



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 5

CRIMINAL JUSTICE

Miscellaneous

115 Compensation orders

- (1) In section 249 of the 1995 Act (compensation order against convicted person)—
- (a) in subsection (1)—
 - (i) for “Subject to subsections (2) and (4) below, where” substitute “Where”, and
 - (ii) after “compensation” where it second occurs insert “in favour of the victim”,
 - (b) after subsection (1A) insert—

“(1B) Where a person is convicted of an offence, the court may (instead of or in addition to dealing with the person in any other way), in accordance with subsections (3A) to (3C), make a compensation order requiring the convicted person to pay compensation in favour of—

 - (a) the victim, or
 - (b) a person who is liable for funeral expenses in respect of which subsection (3C)(b) allows a compensation order to be made.
- (1C) For the purposes of subsection (1B)(a), “victim” means—
- (a) a person who has suffered personal injury, loss or damage in respect of which a compensation order may be made by virtue of subsection (3A), or
 - (b) a relative (as defined in Schedule 1 to the Damages (Scotland) Act 1976 (c.13)) who has suffered bereavement in respect of which subsection (3C)(a) allows a compensation order to be made.”

Status: This is the original version (as it was originally enacted).

(c) after subsection (3) insert—

“(3A) A compensation order may be made in respect of personal injury, loss or damage (apart from loss suffered by a person’s dependents in consequence of a person’s death) that was caused directly or indirectly by an accident arising out of the presence of a motor vehicle on a road if—

- (a) it was being used in contravention of section 143(1) of the Road Traffic Act 1988 (c.52), and
- (b) no compensation is payable under arrangements to which the Secretary of State is a party.

(3B) Where a compensation order is made by virtue of subsection (3) or (3A), the order may include an amount representing the whole or part of any loss of (including reduction in) preferential rates of insurance if the loss is attributable to the accident.

(3C) A compensation order may be made—

- (a) for bereavement in connection with a person’s death resulting from the acts which constituted the offence,
 - (b) for funeral expenses in connection with such a death,
- except where the death was due to an accident arising out of the presence of a motor vehicle on a road.”

(d) in subsection (4)—

- (i) for “No” substitute “Unless (and to the extent that) subsections (3) to (3C) allow a compensation order to be made, no”, and
- (ii) in paragraph (b), the words from “, except” to the end are repealed,

(e) subsection (6) is repealed, and

(f) after subsection (8) insert—

“(8A) In summary proceedings before the sheriff, where the fine or maximum fine to which a person is liable on summary conviction of an offence exceeds the prescribed sum, the sheriff may make a compensation order awarding in respect of the offence an amount not exceeding the amount of the fine to which the person is so liable.”

(2) In section 251 of that Act (review of compensation order)—

- (a) paragraph (a) of subsection (1) is repealed, and
- (b) after subsection (1) insert—

“(1A) On the application of the prosecutor at any time before a compensation order has been complied with (or fully complied with), the court may increase the amount payable under the compensation order if it is satisfied that the person against whom it was made—

- (a) because of the availability of materially different information about financial circumstances, has more means than were made known to the court when the order was made, or
- (b) because of a material change of financial circumstances, has more means than the person had then.”