



Criminal Justice Act 1988

1988 CHAPTER 33

PART VII

COMPENSATION BY COURT AND CRIMINAL INJURIES COMPENSATION BOARD

Powers of court

105 Enforcement of compensation orders

The following sections shall be substituted for sections 36 to 38 of the Powers of Criminal Courts Act 1973—

“36 Enforcement and appeals

- (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 under section 144 of the Magistrates' Courts Act 1980 may make provision regarding the way in which the magistrates' court for the time being having functions (by virtue of section 41(1) of the Administration of Justice Act 1970) in relation to the enforcement of a compensation order is to deal with money paid in satisfaction of the order where the entitlement of the person in whose favour it was made is suspended.
- (3) The Court of Appeal may by order annul or vary any compensation order made by the court of trial, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as varied.
- (4) Where the House of Lords restores a conviction, it may make any compensation order which the court of trial could have made.
- (5) Where a compensation order has been made against any person in respect of an offence taken into consideration in determining his sentence—

Status: This is the original version (as it was originally enacted).

- (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.

37 Review of compensation orders

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 magistrates' 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 injury, loss or damage in respect of which the order was made has been held in civil proceedings to be less than it was taken to be for the purposes of the order; or
- (b) in the case of an order in respect of the loss of any property, that the property has been recovered by the person in whose favour the order was made; or
- (c) 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 Part VI of the Criminal Justice Act 1988 made against him in the same proceedings; or
- (d) 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;

but where the order was made by the Crown Court, a magistrates' court shall not exercise any power conferred by this section in a case where it is satisfied as mentioned in paragraph (c) or (d) above unless it has first obtained the consent of the Crown Court.

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

- (1) This section shall have effect where a compensation order 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; 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 paragraph (b) above, without the leave of the court.”