



ANNO TRICESIMO SEXTO

# ELIZABETHAE II REGINAE

A.D. 1987

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No. 53 of 1987

**An Act to amend the Criminal Injuries Compensation Act, 1978.**

*[Assented to 30 April 1987]*

The Parliament of South Australia enacts as follows:

1. (1) This Act may be cited as the "Criminal Injuries Compensation Act Amendment Act, 1987". Short title.

(2) The Criminal Injuries Compensation Act, 1978, is in this Act referred to as "the principal Act".

2. (1) This Act will come into operation on a day to be fixed by proclamation. Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend specified provisions of this Act until a subsequent day fixed in the proclamation or a day to be fixed by subsequent proclamation.

3. Section 4 of the principal Act is amended—

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

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

(b) by inserting after the definition of "injury" the following definition:

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

Amendment to  
s. 4—  
Interpretation.

4. Section 7 of the principal Act is amended—

(a) by striking out "twelve months" from subsection (1) and substituting "three years";

(b) by striking out from paragraph (a) of subsection (8) "\$10 000" (twice occurring) and substituting, in each case, "\$20 000";

Amendment of  
s. 7—  
Applications for  
compensation.

and

(c) by striking out from paragraph (c) of subsection (8) "\$10 000" (twice occurring) and substituting, in each case, "\$20 000".

Amendment of  
s. 11—  
Payment of  
compensation,  
etc., by the  
Attorney-General.

**5. Section 11 of the principal Act is amended—**

(a) by striking out subsection (2) and substituting the following subsections:

(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;

(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—

(i) the amount that represents the extent of the deficiency;

or

(ii) \$5 000,

whichever is the lesser.;

and

(b) by inserting after subsection (3) the following subsection:

(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.

Repeal of ss. 12,  
13 and 14 and  
substitution of  
new Parts.

**6. Sections 12, 13 and 14 of the principal Act are repealed and the following Parts are substituted:**

**PART IV**

**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;

- (b) any amounts paid into the Fund under subsection (3);
  - (c) any amounts recovered by way of levy under this Part;
  - (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.

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

(2) Subject to 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.

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

- (a) in relation to a summary offence—

- (i) if the offence is expiated—\$5;

- (ii) in any other case—\$20;

- (b) in relation to an indictable offence—\$30.

(4) If, but for this subsection, the amount of the levy payable by a juvenile offender would exceed \$10, the amount of the levy will be \$10.

(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 both the expiation fee and the levy have 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;

(b) the levy is recoverable in the same way as a fine and the court has the same powers in relation to the levy as it has in relation to a fine (but the court may not reduce the levy or exonerate the convicted person from liability to pay it).

(7) Where a person is imprisoned or placed in a place of detention the superintendent of the prison or place of detention must, unless satisfied that the levy has been paid by or on behalf of that person, retain the amount of the levy from earnings to which the person becomes entitled while imprisoned or under detention.

**PART V**

**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.

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.

Statute law  
revision  
amendments.

7. The principal Act is amended as indicated in the schedule.

## THE SCHEDULE

Section Amended	How Amended
Heading	Before section 1 insert heading as follows: PART I PRELIMINARY
Sections 2 and 3	Delete these sections.
Section 4— Definition of “dependants”	Delete “that victim who are dependent upon him financially” and substitute “of the victim who are financially dependent on the victim”.
Definition of “offence”	Delete “his” and substitute “that person’s”.
Definition of “the repealed Act”	Delete this definition.
Section 5— Heading	Delete this section. Before section 7 insert heading as follows: PART II CLAIMS FOR COMPENSATION
Section 7 (1)	Delete “suffered by him” and substitute “arising from the offence”.
Section 7 (5)	Delete “his” (first occurring) and substitute “the”. Delete “his” where it occurs for the second time and substitute “the offender’s”.
Section 7 (7) (a)	Delete “suffered by him” and substitute “arising from the offence”.
Section 7 (11) (a)	Delete “his” and substitute “the offender’s”.
Section 7 (11) (b)	Delete “otherwise than under” and substitute “apart from”.
Section 7a (1)	Delete “requires him to do so” and substitute “so requires”. After “himself” insert “or herself”.
Section 8 (1a)	Delete “(whether the application is made before or after the commencement of Part II of the Statutes Amendment (Victims of Crime Act, 1986))”.
Section 8 (2)	Delete “therefrom”.
Heading	Before section 11 insert heading as follows: PART III PAYMENT OF COMPENSATION.

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

D. B. DUNSTAN, Governor