
STATUTORY INSTRUMENTS

1998 No. 1504

The Criminal Justice (Children) (Northern Ireland) Order 1998

PART VI

SENTENCING AND OTHER POWERS

Fines and recognizances

Fines

34. Notwithstanding anything contained in any statutory provision (including a provision of this Order), it shall not be lawful for a court of summary jurisdiction to impose a fine exceeding—

- (a) in the case of a child under the age of 14, level 1 on the standard scale; or
- (b) in the case of any other child, level 3 on the standard scale.

Parent or guardian to pay fine, etc., instead of child

35.—(1) Where a child is found guilty of any offence for the commission of which a fine may be imposed or costs, damages or payment of compensation may be awarded, if the court is of the opinion that the case would be best met by the imposition of a fine or by an award of costs, damages or compensation, whether with or without any other punishment, the court—

- (a) shall if the child is under the age of 16, and
- (b) may in any other case,

order that the fine, costs, damages or compensation be paid by the parent or guardian of the child instead of by the child, unless the court is satisfied that there is good reason for not so doing.

(2) Any sums ordered under this Article to be paid by a parent or guardian may be recovered from him by distress, or he may be imprisoned in default of payment, in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child was charged.

(3) A parent or guardian may appeal against an order under this Article or Article 36—

- (a) if made by a magistrates' court, to the county court; and
- (b) if made by the Crown Court, to the Court of Appeal in accordance with section 9 of the Criminal Appeal (Northern Ireland) Act 1980.

(4) In this Article “compensation” means any compensation for loss under Article 14 of the Criminal Justice (Northern Ireland) Order 1994.

Parent or guardian to enter into recognizance

36.—(1) In the case of a child found guilty of any offence, the court, either in addition to or in lieu of any other order which the court has power to make, may order his parent or guardian to enter into a recognizance as security for his good behaviour.

Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the The Criminal Justice (Children) (Northern Ireland) Order 1998, Cross Heading: Fines and recognizances. (See end of Document for details)

(2) Where the court makes an attendance centre order in respect of any child, it may order his parent or guardian to enter into a recognizance as security for his compliance with that order.

(3) An order under this Article may be made against a parent or guardian who, having been required to attend, has failed to do so, but, except in the circumstances mentioned, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(4) The Magistrates' Courts (Northern Ireland) Order 1981 shall apply in relation to recognizances under paragraph (1) or (2) as it applies in relation to recognizances to be of good behaviour, and where such a recognizance is ordered to be estreated, the court, instead of ordering the person bound thereby to pay the sum in which he is bound or part of that sum, may remit payment of it.

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F1 prosp. insertion by 2005 c. 15

PROSPECTIVE

[F2] Parental compensation orders

36ZA.—(1) A magistrates' court may make an order under this Article (a “parental compensation order”) if on the application of a person of a description specified for the purpose in an order made by the Secretary of State (referred to in this Article and in Articles 36ZB and 36ZC as the “applicant”) the court is satisfied, on the civil standard of proof—

- (a) that the condition mentioned in paragraph (2) is fulfilled with respect to a child under the age of 10; and
- (b) that it would be desirable to make the order in the interests of preventing a repetition of the behaviour in question.

(2) The condition is that the child has taken, or caused loss of or damage to, property in the course of—

- (a) committing an act which, if he had been aged 10 or over, would have constituted an offence; or
- (b) acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself.

(3) A parental compensation order is an order which requires any person specified in the order who is a parent or guardian of the child to pay compensation of an amount specified in the order to any person or persons specified in the order who is, or are, affected by the taking of the property or its loss or damage.

(4) The amount of compensation specified may not exceed £5,000 in all.

(5) The Secretary of State may by order amend paragraph (4) so as to substitute a different amount.

(6) For the purposes of collection and enforcement, a parental compensation order is to be treated as if it were a sum adjudged to be paid on the conviction by the magistrates' court which made the order of the person or persons specified in the order as liable to pay the compensation.

(7) An order under paragraph (1) or (5) is subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and, accordingly, section 5 of the Statutory Instruments Act 1946 (c. 36) applies to such an order.

F2 Arts. 36ZA-36ZE inserted (prosp.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), [Sch. 10 para. 8](#) (with [Sch. 10 para. 10](#))

PROSPECTIVE

Parental compensation orders: the compensation

36ZB.—(1) When specifying the amount of compensation for the purposes of Article 36ZA(3), the magistrates' court shall take into account—

- (a) the value of the property taken or damaged, or whose loss was caused, by the child;
 - (b) any further loss which flowed from the taking of or damage to the property, or from its loss;
 - (c) whether the child, or any parent or guardian of his, has already paid any compensation for the property (and if so, how much);
 - (d) whether the child, or any parent or guardian of his, has already made any reparation (and if so, what it consisted of);
 - (e) the means of those to be specified in the order as liable to pay the compensation, so far as the court can ascertain them;
 - (f) whether there was any lack of care on the part of the person affected by the taking of the property or its loss or damage which made it easier for the child to take or damage the property or to cause its loss.
- (2) If property taken is recovered before compensation is ordered to be paid in respect of it—
- (a) the court shall not order any such compensation to be payable in respect of it if it is not damaged;
 - (b) if it is damaged, the damage shall be treated for the purposes of making a parental compensation order as having been caused by the child, regardless of how it was caused and who caused it.

(3) The court shall specify in the order how and by when the compensation is to be paid (for example, it may specify that the compensation is to be paid by instalments, and specify the date by which each instalment must be paid).

(4) For the purpose of ascertaining the means of the parent or guardian, the court may, before specifying the amount of compensation, order him to provide the court, within such period as it may specify in the order, such a statement of his financial circumstances as the court may require.

(5) A person who without reasonable excuse fails to comply with an order under paragraph (4) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) If, in providing a statement of his financial circumstances pursuant to an order under paragraph (4), a person—

- (a) makes a statement which he knows to be false in a material particular;
- (b) recklessly provides a statement which is false in a material particular; or
- (c) knowingly fails to disclose any material fact,

he is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) Proceedings in respect of an offence under paragraph (6) may, despite anything in Article 19 of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time), be commenced

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at any time within two years from the date of the commission of the offence or within six months of its first discovery by the applicant, whichever period expires earlier.

(8) Paragraphs (1)(e) and (4) to (7) do not apply in the case of an order specifying an authority as liable to pay the compensation.

F2 Arts. 36ZA-36ZE inserted (prosp.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), [Sch. 10 para. 8](#) (with [Sch. 10 para. 10](#))

PROSPECTIVE

Parental compensation orders: supplemental

36ZC.—(1) Before deciding whether or not to make a parental compensation order in favour of any person, the magistrates' court shall take into account the views of that person about whether a parental compensation order should be made in his favour.

(2) Before making a parental compensation order, the magistrates' court shall obtain and consider information about the child's family circumstances and the likely effect of the order on those circumstances.

(3) Before making a parental compensation order, a magistrates' court shall explain to the parent or guardian of the child in ordinary language—

- (a) the effect of the order and of the requirements proposed to be included in it;
- (b) the consequences which may follow (under paragraph (4)(b)) as a result of failure to comply with any of those requirements;
- (c) that the court has power (under paragraph (4)(a)) to review the order on the application either of the parent or guardian or of the applicant.

(4) A magistrates' court ^{F3}... may make an order under paragraph (5) if while the order is in force—

- (a) it appears to the court, on the application of the applicant, or the parent or guardian subject to the order, that it is appropriate to make an order under paragraph (5); or
- (b) it is proved to the satisfaction of the court, on the application of the applicant, that the parent or guardian subject to it has failed to comply with any requirement included in the order.

(5) An order under this paragraph is an order discharging the parental compensation order or varying it—

- (a) by cancelling any provision included in it; or
- (b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.

(6) Where an application under paragraph (4) for the discharge of a parental compensation order is dismissed, no further application for its discharge shall be made under that paragraph by any person except with the consent of the court which made the order.

^{F4}(7)

F2 Arts. 36ZA-36ZE inserted (prosp.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), [Sch. 10 para. 8](#) (with [Sch. 10 para. 10](#))

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- F3** Words in art. 36ZC(4) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(4)(a), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) This amendment cannot take effect until art. 36ZC comes into operation.
- F4** Art. 36ZC(7) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(4)(b), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) This amendment cannot take effect until art. 36ZC comes into operation.

PROSPECTIVE

Parental compensation orders: appeal

36ZD.—(1) If a magistrates' court makes a parental compensation order, the parent or guardian may appeal against the making of the order, or against the amount of compensation specified in the order.

(2) The appeal lies to the county court.

(3) On the appeal the county court—

(a) may make such orders as may be necessary to give effect to its determination of the appeal;

(b) may also make such incidental or consequential orders as appear to it to be just.

(4) Any order of the county court made on an appeal under this Article (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of Article 36ZC, be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the county court.

(5) A person in whose favour a parental compensation order is made shall not be entitled to receive any compensation under it 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.

- F2** Arts. 36ZA-36ZE inserted (prosp.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), Sch. 10 para. 8 (with Sch. 10 para. 10)

PROSPECTIVE

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

36ZE.—(1) This Article has effect where—

(a) a parental compensation order has been made in favour of any person in respect of any taking or loss of property or damage to it; and

(b) a claim by him in civil proceedings for damages in respect of the taking, loss or damage is then to be determined.

(2) The damages in the civil proceedings shall be assessed without regard to the parental compensation order, but the claimant may recover only 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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(3) The claimant may not enforce the judgment, so far as it relates to such a sum as is mentioned in paragraph (2)(b), without the leave of the court.]

F2 Arts. 36ZA-36ZE inserted (prosp.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), **Sch. 10 para. 8** (with [Sch. 10 para. 10](#))

Status:

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