

Compensation for Criminal Injuries

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For John and Anne

Preface

This book describes the interpretation, implementation and impact of the law governing state-funded and offender-funded compensation for victims of personal crime in England and Wales. Chapters 1-7 deal with the interpretation that the courts and the Criminal Injuries Compensation Board (CICB) have, over the past 25 years, given to the terms of the Criminal Injuries Compensation Scheme, and describes the changes that have been made to it as a result of the revisions which took effect from 1 February 1990. These revisions substitute for the commencement of the statutory Scheme established in the Criminal Justice Act 1988, itself regarded by the Board as the most significant advance since the Scheme was originally established in 1964. Chapters 8-11 deal with the provisions in ss 35-38 of the Powers of Criminal Courts Act 1973 governing the making of compensation orders upon conviction. Here too, there are important changes effected by the Criminal Justice Act 1988, supplemented by new Home Office guidelines. Both sets of provisions have generated a substantial jurisprudence, and if further justification were needed for a detailed treatment of these important remedies for victims of personal crime, it lies in the increasing numbers who, encouraged by the government, are likely to seek compensation under their terms.

The text explains and evaluates the procedural and substantive aspects of these two remedies, and is directed principally at those who work with them or wish to make use of them. However, the establishment and implementation of state-funded and offender-funded compensation for victims of personal crime raises a number of broader issues which are also addressed, in particular in chapter 12. Where appropriate, the scope of these remedies is compared with the approach taken by the law of tort to such injuries, which raises the more general question trenchantly analysed by Atiyah, whether the unique provision for victims of personal crime contained in the Scheme is justifiable. In the

case of compensation orders, there is discussion of their place within the sentencing options of a criminal court. I argue that despite the superficial attraction of requiring offenders to compensate their victims, there are serious theoretical and practical difficulties which have not been fully thought through. Substantial parts of the text here are relevant also to the making of compensation orders for loss of and damage to property. Particular attention is paid to recent research on the effectiveness of these arrangements in achieving the compensation of victims of violent crime in England and Wales. The text does not directly deal with the law of Scotland, but the Scheme applies there (as do slightly different provisions concerning compensation orders), and where there are differences in the manner of its implementation occasioned by differences in Scots law, these are remarked upon.

I should like to thank my colleagues at Cardiff Law School who read chapters in draft, especially Peter Alldridge, Vivienne Harpwood and Stephen White. I should also like to thank Tim Newburn of the Home Office Research and Planning Unit for many helpful discussions. I owe a particular debt of gratitude to Sir Michael Ogden QC, the immediate past Chairman of the Criminal Injuries Compensation Board, who read and commented upon all the chapters describing the Scheme. The Board's secretariat also responded quickly and positively to inquiries I made of them. None has any responsibility for any errors or for the opinions that are expressed in the text.

David Miers
Cardiff
July 1990

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