

1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

**Criminal Injuries Compensation
(Amendment) Bill 1991**

A BILL

FOR

An Act to amend the *Criminal Injuries Compensation Act 1983*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Criminal Injuries Compensation (Amendment) Act 1991*.

Principal Act

2. In this Act, "Principal Act" means the *Criminal Injuries Compensation Act 1983*.¹

Interpretation

3. Section 2 of the Principal Act is amended—
(a) by omitting the definition of "court" and substituting the following definition:

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“court’, in relation to an application, means—

- (a) the court that has jurisdiction under subsection 11 (1) or (2) to determine that application; or
 - (b) if the Registrar has power to determine that application under subsection 11 (3)—the Registrar;”;
- (b) by adding at the end the following subsection:
- “(2) In this Act—
- (a) a reference to a person having been convicted of an offence shall be read as including a reference to a person having been charged before a court with an offence, being an offence that the court found to be proved but in respect of which the court did not proceed to conviction; and
 - (b) a reference to a conviction shall, in relation to an offence referred to in paragraph (a), be read as including a reference to the finding by the court that the offence was proved.”.

Evidence of criminal conduct

4. Section 3 of the Principal Act is amended by omitting subsection (2).

Maximum amount of compensation

5. Section 7 of the Principal Act is amended by omitting from subsection (1) “\$20,000” and substituting “\$50,000”.

Application for compensation

6. Section 10 of the Principal Act is amended—
- (a) by inserting in paragraph (1) (a) “, supported by affidavit” after “writing”;
 - (b) by omitting paragraph (1) (c) and substituting the following paragraph:
 - “(c) be accompanied by a copy of—
 - (i) any relevant medical report;
 - (ii) any relevant statement made to a police officer;
 - (iii) any document showing the receipt of compensation for the relevant injury or property damage under any other law of the Territory or any law of the Commonwealth, a State or another Territory, or which is relevant to a claim for such compensation;
 - (iv) any document showing the receipt of any damages for the relevant injury or property damage, or which is relevant to a claim for such damages; or

(v) any other relevant document.”;

(c) by inserting after subsection (1) the following subsection:

“(1A) An applicant shall lodge the application, affidavit and each accompanying document with—

(a) where subsection 11 (1) or (3) applies—the Registrar; or

(b) where subsection 11 (2) applies—the Clerk.”; and

(d) by omitting subsection (4) and substituting the following subsection:

“(4) Within 14 days after an application is received, the Registrar or the Clerk (as the case requires) shall—

(a) forward a copy of the application, affidavit and each accompanying document to the Government Solicitor; and

(b) by notice in writing to the applicant and to the Government Solicitor, fix a date, time and place for the determination of the application.”.

Repeal

7. Section 14 of the Principal Act is repealed.

Considerations relevant to the determination of compensation

8. Section 15 of the Principal Act is amended—

(a) by omitting from paragraph (2) (d) “Part XVA” and substituting “section 437”;

(b) by omitting from paragraph (2) (d) “to the Territory” and substituting “in the Territory”;

(c) by omitting paragraph (2) (e) and substituting the following paragraph:

“(e) any amount that the applicant has received or is entitled to receive—

(i) as a medicare benefit under the *Health Insurance Act 1973* of the Commonwealth; or

(ii) under a contract of insurance;

whether by way of a reimbursement in whole or in part of any hospital or medical expenses incurred or otherwise, as a result of having sustained the relevant prescribed injury or prescribed property damage;”;

(d) by omitting paragraph (2) (f).

Insertion

9. After section 29 of the Principal Act the following sections are inserted:

Recovery of compensation from offenders

“29A. (1) This section applies where—

- (a) a person (in this section called ‘the offender’) is convicted of an offence;
- (b) another person receives an award of compensation under this Act in relation to any criminal conduct of the offender constituting, or forming an element of, that offence; and
- (c) at the time of that award neither the person referred to in paragraph (b) nor any other person has, in relation to the relevant prescribed injury, taken any action to recover—
 - (i) damages, whether in the Territory or elsewhere; or
 - (ii) compensation under any other law of the Territory or under any law of the Commonwealth, a State or another Territory.

“(2) Where this section applies, the offender is liable to pay to the Territory an amount equal to the amount of the relevant award of compensation under this Act.

“(3) Where there is more than 1 offender, each offender is jointly and severally liable under subsection (2).

Reimbursement of offender

“29B. (1) Where—

- (a) section 29A applies in relation to an award of compensation under this Act; and
- (b) subsection 29 (1) applies in relation to the same award of compensation;

the Territory is liable to pay to each relevant offender an amount equal to—

- (c) any amount paid by the offender under subsection 29A (2); or
- (d) the amount of damages or compensation referred to in paragraph 29 (1) (b);

whichever is less.

“(2) Where paragraphs (1) (a) and (b) apply, on the request in writing of the relevant offender the Territory may pay an amount equal to part or all of the amount referred to in paragraph (1) (c) or (d) to another person or persons nominated by the offender instead of paying such an amount to the offender.”

The Schedule

10. The Schedule to the Principal Act is amended—

(a) by omitting—

“The Registrar of the
Supreme Court of the
Australian Capital Territory”

and substituting—

“The Registrar of the
Supreme Court of the
Australian Capital Territory*”

The Clerk of the
Magistrates Court of the
Australian Capital Territory*”;

(b) by omitting paragraph 8; and

(c) by adding after paragraph 10 the following paragraph:

“11. Copies of the following documents relevant to this application are attached.”

Additional amendments

5 11. The Principal Act is amended—

(a) by omitting from paragraphs 21 (2) (c), 30 (1) (b) and 30 (2) (b) and subsection 30 (3) “administrative head” and substituting “Government Solicitor”; and

10 (b) by omitting from subsection 18 (1) “Attorney-General” and substituting “Government Solicitor”.

Transitional

12. (1) Notwithstanding the amendments to the Principal Act effected by this Act, the Principal Act continues to apply in relation to a transitional application as if this Act had not commenced.

15 (2) In this section—

“transitional application” means an application which, immediately before the commencement of this Act, had been made but not determined.

NOTE

1. Ordinance No. 11, 1983 as amended by No. 67, 1985; No. 28, 1986; No. 89, 1988; Nos. 21 and 25, 1989; No. 5, 1990.