

Powers of Criminal Courts (Sentencing) Act 2000¹

Part VI

Financial penalties and orders

Compensation orders

130 Compensation orders against convicted persons

(1) 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 Act referred to as a “compensation order”) requiring him—

(a) 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

(b) 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;

but this is subject to the following provisions of this section and to section 131 below.

(2) Where the person is convicted of an offence the sentence for which is fixed by law or falls to be imposed under section 109(2), 110(2) or 111(2) above, subsection (1) above shall have effect as if the words “instead of or” were omitted.

(3) A court shall give reasons, on passing sentence, if it does not make a compensation order in a case where this section empowers it to do so.

¹ http://www.opsi.gov.uk/Acts/acts2000/ukpga_20000006_en_1

(4) Compensation under subsection (1) above 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 accused or the prosecutor.

(5) In the case of an offence under the [1968 c. 60.] Theft Act 1968, 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 subsection (1) above as having resulted from the offence, however and by whomever the damage was caused.

(6) 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 subsection (5) above as resulting from an offence under the [1968 c. 60.] Theft Act 1968; or

(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 Secretary of State is a party.

(7) Where a compensation order is made in respect of injury, loss or damage due to an accident arising out of the presence of a motor vehicle on a road, 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.

(8) A vehicle the use of which is exempted from insurance by section 144 of the [1988 c. 52.] Road Traffic Act 1988 is not uninsured for the purposes of subsection (6) above.

(9) A compensation order in respect of funeral expenses may be made for the benefit of anyone who incurred the expenses.

(10) A compensation order in respect of bereavement may be made only for the benefit of a person for whose benefit a claim for damages for bereavement could be made under section 1A of the [1976 c. 30.] Fatal Accidents Act 1976; and the amount of compensation in respect of bereavement shall not exceed the amount for the time being specified in section 1A(3) of that Act.

(11) 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 have regard to his means so far as they appear or are known to the court.

(12) 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).

131 Limit on amount payable under compensation order of magistrates' court

(1) 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.

(2) 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—

(a) the amount or total amount which under subsection (1) above is the maximum for the offence or offences of which the offender has been convicted; and

(b) the amount or total amounts (if any) which are in fact ordered to be paid in respect of that offence or those offences.

132 Compensation orders: appeals etc

(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 [1980 c. 43.] 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 [1970 c. 31.] 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—

(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.

133 Review of compensation orders

(1) The magistrates' court for the time being having functions in relation to the enforcement of a compensation order (in this section referred to as "the appropriate court") may, on the application of the person against whom the compensation order was made, discharge the order or reduce the amount which remains to be paid; but this is subject to subsections (2) to (4) below.

(2) The appropriate court may exercise a power conferred by subsection (1) above only—

(a) 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 compensation order could be varied or set aside; and

(b) at a time before the person against whom the compensation order was made has paid into court the whole of the compensation which the order requires him to pay.

(3) The appropriate court may exercise a power conferred by subsection (1) above only if it appears to the court—

(a) that the injury, loss or damage in respect of which the compensation 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 a compensation 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 compensation order was made are insufficient to satisfy in full both the order and a confiscation order under Part VI of the [1988 c. 33.] Criminal Justice Act 1988 made against him in the same proceedings; or

(d) that the person against whom the compensation order was made has suffered a substantial reduction in his means which was unexpected at the time when the order was made, and that his means seem unlikely to increase for a considerable period.

(4) Where the compensation order was made by the Crown Court, the appropriate court shall not exercise any power conferred by subsection (1) above in a case where it is satisfied as mentioned in paragraph (c) or (d) of subsection (3) above unless it has first obtained the consent of the Crown Court.

(5) Where a compensation order has been made on appeal, for the purposes of subsection (4) above it shall be deemed—

(a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;

(b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.

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

(1) This section 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, 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.

(3) In this section a “service compensation order or award” means—

(a) an order requiring the payment of compensation under paragraph 11 of Schedule 5A to the [1955 c. 18.] Army Act 1955, of Schedule 5A to the [1955 c. 19.] Air Force Act 1955 or of Schedule 4A to the [1957 c. 53.] Naval Discipline Act 1957; or

(b) an award of stoppages payable by way of compensation under any of those Acts.

Part VII

Further powers of courts

Restitution orders

148 Restitution orders

(1) This section applies where goods have been stolen, and either—

(a) a person is convicted of any offence with reference to the theft (whether or not the stealing is the gist of his offence); or

(b) a person is convicted of any other offence, but such an offence as is mentioned in paragraph (a) above is taken into consideration in determining his sentence.

(2) Where this section applies, the court by or before which the offender is convicted may on the conviction (whether or not the passing of sentence is in other respects deferred) exercise any of the following powers—

(a) the court may order anyone having possession or control of the stolen goods to restore them to any person entitled to recover them from him; or

(b) on the application of a person entitled to recover from the person convicted any other goods directly or indirectly representing the stolen goods (as being the proceeds of any disposal or realisation of the whole or part of them or of goods so

representing them), the court may order those other goods to be delivered or transferred to the applicant; or

(c) the court may order that a sum not exceeding the value of the stolen goods shall be paid, out of any money of the person convicted which was taken out of his possession on his apprehension, to any person who, if those goods were in the possession of the person convicted, would be entitled to recover them from him;

and in this subsection “the stolen goods” means the goods referred to in subsection (1) above.

(3) Where the court has power on a person’s conviction to make an order against him both under paragraph (b) and under paragraph (c) of subsection (2) above with reference to the stealing of the same goods, the court may make orders under both paragraphs provided that the person in whose favour the orders are made does not thereby recover more than the value of those goods.

(4) Where the court on a person’s conviction makes an order under subsection (2)(a) above for the restoration of any goods, and it appears to the court that the person convicted—

(a) has sold the goods to a person acting in good faith, or

(b) has borrowed money on the security of them from a person so acting,

the court may order that there shall be paid to the purchaser or lender, out of any money of the person convicted which was taken out of his possession on his apprehension, a sum not exceeding the amount paid for the purchase by the purchaser or, as the case may be, the amount owed to the lender in respect of the loan.

(5) The court shall not exercise the powers conferred by this section unless in the opinion of the court the relevant facts sufficiently appear from evidence given at the trial or the available documents, together with admissions made by or on behalf of any person in connection with any proposed exercise of the powers.

(6) In subsection (5) above “the available documents” means—

(a) any written statements or admissions which were made for use, and would have been admissible, as evidence at the trial; and

(b) such written statements, depositions and other documents as were tendered by or on behalf of the prosecutor at any committal proceedings.

(7) Any order under this section shall be treated as an order for the restitution of property within the meaning of section 30 of the [1968 c. 19.] Criminal Appeal Act 1968 (which relates to the effect on such orders of appeals).

(8) Subject to subsection (9) below, references in this section to stealing shall be construed in accordance with section 1(1) of the [1968 c. 60.] Theft Act 1968 (read with the provisions of that Act relating to the construction of section 1(1)).

(9) Subsections (1) and (4) of section 24 of that Act (interpretation of certain provisions) shall also apply in relation to this section as they apply in relation to the provisions of that Act relating to goods which have been stolen.

(10) In this section and section 149 below, “goods”, except in so far as the context otherwise requires, includes money and every other description of property (within the meaning of the [1968 c. 60.] Theft Act 1968) except land, and includes things severed from the land by stealing.

(11) An order may be made under this section in respect of money owed by the Crown.

149 Restitution orders: supplementary

(1) The following provisions of this section shall have effect with respect to section 148 above.

(2) The powers conferred by subsections (2)(c) and (4) of that section shall be exercisable without any application being made in that behalf or on the application of any person appearing to the court to be interested in the property concerned.

(3) Where an order is made under that section 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.

(4) Any order under that section made by a magistrates' court shall be suspended—

(a) in any case until the end of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a magistrates' court;

(b) where notice of appeal is given within the period so prescribed, until the determination of the appeal;

but this subsection shall not apply where the order is made under section 148(2)(a) or (b) and the court so directs, being of the opinion that the title to the goods to be restored or, as the case may be, delivered or transferred under the order is not in dispute.