



Jersey

# **CRIMINAL JUSTICE (COMPENSATION ORDERS) (JERSEY) LAW 1994**

## **Official Consolidated Version**

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## CRIMINAL JUSTICE (COMPENSATION ORDERS) (JERSEY) LAW 1994

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Jersey

## **CRIMINAL JUSTICE (COMPENSATION ORDERS) (JERSEY) LAW 1994<sup>1</sup>**

A **LAW** to make new provision to empower the courts to order the payment of compensation by persons convicted of crime and for connected purposes

Commencement [[see endnotes](#)]

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### **1 Interpretation**

In this Law –

“compensation order” has the meaning given by Article 2(1);

“default sentence” has the meaning given by Article 3(1)(c); and

“Youth Court” means the Youth Court continued under Article 24 of the [Criminal Justice \(Young Offenders\) \(Jersey\) Law 2014](#).<sup>2</sup>

### **2 Compensation orders against convicted persons**

- (1) Subject to the provisions of this Law, a court by or before which a person is convicted of an offence, instead of or in addition to dealing with the person in any other way, may, on application or otherwise, make an order (in this Law referred to as a “compensation order”) requiring the person to pay compensation for any personal injury, loss or damage resulting from that offence or to make payments for funeral expenses 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 vehicle on a road.
- (2) Subject to paragraph (3), a compensation order shall be of such amount as the court considers appropriate, having regard to any evidence and any representations that are made by or on behalf of the offender, any person who appears to the court to have suffered any personal injury, loss or damage resulting from the offence for which the offender has been convicted or the Attorney General or the Centenier who presented the offender before the court.<sup>3</sup>
- (3) The compensation to be paid under a compensation order made by the Magistrate’s Court or the Youth Court in respect of any one offence shall not exceed the equivalent amount for the time being of a fine of level 3 on the standard scale of fines.<sup>4</sup>

- (4) In the case of an offence of larceny or any other case involving the dishonest or fraudulent deprivation of an owner of the owner's property, 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 that offence, however and by whomsoever the damage was caused.
- (5) 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 the person's 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 (4) as resulting from an offence of larceny or any other offence involving the dishonest or fraudulent deprivation of an owner of the owner's property; 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 arrangement between the Minister for Justice and Home Affairs and the Motor Insurers' Bureau,
- and, where a compensation order is made in respect of injury, loss or damage due to such an accident, the amount ordered to be paid may include the whole or part of any loss or reduction in preferential rates of insurance attributable to the accident.<sup>5</sup>
- (6) A compensation order in respect of funeral expenses may be made for the benefit of anyone who has incurred the expenses.

### 3 Powers of the court

- (1) Where a court makes a compensation order it may –
- (a) allow time for payment of the amount due under the order;
  - (b) direct that the said amount be paid by instalments of such amount and on such dates as may be specified in the order;
  - (c) subject to paragraph (2), fix a term of imprisonment (in this Law referred to as a "default sentence") which the person liable to make the payment is to undergo if any sum which the person is liable to pay is not duly paid or recovered.
- (2) A default sentence shall not exceed the maximum term of imprisonment within the jurisdiction for the time being of the Magistrate's Court in the case of an order made by –
- (a) the Magistrate's Court;
  - (b) the Youth Court; or
  - (c) the Royal Court on appeal against a decision of the Magistrate's Court.<sup>6</sup>
- (3) Where any person liable to pay a compensation order is sentenced to, or is serving or otherwise liable to serve a term of imprisonment, the court may order that a default sentence shall not begin to run until after the end of the first-mentioned term of imprisonment.
- (4) Where a court makes a compensation order against an offender under the age of 17, the court may, and shall if the offender is under the age of 14, order that the

compensation order be paid, and any default sentence be served, by the parent or guardian of the offender instead of the offender, unless the court is satisfied that –

- (a) the parent or guardian cannot be found; or
  - (b) that it would be unreasonable to make such an order having regard to the circumstances of the case.
- (5) In determining whether to make a compensation order against any person, and in determining the amount to be paid under such an order, the court shall have regard to the person's means so far as they appear or are made known to the court.
- (6) Where the court considers that –
- (a) it would be appropriate both to impose a fine and a compensation order; but
  - (b) 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).

#### **4 Payment of compensation orders**

- (1) Subject to paragraph (2) and Article 5, payment of a compensation order shall be made to the Viscount, who shall give a receipt for the payment and shall remit the payment to the person in whose favour the order was made.
- (2) A person in whose favour a compensation order is made shall not be entitled to receive the amount due to the person until (disregarding any power of a court to extend the time for making an appeal) there is no further possibility of an appeal on which the order could be varied or set aside.
- (3) Where a court by or before which a person has been convicted of an offence has ordered that person to pay a fine as well as a compensation order, the Viscount shall, unless the court which made the order directs otherwise, apply any monies received from that person firstly towards the payment of the compensation order and only after the compensation order has been paid in full shall the Viscount apply monies received from that person towards payment of the fine.

#### **5 Default and enforcement**

- (1) Where any default is made in the payment of a compensation order, the Viscount may take the same proceedings for the enforcement of the order as the Viscount may take in the case of a default in payment of a fine.
- (2) Where a compensation order is made allowing time for payment or directing payment by instalments, the Viscount shall not exercise the Viscount's powers to enforce payment until there is a default in complying with the order.
- (3) Where a compensation order is made directing payment by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.
- (4) Subject to paragraph (5), where a person is imprisoned or otherwise detained in default of the payment of a compensation order, on payment of the amount outstanding to the Viscount or governor of the prison, the order shall cease to have effect and such person shall be released unless the person is in custody for some other cause.<sup>7</sup>

- (5) Nothing in paragraph (4) shall oblige the governor of the prison to accept payment of the amount outstanding under a compensation order or release any person detained in default of payment of such order except between the hours of 8 am and 9 pm.<sup>8</sup>
- (6) Where, after a period of imprisonment or other detention has been imposed on any person in default of the payment of a compensation order, payment is made of part of the amount ordered to be paid, the term of the default sentence shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days of that period of detention less one day as the sum paid bears to the amount ordered to be paid.<sup>9</sup>
- (7) In calculating the reduction required under paragraph (6) any fraction of a day shall not be taken into account.<sup>10</sup>
- (8) The governor of the prison shall pay any sums received under paragraph (4) to the Viscount.<sup>11</sup>

## 6 Appeals

- (1) Without prejudice to Article 24 of the [Court of Appeal \(Jersey\) Law 1961](#), a person against whom a compensation order has been made or a person who has been ordered under Article 3(4) to pay compensation by the Royal Court may appeal to the Court of Appeal against the order, including a default sentence, whether or not the person also appeals against the person's conviction or the sentence imposed for the offence in respect of which the order was made.<sup>12</sup>
- (2) Articles 26 to 30 of the [Court of Appeal \(Jersey\) Law 1961](#) and 32 to 40 of that Law shall apply *mutatis mutandis* to an appeal under paragraph (1) as they apply to an appeal under Article 24 of that Law.
- (3) Without prejudice to Article 33 of the [Criminal Procedure \(Jersey\) Law 2018](#), a person against whom a compensation order is made or a person who has been ordered under Article 3(4) to pay compensation by the Magistrate's Court or the Youth Court may appeal to the Royal Court against the order, including a default sentence, whether or not the person also appeals against the conviction or the sentence imposed for the offence in respect of which the order was made.<sup>13</sup>
- (4) Articles 34, 35 and 36 of the [Criminal Procedure \(Jersey\) Law 2018](#) apply to an appeal under paragraph (3) as they apply to an appeal under Article 33 of that Law.<sup>14</sup>
- (5) Where a notice of appeal or to obtain leave to appeal to the Court of Appeal against a compensation order has been given within the time specified in Article 32(1) of the [Court of Appeal \(Jersey\) Law 1961](#) or the Court of Appeal has, pursuant to paragraph (3) of that Article extended that time, the Viscount shall not take any, or any further steps towards the enforcement of the order until after the appeal has been abandoned or determined.
- (6) Where a notice of appeal against a compensation order to the Royal Court has been lodged within the time specified in Article 34(1) of the [Criminal Procedure \(Jersey\) Law 2018](#) or the Royal Court has, pursuant to paragraph (3) of that Article, directed that a notice of appeal against such an order shall be treated as if given within that period, the Viscount shall not take any or any further steps towards the enforcement of the order until after the appeal has been abandoned or determined.<sup>15</sup>

## **7 Review of compensation orders**

- (1) At any time before a person against whom a compensation order has been made or a person who is ordered to pay compensation under Article 3(4) has paid the Viscount the whole of the compensation which the person is required to pay but at a time (disregarding any power of a court to grant leave to appeal out of time) when there is no further possibility of an appeal on which the compensation order could be varied or set aside, the court which made the compensation order may, on the application of such a person, discharge 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;
  - (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;
  - (c) that the person against whom the order was made or a person who is ordered to pay compensation under Article 3(4) has suffered a substantial reduction in the person's means which was unexpected at the time when the compensation order was made, and that the person's means seem unlikely to increase for a substantial period.<sup>16</sup>
- (1A) At any time before the person against whom a compensation order has been made or a person who is ordered to pay compensation under Article 3(4) has paid to the Viscount the whole of the compensation which the person is required to pay, the court which made the compensation order may, on the application of such a person, vary the time allowed for payment of the amount which remains to be paid, including any date by which any instalment must be paid.<sup>17</sup>
- (2) Where a court varies or discharges a compensation order under paragraph (1) it shall discharge or vary to a like extent any default sentence fixed by that order.<sup>18</sup>

## **8 Effect of compensation order on subsequent award of damages in civil proceedings**

- (1) This Article 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 the person in civil proceedings for damages in respect of the same injury, loss or damage subsequently falls to be determined.
- (2) The damages in the civil proceedings shall be assessed without regard to the compensation 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 the plaintiff fails to recover,
- and may not enforce the judgement, so far as it relates to a sum such as is mentioned in sub-paragraph (b), without the leave of the court.

**9 Citation**

This Law may be cited as the Criminal Justice (Compensation Orders) (Jersey) Law 1994.



## ENDNOTES

### Table of Legislation History

Legislation	Year and Number	Commencement	*Projet No (where applicable)
Criminal Justice (Compensation Orders) (Jersey) Law 1994	<a href="#">L.4/1994</a>	22 April 1994	
Criminal Justice (Compensation Orders) (Amendment) (Jersey) Law 1997	<a href="#">L.39/1997</a>	29 August 1997	
States of Jersey (Amendments and Construction Provisions No. 7) (Jersey) Regulations 2005	<a href="#">R&amp;O.47/2005</a>	9 December 2005	<a href="#">P.61/2005</a>
Connétables (Miscellaneous Provisions – Consequential Amendments) (Jersey) Regulations 2014	<a href="#">R&amp;O.81/2014</a>	1 August 2014 ( <a href="#">R&amp;O.80/2014</a> )	<a href="#">P.78/2014</a>
Criminal Justice (Compensation Orders) (Amendment No. 2) (Jersey) Law 2014	<a href="#">L.46/2014</a>	26 December 2014	<a href="#">P.115/2014</a>
Criminal Justice (Young Offenders) (Consequential Provisions) (Jersey) Regulations 2016	<a href="#">R&amp;O.115/2016</a>	23 November 2016	<a href="#">P.99/2016</a>
Criminal Justice (Compensation Orders) (Amendment No. 3) (Jersey) Law 2017	<a href="#">L.11/2017</a>	13 May 2017	<a href="#">P.2/2017</a>
Criminal Procedure (Consequential and Supplementary Amendments) (Jersey) Regulations 2021	<a href="#">R&amp;O.94/2021</a>	1 October 2021	<a href="#">P.59/2021</a>
States of Jersey (Transfer of Justice Functions – Chief Minister to Justice and Home Affairs) Order 2023	<a href="#">R&amp;O.76/2023</a>	21 September 2023	

\*Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Renumbered Provisions

Original	Current
1(2), (3), (4)	spent, omitted from this revised edition
9	spent, omitted from this revised edition
10	9

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**Table of Endnote References**

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- <sup>1</sup> *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 7) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- <sup>2</sup> *Article 1* amended by R&O.115/2016
- <sup>3</sup> *Article 2(2)* amended by R&O.81/2014
- <sup>4</sup> *Article 2(3)* substituted by L.11/2017
- <sup>5</sup> *Article 2(5)* amended by R&O.76/2023
- <sup>6</sup> *Article 3(2)* substituted by L.46/2014
- <sup>7</sup> *Article 5(4)* substituted by L.39/1997
- <sup>8</sup> *Article 5(5)* substituted by L.39/1997
- <sup>9</sup> *Article 5(6)* inserted by L.39/1997
- <sup>10</sup> *Article 5(7)* inserted by L.39/1997
- <sup>11</sup> *Article 5(8)* inserted by L.39/1997
- <sup>12</sup> *Article 6(1)* amended by L.46/2014
- <sup>13</sup> *Article 6(3)* amended by L.46/2014, R&O.94/2021
- <sup>14</sup> *Article 6(4)* substituted by R&O.94/2021
- <sup>15</sup> *Article 6(6)* amended by R&O.94/2021
- <sup>16</sup> *Article 7(1)* amended by L.46/2014
- <sup>17</sup> *Article 7(1A)* inserted by L.46/2014
- <sup>18</sup> *Article 7(2)* amended by L.46/2014