



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART XI

#### MISCELLANEOUS

##### *Miscarriages of justice*

#### **[<sup>F1</sup>133A Miscarriages of justice: amount of compensation**

- (1) This section applies where an assessor is required to assess the amount of compensation payable to or in respect of a person under section 133 for a miscarriage of justice.
- (2) In assessing so much of any compensation payable under section 133 as is attributable to suffering, harm to reputation or similar damage, the assessor must have regard in particular to—
  - (a) the seriousness of the offence of which the person was convicted and the severity of the punishment suffered as a result of the conviction, and
  - (b) the conduct of the investigation and prosecution of the offence.
- (3) The assessor may make from the total amount of compensation that the assessor would otherwise have assessed as payable under section 133 any deduction or deductions that the assessor considers appropriate by reason of either or both of the following—
  - (a) any conduct of the person appearing to the assessor to have directly or indirectly caused, or contributed to, the conviction concerned; and
  - (b) any other convictions of the person and any punishment suffered as a result of them.
- (4) If, having had regard to any matters falling within subsection (3)(a) or (b), the assessor considers that there are exceptional circumstances which justify doing so, the assessor may determine that the amount of compensation payable under section 133 is to be a nominal amount only.

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**Changes to legislation:** *Criminal Justice Act 1988, Section 133A is up to date with all changes known to be in force on or before 12 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*

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- (5) The total amount of compensation payable to or in respect of a person under section 133 for a particular miscarriage of justice must not exceed the overall compensation limit. That limit is—
- (a) £1 million in a case to which section 133B applies, and
  - (b) £500,000 in any other case.

- (6) The total amount of compensation payable under section 133 for a person's loss of earnings or earnings capacity in respect of any one year must not exceed the earnings compensation limit.

That limit is an amount equal to 1.5 times the median annual gross earnings according to the latest figures published by the Office of National Statistics at the time of the assessment.

- (7) The Secretary of State may by order made by statutory instrument amend subsection (5) or (6) so as to alter any amount for the time being specified as the overall compensation limit or the earnings compensation limit.

- (8) No order may be made under subsection (7) unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

[ In relation to compensation payable by the Department of Justice in Northern Ireland, <sup>F2</sup>(9) the power in subsection (7) is exercisable by the Department (and not by the Secretary of State).

- (10) The power of the Department of Justice to make an order under subsection (7) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (and not by statutory instrument).

- (11) No order may be made by the Department of Justice under subsection (7) unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly (and subsection (8) does not apply).

- (12) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (11) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.]]

#### Textual Amendments

- F1** Ss. 133A, 133B inserted (E.W.N.I) (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 61\(7\)](#), [153](#) (with [Sch. 27 para. 22](#)); S.I. 2008/2993, [art. 2\(1\)\(a\)](#)
- F2** S. 133A(9)-(12) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 ([S.I. 2010/976](#)), [art. 1\(2\)](#), [Sch. 6 para. 3](#) (with arts. 28-31)

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**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. 36(2)(b)(v) and word inserted by [2019 c. 17 s. 13\(3\)\(b\)](#)
- s. 36(3A)(3B) substituted for s. 36(3A) by [2008 c. 4 s. 46\(2\)](#)
- s. 41(4A) inserted by [2004 c. 28 Sch. 10 para. 28](#)
- s. 139AZA(1)(a)(iii) and word inserted by [2019 c. 17 s. 13\(4\)\(b\)](#)