

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

CRIMINAL INJURIES COMPENSATION ORDINANCE 1983

No.11 of 1983

The purpose of the Ordinance is to establish a government-funded scheme to compensate persons injured by criminal conduct. The Ordinance provides a maximum award of compensation of \$20,000.

Section 1 is the short title

Section 2 is the interpretation provision and defines a number of words and expressions used in the Ordinance. Significant definitions are "criminal conduct", "dependant", "injury" and "prescribed property damage".

Section 3 is an evidentiary aid which provides that a conviction for an offence is conclusive evidence of criminal conduct.

Section 4 ensures that, for the purposes of the Ordinance, certain conduct is regarded as criminal conduct.

Section 5 sets out the circumstances which might result in compensation being awarded and the persons to whom compensation might be awarded. Subsection (4) provides for reimbursement of certain expenses incurred in making an application for an award.

Section 6 describes the expenses, losses and other matters in respect of which compensation may be awarded.



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Section 7 provides that the compensation which may be awarded is an amount which does not, or amounts which do not, exceed \$20,000.

Section 8 provides that the onus of proof to be discharged by an applicant is the civil onus (balance of probabilities) rather than the criminal onus (beyond reasonable doubt).

Section 9 sets out the circumstances in which compensation is not to be awarded.

Section 10 makes provision for formal matters in relation to the making of an application for compensation.

Section 11 distributes the jurisdiction to make an award of compensation between the Supreme Court and the Court of Petty Sessions, when criminal proceedings are brought, and the Registrar of the Supreme Court when no such proceedings are brought.

Section 12 makes provision for the procedure to be followed by the Court of Petty Sessions in determining applications for compensation.

Section 13 empowers a court or the Registrar to attach conditions to an award of compensation.

Section 14 provides that an application for compensation may not be determined if the applicant has not taken all reasonable steps to enforce other rights or remedies he has in respect of the injury.

Section 15 sets out the matters to be taken into consideration in determining whether or not to make an award of compensation or the amount of compensation to be awarded.

Section 16 provides for an interim award of compensation.

Section 17 enables the making of an order restricting the publicity in respect of proceedings under the Ordinance, and creates an offence of contravention of such order.

Section 18 provides that an award of compensation may be subsequently varied, and sets out the matters to be considered when such application is made.

Section 19 is an interpretation provision which applies the provisions of the Ordinance to the Registrar of the Supreme Court in those cases where that officer has jurisdiction to determine applications for compensation.

Section 20 gives the Registrar a discretion to refuse to make an award of compensation where the criminal conduct which caused the relevant injury was not reported to the police.

Section 21 provides that the Registrar shall not determine an application for compensation unless he has first held an inquiry into the application. It also sets out procedural matters in relation to such an inquiry.

Section 22 gives the Registrar power to summon witnesses to attend and give evidence at an inquiry, and also produce documents.

Section 23 creates an offence of failing to attend an inquiry, as summoned, without reasonable excuse. It creates the further offence of failing to attend from day to day unless excused or released by the Registrar.

Section 24 makes it an offence for a witness to refuse to be sworn, refuse to answer a question or refuse to produce a document that he has been summoned to produce.

Section 25 provides that a witness attending before the Registrar to give evidence or produce documents has the same protection and is subject to the same liabilities, as a witness in proceedings in the Supreme Court.

Section 26 provides for the retention of documents by the Registrar for a reasonable time.

Section 27 provides that the Commonwealth is the source from which compensation awards are paid.

Section 28 provides for an appeal to the Supreme Court from an award, or a refusal to make an award, by the Registrar.

Section 29 provides that where an award of compensation is paid to a person, and that person subsequently recovers damages at common law in respect of that injury, or receives compensation under a relevant law, that

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person is liable to make a repayment to the Commonwealth. It also creates an offence of failing to notify the Secretary of the Attorney-General's Department when such a liability arises.

Section 30 sets out the procedural steps involved in the payment of an award of compensation.

Section 31 seeks to preserve the award for the benefit of the person who suffered the injury or loss.

Section 32 preserves other rights or liabilities in respect of the injury or loss.

Section 33 provides for the service of documents.

Section 34 gives the Commonwealth the right of appearance in proceedings in respect of an application for compensation.

Section 35 provides for the submission to the Attorney-General of an Annual Report and for the tabling of that Report in each House of Parliament.



Authorised by the Acting Attorney-General