

**FIRST SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

No. 2,541 of 1st MARCH, 1990.

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I ASSENT,

DEREK REFFELL,

GOVERNOR.

1st March, 1990.



**GIBRALTAR.**

No. 4 of 1990.

**AN ACT to amend the Criminal Procedure Act.**

ENACTED by the Legislature of Gibraltar.

**Title.**

1. This Act may be cited as the Criminal Procedure (Amendment) Act, 1990.

**Repeal and Replacement of Section 226.**

**4 of 1990.] Criminal Procedure (Amendment) Act, 1990.**

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2. The Criminal Procedure Act (hereinafter called "the principal Act") is amended by repealing section 226 and substituting therefor the following section—

“Compensation in respect of persons killed or injured during arrest.	226. Subject to the provisions of Section 232A of this Act if any person is injured or killed in endeavouring, to apprehend any Person who has been charged with an offence triable at the Supreme Court, the Supreme Court may order the payment from the Consolidated Fund to the person so injured, or to his widow or his children if he has been so killed, such sum of money, not exceeding £3,000, as the Court may in its discretion deem fit.”.
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**Repeal and Replacement of Section 227.**

3. The principal Act is further amended by repeating section 227 and substituting therefor the following section—

Compensation for injury resulting from an offence,

277. ( 1 ) Subject to the provisions of this Part of the Act, it shall be lawful for any Court before which a person has been convicted of any offence to make on application or otherwise and instead of or in addition to dealing with him in any other way, an order (in this Act referred to as "a compensation order") requiring him to pay compensation for any personal injury, loss or damage resulting from that offence or any other offence which is taken into consideration by the Court in determining sentence.

(2) Compensation under subsection (1) shall in the case of the Supreme Court be of such an amount as the Court considers appropriate, but in the case of the Magistrates' Court shall not exceed £2000 having regard to any evidence and to any

**4 of 1990.] Criminal Procedure (Amendment) Act, 1990.**

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representations that are made by or on behalf of the accused or the prosecutor.

(3) In the case of an offence under Part XV I of the Criminal Offences Act, where the property is recovered, any damage to the property occurring while it was out of the owner's possession shall be treated for the purposes of subsection ( 1 ) above as having resulted from the offence, however and by whomsoever the damage was caused.

(4) No compensation order shall be, made in respect of loss suffered by the dependants of a person in consequence of his death, and no such order shall be made in respect of injury, loss or damage due to an accident arising out of the presence of a motor vehicle on a road, except such damage as is treated by subsection (3) as resulting from an offence under Part XVI of the Criminal Offences Act.

(5) In determining whether to make a compensation order and in determining the amount to be paid under such an order, the Court shall have regard to the accused's means so far as they appear or are known to the Court.

(6) Where the Court considers—

(a) that it would be appropriate both to impose a fine and to make a compensation order; but

(b) that the offender has insufficient means to pay both an appropriate fine and appropriate compensation, the Court shall give preference to making an appropriate compensation order and, if it deems fit, impose a fine as well."

**New Sections 227A, 2278 and 227C.**

4. The principal Act is further amended by inserting after section 227 the following sections—

Appeals in the case of compensation orders.

**4 of 1990.] Criminal Procedure (Amendment) Act, 1990.**

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227A ( I ) A compensation order made by a Court shall be treated for the purposes of section 229 (it' this Act as an order for the restitution of property.

(2) Where a compensation order has been made against any person in respect of an offence taken into consideration in determining his sentence—

- (a) the order shall cease to have effect if he successfully appeals against his conviction of the offence, or, if more than one, all the offences, of which he was convicted in the proceedings in which the order was made;
- (b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence, or, if more than one, any of the offences, of which he was so convicted.

Review of compensation orders.

227B. At any time before a compensation order has been complied with or fully complied with, the Court which made the compensation order may, on the application of the person against whom it was made, discharge the order, 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 was taken to be for the purposes of the order; or
- (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.

Effect of compensation order on subsequent award in civil proceedings.

227C(1) This section 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 him in civil proceedings

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for damages in respect thereof subsequently falls to be determined.

(2) The damages in the civil proceedings shall be assessed without regard to the order; but where the whole or part of the amount awarded by the order has been paid, the damages awarded in the civil proceedings shall not exceed the amount, if any, by which, as so assessed they exceed the amount paid under the order.

(3) Where the whole or part of the amount awarded by the order remains unpaid and the Court awards damages in the civil proceedings, then, unless the person against whom the order was made has ceased to be liable to pay the amount unpaid, the Court shall direct that the judgement—

(a) if it is for an amount not exceeding the amount unpaid under the order, shall not be enforced; or

(b) if it is for an amount exceeding the amount unpaid under the order, shall not be enforced as to a corresponding amount;

without the leave of the Court."

**Repeat and Replacement of Section 232.**

5. The principal Act is further amended by repealing Section 232 and substituting therefor the following section

Awards for courage in arrest.

232. Subject to the provisions of Section 232A of this Act any Court before which any person is convicted of any arrestable offence may order payment from the Consolidated Fund to any person who may appear to the Court to have been active or towards the apprehension of any person convicted of that offence of such sum of money, not exceeding f500 in the case of the Magistrates' Court or £3,000 in the case of the Supreme Court, as to the Court shall seem reasonable and sufficient to

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compensate such person or persons for their expenses, exertions, and loss of time in or towards such apprehension:"

**New Section 232A.**

6. The principal Act is further amended by inserting after Section 232 the following new section—

Regulations.

232A. The Governor may after consultation with the Chief Justice, by regulation vary these maximum levels of compensation which may be awarded by the Courts, under the provisions of Sections 226, 227 and 232 of this Act."

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Passed by the Gibraltar House of Assembly on the 15th day of February, 1990.

C. M. COOM,

Clerk to the Assembly.