



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

##### *Compensation*

#### **249 Compensation order against convicted person.**

- (1) [<sup>F1</sup>Where] a person is convicted of an offence the court, instead of or in addition to dealing with him in any other way, may make an order (in this Part of this Act referred to as “a compensation order”) requiring him to pay compensation [<sup>F2</sup>in favour of the victim] for [<sup>F3</sup> any—
- (a) personal injury, loss or damage caused directly or indirectly; or
  - (b) alarm or distress caused directly,
- to the victim.]

[<sup>F4</sup>(1A) For the purposes of subsection (1) above, “victim” means—

- (a) a person against whom; or
- (b) a person against whose property,

the acts which constituted the offence were directed.]

[<sup>F5</sup>(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) 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

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 249 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(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.]

(2) It shall not be competent for a court to make a compensation order—  
(a) where, under section 246(2) of this Act, it makes an order discharging him absolutely;

[<sup>F6</sup>(ab) where, under section 227A of this Act, it imposes a community payback order;]

(c) at the same time as, under section 202 of this Act, it defers sentence.

(3) Where, in the case of an offence involving dishonest appropriation, or the unlawful taking and using of property or a contravention of section 178(1) of the <sup>M1</sup>Road Traffic Act 1988 (taking motor vehicle without authority etc.) the property is recovered, but has been damaged while out of the owner’s possession, that damage, however and by whomsoever it was in fact caused, shall be treated for the purposes of subsection (1) above as having been caused by the acts which constituted the offence.

[<sup>F7</sup>(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.]

(4) [<sup>F8</sup>Unless (and to the extent that) subsections (3) to (3C) allow a compensation order to be made, no] compensation order shall be made in respect of—

(a) loss suffered in consequence of the death of any person; or

(b) injury, loss or damage due to an accident arising out of the presence of a motor vehicle on a road <sup>F9</sup>....

(5) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such order, the court shall take into consideration his means so far as known to the court.

<sup>F10</sup>(6) .....

(7) In solemn proceedings there shall be no limit on the amount which may be awarded under a compensation order.

(8) In summary proceedings—

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 249 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) a sheriff<sup>F11</sup> ... <sup>F12</sup> . . . , shall have power to make a compensation order awarding in respect of each offence an amount not exceeding the prescribed sum;
- (b) a judge of a [<sup>F13</sup>JP court]<sup>F14</sup> ... shall have power to make a compensation order awarding in respect of each offence an amount not exceeding level 4 on the standard scale.

[<sup>F15</sup>(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.]

(9) Payment of any amount under a compensation order shall be made to the clerk of the court who shall account for the amount to the person entitled thereto.

(10) Only the court shall have power to enforce a compensation order.

[<sup>F16</sup>(11) This section is subject to section 34 of the Regulatory Reform (Scotland) Act 2014.]

#### Textual Amendments

- F1** Word in s. 249(1) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 115(1)(a)(i)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F2** Word in s. 249(1) inserted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 115(1)(a)(ii)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F3** Words in s. 249(1) substituted (10.3.2008) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 49(1)(a)**, 84; S.S.I. 2008/42, **art. 3**, Sch.
- F4** S. 249(1A) inserted (10.3.2008) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 49(1)(b)**, 84; S.S.I. 2008/42, **art. 3**, Sch.
- F5** S. 249(1B)(1C) inserted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 115(1)(b)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F6** S. 249(2)(ab) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2)**, 206(1), **Sch. 2 para. 27**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F7** S. 249(3A)-(3C) inserted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 115(1)(c)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F8** Words in s. 249(4) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 115(1)(d)(i)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F9** Words in s. 249(4)(b) repealed (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 115(1)(d)(ii)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F10** S. 249(6) repealed (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 115(1)(e)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F11** Words in s. 249(8)(a) repealed (1.4.2016) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 5 para. 39(6)(a)**; S.S.I. 2016/13, art. 2, sch. (with art. 3)
- F12** Words in s. 249(8)(a) repealed (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009, 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 80**, 84, **Sch. para. 22(a)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F13** Words in s. 249(8)(b) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 80**, 84, **Sch. para. 26(p)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F14** Words in s. 249(8)(b) repealed (1.4.2016) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 5 para. 39(6)(b)**; S.S.I. 2016/13, art. 2, sch. (with art. 3)
- F15** S. 249(8A) inserted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 115(1)(f)**, 206(1); S.S.I. 2011/178, art. 2, sch.

---

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 249 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

**F16** S. 249(11) added (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **sch. 3 para. 12**; S.S.I. 2014/160, art. 2(1)(2), sch.

---

**Modifications etc. (not altering text)**

**C1** S. 249 modified (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), **ss. 34**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch.

---

**Marginal Citations**

**M1** [1988 c.52](#).

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 249 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)