



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 5

CRIMINAL JUSTICE

Miscellaneous

113 Compensation for miscarriages of justice

(1) In section 133 of the Criminal Justice Act 1988 (c.33) (compensation for miscarriages of justice)—

(a) after subsection (1) insert—

“(1A) The Scottish Ministers may by order provide for—

- (a) further circumstances in respect of which a person (or, if dead, the person’s representatives) may be paid compensation for a miscarriage of justice,
- (b) circumstances in respect of which a person (or, if dead, the person’s representatives) may be paid compensation for wrongful detention prior to acquittal or a decision by the prosecutor to take no proceedings (or to discontinue proceedings).”

(b) after subsection (2) insert—

“(2AA) Such an application requires to be made within the period of 3 years starting with—

- (a) in the case of compensation under subsection (1), the date on which the conviction is reversed or (as the case may be) the person is pardoned,
- (b) in the case of compensation under subsection (1A), whichever is relevant of—
 - (i) that date, or

Status: This is the original version (as it was originally enacted).

(ii) the date on which the person is acquitted or the relevant decision is made known to the person.

(2AB) The Scottish Ministers may accept such an application outwith that time limit if they think it is appropriate in exceptional circumstances to do so.”

- (c) in subsection (4A), after paragraph (a) insert—
 - “(aa) the seriousness of the offence with which the person was charged or detained (but in respect of which offence the person was not convicted);”
 - (d) after subsection (4A) insert—
 - “(4B) The assessor must also have particular regard to any guidance issued by the Scottish Ministers for the purposes of this section.”
 - (e) in subsection (5)—
 - (i) after “quashed” insert “(or set aside)”,
 - (ii) the word “or” where it occurs immediately after each of paragraphs (a), (b) and (c) is repealed, and
 - (iii) after paragraph (d) add “; or
 - (e) under section 188(1)(b) of the Criminal Procedure (Scotland) Act 1995.”
 - (f) after subsection (6) insert—
 - “(6A) For the purposes of this section, a person suffers punishment as a result of conviction also where (in relation to the conviction) the court imposes some other disposal including by way of—
 - (a) making a probation order, or
 - (b) discharging the person absolutely.”
 - (g) after subsection (7) insert—
 - “(8) The power to make an order under subsection (1A) is exercisable by statutory instrument.
 - (9) A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.”
- (2) In Schedule 12 to that Act (assessors of compensation for miscarriages of justice), in paragraph 1—
- (a) immediately after sub-paragraph (c), insert “or”, and
 - (b) sub-paragraph (e) and the word “or” immediately preceding it are repealed.