



Restitution Orders

Victim Surcharge, Restitution Orders and Compensation

An offender who is sentenced for an offence under the *Criminal Code* or *Controlled Drugs and Substances Act* is required to pay a fee called a **victim surcharge**. This money does not go directly to the victim — it is placed in a special fund in the province or territory. The fund, sometimes called the Victim Assistance Fund, is used to provide services and assistance to victims of crime in general.

The offender's sentence may also include a **restitution order**. A restitution order requires the offender to pay an amount directly to the victim of the offence to cover the victim's monetary losses caused by bodily or psychological harm or damage to property caused by the crime.

Compensation generally refers to money a victim may receive from a provincial or territorial victim compensation program.

What is the purpose of a restitution order?

The *Criminal Code* states that the purposes and principles of sentencing are to:

- provide reparations for harm done to victims or to the community, and
- promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and the community.

Restitution orders, which help cover the victim's monetary losses due to bodily or psychological harm or damage to property caused by the crime, follow these principles.

Sometimes restitution is ordered as a condition of probation or a conditional sentence.

How is restitution calculated?

Restitution amounts must be easy to calculate and not in great dispute. For example, two weeks' lost wages due to injuries caused by an assault could be demonstrated with pay stubs and absence forms (from work), and the replacement costs for goods stolen or vandalized could be demonstrated with store receipts or estimates for the replacement of the items.





Is restitution given to all victims?

No, restitution must be an appropriate sentence based on all the circumstances.

Restitution will not be ordered in all cases where there is monetary loss or damages. The judge must consider whether a restitution order should be included in the sentence and whether all aspects of the sentence reflect the purposes and principles of sentencing and are appropriate given the circumstances of the offence and the particular offender. The ability of the offender to pay a restitution order will be a consideration.

Restitution cannot be ordered for pain and suffering or other damages that can only be assessed in the civil courts.

When can the victim or Crown prosecutor ask for restitution?

The victim or the Crown prosecutor may ask for a restitution order at the time of sentencing the offender; as well, the sentencing judge can consider a restitution order without any specific request.

How is the restitution order paid?

Where a restitution order is made, the offender must pay the amount ordered directly to the victim named in the order.

Although the restitution order is made by a criminal court as part of an offender's sentence, it is similar to a civil order in some aspects. If the offender does not pay the amount ordered, the victim can file the order in the civil court and use civil enforcement methods to collect the money. For example, bank accounts may be seized or liens placed on property. Some legal information or advice may be needed to pursue these methods of collection.

Where is more information available?

If you or someone you know have been a victim of crime, help is available. All provinces and territories have services for victims of crime. They can help if you need information or other assistance.

For more information about Canada's justice system and links to victim services, visit our Web site:

<http://canada.justice.gc.ca/victim>

Policy Centre for Victim Issues
Department of Justice
284 Wellington Street
Ottawa, Ontario
K1A 0H8

Fax: (613) 952-1110

Other fact sheets with related information:

Victim Surcharge

Conditional Sentences

November 2006