

- (a) to compensate a person to the extent required by Article 5(5) of the Convention, or
- (b) to compensate a person for a judicial act that is incompatible with Article 6 of the Convention in circumstances where the person is detained and, but for the incompatibility, the person would not have been detained or would not have been detained for so long.”.

(2) The amendment made by paragraph (1) applies in relation to judicial acts occurring before (as well as to those occurring after) this Order comes into force.

Date _____
Name _____
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Human Rights Act 1998 (“HRA”) to address a finding of the European Court of Human Rights of a breach of Article 13 of the European Convention on Human Rights (“Convention”) in the case of *Hammerton v United Kingdom* (Application no. 6287/10).

Article 2 of the Order amends section 9 HRA. Section 9(3) HRA provides that in proceedings under the HRA in respect of a judicial act done in good faith, damages may not be awarded, other than to compensate a person to the extent required by Article 5(5) of the Convention.

Article 2 of the Order enables damages to be awarded under the HRA in respect of a judicial act done in good faith where the judicial act is incompatible with Article 6, and the breach of Article 6 causes the person to be (i) detained when they would not otherwise have been, or (ii) subjected to a longer period of detention than had the breach not been committed.

Article 2 of the Order also provides that the amendments to section 9 HRA apply to judicial acts that occurred before, as well as after, the date on which this Order comes into force.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

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