ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 13: Criminal Justice and Court Fees

Section 175: Compensation for miscarriages of justice

- 505. Section 133 of the Criminal Justice Act 1988 requires the Secretary of State to pay compensation where a person's conviction for a criminal offence has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows beyond reasonable doubt that there has been a miscarriage of justice.
- 506. Subsection (1) inserts new subsection (1ZA) into section 133 of the Criminal Justice Act 1988, providing a statutory definition of "miscarriage of justice". In accordance with this new provision, the Secretary of State would only pay compensation for a "miscarriage of justice" where the new or newly discovered fact (on the basis of which the conviction was reversed) shows beyond reasonable doubt that the person did not commit the offence of which they were convicted. This will have effect for cases where the conviction took place in England and Wales, or for Northern Ireland cases where section 133(6H) of the 1988 Act applies. Section 133(6H) applies to those applications for compensation in Northern Ireland involving sensitive national security information which are determined by the Secretary of State rather than the Department of Justice in Northern Ireland.
- 507. Subsection (2)(a) specifies that the new provision will apply to the determination of any application for compensation made on or after the date on which the section comes into force.
- 508. Subsection (2)(b) provides the new provision will also apply to an application made before the date the section comes into force, but which has not been finally determined by the Secretary of State by that date. This will include applications which, though originally determined before the section comes into force, subsequently fall to be reconsidered by the Secretary of State, for example, following a successful application for judicial review.