

South Australia

**CRIMINAL INJURIES COMPENSATION ACT 1978**

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An Act to provide compensation for injury or, in certain cases, financial loss or grief, suffered in consequence of the commission of offences; to repeal the Criminal Injuries Compensation Act 1969; and for other purposes.

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*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **1 October 2000**.*

*It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision since the reprint published on 14 August 1987.*

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**CRIMINAL INJURIES COMPENSATION ACT 1978**

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Criminal Injuries Compensation Act 1978 No. 2 of 1978  
[Assented to 23 February 1978]<sup>1</sup>

as amended by

Children's Protection and Young Offenders Act 1979 No. 44 of 1979 [Assented to 15 March 1979]<sup>2</sup>  
Criminal Injuries Compensation Act Amendment Act 1982 No. 66 of 1982 [Assented to 1 July 1982]<sup>3</sup>  
Statutes Amendment (Victims of Crime) Act 1986 No. 16 of 1986 [Assented to 20 March 1986]<sup>4</sup>  
Criminal Injuries Compensation Act Amendment Act 1987 No. 53 of 1987 [Assented to 30 April 1987]<sup>5</sup>  
Statutes Amendment and Repeal (Sentencing) Act 1988 No. 51 of 1988 [Assented to 5 May 1988]<sup>6</sup>  
Criminal Injuries Compensation Act Amendment Act 1988 No. 57 of 1988 [Assented to 8 September 1988]<sup>7</sup>  
Statutes Amendment (Victims of Crime) Act 1990 No. 27 of 1990 [Assented to 26 April 1990]<sup>8</sup>  
Statutes Repeal and Amendment (Courts) Act 1991 No. 69 of 1991 [Assented to 12 December 1991]<sup>9</sup>  
Criminal Injuries Compensation (Miscellaneous) Amendment Act 1993 No. 48 of 1993 [Assented to 20 May 1993]<sup>10</sup>  
Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996 No. 34 of 1996 [Assented to 2 May 1996]<sup>11</sup>  
Criminal Injuries Compensation (Miscellaneous) Amendment Act 1996 No. 69 of 1996 [Assented to 22 August 1996]<sup>12</sup>  
Statutes Amendment (Fine Enforcement) Act 1998 No. 60 of 1998 [Assented to 3 September 1998]<sup>13</sup>  
**Statutes Amendment and Repeal (Attorney-General's Portfolio) Act 2000 No. 57 of 2000 [Assented to 20 July 2000]<sup>14</sup>**

<sup>1</sup> Came into operation 1 July 1978: *Gaz.* 29 June 1978, p. 2235.

<sup>2</sup> Came into operation 1 July 1979: *Gaz.* 28 June 1979, p. 1951.

<sup>3</sup> Came into operation 8 November 1982: *Gaz.* 4 November 1982, p. 1304.

<sup>4</sup> Came into operation 1 October 1986: *Gaz.* 4 September 1986, p. 696.

<sup>5</sup> Came into operation 1 August 1987: *Gaz.* 30 July 1987, p. 272.

<sup>6</sup> Came into operation (except ss. 3-6, 12, 15-20, 22-27, 30-39, 41-68 and 70-78) 12 May 1988: *Gaz.* 12 May 1988, p. 1181; ss. 3 and 4 came into operation 8 September 1988: *Gaz.* 8 September 1988, p. 994; remainder of Act came into operation 1 January 1989: *Gaz.* 15 December 1988, p. 2009.

<sup>7</sup> Came into operation 1 July 1978: s. 2.

<sup>8</sup> Came into operation 1 September 1990: *Gaz.* 16 August 1990, p. 582.

<sup>9</sup> Came into operation 6 July 1992: *Gaz.* 2 July 1992, p. 209.

<sup>10</sup> Came into operation 12 August 1993: *Gaz.* 12 August 1993, p. 794.

<sup>11</sup> Came into operation 3 February 1997: *Gaz.* 19 December 1996, p. 1923.

<sup>12</sup> Came into operation 16 September 1996: *Gaz.* 29 August 1996, p. 808.

<sup>13</sup> Part 4 (ss. 9 & 10) came into operation 6 March 2000: *Gaz.* 18 November 1999, p. 2358.

<sup>14</sup> Part 5 (except ss. 11 & 12) came into operation 1 July 2000: s. 2(2); **ss. 11 & 12 came into operation 1 October 2000: *Gaz.* 28 September 2000, p. 2221.**

**NOTE:**

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix.

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**SUMMARY OF PROVISIONS**

**PART 1  
PRELIMINARY**

- 1. Short title
- 4. Interpretation

**PART 2  
CLAIMS FOR COMPENSATION**

- 7. Application for compensation
- 7A. Medical examination of claimant
- 8. Proof and evidence
- 9. Joint offences
- 9A. Appeals
- 10. Legal costs
- 10A. Representation of Crown in proceedings

**PART 3  
PAYMENT OF COMPENSATION**

- 11. Payment of compensation, etc., by the Attorney-General
- 11A. Right of Attorney-General to recover money paid out

**PART 4  
THE CRIMINAL INJURIES COMPENSATION FUND AND LEVIES**

- 12. The Criminal Injuries Compensation Fund
- 13. Imposition of levy

**PART 5  
MISCELLANEOUS**

- 14. Interaction between this Act and other laws
- 14A. Date as at which compensation is to be assessed
- 14B. Delegation
- 14C. Annual Report
- 15. Regulations

**APPENDIX  
LEGISLATIVE HISTORY**

The Parliament of South Australia enacts as follows:

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *Criminal Injuries Compensation Act 1978*.

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**Interpretation**

4. In this Act, unless the contrary intention appears—

"**claimant**" means a person by or on whose behalf an application for compensation under this Act is made;

"**conviction**" includes a formal finding of guilt and "**to convict**" has a corresponding meaning;

"**court**" means the District Court;

"**dependants**" in relation to a victim means any spouse, putative spouse, parents or children of the victim who are financially dependent on the victim;

"**homicide**" means murder or manslaughter;

"**injury**" means physical or mental injury, and includes pregnancy, mental shock and nervous shock;

"**non-financial loss**" means—

- (a) pain and suffering;
- (b) loss of amenities of life;
- (c) loss of expectation of life;
- (d) disfigurement;

"**offence**" means an offence, whether indictable or not, committed by one or more persons and includes conduct on the part of a person that would constitute an offence if it were not for that person's age, or the existence of a defence of insanity;

"**offender**", in relation to an offence, means the person who committed the offence;

"**victim**", in relation to an offence, means a person who suffers injury in consequence of the commission of the offence;

"**youth**" means a person who was, on the date of committing an offence, under the age of 18 years.

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**Criminal Injuries Compensation Act 1978**

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**PART 2  
CLAIMS FOR COMPENSATION**

**Application for compensation**

7. (1) A victim of an offence may, within three years of the day on which the offence was committed, apply to the court for an order for compensation in respect of the injury arising from the offence.

(2) Where—

- (a) the victim of an offence dies as a result of the injury arising from the offence; and
- (b) no previous order for compensation has been made under this Act in respect of that injury,

a person who, in the opinion of the court, is a suitable person to represent the interests of the dependants of the victim may, within 12 months of the date of death, apply to the court on behalf of the dependants for an order for compensation in respect of the financial loss suffered by them.

(2a) Where a person is killed by homicide, any of the following persons may, within 12 months of the date of death, apply to the court for an order for compensation in respect of the grief suffered in consequence of the death:

- (a) the spouse of the deceased;
- (b) a putative spouse of the deceased;
- (c) where the deceased was less than 18 years of age at the date of death, a parent of the deceased.

(2b) Where a victim dies in consequence of the offence, a person who pays, or is responsible for payment of, the victim's funeral expenses may within 12 months of the date of the funeral apply to the court for an order for compensation in respect of funeral expenses.

(3) A person must, not less than three months before making an application under this section, cause notice in writing containing the prescribed particulars of the proposed application to be served on the Crown Solicitor.

(4) The court may, for any reason it considers sufficient, dispense with the requirement—

- (a) that an application be made within a period fixed by this section; or
- (b) that notice of a proposed application be served on the Crown Solicitor within the period fixed by this section.

(4a) The costs of an application to dispense with a requirement under subsection (4) will be borne by the applicant unless the court otherwise orders.

(5) The applicant for an order under this section must cause a copy of the application to be served not less than 28 days prior to the day on which the application is to be heard—

- (a) upon the Crown Solicitor; and

(b) where the identity of the offender is known, upon the offender,

and the Crown and, if the offender's identity is known, the offender will be parties to the proceedings.

(6) The court may, by order, dispense with service of the application upon an offender where the whereabouts of the offender is unknown to, and not readily ascertainable by, the applicant.

(7) Subject to this Act, on an application under this section the court may order—

(a) that the victim be paid by the Crown such amount as the court thinks fit by way of compensation for the injury arising from the offence; or

(b) that the dependants of a dead victim be paid by the Crown such amount as the court thinks fit by way of compensation for the financial loss suffered by them (to be proportioned between the various claimants as the court thinks fit); or

(c) in the case of an application for compensation for grief, that a claimant be paid by the Crown such amount (not exceeding \$4 200 in the case of a spouse or a putative spouse or \$3 000 in the case of a parent) as the Court thinks fit by way of compensation for the grief suffered by the claimant; or

(d) in the case of an application for compensation in respect of funeral expenses, that the applicant be paid—

(i) the amount of funeral expenses incurred by the claimant; or

(ii) \$3 000,

whichever is the lesser.

(7a) Where all parties to proceedings upon an application under this section (other than a party in relation to whom the court has made an order dispensing with service of the application, or a party who, although having been served with the application, fails to appear at the hearing of the application) consent to the making of an order under this section, the court may, without further inquiry, make an order on terms agreed by those parties.

(8) In awarding compensation under this section, the court must observe the following rules:

(a) in relation to an application under subsection (1) for compensation for injury, or an application under subsection (2) for compensation for financial loss—

(i) where financial loss is to be compensated and the amount that would, but for this subparagraph, be awarded for the financial loss exceeds \$2 000, the amount awarded will, subject to subparagraph (iii), be \$2 000 plus three-quarters of the excess; and

(ii) where non-financial loss is to be compensated—

(A) the total non-financial loss must be assigned a numerical value on a scale running from 0 to 50 (the greater the severity of the non-financial loss, the greater the number); and

(B) the amount awarded will be the amount arrived at by multiplying the number so assigned by \$1 000; and

**Criminal Injuries Compensation Act 1978**

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(iii) in any case, where an amount arrived at to compensate financial loss, or the aggregate of amounts arrived at to compensate financial loss and non-financial loss, would, but for this subparagraph, exceed \$50 000, the amount awarded will be \$50 000;

(b) in relation to an application under subsection (2a) for compensation for grief—

(i) where both the spouse and the putative spouse of a person killed by homicide have made such an application, the aggregate of the amounts awarded to them by way of such compensation will not exceed \$4 200;

(ii) where both of the parents of a child killed by homicide have made such an application, the aggregate of the amounts awarded to them by way of such compensation will not exceed \$3 000;

(c) in relation to an application under subsection (1) for compensation for injury and an application under subsection (2a) for compensation for grief where both have been made by the one claimant—if the aggregate of the amounts to be awarded on those applications would, but for this paragraph, exceed \$50 000, the aggregate amount awarded to the claimant will be \$50 000.

(9) In determining an application for, and the quantum of, compensation, the court must have regard to—

(a) any conduct on the part of the victim (whether or not forming part of the circumstances immediately surrounding the offence or injury) that contributed, directly or indirectly, to the commission of the offence, or to the injury to the victim; and

(b) such other circumstances as it considers relevant.

(9aa) The court must not make an order for compensation in favour of a claimant if the court—

(a) is satisfied beyond reasonable doubt that the injury to the claimant occurred while the claimant was engaged in conduct constituting an indictable offence; and

(b) is satisfied on the balance of probabilities that the claimant's conduct contributed materially to the risk of injury to the claimant.

(9aab) Subsection (9aa) does not apply if the claimant has been acquitted of the offence.

(9aac) Despite subsection (9aa), the court may make an order for compensation in favour of a claimant if the court is of the opinion that in the circumstances of the particular claim failure to compensate would be unjust.

(9a) The court must not make an order for compensation in favour of a claimant if it appears to the court that the claimant, without good reason—

(a) failed to report the offence to the police within a reasonable time after its commission; or

(b) refused or failed to provide information to the police that was within the claimant's knowledge as to the offender's identity or whereabouts; or

(c) refused or failed to give evidence in the prosecution of the offender; or

- (d) otherwise refused or failed to co-operate properly in the investigation or prosecution of the offence,

and in consequence investigation or prosecution of the offence was not commenced or was terminated or hindered to a significant extent.

(9b) In awarding compensation under this section, the court must not make any award in respect of those hospital or medical expenses incurred by the claimant, or that part of hospital or medical expenses incurred by the claimant, that the claimant would, if an award were not made under this Act, recover from a health fund or scheme.

(9c) Notwithstanding any other Act, no interest may be awarded by the court in respect of the whole or any part of the amount of any compensation ordered under this Act.

(10) The court cannot make an order for compensation where the amount of compensation would be less than \$1 000.

(11) Where the court has made an order for compensation under this section—

- (a) it must, where the offender has been convicted, or adjudged or found guilty, of the offence, endorse upon or annex to the order a statement of the offender's means (so far as they are ascertainable by the court); and
- (b) it must endorse upon or annex to the order a statement of any payments that the claimant has received, or would, if the claimant were to exhaust all other available remedies, be likely to receive, in respect of the injury or the death of the victim, apart from this Act.

(12) Subject to this Act, the court may make such orders for the costs of proceedings under this Act as the court thinks fit.

(13) If—

- (a) the offence arises from breach of a statutory duty by an employer in relation to employment of the victim; and
- (b) the injury or death is compensable under the *Workers Rehabilitation and Compensation Act 1986*,

no compensation may be awarded under this Act.

(14) If—

- (a) the offender is insured in respect of liability incurred in respect of the injury or death by a policy of insurance—
- (i) that complies with Part 4 of the *Motor Vehicles Act 1959*; or
- (ii) that complies with the law of another State or a Territory of the Commonwealth that is declared under that Part to be a proclaimed State or Territory; or
- (b) there is, by virtue of that Part, a right of action against the nominal defendant in respect of the injury or death,

no compensation may be awarded under this Act.

**Criminal Injuries Compensation Act 1978**

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**Medical examination of claimant**

**7A.** (1) A claimant must, if a party to the proceedings so requires, submit himself or herself for medical examination by a medical practitioner nominated by the party making the request.

(2) The costs of the medical examination, and any expenses reasonably incurred by the claimant in complying with the request for the examination, must be borne by the party who requested the medical examination.

(3) The court to which the application for compensation was made may, on the application of the party requesting the medical examination, order that the proceedings upon the application be stayed until the medical examination has been completed.

(4) The party who requested the medical examination must, upon receiving the report of the medical practitioner on the results of the examination, furnish the claimant and each other party to the proceedings (other than a party in relation to whom the court has made an order dispensing with service of the application for compensation) with a copy of the report.

**Proof and evidence**

**8.** (1) Subject to this Act, any fact to be proved by a claimant in proceedings under this Act is sufficiently proved if it is proved on the balance of probabilities.

(1a) No order for compensation may be made (except by consent) on an application under this Act unless—

- (a) the commission of the offence to which the application relates has been proved beyond reasonable doubt; and
- (b) a causal connection between the commission of the offence and the injury or death to which the application relates has been proved on the balance of probabilities.

(1b) Where an order for compensation is sought in respect of an offence, and no person has been brought to trial charged with the offence, the evidence of the claimant as to the commission of the offence, unless supported in a material particular by corroborative evidence, is not sufficient to establish the commission of the offence.

(2) In any proceedings under this Act, the court may receive in evidence any transcript of evidence in proceedings in any other court, and may draw any conclusions of fact that it considers proper.

**Joint offences**

**9.** (1) Where an application is made under this Act for compensation in respect of injury suffered by a victim, financial loss suffered by a dependant or grief suffered by a spouse, putative spouse or parent in consequence of an offence committed by more than one offender, the court may make only one order for compensation under this Act in respect of that injury, loss or grief.

(2) Where an application is made under this Act for compensation in respect of injury suffered by a victim, financial loss suffered by a dependant or grief suffered by a spouse, putative spouse or parent in consequence of a series of offences committed consecutively by one offender, or a series of offences committed simultaneously or consecutively, by offenders acting in concert, or in circumstances in which those offences constitute a single incident, the court may make only one order for compensation under this Act in respect of the injury, loss or grief.

**Appeals**

**9A.** (1) A party to proceedings under this Act may appeal to the Full Court of the Supreme Court against any final order made by the court in those proceedings.

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(3) Subject to any dispensation granted by the Supreme Court, an appeal under this section—

- (a) must be lodged within 21 days of the day on which the order was made; and
- (b) must be made in accordance with the rules of the Supreme Court.

(4) Upon determining an appeal under this section, the Supreme Court may—

- (a) dismiss the appeal; or
- (b) quash the order and, if it thinks fit, substitute any other order that the court in the first instance could have made; or
- (c) vary the order in any respect; or
- (d) remit the subject matter of the appeal for rehearing,

and may make such other ancillary orders (including, subject to this Act, orders relating to the costs of the appeal) as it thinks fit.

**Legal costs**

**10.** (1) Notwithstanding any Act or law to the contrary—

- (a) costs awarded in proceedings under this Act must not exceed the amount that is, after deduction of the GST payable in respect of it, equivalent to the amount allowable under the prescribed scale; and
- (b) a legal practitioner must neither charge nor seek to recover in respect of proceedings under this Act an amount by way of costs in excess of the amount that is, after deduction of the GST payable in respect of it, equivalent to the amount allowable under the prescribed scale.

(2) The Governor may, by regulation, prescribe a scale of costs for the purposes of subsection (1).

(3) In this section—

"GST" means the tax payable under the GST law;

"GST law" means—

- (a) *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth); and
- (b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods, services and other things.

**Representation of Crown in proceedings**

**10A.** The Crown may be represented by any person nominated by the Attorney-General in preliminary or interlocutory proceedings under this Act or at a hearing for an order under this Act to be made by consent.

**Criminal Injuries Compensation Act 1978**

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**PART 3  
PAYMENT OF COMPENSATION****Payment of compensation, etc., by the Attorney-General**

**11.** (1) Subject to subsection (2), the Attorney-General must satisfy any order made under this Act in favour of a claimant for compensation or for costs within 28 days of—

- (a) the day on which a copy of the order is lodged by the claimant with the Attorney-General; or
- (b) if an appeal has been instituted against the order, the day on which the appeal is withdrawn or determined,

whichever is the later.

(2) The Attorney-General may decline to satisfy an order, or may reduce the payment to be made, if it appears just to do so in view of payments (referred to below as the "other compensation") that the claimant has received or would, if he or she were to exhaust all available remedies, be likely to receive apart from this Act in respect of the injury or loss.

(2a) In the exercise of the discretion conferred by subsection (2) the Attorney-General—

- (a) should have regard to the extent to which the other compensation represents an adequate compensation for the injury or loss; and
- (b) should (in appropriate cases) have regard to the extent to which the other compensation compensates the claimant for pain, suffering and other non-economic loss; and
- (c) if the other compensation does not, in the Attorney-General's opinion, represent an adequate compensation for pain, suffering and other non-economic loss—should not reduce the amount to be paid under this Act below the lesser of the following two amounts:
  - (i) the amount that represents the extent of the deficiency;
  - (ii) \$10 000.

(3) The Attorney-General has an absolute discretion to make the following payments:

- (a) an interim payment of compensation (not exceeding the limits prescribed by this Act in relation to an order for compensation) to a claimant who, in the opinion of the Attorney-General, is in necessitous circumstances and is likely to be awarded compensation under this Act; or
- (b) an *ex gratia* payment (not exceeding the limits prescribed by this Act in relation to an order for compensation) to a person in the following circumstances:
  - (i) the person suffers injury, financial loss or grief in consequence of conduct alleged to constitute an offence;
  - (ii) the alleged offender is acquitted of the offence;
  - (iii) the acquittal appears to the Attorney-General to have arisen—
    - in a case of rape, from lack of *mens rea*;

- in any other case, from lack of *mens rea* by reason of duress, drunkenness or automatism;
- (iv) the person would, in the Attorney-General's opinion, probably have been awarded compensation under this Act if the offence had been established; or
- (c) an *ex gratia* payment (not exceeding the limits prescribed by this Act in relation to an order for compensation) to the victim of conduct capable of constituting the objective elements of an offence if it appears to the Attorney-General that, because of lack of evidence, absence of capacity to incur criminal responsibility or other matters personal to the perpetrator, or for any other reason that does not reflect adversely on the victim, an offence has not been, or cannot be, established; or
- (ca) an *ex gratia* payment (not exceeding the limits prescribed by this Act in relation to an order for compensation) to a person in the following circumstances:
  - (i) the person suffers injury, financial loss or grief in consequence of an offence committed outside this State;
  - (ii) the victim is at the time of the commission of the offence ordinarily resident in this State;
  - (iii) some person is convicted of the offence;
  - (iv) where the law of the place where the offence is committed establishes a right to compensation—the applicant has taken reasonable steps to obtain compensation under that law;
  - (v) the applicant would, in the Attorney-General's opinion, probably have been awarded compensation under this Act if the offence had been committed in this State;
  - (vi) the applicant is, in the Attorney-General's opinion, in necessitous circumstances; or
- (d) such other *ex gratia* payments (not exceeding, in any particular case, the limits prescribed by this Act in relation to an order for compensation) as the Attorney-General considers necessary, and consistent with the objects and policy of this Act, to compensate harm resulting from criminal conduct or conduct of the kind described above.

(4) The Attorney-General also has an absolute discretion to make payments to a government or non-government organisation or agency for a purpose that will, in the Attorney-General's opinion, advance the interests of victims of crime.

**Right of Attorney-General to recover money paid out**

**11A.** (1) Where the Attorney-General makes any payment under this Act to a claimant, the Attorney-General is subrogated, to the extent of the payment, to the rights of—

- (a) the claimant, as against the offender or any other person liable at law to compensate the claimant for the injury, financial loss or grief in respect of which the payment was made; and

**Criminal Injuries Compensation Act 1978**

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- (b) the offender, as against any insurer or other person from whom the offender is entitled to indemnity or contribution in respect of liability arising from the injury or death in respect of which the payment was made.

(2) Where the Attorney-General has made an interim payment of compensation under this Act to a claimant and no order for compensation is subsequently made in favour of that claimant, or an order is made but for a lesser amount, the Attorney-General may recover the amount so paid, or the amount of the excess, as the case may require, from the claimant as a debt.

(3) Where the Attorney-General has made any payment under this Act to a claimant and the claimant is subsequently paid compensation or damages by some other person for the injury, financial loss or grief in respect of which the payment under this Act was made, the Attorney-General may, if the subsequent award was not reduced by virtue of the payment under this Act, recover from the claimant, as a debt, the amount paid by the Attorney-General, to an extent not exceeding the amount of the subsequent award.

(4) The Attorney-General may recover, as a debt, from an offender who has been convicted of an offence the amount of any payment made by the Attorney-General under this Act in respect of injury or death arising from the offence, except an amount that is recoverable under subsection (2).

(5) For the purposes of subsection (4), where the Attorney-General lodges with the clerk of a court of competent jurisdiction a copy of an order for compensation or costs made in favour of a claimant, together with a certificate signed by the Attorney-General certifying—

- (a) the amount paid under this Act to the claimant; and
- (b) the amount (if any) recovered from the offender or recovered pursuant to subsection (1),

the clerk must register the order, and enforcement proceedings may then be taken upon it as if it were a judgment of that court against the offender for the amount specified in the Attorney-General's certificate as having been paid but not recovered.

**PART 4**  
**THE CRIMINAL INJURIES COMPENSATION FUND AND LEVIES**

**The Criminal Injuries Compensation Fund**

**12.** (1) The Criminal Injuries Compensation Fund continues in existence.

(2) The Fund consists of—

- (a) the money provided by Parliament for the purposes of the Fund; and
- (b) any amounts paid into the Fund under subsection (3); and
- (c) any amounts recovered by way of levy under this Part; and
- (d) any amounts recovered by the Attorney-General under this Act; and
- (e) any money paid into the Fund in pursuance of any other Act.

(3) In each financial year, the prescribed proportion of the aggregate amount paid into General Revenue by way of fines will be paid into the Fund.

(4) Any payment made by the Attorney-General under this Act will be debited to the Fund.

(5) Any deficiency in the Fund will be met from the General Revenue of the State.

**Imposition of levy**

**13.** (1) A levy is imposed for the purpose of providing a source of revenue for the Fund.

(2) Subject to subsection (2a) and any exceptions prescribed by the regulations, the levy is imposed on—

- (a) all persons convicted of offences after the commencement of this section (whether the offence was committed before or after the commencement of this section); and
- (b) all persons who expiate offences in pursuance of expiation notices issued after the commencement of this section.

(2a) A levy is not imposed on a person convicted of an offence if the person has paid the levy under an expiation notice issued for the same offence.

(3) Subject to subsection (4), the amount of the levy is—

(a) in relation to a summary offence—

- (i) if the offence is expiated—\$7;
- (ii) in any other case—\$28;

(b) in relation to an indictable offence—\$44.

(4) If, but for this subsection, the amount of the levy payable by a youth would exceed \$14, the amount of the levy will be \$14.

**Criminal Injuries Compensation Act 1978**

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- (5) Where a levy is payable under this section by a person who expiates an offence—
  - (a) the amount of the levy must be shown on the expiation notice; and
  - (b) notwithstanding any other law, the offence will not be regarded as expiated, and no immunity from prosecution will arise, unless the levy has been paid.
  
- (6) Where a levy is payable under this section by a person who is convicted of an offence—
  - (a) the amount of the levy must be shown in—
    - (i) any formal record of the conviction and sentence;
    - (ii) any notice of the conviction and sentence given to the defendant;
    - (iii) any warrant of commitment issued for the imprisonment of the defendant for the offence;
  - (b) the court may not, at the time of convicting or sentencing the defendant for the offence, reduce the levy or exonerate the defendant from liability to pay it;
  - (c) the levy is recoverable under the *Criminal Law (Sentencing) Act 1988*.

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(8) Notwithstanding any other provision of this section, the Governor may remit a levy, or any part of a levy, payable by a person under this section.

**PART 5  
MISCELLANEOUS**

**Interaction between this Act and other laws**

**14.** (1) Subject to subsection (2), this Act does not exclude or derogate from rights to damages or compensation that exist apart from this Act.

(2) Where a person recovers compensation under this Act, the amount of that compensation will be taken into account in assessing the damages or compensation for the same injury or loss in proceedings founded on rights that exist apart from this Act.

(3) Where compensation is paid under the law relating to workers compensation and the person to whom that compensation is paid also receives compensation under this Act, the payment of the latter compensation does not give rise to a right of recovery under the law relating to workers compensation.

**Date as at which compensation is to be assessed**

**14A.** Where a person is entitled to compensation under this Act, the amount of the compensation must be assessed in accordance with the provisions of this Act as in force at the time of the commission of the offence from which the injury arose.

**Delegation**

**14B.** (1) The Attorney-General may, by instrument in writing, delegate to a specified person, or the holder of a specified position, power to make a payment under section 11(3) to a person—

- (a) by whom or on whose behalf notice of a proposed application has been given to the Crown Solicitor under this Act; and
- (b) who would be likely to be awarded compensation under this Act.

(2) A delegation under this section—

- (a) may be made subject to conditions or limitations; and
- (b) is revocable at will and does not derogate from the power of the Attorney-General to act in any matter.

**Annual Report**

**14C.** (1) The administrative unit of the Public Service responsible, under the Attorney-General, for the administration of this Act must, on or before 30 September in each year, present a report to the Attorney-General on the operation and administration of this Act during the previous financial year.

(2) A report required under this section may be incorporated in the annual report of the relevant administrative unit.

(3) The Attorney-General must, within 12 sittings days after receipt of a report under this section, cause copies of the report to be laid before each House of Parliament.

**Regulations**

**15.** The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

**Criminal Injuries Compensation Act 1978****APPENDIX****LEGISLATIVE HISTORY****Repeals**

The *Criminal Injuries Compensation Act 1978* repealed the following Acts:

*Criminal Injuries Compensation Act 1969*

*Criminal Injuries Compensation Act Amendment Act 1972*

*Criminal Injuries Compensation Act Amendment Act 1974*

**Transitional Provisions**

*(Transitional provision from Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996, s. 5)*

5. An Act repealed or amended by this Act will continue to apply (as in force immediately prior to the repeal or amendment coming into operation) to an expiation notice issued under the repealed or amended Act.

**Legislative History**

Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 14 August 1987. A schedule of these alterations was laid before Parliament on 6 October 1987.

*(entries in bold type indicate amendments incorporated since the last reprint)*

Long title:	amended by 16, 1986, s. 4
Part 1 heading:	inserted by 53, 1987, s. 7 (Sched.)
Sections 2 and 3:	repealed by 53, 1987, s. 7 (Sched.)
Section 4:	definition of "appropriate court" inserted by 66, 1982, s. 3(a); repealed by 16, 1986, s. 5(a) definition of "conviction" inserted by 53, 1987, s. 3(a) definition of "the court" inserted by 16, 1986, s. 5(b); substituted by 69, 1991, s. 11 definition of "dependants" amended by 53, 1987, s. 7 (Sched.) definition of "homicide" inserted by 16, 1986, s. 5(c) definition of "juvenile offender" inserted by 53, 1987, s. 3(b); repealed by 60, 1998, s. 9(a) definition of "non-financial loss" inserted by 48, 1993, s. 3 definition of "offence" substituted by 66, 1982, s. 3(b); amended by 53, 1987, s. 7 (Sched.) definition of "the repealed Act" repealed by 53, 1987, s. 7 (Sched.) definition of "youth" inserted by 60, 1998, s. 9(b)
Section 5:	amended by 66, 1982, s. 4; repealed by 53, 1987, s. 7 (Sched.)
Section 6:	repealed by 48, 1993, s. 4
Part 2 heading:	inserted by 53, 1987, s. 7 (Sched.)
Section 7(1):	amended by 16, 1986, s. 6(a); 53, 1987, s. 4(a), s. 7 (Sched.)
Section 7(2):	substituted by 16, 1986, s. 6(b)
Section 7(2a):	inserted by 16, 1986, s. 6(b)
Section 7(2b):	inserted by 27, 1990, s. 4(a)(i)
Section 7(3):	amended by 16, 1986, s. 6(c), (d); 27, 1990, s. 4(a)(ii); substituted by 48, 1993, s. 5(a)
Section 7(4):	amended by 44, 1979, s. 5(2) (Sched.); substituted by 66, 1982, s. 5(a); repealed by 16, 1986, s. 6(e); inserted by 48, 1993, s. 5(a)
Section 7(4a):	inserted by 66, 1982, s. 5(a); repealed by 16, 1986, s. 6(e); inserted by 48, 1993, s. 5(a)
Section 7(5):	amended by 16, 1986, s. 6(f); 53, 1987, s. 7 (Sched.)
Section 7(7):	amended by 66, 1982, s. 5(b); 16, 1986, s. 6(g), (h); 53, 1987, s. 7 (Sched.); 27, 1990, s. 4(a)(iii)
Section 7(7a):	inserted by 66, 1982, s. 5(c); amended by 16, 1986, s. 6(i)
Section 7(8):	substituted by 16, 1986, s. 6(j); amended by 53, 1987, s. 4(b), (c); 27, 1990, s. 4(a)(iv); 48, 1993, s. 5(b)
Section 7(9):	amended by 48, 1993, s. 5(c)
<b>Section 7(9aa) - (9aac):</b>	<b>inserted by 57, 2000, s. 11</b>
Section 7(9a):	inserted by 66, 1982, s. 5(d); substituted by 48, 1993, s. 5(d)

Section 7(9b):	inserted by 16, 1986, s. 6(k)
Section 7(9c):	inserted by 48, 1993, s. 5(e)
Section 7(10):	amended by 48, 1993, s. 5(f)
Section 7(11):	amended by 16, 1986, s. 6(l); 53, 1987, s. 7 (Sched.)
Section 7(12):	inserted by 66, 1982, s. 5(e)
Section 7(13):	inserted by 27, 1990, s. 4(a)(v); amended by 48, 1993, s. 5(g)
Section 7(14):	inserted by 48, 1993, s. 5(h)
Section 7A(1):	inserted by 66, 1982, s. 6; amended by 53, 1987, s. 7 (Sched.)
Section 7A(2) - (4):	inserted by 66, 1982, s. 6
<b>Section 8(1):</b>	<b>amended by 66, 1982, s. 7(a); 57, 2000, s. 12</b>
Section 8(1a):	inserted by 66, 1982, s. 7(b); substituted by 16, 1986, s. 7; amended by 53, 1987, s. 7 (Sched.)
Section 8(1b):	inserted by 66, 1982, s. 7(b)
Section 8(2):	amended by 53, 1987, s. 7 (Sched.)
Section 9(1):	amended by 16, 1986, s. 8(a), (b)
Section 9(2):	amended by 16, 1986, s. 8(c), (d)
Section 9A(1):	inserted by 66, 1982, s. 8; substituted by 16, 1986, s. 9
Section 9A(2):	inserted by 66, 1982, s. 8; repealed by 16, 1986, s. 9
Section 9A(3) and (4):	inserted by 66, 1982, s. 8
Section 10(1):	substituted by 66, 1982, s. 9; amended by 57, 2000, s. 13(a), (b)
Section 10(3):	inserted by 57, 2000, s. 13(c)
Section 10A:	inserted by 48, 1993, s. 6
Part 3 heading:	inserted by 53, 1987, s. 7 (Sched.)
Section 11(1):	amended by 66, 1982, s. 10(a), (b); substituted by 16, 1986, s. 10(a)
Section 11(2):	amended by 16, 1986, s. 10(b); substituted by 53, 1987, s. 5(a)
Section 11(2a):	inserted by 53, 1987, s. 5(a); amended by 27, 1990, s. 4(b)(i)
Section 11(3):	amended by 66, 1982, s. 10(c); substituted by 16, 1986, s. 10(c); amended by 27, 1990, s. 4(b)(ii), (iii); 48, 1993, s. 7
Section 11(4):	amended by 66, 1982, s. 10(d); repealed by 16, 1986, s. 10(d); inserted by 53, 1987, s. 5(b)
Section 11A:	inserted by 16, 1986, s. 11
Part 4 heading:	inserted by 53, 1987, s. 6
Section 12:	substituted by 16, 1986, s. 12; 53, 1987, s. 6
Section 13:	substituted by 53, 1987, s. 6
Section 13(2):	amended by 34, 1996, s. 4 (Sched. cl. 14)
Section 13(2a):	inserted by 34, 1996, s. 4 (Sched. cl. 14)
Section 13(3):	amended by 48, 1993, s. 8(a)-(c); substituted by 69, 1996, s. 3
Section 13(4):	amended by 48, 1993, s. 8(d); substituted by 69, 1996, s. 3; amended by 60, 1998, s. 10(a)
Section 13(5):	amended by 34, 1996, s. 4 (Sched. cl. 14)
Section 13(6):	amended by 27, 1990, s. 4(c); 60, 1998, s. 10(b), (c)
Section 13(7):	repealed by 60, 1998, s. 10(d)
Section 13(8):	inserted by 51, 1988, s. 25
Part 5 heading:	inserted by 53, 1987, s. 6
Section 14:	substituted by 53, 1987, s. 6
Section 14A:	inserted by 57, 1988, s. 3
Section 14B:	inserted by 48, 1993, s. 9
Section 14C:	inserted by 69, 1996, s. 4
Section 15:	inserted by 53, 1987, s. 6