
STATUTORY INSTRUMENTS

1994 No. 2795

The Criminal Justice (Northern Ireland) Order 1994

PART II

FINES AND PENALTIES

Compensation orders

Compensation orders against convicted persons

14.—(1) Subject to the provisions of this Article, a court by or before which a person is convicted of an offence, instead of or in addition to dealing with him in any other way, may, on application or otherwise, make an order (in this Article and Articles 15 to 17 referred to as “a compensation order”) requiring him to pay compensation for any personal injury, loss or damage resulting from that offence or any other offence which is taken into consideration by the court in determining sentence or to make payments for funeral expenses or bereavement in respect of a death resulting from any such offence, other than a death due to an accident arising out of the presence of a motor vehicle on a road; and a court shall give reasons, on passing sentence, if it does not make such an order in a case where this Article empowers it to do so.

(2) Compensation under paragraph (1) shall be of such amount as the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the offender or the prosecution.

(3) In the case of an offence under the Theft Act (Northern Ireland) 1969^{F1} [^{F2}or Article 172^{F3}, 172A or 172B] of the Road Traffic (Northern Ireland) Order 1981^{F4}, where the property in question is recovered, any damage to the property occurring while it was out of the owner's possession shall be treated for the purposes of paragraph (1) as having resulted from the offence, however and by whomsoever the damage was caused.

(4) A compensation order may only be made in respect of injury, loss or damage (other than loss suffered by a person's dependants in consequence of his death) which was due to an accident arising out of the presence of a motor vehicle on a road, if—

- (a) it is in respect of damage which is treated by paragraph (3) as resulting from an offence under the Theft Act (Northern Ireland) 1969^{F5} [^{F6}or Article 172^{F3}, 172A or 172B] of the Road Traffic (Northern Ireland) Order 1981^{F7}; or
- (b) it is in respect of injury, loss or damage as respects which—
 - (i) the offender is uninsured in relation to the use of the vehicle; and
 - (ii) compensation is not payable under any arrangements to which the Department of the Environment is a party;

and, where a compensation order is made in respect of injury, loss or damage due to such an accident, the amount to be paid may include an amount representing the whole or part of any loss of or reduction in preferential rates of insurance attributable to the accident.

Status: Point in time view as at 15/01/2007.

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(5) A vehicle the use of which is exempted from insurance by Article 90(2) or (3) of the Road Traffic (Northern Ireland) Order 1981 is not uninsured for the purposes of paragraph (4).

(6) A compensation order in respect of funeral expenses may be made for the benefit of anyone who incurred the expenses.

(7) A compensation order in respect of bereavement may only be made for the benefit of a person for whose benefit a claim for damages for bereavement could be made under Article 3A of the Fatal Accidents (Northern Ireland) Order 1977^{F8}.

(8) The amount of compensation in respect of bereavement shall not exceed the amount for the time being specified in Article 3A(3) of the Fatal Accidents (Northern Ireland) Order 1977.

(9) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, the court shall—

- (a) have regard to his means so far as they appear or are known to the court; and
- (b) in a case where it is proposed to make against him both a compensation order and a confiscation order under the^{F9} Proceeds of Crime (Northern Ireland) Order 1996], also have regard to its duty under Article^{F9} 12(8)] of that Order (duty where the court considers that the offender's means are insufficient to satisfy both orders in full to order the payment out of sums recovered under the confiscation order of sums due under the compensation order).

^{F10}(9A) For the purposes of any order under Article 35 of the Criminal Justice (Children) (Northern Ireland) Order 1998 against the parent or guardian of a child—

- (a) paragraphs (9)(a) and (10)(b) shall have effect (so far as applicable) as if any reference to the means of the person against whom the compensation order is made were a reference to the means of the parent or guardian; but
- (b) for the purposes of any such order made against an authority (within the meaning of that Order) paragraphs (9) and (10) shall not apply.]

(10) Where the court considers—

- (a) that it would be appropriate both to impose a fine and to make a compensation order; but
- (b) that the offender has insufficient means to pay both an appropriate fine and appropriate compensation,

the court shall give preference to compensation (though it may impose a fine as well).

(11) The compensation to be paid under a compensation order made by a magistrates' court in respect of any offence of which the court has convicted the offender shall not exceed £5,000^{F11} or, if the offender is under the age of^{F12} 18], £1,000]; and the compensation or total compensation to be paid under a compensation order or compensation orders made by a magistrates' court in respect of any offence or offences taken into consideration in determining sentence shall not exceed the difference (if any) between the amount or total amount which under this paragraph is the maximum for the offence or offences of which the offender has been convicted and the amount or total amounts (if any) which are in fact ordered to be paid in respect of that offence or those offences.

(12) A compensation order shall be enforceable—

- (a) if made by a magistrates' court, in the same manner as any other sum adjudged to be paid by a conviction of that court;
- (b) if made by any other court, in the same manner as any fine which has been or might have been imposed, in respect of the offence for which the person has been convicted, by the court making the order.

F1 1969 c. 16 (NI)

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- F2** By Fraud Act 2006 (c. 35), ss. 14(1), 15(1), **Sch. 1 para. 26**, it is provided that in art. 14(3) for "or Article 172 of the Road Traffic (Northern Ireland) Order 1981" there shall be substituted ", Article 172 of the Road Traffic (Northern Ireland) Order 1981 or the Fraud Act 2006" (the said substitution being in force 15.1.2007 by S.I. 2006/3200, **art. 2**)
- F3** 2004 NI 15
- F4** 1981 NI 1
- F5** 1969 c. 16 (NI)
- F6** By Fraud Act 2006 (c. 35), ss. 14(1), 15(1), **Sch. 1 para. 26**, it is provided that in art. 14(4)(a) for "or Article 172 of the Road Traffic (Northern Ireland) Order 1981" there shall be substituted ", Article 172 of the Road Traffic (Northern Ireland) Order 1981 or the Fraud Act 2006" (the said substitution being in force 15.1.2007 by S.I. 2006/3200, **art. 2**)
- F7** 1981 NI 1
- F8** 1977 NI 18
- F9** 1996 NI 9
- F10** 1998 NI 9
- F11** 1998 NI 9
- F12** 2002 c. 26

Modifications etc. (not altering text)

- C1** Art. 14(1) modified by Waste and Contaminated Land (Northern Ireland) Order 1997 (S.I. 1997/2778 (N.I. 19)), art. 5C(2) (as inserted (25.6.2007) by Waste (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/611 (N.I. 3)), arts. 1(3), **7(1)** (with art. 7(2)); S.R. 2007/294, **art. 2**, Sch.)
- C2** Art. 14(11) modified by Waste and Contaminated Land (Northern Ireland) Order 1997 (S.I. 1997/2778 (N.I. 19)), art. 5C(3) (with art. 5C(4)) (as inserted (25.6.2007) by Waste (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/611 (N.I. 3)), arts. 1(3), **7(1)** (with art. 7(2)); S.R. 2007/294, **art. 2**, Sch.)

Enforcement and appeals

15.—(1) A person in whose favour a compensation order is made shall not be entitled to receive the amount due to him until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

(2) Rules of court, Crown Court rules, county court rules and magistrates' court rules may make provision regarding the way in which a court is to deal with money paid in satisfaction of a compensation order where the entitlement of the person in whose favour it was made is suspended.

(3) Where a compensation order has been made against any person in respect of an offence taken into consideration in determining his sentence—

- (a) the order shall cease to have effect if he successfully appeals against his conviction of the offence or, if more than one, all the offences, of which he was convicted in the proceedings in which the order was made;
- (b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence or, if more than one, any of the offences, of which he was so convicted.

Review of compensation orders

16. Without prejudice to section 49(2) of the Judicature (Northern Ireland) Act 1978^{F13} and Article 91 of the Magistrates' Courts (Northern Ireland) Order 1981^{F14}, at any time before the person against whom a compensation order has been made has paid into court the whole of the compensation which the order requires him to pay, but at a time when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside, the court for the time being having functions in relation to the enforcement of

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the order may, on the application of the person against whom it was made, discharge the order, or reduce the amount which remains to be paid, if it appears to the court—

- (a) that the means of the person against whom the order was made are insufficient to satisfy in full both the order and a confiscation order under the^{F15} Proceeds of Crime (Northern Ireland) Order 1996^{F16} or Part 4 of the Proceeds of Crime Act 2002^{F16} made against him in the same proceedings; or
- (b) that the person against whom the order was made has suffered a substantial reduction in his means which was unexpected at the time when the compensation order was made, and that his means seem unlikely to increase for a considerable period.

F13 1978 c. 23
F14 1981 NI 26
F15 1996 NI 9
F16 2002 c. 29

Effect of compensation order on subsequent award of damages in civil proceedings

17.—(1) This Article shall have effect where a compensation order or a service compensation order or award has been made in favour of any person in respect of any injury, loss or damage and a claim by him in civil proceedings for damages in respect of the injury, loss or damage subsequently falls to be determined.

(2) The damages in the civil proceedings shall be assessed without regard to the order or award; but the plaintiff may only recover an amount equal to the aggregate of the following—

- (a) any amount by which they exceed the compensation; and
- (b) a sum equal to any portion of the compensation which he fails to recover,

and may not enforce the judgment, so far as it relates to a sum such as is mentioned in subparagraph (b), without the leave of the court.

(3) In this Article a “service compensation order or award” means—

- (a) an order requiring the payment of compensation under paragraph 11 of Schedule 5A to the Army Act 1955^{F17}, of Schedule 5A to the Air Force Act 1955^{F18} or of Schedule 4A to the Naval Discipline Act 1957^{F19}; or
- (b) an award of stoppages payable by way of compensation under any of those Acts.

F17 1955 c. 18
F18 1955 c. 19
F19 1957 c. 53

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