



ANNO TRICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1982

No. 66 of 1982**An Act to amend the Criminal Injuries Compensation Act, 1977-1979.***[Assented to 1 July 1982]*

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Criminal Injuries Compensation Act Amendment Act, 1982".

(2) The Criminal Injuries Compensation Act, 1977-1979, is in this Act referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Criminal Injuries Compensation Act, 1977-1982".

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of
s. 4—
Interpretation.

3. Section 4 of the principal Act is amended—

(a) by inserting before the definition of "claimant" the following definition:

"appropriate court", in relation to an application for an order for compensation under this Act, means a court to which the application for compensation may be made in pursuance of section 7 (4);;

and

(b) by striking out the definition of "offence" and substituting the following definition:

"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 his age, or the existence of a defence of insanity;;

4. Section 5 of the principal Act is amended by inserting after subsection (2) the following subsection: Amendment of s. 5—
Transitional provisions.

(3) This Act, as in force before the commencement of the Criminal Injuries Compensation Act Amendment Act, 1982, shall apply in relation to injury that occurred before the commencement of that amending Act.

5. Section 7 of the principal Act is amended— Amendment of s. 7—
Application for compensation.

(a) by striking out subsection (4) and substituting the following subsections:

(4) An application for an order for compensation under this Act may be made to—

(a) where the alleged offender has been brought to trial for the offence—the court before which he has been brought to trial;

or

(b) a District Court.

(4a) An application under subsection (4) (a) must be made before the proceedings in relation to the alleged offence have been finally determined.;

(b) by striking out from subsection (7) the passage “together with such amount (if any) by way of costs as the court thinks fit”;

(c) by inserting after subsection (7) the following subsection:

(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) 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.;

(d) by inserting after subsection (9) the following subsection:

(9a) The court shall not make an order for compensation in favour of a claimant if it appears to the court that—

(a) the claimant failed, without good reason, to report the offence to the police within a reasonable time after its commission;

or

(b) the claimant failed, without good reason, to co-operate properly with the police in the conduct of their investigations into the offence,

and that the failure hindered the police to a significant extent in carrying out their investigations into the offence.;

and

(e) by inserting after subsection (11) the following subsection:

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

Insertion of
new s. 7a.

Medical
examination
of claimant.

6. The following section is inserted after section 7 of the principal act:

7a. (1) A claimant under an application for compensation under this Act shall, if a party to the proceedings requires him to do so, submit himself for medical examination by a medical practitioner nominated by the party making the request.

(2) The costs of the medical examination of a claimant pursuant to this section, and any expenses reasonably incurred by the claimant in complying with the request for the examination, shall 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 of the claimant has been completed.

(4) The party who requested the medical examination of the claimant shall, 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.

Amendment of
s. 8—
Proof and
evidence.

7. Section 8 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “Any fact” and substituting the passage “Subject to this section, any fact”;

and

(b) by inserting after subsection (1) the following subsections:

(1a) No order for compensation shall be made in proceedings under this Act (except by consent) unless the commission of an offence, and a causal connection between the commission of the offence and the injury in respect of which compensation is sought, are established beyond reasonable doubt.

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

Insertion of
new s. 9a.
Appeals.

8. The following section is inserted after section 9 of the principal Act:

9a. (1) A party to proceedings under this Act may appeal against any final order made by a court in those proceedings.

(2) An appeal under this section must be made—

(a) where the order the subject of the appeal was made by a court of summary jurisdiction, the Children’s Court of South

Australia, or a District Court—to a single Judge of the Supreme Court;

or

(b) where the order the subject of the appeal was made by a single Judge of that Court—to the Full Court of the Supreme Court.

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

(a) must be lodged within twenty-one 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;

(b) quash the order and, if it thinks fit, substitute any other order that the court in the first instance could have made;

(c) vary the order in any respect;

or

(d) remit the subject matter of the appeal for re-hearing,

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

9. Section 10 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

Amendment of
s. 10—
Legal costs.

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

(a) costs awarded in proceedings under this Act shall not exceed the amount allowable under the prescribed scale;

and

(b) a legal practitioner shall neither charge nor seek to recover by way of costs in respect of proceedings under this Act an amount in excess of the amount allowable under the prescribed scale.

10. Section 11 of the principal Act is amended—

Amendment of
s. 11—
Satisfaction
of orders by
Attorney-
General.

(a) by striking out the passage “twenty-eight days” and substituting the passage “thirty-five days”;

(b) by striking out from subsection (1) the passage “satisfy that order” and substituting the passage “or, where an appeal has been lodged against the order, within twenty-eight days of the appeal being withdrawn or determined, satisfy the order (including any costs payable to the claimant under that order, an ancillary order or an order of an appellate court)”;

(c) by striking out from subsection (3) the passage "for compensation in respect of" and substituting the passage "made under this Act in respect of death or";

and

(d) by striking out from subsection (4) the passage "for compensation" wherever it occurs.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor