Bill

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TO

Repeal the Riot (Damages) Act 1886 and make provision about types of claims, procedures, decision-making and limits on awards payable in relation to a new compensation scheme for property damaged, destroyed or stolen in the course of riots.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Claims for compensation

1 Claims for compensation for riot damage etc

(1) Where—

- (a) a person's property has been damaged, destroyed or stolen in the course of a riot, 5
- (b) the property is property in respect of which a claim may be made under this subsection (see section 2(1)), and
- (c) the property was not insured, or was not adequately insured, for the damage, destruction or theft,

the person may claim compensation from the appropriate local policing body. 10

(2) Where—

- (a) a person's property has been damaged, destroyed or stolen in the course of a riot,
- (b) the property is property in respect of which a claim may be made under this subsection (see section 2(2)), and 15
- (c) an insurance company has (to any extent) met a claim by the person under a policy of insurance in respect of the damage, destruction or theft,

the insurance company may claim compensation from the appropriate local policing body. 20

- (3) The appropriate local policing body is the local policing body which is responsible for the police area in which the property was situated at the time of the riot.
- (4) A claim under this section must be made in accordance with regulations made under section 3. 5
- (5) For the purposes of subsection (1)(c), property is not adequately insured if—
- (a) it is insured for an amount that is less than its value, or
 - (b) it is insured subject to an excess.
- (6) In this Act, “riot” is to be construed in accordance with section 1 of the Public Order Act 1986, but does not include a riot in any of the following places— 10
- (a) a prison, young offender institution or secure training centre;
 - (b) a hospital where persons are detained under Part 2 or 3 of the Mental Health Act 1983;
 - (c) a removal centre, a short-term holding facility or pre-departure accommodation (within the meaning given by section 147 of the Immigration and Asylum Act 1999). 15

2 Property in respect of which claims may be made

- (1) A claim may be made under section 1(1) only in respect of—
- (a) a building,
 - (b) property falling within subsection (3), or 20
 - (c) a motor vehicle falling within any of the paragraphs of the Schedule (motor vehicles in respect of which claims may be made).
- (2) A claim may be made under section 1(2) only in respect of—
- (a) a building,
 - (b) property falling within subsection (3), or 25
 - (c) a motor vehicle falling within paragraph 4 of the Schedule (vehicle forming part of stock in trade of a business).
- (3) Property falls within this subsection if it is property (other than a motor vehicle) which at the time of the riot was situated—
- (a) within a building, 30
 - (b) within the curtilage of a building, or
 - (c) on land being used for the purposes of a business carried on by the claimant.
- (4) The Secretary of State may by regulations—
- (a) amend subsection (3); 35
 - (b) make provision about the meaning of terms used in that subsection.
- (5) In this section—
- “building” includes—
 - (a) a permanent or semi-permanent structure in the nature of a building (including a caravan or houseboat), and 40
 - (b) a building in the course of construction; - “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads.

3 Regulations about claims procedure

- (1) The Secretary of State must make regulations about the procedure for making a claim under section 1.
- (2) The regulations may include provision about—
 - (a) the appropriate person to make a claim (in particular where more than one person has an interest in property that has been damaged, destroyed or stolen), and 5
 - (b) the circumstances in which a single claim must cover a number of different items or types of property.
- (3) The regulations may also include provision about— 10
 - (a) the person to whom a claim must be addressed;
 - (b) the time period within which a claim must be made;
 - (c) the details and evidence that must be submitted by the claimant;
 - (d) the time period within which details and evidence must be submitted;
 - (e) the submission of new evidence relating to a claim already made or determined. 15
- (4) Regulations under subsection (3)(c) may include a requirement that any estimates of the cost of repairs are to be prepared by contractors approved by the Secretary of State or a local policing body.

The decision-maker 20

4 The decision-maker on a claim

- (1) The decision on a claim is to be made by the appropriate local policing body, except where—
 - (a) the body delegates functions to another person in accordance with regulations made under subsection (2)(b), or 25
 - (b) the Secretary of State makes a direction under section 5(1)(b) (transfer of claims to the Secretary of State).
- (2) The Secretary of State may make regulations allowing a local policing body to delegate to another person either or both of the following functions—
 - (a) dealing with procedural matters on a claim; 30
 - (b) making a decision on a claim.
- (3) Regulations under subsection (2) may in particular make provision about—
 - (a) the persons to whom functions may be delegated,
 - (b) the types of claim in relation to which functions may be delegated (by reference to the nature of the property, the amount of the claim, the identity of the claimant or otherwise), and 35
 - (c) the payment and auditing of persons to whom functions are delegated.

5 Transfer of claims to the Secretary of State

- (1) The Secretary of State may direct a local policing body to transfer to the Secretary of State either or both of the following functions— 40
 - (a) dealing with procedural matters on a claim;
 - (b) making a decision on a claim.

-
- (2) A direction under this section may relate to –
- (a) all claims to the local policing body (whether made before or after the time of the direction), or
 - (b) claims of a particular description.
- (3) The Secretary of State may make a direction only if – 5
- (a) riots have occurred in two or more police areas at or about the same time,
 - (b) a riot has moved from one police area to another, or
 - (c) a local policing body has requested the Secretary of State to make a direction in respect of claims that have been or may be made to it. 10
- (4) Before making a direction in the circumstances described in subsection (3)(a) or (b), the Secretary of State must consult all local policing bodies that may be affected by the direction.
- (5) The Secretary of State must publish a direction made under this section.
- 6 Delegation of Secretary of State’s functions** 15
- (1) The Secretary of State may by regulations establish a body in connection with a direction under section 5 that the Secretary of State has made, or is considering making (the “riot claims bureau”).
- (2) The regulations must provide that the principal function of the riot claims bureau is to exercise either or both of the following functions on behalf of the Secretary of State – 20
- (a) dealing with procedural matters on claims that have been transferred to the Secretary of State under section 5;
 - (b) making decisions on claims that have been transferred to the Secretary of State under section 5. 25
- (3) The regulations may make provision about –
- (a) additional functions of the riot claims bureau;
 - (b) its status and constitution;
 - (c) the appointment of its members;
 - (d) the payment of remuneration and allowances to its members; 30
 - (e) the delegation of its functions to other persons;
 - (f) reporting and audit requirements;
 - (g) any other matters in connection with its operation and establishment.
- (4) The Secretary of State may make regulations allowing the Secretary of State to delegate to another person either or both of the following functions – 35
- (a) dealing with procedural matters on claims that have been transferred to the Secretary of State under section 5;
 - (b) making decisions on claims that have been transferred to the Secretary of State under section 5.
- (5) Regulations under subsection (3)(e) or (4) may in particular make provision about – 40
- (a) the persons to whom functions may be delegated;
 - (b) the types of claim in relation to which functions may be delegated (by reference to the nature of the property, the amount of the claim, the identity of the claimant or otherwise), and 45

- (c) the payment and auditing of persons to whom functions are delegated.

Decisions on claims

7 Decision on validity of claim

- (1) Where a person makes a claim under section 1, the decision-maker must first decide whether the claim is valid. 5
- (2) A claim is valid if—
- (a) it meets the conditions set out in—
- (i) section 1(1)(a) to (c) (in the case of a claim under section 1(1)), or
- (ii) section 1(2)(a) to (c) (in the case of a claim under section 1(2)), and 10
- (b) it is made in accordance with regulations under section 3.
- (3) The Secretary of State may issue guidance on assessing the validity of claims, which may in particular include guidance on deciding whether property was damaged, destroyed or stolen in the course of a riot.
- (4) Decision-makers must have regard to any guidance issued under subsection (3). 15

8 Amount and payment of compensation

- (1) If the decision-maker decides that a claim is valid, the decision-maker must then decide the amount of compensation, up to a maximum of £1 million per claim (the “compensation cap”), that is fair and reasonable. 20
- (2) The amount of compensation must reflect only the loss directly resulting from the damage, destruction or theft of the property, and in particular must not reflect any consequential loss resulting from it.
- (3) The Secretary of State may make regulations setting out—
- (a) considerations that decision-makers must take into account in deciding the amount that reflects the claimant’s loss, 25
- (b) other factors that may affect the amount of compensation to be paid, and
- (c) the process for deciding and paying compensation.
- (4) Regulations under subsection (3)(a) may also make provision about— 30
- (a) the appropriate method for deciding the amount of compensation for different types of property or different types of damage;
- (b) the effect of the property being insured (or partially insured) on the amount of compensation.
- (5) Regulations under subsection (3)(b) may in particular provide for— 35
- (a) the amount of compensation to be increased to reflect costs or expenses incurred by the claimant in making a claim;
- (b) the amount of compensation to be decreased to reflect the costs of administering the compensation scheme;
- (c) the amount of compensation to be decreased, or for no compensation to be awarded, where the decision-maker considers this appropriate in view of any act or omission of the claimant; 40

- (d) a claim to be refused where the decision-maker believes that the claim, or any other claim made by the claimant, is fraudulent (to any extent).
- (6) Regulations under subsection (3)(c) may in particular –
- (a) provide for a claim to lapse where a claimant fails to provide the required details or evidence; 5
 - (b) provide for interim payments to be made before a claim is finally decided;
 - (c) provide for the payment of compensation in instalments;
 - (d) provide that, instead of monetary compensation, the decision-maker may arrange for repairs to be carried out on property that has been damaged, at the expense of the appropriate local policing body; 10
 - (e) make provision about administrative requirements that must be satisfied before any payment is made or repairs carried out.
- (7) *The appropriate local policing body must pay to the claimant the amount of compensation decided under this section.* 15
- (8) The Secretary of State may by regulations change the amount of the compensation cap for the time being specified in subsection (1).

9 Reviews and appeals

- The Secretary of State must make regulations giving a person affected by a decision under section 7 or 8 – 20
- (a) a right to request a review of the decision;
 - (b) a right to appeal against the decision, or any decision following a review by virtue of paragraph (a).

General

10 Repeal of Riot (Damages) Act 1886 and consequential amendments etc 25

- (1) The Riot (Damages) Act 1886 is repealed.
- (2) In section 235 of the Merchant Shipping Act 1995 (liability for damage in case of plundered vessel) –
- (a) in subsection (2) –
 - (i) for “compensation authority” substitute “appropriate local policing body”; 30
 - (ii) for “Riot (Damages) Act 1886” substitute “Riot Compensation Act 2015”;
 - (b) after subsection (2) insert –
 - “(2A) In subsection (2), “appropriate local policing body” has the same meaning as in the Riot Compensation Act 2015 (see section 1(3) of that Act).” 35
- (3) Omit the following provisions –
- (a) in the table in Schedule 9 to the Police Act 1964, the entry relating to the Riot (Damages) Act 1886; 40
 - (b) section 10(1) of the Public Order Act 1986;
 - (c) paragraphs 9 to 11 of Schedule 7 to the Police Act 1996;
 - (d) paragraph 6 of Schedule 27 to the Greater London Authority Act 1999;

- (e) paragraph 61 of Schedule 16 to the Police Reform and Social Responsibility Act 2011.

11 Regulations

- (1) Regulations under this Act are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under this Act, other than— 5
- (a) regulations under section 2(4) which restrict, or are capable of restricting, the categories of property in respect of which a claim may be made,
 - (b) regulations under section 8(8) which reduce the amount of the compensation cap, and 10
 - (c) regulations under section 12(1) (commencement regulations),
- is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing regulations described in subsection (2)(a) or (b) may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House. 15
- (4) Regulations under this Act may —
- (a) make different provision for different purposes;
 - (b) make different provision for different areas;
 - (c) make transitional, transitory or saving provision; 20
 - (d) make incidental, supplementary or consequential provision.

12 Commencement, extent and short title

- (1) Sections 1 to 10 and the Schedule come into force on whatever day or days the Secretary of State by regulations appoints.
- (2) This section and section 11 come into force on the day on which this Act is passed. 25
- (3) This Act extends to England and Wales.
- (4) This Act may be cited as the Riot Compensation Act 2016.

SCHEDULE

Section 2

MOTOR VEHICLES IN RESPECT OF WHICH CLAIMS MAY BE MADE

Vehicles not insured for riot damage

- 1 A motor vehicle falls within this paragraph if, at the time of the riot –
- (a) it was covered by a policy of insurance or a security in respect of third party risks that complied with the requirements of Part 6 of the Road Traffic Act 1988, but was not covered, or (disregarding any excess) not adequately covered, in respect of the damage, destruction or theft resulting from the riot, and 5
 - (b) the appropriate amount of vehicle excise duty had been paid in respect of the vehicle. 10

Vehicles not insured because exempt from insurance requirement

- 2 A motor vehicle falls within this paragraph if, at the time of the riot –
- (a) it fell within one of the exceptions to the requirements of Part 6 of the Road Traffic Act 1988 mentioned in section 144(1) or (2) of that Act, 15
 - (b) it was not covered by a policy of insurance or security in respect of the damage, destruction or theft resulting from the riot, and
 - (c) the appropriate amount of vehicle excise duty had been paid in respect of the vehicle.

Vehicles not kept or used on public road 20

- 3 A motor vehicle falls within this paragraph if, at the time of the riot, the condition mentioned in section 144B(5) or (6A) of the Road Traffic Act 1988 was met in respect of the vehicle (vehicle not kept or used on public road).

Vehicles part of stock in trade

- 4 A motor vehicle falls within this paragraph if, at the time of the riot, it was part of the stock in trade of a business. 25

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