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STATUTORY INSTRUMENTS

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**1994 No. 2795**

**The Criminal Justice (Northern Ireland) Order 1994**

**PART II**

**FINES AND PENALTIES**

*Financial and other penalties*

**Increase of certain maxima**

**3.—(1)** In Article 4(8) of the Fines and Penalties (Northern Ireland) Order 1984 (maximum fine on summary conviction of an offence punishable on conviction on indictment or on summary conviction), in the definition of “prescribed sum” for “£2,000” there shall be substituted “£5,000”.

(2) For Article 5(2) of the Fines and Penalties (Northern Ireland) Order 1984 (standard scale of fines) there shall be substituted—

“(2) The standard scale is shown below—

<i>Level on the scale</i>	<i>Amount of fine</i>
1	£200
2	£500
3	£1,000
4	£2,500
5	£5,000”.

(3) In section 72(1) of the Children and Young Persons Act (Northern Ireland) 1968<sup>(1)</sup> (restriction on punishment of a child and young person)—

(a) in paragraph (a) (maximum fine on summary conviction of a child) for “£100” there shall be substituted “£250”;

(b) in paragraph (b) (maximum fine on summary conviction of a young person) for “£400” there shall be substituted “£1,000”.

(4) In the Magistrates' Courts (Northern Ireland) Order 1981<sup>(2)</sup>—

(a) in Article 54(1)(b)(i) (fine in lieu of imprisonment), for “£400” there shall be substituted “level 3 on the standard scale”;

(b) in Article 119(1) (penalty for failure to appear or failure to comply), for “£50” there shall be substituted “level 4 on the standard scale”.

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(1) 1968 c. 34 (N.I.)

(2) 1981 NI 26

(5) In the statutory provisions specified in column 1 of Schedule I (the general description of which is given in column 2 of that Schedule), for the amount specified in column 3 of that Schedule there shall be substituted the amount specified in column 4 of that Schedule.

#### **Period of imprisonment for default**

4.—(1) In section 35 of the Criminal Justice Act (Northern Ireland) 1945<sup>(3)</sup> (powers of Crown Court or county courts in relation to fines and forfeited recognizances) for subsection (2) there shall be substituted—

“(2) The periods set out in the second column of the following Table shall be the maximum periods of imprisonment or detention which may be fixed under subsection (1) (c) applicable respectively to the amounts set out opposite thereto—

**TABLE**

An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days
An amount exceeding £2,500 but not exceeding £5,000	3 months
An amount exceeding £5,000 but not exceeding £10,000	6 months
An amount exceeding £10,000 but not exceeding £20,000	12 months
An amount exceeding £20,000 but not exceeding £50,000	18 months
An amount exceeding £50,000 but not exceeding £100,000	2 years
An amount exceeding £100,000 but not exceeding £250,000	3 years
An amount exceeding £250,000 but not exceeding £1 million	5 years
An amount exceeding £1 million	10 years <sup>2</sup> .

(2) For the Table in paragraph 1 of Schedule 3 to the Magistrates' Courts (Northern Ireland) Order 1981<sup>(4)</sup> (maximum periods of imprisonment for default in paying sums adjudged to be paid by a conviction), there shall be substituted the following Table—

<sup>(3)</sup> 1945 c. 15 (N.I.)

<sup>(4)</sup> 1981 NI 26

**“TABLE**

An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days
An amount exceeding £2,500 but not exceeding £5,000	3 months
An amount exceeding £5,000 but not exceeding £10,000	6 months
An amount exceeding £10,000	12 months”.

**Fines on companies**

5.—(1) After section 35(4) of the Criminal Justice Act (Northern Ireland) 1945<sup>(5)</sup> (powers of Crown Court or county courts in relation to fines and forfeited recognizances) there shall be inserted—

“(4A) Where—

- (a) the Crown Court has imposed a fine on a company; and
- (b) the court has issued a warrant of distress under section 3 of the Fines Act (Ireland) 1851 for the purpose of levying the amount of the fine; and
- (c) it appears on the return to the warrant that the money and goods of the company are insufficient to satisfy the amount of the fine with the costs and charges of levying the same,

the chief clerk may make an application in relation to the company under Article 22 or 104 of the Insolvency (Northern Ireland) Order 1989 (administration or winding up).”.

(2) After Article 92 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(6)</sup> there shall be inserted—

**“Fines imposed on companies**

92A.—(1) Where—

- (a) a magistrates' court has, or is treated by any statutory provision as having, adjudged a company by a conviction to pay a sum; and
- (b) the court has issued a warrant of distress under Article 92(1)(a) for the purpose of levying the sum; and
- (c) it appears on the return to the warrant that the money and goods of the company are insufficient to satisfy the sum with the costs and charges of levying the same,

the clerk of petty sessions may make an application in relation to the company under Article 22 or 104 of the Insolvency (Northern Ireland) Order 1989 (administration or winding up).”.

<sup>(5)</sup> 1945 c. 15 (N.I.)

<sup>(6)</sup> 1981 NI 26

*Maximum fines under instruments***Fines on summary conviction for offences punishable on indictment or on summary conviction under instruments**

6.—(1) For any offence punishable on conviction on indictment or on summary conviction being an offence created by an instrument made before the coming into operation of this Article under any relevant provision, the maximum fine which may be imposed on summary conviction shall by virtue of this paragraph be the statutory maximum unless the offence is one for which by virtue of the instrument a larger maximum fine may be imposed on summary conviction.

(2) Where apart from this Article the maximum fine would be one amount in the case of a first conviction and a different amount in the case of a second or subsequent conviction, paragraph (1) shall apply irrespective of whether the conviction is a first, second or subsequent one.

(3) Paragraph (1) shall not affect so much of any instrument as (in whatever words) makes a person liable on summary conviction to a fine of a specified amount or to a fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued.

(4) Where there is under any relevant provision (however framed or worded) passed or made before the coming into operation of this Article a power by instrument to impose penal provisions, being a power which allows the creation of offences punishable on conviction on indictment or on summary conviction, the maximum fine which may in the exercise of that power be authorised on summary conviction in respect of such an offence shall by virtue of this paragraph be the statutory maximum unless some larger maximum fine can be authorised on summary conviction of such an offence by virtue of a relevant provision passed or made before the coming into operation of this Article.

(5) Where there is under any relevant provision (however framed or worded) passed or made before the coming into operation of this Article a power by instrument to create offences punishable on conviction on indictment or on summary conviction, the maximum fine for such an offence so created may be expressed as a fine not exceeding the statutory maximum.

(6) Paragraph (5) has effect in relation to exercises of powers before as well as after the coming into operation of this Article.

(7) An Order in Council under—

- (a) section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972<sup>(7)</sup>; or
- (b) Schedule 1 to the Northern Ireland Act 1974<sup>(8)</sup> (including this Order);

is not an instrument for the purposes of this Article.

**Offences punishable on summary conviction only under instruments—conversion of references to amounts to references to levels on standard scale**

7.—(1) Where under an instrument to which this paragraph applies the maximum fine on conviction of an offence punishable on summary conviction only specified in the instrument is an amount shown in the second column of the standard scale the reference in the instrument to the amount of the maximum fine shall be construed as a reference to the level in the first column of the standard scale corresponding to that amount.

(7) 1972 c. 22

(8) 1974 c. 28

(2) Paragraph (1) applies to any instrument, not being an Order in Council under Schedule 1 to the Northern Ireland Act 1974<sup>(9)</sup>, made after 31st August 1984 and before the coming into operation of this Article under any relevant provision.

(3) Paragraph (1) shall not affect so much of any instrument as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued.

(4) Where there is—

(a) subject to paragraph (6), under any relevant provision (however framed or worded) passed or made before the coming into operation of this Article,

(b) under any instrument (however framed or worded) made under such a relevant provision, a power by instrument to provide that a person, as regards any offence punishable on summary conviction only (whether or not created by the instrument), shall be liable on conviction to a fine, a person may be so made liable to a fine not exceeding a specified level on the standard scale.

(5) Paragraph (4) has effect in relation to exercises of powers before as well as after the coming into operation of this Article.

(6) An Order in Council under—

(a) section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972<sup>(10)</sup>; or

(b) Schedule 1 to the Northern Ireland Act 1974;

shall not be an instrument for the purposes of paragraph (4)(a).

#### **Powers of harbour authorities to provide for maximum fines up to level 4 on standard scale**

8.—(1) Where in any instrument made—

(a) under any relevant provision; or

(b) under an instrument made under any relevant provision,

a harbour authority may provide that a person, as regards any offence punishable on summary conviction only (whether or not created by the instrument), shall be liable on conviction to a fine not exceeding an amount less than level 4 on the standard scale, the power shall extend by virtue of this Article to making him liable to a fine not exceeding level 4.

(2) Where any relevant provision or instrument made under any relevant provision (“the enabling legislation”) (however expressed) provides that a person who contravenes any provision of an instrument (“a regulatory instrument”) made by a harbour authority—

(a) under the enabling legislation; or

(b) under an instrument made under the enabling legislation,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding an amount less than level 4 on the standard scale, the power conferred by the enabling legislation shall by virtue of this Article enable the harbour authority to provide in a regulatory instrument that a person, as regards any such offence created by the regulatory instrument, shall be liable on summary conviction to a fine not exceeding level 4.

(3) In this Article “harbour authority” has the same meaning as in section 38(1) of the Harbours Act (Northern Ireland) 1970<sup>(11)</sup>.

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<sup>(9)</sup> 1974 c. 28

<sup>(10)</sup> 1972 c. 22

<sup>(11)</sup> 1970 c. 1 (N.I.)

*Miscellaneous***Power to alter certain specified sums**

**9.** For paragraphs (4) and (5) of Article 17 of the Fines and Penalties (Northern Ireland) Order 1984<sup>(12)</sup> there shall be substituted—

“(4) The Secretary of State may by order amend a statutory provision specifying a sum to which this paragraph applies so as to substitute for that sum such other sum as appears to him—

- (a) to be justified by a change in the value of money appearing to him to have taken place since the last occasion on which the sum in question was fixed; or
- (b) to be appropriate to take account of an order which has been made or is proposed to be made altering the statutory maximum or, as the case may be, the standard scale.

(5) Paragraph (4) applies to—

- (a) any sum which is specified as—
  - (i) the maximum fine which may be imposed on summary conviction in respect of an offence punishable on indictment or on summary conviction; and
  - (ii) is higher than the statutory maximum;
- (b) any sum which is specified as—
  - (i) the maximum fine which may be imposed on conviction of an offence punishable on summary conviction only; and
  - (ii) is higher than level 5 on the standard scale.”.

**Alteration of certain penalties**

**10.—(1)** In section 41 of the Foyle Fisheries Act (Northern Ireland) 1952<sup>(13)</sup> (penalty for pollution)—

- (a) in subsection (1) for the words from “on summary conviction” onwards there shall be substituted—

- “(a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.”;

- (b) after subsection (1) there shall be inserted—

“(1A) If in the case of a continuing offence under subsection (1), the offender continues to contravene that subsection, he shall be guilty of a further offence and shall be liable on summary conviction to an additional fine not exceeding one-twentieth of level 5 on the standard scale for each day on which the offence is continued.”.

(2) In section 47 of the Fisheries Act (Northern Ireland) 1966<sup>(14)</sup> (penalty for pollution)—

- (a) in subsection (1) for the words from “on summary conviction” onwards there shall be substituted—

- “(a) on summary conviction, to a fine not exceeding the statutory maximum;

<sup>(12)</sup> 1984 NI 3

<sup>(13)</sup> 1952 c. 5 (N.I.)

<sup>(14)</sup> 1966 c. 17 (N.I.)

- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.”;
- (b) after subsection (1) there shall be inserted—
  - “(1A) If in the case of a continuing offence under subsection (1), the offender continues to contravene that subsection, he shall be guilty of a further offence and shall be liable on summary conviction to an additional fine not exceeding one-twentieth of level 5 on the standard scale for each day on which the offence is continued.”.
- (3) In Article 3(4) of the Criminal Law (Amendment) (Northern Ireland) Order 1977 (penalties for bomb hoaxes)—
  - (a) in sub-paragraph (a) for the words from “three months” onwards there shall be substituted “6 months or to a fine not exceeding the statutory maximum or to both”;
  - (b) in sub-paragraph (b) for “five years” there shall be substituted “7 years or to a fine or to both”.

### *Forfeiture*

#### **Power to deprive offenders of property used, or intended for use, for purposes of crime**

**11.—(1)** Subject to the following provisions of this Article, where a person is convicted of an offence and—

- (a) the court by or before which he is convicted is satisfied that any property which has been lawfully seized from him or which was in his possession or under his control at the time when he was apprehended for the offence or when a summons in respect of it was issued—
  - (i) has been used for the purpose of committing, or facilitating the commission of, any offence; or
  - (ii) was intended by him to be used for that purpose; or
- (b) the offence, or an offence which the court has taken into consideration in determining his sentence, consists of unlawful possession of property which—
  - (i) has been lawfully seized from him; or
  - (ii) was in his possession or under his control at the time when he was apprehended for the offence of which he has been convicted or when a summons in respect of that offence was issued,

the court may make an order under this Article in respect of that property, and may do so whether or not it also deals with the offender in respect of the offence in any other way and without regard to any restrictions on forfeiture in a relevant provision.

(2) In considering whether to make such an order in respect of any property a court shall have regard—

- (a) to the value of the property; and
  - (b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).
- (3) Where a person commits an offence to which this paragraph applies by—
- (a) driving, attempting to drive or being in charge of a vehicle, or
  - (b) failing to comply with a requirement made under Article 146 of the Road Traffic (Northern Ireland) Order 1981<sup>(15)</sup> (failure to provide specimen for analysis or laboratory test) in

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(15) 1981 NI 1

the course of an investigation into whether the offender had committed an offence while driving, attempting to drive or being in charge of a vehicle, or

- (c) failing, as the driver of a vehicle, to comply with Article 175(1) of that Order (duty to stop and give information or report accident),

the vehicle shall be regarded for the purposes of paragraph (1)(a) (and paragraph (7)(b)) as used for the purpose of committing the offence (and for the purpose of committing any offence of aiding, abetting, counselling or procuring the commission of the offence).

(4) Paragraph (3) applies to—

- (a) an offence under the Road Traffic (Northern Ireland) Order 1981 which is punishable with imprisonment,
- (b) an offence of manslaughter, and
- (c) an offence under section 35 of the Offences against the Person Act 1861<sup>(16)</sup> (wanton and furious driving).

(5) Facilitating the commission of an offence shall be taken for the purposes of this Article to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection, and references in this Article to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any statutory provision on the imprisonment of young offenders.

(6) An order under this Article shall operate to deprive the offender of his rights, if any, in the property to which it relates, and the property shall (if not already in their possession) be taken into the possession of the police.

(7) The Police (Property) Act 1897<sup>(17)</sup> shall apply, with the following modifications, to property which is in the possession of the police by virtue of this Article—

- (a) no application shall be made under section 1(1) of that Act by any claimant of the property after the expiration of 6 months from the date on which the order in respect of the property was made under this Article; and
- (b) no such application shall succeed unless the claimant satisfies the court either that he had not consented to the offender having possession of the property or, where an order is made under paragraph (1)(a), that he did not know, and had no reason to suspect, that the property was likely to be used for the purpose mentioned in that sub-paragraph.

(8) In relation to property which is in the possession of the police by virtue of this Article, regulations under section 2(1) of the Police (Property) Act 1897 (disposal of property in cases where the owner of the property has not been ascertained and no order of a competent court has been made with respect thereto) may make provision for disposal in cases where no application by a claimant of the property has been made within the period specified in paragraph (7)(a) or no such application has succeeded.

(9) In this Article “relevant provision” means a provision contained in an Act or Order mentioned in the definition of “relevant provision” in Article 2(2) being such an Act or Order passed or made before this Order is made.

### **Application of proceeds of forfeited property**

**12.**—(1) Where a court makes an order under Article 11 in a case where—

- (a) the offender has been convicted of an offence which has resulted in a person suffering personal injury, loss or damage; or

<sup>(16)</sup> 1861 c. 100

<sup>(17)</sup> 1897 c. 30



(b) any such offence is taken into consideration by the court in determining sentence, the court may also make an order that any proceeds which arise from the disposal of the property and which do not exceed a sum specified by the court shall be paid to that person.

(2) The court may only make an order under this Article if it is satisfied that but for the inadequacy of the means of the offender it would have made a compensation order under which the offender would have been required to pay compensation of an amount not less than the specified amount.

(3) An order under this Article has no effect—

(a) before the end of the period specified in Article 11(7)(a); or

(b) if a successful application under section 1(1) of the Police (Property) Act 1897<sup>(18)</sup> has been made.

### **Forfeiture for drug offences**

**13.** In section 27(1) of the Misuse of Drugs Act 1971<sup>(19)</sup> (forfeiture on conviction of an offence under that Act) after the words “1987 relates” there shall be inserted the words “or a drug trafficking offence, as defined in Article 2(2) of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990”.

### *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<sup>(20)</sup> or Article 172 of the Road Traffic (Northern Ireland) Order 1981<sup>(21)</sup>, 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<sup>(22)</sup> or Article 172 of the Road Traffic (Northern Ireland) Order 1981;<sup>(23)</sup> or

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<sup>(18)</sup> 1897 c. 30

<sup>(19)</sup> 1971 c. 38

<sup>(20)</sup> 1969 c. 16 (N.I.)

<sup>(21)</sup> 1981 NI 1

<sup>(22)</sup> 1969 c. 16 (N.I.)

- (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.

(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<sup>(24)</sup>.

(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 Criminal Justice (Confiscation) (Northern Ireland) Order 1990<sup>(25)</sup>, also have regard to its duty under Article 8(3) 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).
- (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; 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;

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(23) 1981 NI 1  
 (24) 1977 NI 18  
 (25) 1990 NI 17

- (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.

### **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<sup>(26)</sup> and Article 91 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(27)</sup>, 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 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 Criminal Justice (Confiscation) (Northern Ireland) Order 1990<sup>(28)</sup> 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.

### **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,

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(26) 1978 c. 23  
(27) 1981 NI 26  
(28) 1990 NI 17

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<sup>(29)</sup>, of Schedule 5A to the Air Force Act 1955<sup>(30)</sup> or of Schedule 4A to the Naval Discipline Act 1957<sup>(31)</sup>; or
- (b) an award of stoppages payable by way of compensation under any of those Acts.

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<sup>(29)</sup> 1955 c. 18  
<sup>(30)</sup> 1955 c. 19  
<sup>(31)</sup> 1957 c. 53