



Administration of Justice Act 1985

1985 CHAPTER 61

PART V

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous

63 Limitation of damages in respect of acts by resident magistrates etc. in Northern Ireland

(1) Where in any action brought against a resident magistrate or other justice of the peace in respect of anything done by him in the execution or purported execution of his office as such a magistrate or justice the plaintiff would (apart from this section) be entitled to recover—

- (a) damages in respect of any sum paid or levied under a conviction or order ; or
- (b) damages in respect of his imprisonment under a conviction or order; or
- (c) damages in respect of his detention, or any other restriction of liberty imposed on him, under an order made under any of the enactments mentioned in subsection (2),

then, if this section applies to the recovery of any such damages by virtue of subsection (3), (4) or (5), the plaintiff shall not be entitled to recover the amount of the sum so paid or levied or (as the case may be) to recover any sum beyond the sum of one penny as damages in respect of any such imprisonment, detention or restriction of liberty as aforesaid, and shall not be entitled to any costs.

(2) The enactments referred to in subsection (1)(c) are—

- (a) section 48 of the Mental Health Act (Northern Ireland) 1961 (hospital and guardianship orders);
- (b) section 5(1) of the Treatment of Offenders Act (Northern Ireland) 1968 (detention in a young offenders centre);
- (c) section 74(1)(a), (b) and (e) of the Children and Young Persons Act (Northern Ireland) 1968 (powers of courts on finding of guilt of juvenile offenders);

Status: This is the original version (as it was originally enacted).

- (d) section 75 of that Act (power to commit juveniles in default to remand homes); and
 - (e) section 140(2) of, and paragraph 11 of Schedule 5 to, that Act (orders made in the case of persons subject to training school orders).
- (3) This section shall apply to the recovery of any such damages as are mentioned in subsection (1)(a) if the court is satisfied that the plaintiff was guilty of the offence of which he was convicted or (as the case may be) that he was liable by law to pay the sum he was ordered to pay.
- (4) This section shall apply to the recovery of any such damages as are mentioned in subsection (1)(b) if the court is satisfied—
- (a) where the plaintiff was imprisoned following a conviction, that he was guilty of the offence of which he was convicted; or
 - (b) where the plaintiff was imprisoned for any default—
 - (i) that he was by law liable to pay the sum of money he was ordered to pay or (as the case may be) required to do or abstain from doing something other than the payment of money, and
 - (ii) that any such liability had not been discharged or any such requirement had not been complied with;
 and in addition that the duration of his imprisonment did not exceed the maximum term of imprisonment prescribed by law for the offence or default in question.
- (5) This section shall apply to the recovery of any such damages as are mentioned in subsection (1)(c) if the court is satisfied—
- (a) in the case of an order made under section 48 of the Mental Health Act (Northern Ireland) 1961, that the plaintiff—
 - (i) was guilty of the offence of which he was convicted or (as the case may be) did any such act or made any such omission as is referred to in subsection (2) of that section, and
 - (ii) (in either case) was suffering at the time when the order was made from any such mental disorder as is referred to in subsection (1) of that section ; or
 - (b) in the case of an order made following a conviction or other finding of guilt (not being an order falling within paragraph (a)), that the plaintiff was guilty of the offence of which he was convicted or found guilty ; or
 - (c) in the case of an order made following any default, that sub-paragraphs (i) and (ii) of subsection (4)(b) are applicable in relation to the plaintiff; or
 - (d) in the case of an order made under either of the provisions referred to in subsection (2)(e), that the conduct of the plaintiff leading to the making of the order was such as to warrant the making of an order of that nature by a court having power to do so ;
- and in addition, where the duration of any detention or other restriction of liberty that could be ordered in pursuance of the enactment in question following any such conviction, finding of guilt, default or conduct as aforesaid was subject to any limit prescribed by law, that the duration of the detention or other restriction undergone by the plaintiff under the order did not exceed that limit.
- (6) Any reference in subsection (1), in relation to the plaintiff in an action, to his imprisonment or detention or to any other restriction of liberty imposed on him as mentioned in that subsection includes a reference to any act done by any person in

connection with carrying out the sentence or order resulting in that imprisonment, detention or restriction of liberty, as the case may be.

- (7) The provisions of this section shall apply in relation to—
- (a) a county court judge sitting in connection with an appeal under Part XII of the Magistrates' Courts (Northern Ireland) Order 1981; or
 - (b) a member of a panel formed under paragraph 1 of Schedule 2 to the Children and Young Persons Act (Northern Ireland) 1968 (juvenile court panels),
- as they apply in relation to a resident magistrate.

- (8) In this section—

"default" means failure to pay, or want of sufficient distress to satisfy, any fine or other sum of money, or failure to do or abstain from doing anything required to be done or left undone ;

"resident magistrate" means a resident magistrate or deputy resident magistrate appointed under Part II of the Magistrates' Courts Act (Northern Ireland) 1964 ;

and any reference to an order made under any enactment includes a reference to an order purporting to be made under that enactment.