

WESTERN AUSTRALIA

**CRIMINAL INJURIES
COMPENSATION AMENDMENT
ACT 1996**

No. 71 of 1996

AN ACT to amend the *Criminal Injuries Compensation Act 1985*, and for related purposes.

[Assented to 13 November 1996]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Criminal Injuries Compensation Amendment Act 1996*.

Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.

Principal Act

3. In this Act, the *Criminal Injuries Compensation Act 1985** is referred to as the principal Act.

[* *Act No. 73 of 1985.*
*For subsequent amendments, see 1995 Index to
Legislation of Western Australia, Table 1, p. 55.]*

Section 3 amended

4. (1) Section 3 (1) of the principal Act is amended —

(a) by inserting in their appropriate alphabetical positions the following definitions —

“ **acting Chief Assessor**” means a person appointed to act temporarily as the Chief Assessor under section 5A (1);

“ **administrative functions**” means the functions referred to in sections 5 (2), 19 (2) and 48 (1);

“ **Assessor**” means a person appointed as such under section 5B;

“ **function**” has the same meaning as it has in the *Interpretation Act 1984*;

“ **qualified person**” means a person who is a practitioner within the meaning of the *Legal Practitioners Act 1893* of not less than 8 years’ standing and practice.

”;

- (b) by deleting the definition of “Assessor” and substituting in its appropriate alphabetical position the following —

“**“Chief Assessor”** means, subject to subsections (5) and (6), the person appointed as such under section 5 (1);
”;

and

- (c) in paragraph (b) of the definition of “personal representative” by —

- (i) inserting before “Assessor” the following —

“ Chief ”; and

- (ii) deleting the full stop at the end of that paragraph and substituting a semicolon.

- (2) Section 3 of the principal Act is amended by inserting after subsection (4) the following subsections —

“
(5) A reference to the Chief Assessor in this Act includes, except in section 5 (1) and clause 1 (a) of Schedule 1, a reference to an acting Chief Assessor.

- (6) A reference to the Chief Assessor in —

- (a) paragraph (b) of the definition of “personal representative” in subsection (1);
(b) Parts III (except section 19 (2)), IV, V and VI;
(c) sections 44, 46, 47 and 49; and
(d) Schedule 1,

includes a reference to an Assessor.

”.

Heading to Part II amended

5. The heading to Part II of the principal Act is amended by deleting “OFFICE OF ASSESSOR” and substituting the following —

“
OFFICES OF CHIEF ASSESSOR, ACTING CHIEF
ASSESSOR AND ASSESSORS
”.

Section 5 repealed and sections 5, 5A, 5B and 5C substituted, and transitional

6. (1) Section 5 of the principal Act is repealed and the following sections are substituted —

“
Chief Assessor

5. (1) The Governor shall appoint a qualified person as Chief Assessor for the purpose of determining applications for compensation under, and exercising and performing the other functions assigned to the Chief Assessor by, this Act.

(2) Subject to this Act, the Chief Assessor may allocate and reallocate applications for compensation under this Act to or among Assessors.

Acting Chief Assessor

5A. (1) If the Chief Assessor becomes incapable of acting by reason of illness, absence or other cause, the Governor may appoint a qualified person to act temporarily as the Chief Assessor, and while so acting the qualified person has the functions of the Chief Assessor.

(2) No act or omission of an acting Chief Assessor shall be questioned on the ground that the occasion for his appointment or acting had not arisen or had ceased.

Assessors

5B. The Governor may appoint one or more qualified persons as Assessors for the purpose of exercising or performing the functions (other than the administrative functions) assigned to the Chief Assessor by this Act.

Matters relating to Chief Assessor, acting Chief Assessors and Assessors

5C. (1) An Assessor may exercise or perform his functions in relation to a matter at the same time as the Chief Assessor or another Assessor is exercising or performing the same functions in relation to another matter.

(2) Schedule 1 has effect with respect to the appointment of, and to other matters relating to the office of, the Chief Assessor, an acting Chief Assessor or an Assessor.

”.

(2) The person who was, immediately before the commencement of this Act, the Assessor continues, after that commencement and subject to the principal Act, to hold office as if he or she had been appointed, on the same terms and conditions, as Chief Assessor under section 5 (1) of the principal Act as amended by this Act for a term expiring on the day on which his or her appointment as Assessor would have expired.

(3) A person who was, immediately before the commencement of this Act, an acting Assessor continues, after that commencement and subject to the principal Act, to hold office as if he or she had been appointed, on the same terms and conditions, to act temporarily as the Chief Assessor under section 5A (1) of the principal Act as amended by this Act.

Section 6 amended

7. Section 6 of the principal Act is amended by deleting “Assessor” and substituting the following —

“ Chief Assessor and any Assessors ”.

Sections 24A and 24B inserted

8. Part III of the principal Act is amended by inserting after section 24 the following sections —

“

Procedure when, but for this Act, there would be entitlement to payment from health insurance fund

24A. (1) When, in the opinion of the Chief Assessor, an applicant for compensation in respect of injury or loss —

- (a) is entitled to be awarded compensation under this Act; and
- (b) would have been entitled, but for the existence of this Act, to payment of an amount under a contract of insurance with a registered organization in respect of any loss the subject of the application,

the Chief Assessor shall exclude the amount referred to in paragraph (b) from the amount of the award.

(2) In subsection (1) —

“registered organization” has the same meaning as it has in the *National Health Act 1953* of the Commonwealth.

No award where injury or loss arises from certain motor vehicle accident

24B. (1) Subject to subsection (2), the Chief Assessor shall not make an award to an applicant for compensation in respect of an injury or loss if the Chief Assessor considers that the injury or loss is directly caused by, or by the driving of, a motor vehicle within the meaning of the *Motor Vehicle (Third Party Insurance) Act 1943*.

(2) Subsection (1) does not apply to an injury or loss if —

- (a) the injury or loss was directly caused by the driving or other use of the motor vehicle for the purpose of committing the offence to which the application relates; and
- (b) that offence is a crime as defined by section 3 of *The Criminal Code*.

(3) Subject to subsection (4), this section is deemed to have come into operation on 1 July 1993.

(4) Subsection (3) does not apply in relation to awards made before the commencement of section 8 of the *Criminal Injuries Compensation Amendment Act 1996*.

”.

Section 29 amended

9. Section 29 of the principal Act is amended by deleting “Assesor” and substituting the following —

“ Chief Assessor ”.

Schedule 1 amended

10. (1) The heading to Schedule 1 to the principal Act is amended by —

- (a) deleting “(Section 5).” and substituting the following —
“ [Section 5C] ”; and
- (b) inserting before “ASSESSOR” the following —
“ CHIEF ”.

(2) Schedule 1 to the principal Act is amended by repealing clause 3.

(3) Clause 4 of Schedule 1 to the principal Act is amended by deleting —

- (a) “and an acting Assessor”; and
- (b) “Public Service Board” and substituting the following —
“ Minister for Public Sector Management ”.

Minor amendments

11. A provision of the principal Act specified in the Table to this section is amended by deleting “Assessor”, wherever it occurs, and substituting in each case the following —

“ Chief Assessor ”.

TABLE

Sections 7, 8, 9, 10, 11, 12, 13, 14 (1), (2) and (3), 15, 16 (1), 17, 18 (b) and (d), 19, 20 (2) and (3), 21, 22, 23, 24, 25, 26 (1), 27, 28, 30, 31, 32, 33, 34, 35 (1), (3), (4) and (5), 36, 38A (2), 39 (1), (1a), (3), (4), (5), (6), (7), (8) and (9), 41 (1) and (3), 42, 43 (1), 44 (1), (2) and (3), 46, 47 (1), (2), (3) and (4), 48 (1), 49 (2) (e) and clauses 1, 2, 4, 5 and 6 of Schedule 1.