

CRIMINAL INJURIES COMPENSATION ACT.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 14, 1967.

An Act to make provision for the payment, in certain circumstances, of compensation to persons who suffer injury by reason of the commission of certain offences; to amend the Crimes Act 1900, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 23rd March, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Criminal Injuries Compensation Act, 1967".
- (2) Short title and commencement.

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No. 14, 1967 (2) This Act shall commence on the first day of January, one thousand nine hundred and sixty-eight.

(3) This Act, section eight excepted, does not apply in respect of compensation for injuries sustained through, or by reason of, offences committed before its commencement.

Interpretation.

2. In this Act—

“Injury” means bodily harm and includes pregnancy, mental shock and nervous shock.

“Under Secretary” means the Under Secretary of the Department of the Attorney-General and of Justice, or the person for the time being acting as Under Secretary of that Department.

Application may be made for payment of compensation directed under section 437 or 554 (3) of Crimes Act from Consolidated Revenue Fund.

3. Where—

(a) a direction for the payment of a sum by way of compensation has been given under section four hundred and thirty-seven or subsection three of section five hundred and fifty-four of the Crimes Act 1900, as amended by subsequent Acts, in respect of any felony, misdemeanour or other offence; and

(b) the direction is for a sum in excess of one hundred dollars to be paid by way of compensation for injury,

the aggrieved person in whose favour the direction has been given may make application to the Under Secretary for payment to him from the Consolidated Revenue Fund of the sum so directed to be paid.

Aggrieved person may apply for compensation where accused acquitted.

4. (1) On the acquittal of, or dismissal of an information against, a person accused of any felony, misdemeanour or other offence, the Court or Judge before whom that person was tried may, on application by a person aggrieved by reason of the commission of the offence, grant a certificate stating the sum which they or he would have directed to be paid to the **aggrieved**

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aggrieved person by way of compensation for injury had the accused person been convicted of the felony, misdemeanour or other offence and had the application been an application made by the aggrieved person under the provisions of section four hundred and thirty-seven or subsection three of section five hundred and fifty-four, as the case may be, of the Crimes Act 1900, as amended by subsequent Acts, for the payment of that compensation. No. 14, 1967

(2) A certificate shall not be granted under subsection one of this section where the sum referred to in that subsection amounts to one hundred dollars or less.

(3) An aggrieved person to whom a certificate under subsection one of this section has been granted may make application to the Under Secretary for payment to him from the Consolidated Revenue Fund of the sum specified in the certificate.

5. (1) Subject to section six of this Act, the Under Secretary shall, as soon as practicable after receiving an application under section three, or subsection three of section four, of this Act, furnish to the Treasurer a statement signed by the Under Secretary setting forth the particulars of the application and specifying—

- Payment
of com-
pensation by
Treasurer to
applicant.
- (a) the sum directed to be paid to the applicant as referred to in section three of this Act or the sum specified in the certificate granted to the applicant under subsection one of section four of this Act, as the case may be; and
 - (b) any amounts which, in the opinion of the Under Secretary, the applicant has received, or would, if he had exhausted all relevant rights of action and other legal remedies available to him, receive, independently of this Act, by reason of the injury to which the application relates.

(2) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that in the circumstances of the case the making under this

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No. 14, 1967 this subsection of a payment to the applicant is justified, the Treasurer may pay to the applicant an amount equal to the difference between the appropriate amount referred to in paragraph (a) of subsection one of this section, and the amounts referred to in paragraph (b) of that subsection, as specified in that statement.

(3) Any payments under subsection two of this section may be made without further appropriation than this Act.

Under Secretary's statement may be deferred.

6. The Under Secretary may defer furnishing to the Treasurer any statement under subsection one of section five of this Act, for as long as he considers it necessary to do so, to enable him to specify in the statement the amounts referred to in paragraph (b) of that subsection.

Under Secretary subrogated to rights against convicted person where payment made.

7. (1) Where any payment is made pursuant to section five of this Act by virtue of an application made under section three of this Act, the Under Secretary shall be subrogated, to the extent of the payment, to all the rights and remedies of the aggrieved person against the person convicted of the felony, misdemeanour or other offence in respect of which the payment was made.

(2) Any moneys recovered by the Under Secretary pursuant to subsection one of this section shall be paid to the Consolidated Revenue Fund.

Amendment of Act No. 40, 1900.

8. The Crimes Act 1900, as amended by subsequent Acts, is amended—

Sec. 437. (Compensation to person aggrieved by any felony or misdemeanour.)

(a) by inserting at the end of section four hundred and thirty-seven the following new subsections :—

(2) A direction given under subsection one of this section shall specify the sum, if any, to be paid by way of compensation for injury and the sum, if any, to be paid by way of compensation for loss.

(3)

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(3) In determining whether or not to give a direction pursuant to subsection one of this section, the Court or Judge shall have regard to any behaviour of the aggrieved person which directly or indirectly contributed to the injury or loss sustained by him, and to such other circumstances as it or he considers relevant (including whether the aggrieved person is or was a relative of the convicted person or was, at the time of the commission of the felony or misdemeanour, living with the convicted person as his wife or her husband or as a member of the convicted person's household) and shall also have regard to the provisions of the Criminal Injuries Compensation Act, 1967.

(4) In this section—

“Injury” means bodily harm and includes pregnancy, mental shock and nervous shock.

“Loss” does not include injury.

(b) by inserting at the end of section five hundred and fifty-four the following new subsections :—

(4) A direction given under subsection three of this section shall specify the sum, if any, to be paid by way of compensation for injury and the sum, if any, to be paid by way of compensation for loss.

Sec. 554.
(Hard or
light
labour.)

(5) In determining whether or not to give a direction pursuant to subsection three of this section, the Court shall have regard to any behaviour of the aggrieved person which directly or indirectly contributed to the injury or loss sustained by him, and to such other circumstances as it considers relevant (including whether the aggrieved person is or was a relative of the convicted person or was, at the time of the commission of the offence, living with the convicted person as his wife or her husband or

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as a member of the convicted person's household) and shall also have regard to the provisions of the Criminal Injuries Compensation Act, 1967.

(6) In this section—

“Injury” means bodily harm and includes pregnancy, mental shock and nervous shock.

“Loss” does not include injury.