

Western Australia

**Criminal Injuries Compensation Regulations
1985**

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Criminal Injuries Compensation Regulations 1985

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Schedule

Notes

Western Australia

Criminal Injuries Compensation Act 1985

Criminal Injuries Compensation Regulations 1985

Part I — Preliminary

1. Citation

These regulations may be cited as *the Criminal Injuries Compensation Regulations 1985*¹.

2. Commencement

These regulations shall come into operation on the day fixed for the coming into operation of the *Criminal Injuries Compensation Act 1985*¹.

3. Interpretation

- (1) In these regulations, unless the contrary intention appears —
“**Judge**” means a Judge of the District Court;
“**registry**” means the registry of the District Court in which a notice of appeal under section 41 of the Act is filed.
- (2) A reference to the Chief Assessor in these regulations includes a reference to an acting Chief Assessor and to an Assessor.

[Regulation 3 amended in Gazette 14 March 1997 p.1503.]

4. Application of regulations

These regulations apply notwithstanding regulation 30 of the *District Court (Appeal) Rules 1977*².

Part II — Applications for compensation

5. Form of application

Form 1 in the Schedule is prescribed as the form in which an application for compensation shall be made.

Part III — Appeals to District Court

6. Notice of appeal and place of filing

- (1) An appeal under section 41 of the Act shall be instituted by notice of appeal in the form of Form 2 in the Schedule.
- (2) The notice shall be —
 - (a) signed by the appellant or his solicitor; and
 - (b) filed in the District Court registry nearest to the place of residence of the appellant.
- (3) A fee of \$30.00 shall be paid on the filing of the notice.

7. Service of notice of appeal

- (1) A copy of the notice of appeal shall be served on —
 - (a) the Chief Assessor;
 - (b) the chief executive officer;
 - (c) the person who made the application to which the appeal relates, if he is not the appellant;
 - (d) any person referred to in section 18(b) of the Act to whom notice of the application to which the appeal relates was given by the Chief Assessor under section 29 of the Act; and
 - (e) any person who, before the decision appealed against was made, brought himself within section 18(d) of the Act for the purposes of the application to which the appeal relates.
- (2) Subject to regulation 11, service shall be effected on the person to be served —
 - (a) by delivering the notice to him personally; or
 - (b) by leaving it for him at his usual or last known place of abode, or, if he is in business, at his usual or last known place of business; or

- (c) by posting the notice to him as a registered letter addressed to him at his usual or last known place of abode, or, if he is in business, at his usual or last known place of business.
- (3) Service under subregulation (2)(b) shall be presumed, unless the contrary is shown, to have been effected at the time when, by the ordinary course of post, the letter would be delivered.
- (4) The appellant shall as soon as is practicable after service has been effected file in the registry a statement or, if required by a Judge, an affidavit showing the manner in which and the date on which service was effected in each case.

[Regulation 7 amended in Gazette 14 March 1997 p.1503.]

8. Assessor to transmit records

Where a notice of appeal is served on him, the Chief Assessor shall transmit to the registry all relevant records in his possession concerning the application to which the appeal relates.

[Regulation 8 amended in Gazette 14 March 1997 p.1503.]

9. Withdrawal of appeal

- (1) An appellant may withdraw an appeal if —
 - (a) he files a notice of withdrawal in the registry and serves a copy on each person on whom the notice of appeal was served; and
 - (b) a Judge grants leave to withdraw.
- (2) Regulation 7 of these regulations applies to the service of a notice of withdrawal as if it were a notice of appeal.

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10. Costs

- (1) The costs prescribed for the purposes of section 41(3)(b) of the Act are —
 - (a) for the preparation of the case — a maximum of \$150;
 - (b) where a hearing is held before the Judge — a maximum of \$150 for each day of the hearing; and
 - (c) expenses reasonably and properly incurred for the purposes of the appeal.
- (2) Costs may be awarded under subregulation (1)(a) and (b) only in favour of a person who is represented by a legal practitioner.

Part IV — Substituted service

11. Substituted service of notices

- (1) If it is impossible or impracticable to serve a notice under section 34, 35 or 39 of the Act by any other method, the Chief Assessor (including a Judge acting under Part VI of the Act) may effect service by publishing the notice once in a newspaper circulating throughout the State.
- (2) If it is impossible or impracticable to serve a notice of appeal under these regulations in accordance with regulation 7(2), the appellant, with the consent of a Judge, may effect service by publishing the notice once in a newspaper circulating throughout the State.
- (3) A notice published under subregulation (1) or (2) may be accompanied by other information intended to explain the purpose of the notice and its publication.

[Regulation 11 amended in Gazette 14 March 1997 p.1503.]

Part V — Maximum amount of compensation

[Heading inserted in Gazette 30 September 1987 p.3769.]

12. Prescribed maximum amount

- (1) Subject to subregulation (2), for the purposes of section 19(1)(a) of the Act the prescribed amount is —
 - (a) \$20 000 in respect of any injury or loss suffered in consequence of an offence or an alleged offence committed before 1 July 1991; and
 - (b) \$50 000 in respect of any injury or loss suffered in consequence of an offence or an alleged offence committed on or after 1 July 1991.
- (2) Where an award is made in respect of 2 or more offences or alleged offences which were committed at approximately the same time or are otherwise related to each other, for the purposes of section 19(1)(a) of the Act the prescribed amount is —
 - (a) \$20 000 where the last offence or alleged offence was committed before 1 July 1991; and
 - (b) \$50 000 where the last offence or alleged offence was committed on or after 1 July 1991.

[Regulation 12 inserted in Gazette 8 February 1991 pp.581-2; erratum in Gazette 1 March 1991 p.972.]

Schedule

[Reg. 5]

Form 1

Criminal Injuries Compensation Act 1985

Section 16

APPLICATION FOR COMPENSATION

To: The Chief Assessor of Criminal Injuries Compensation

A. PARTICULARS OF APPLICANT AND INCIDENT

Note: If there is insufficient space under any item, the information under that item may be continued on a separate signed sheet.

- 1. Full name of applicant:
2. Address:
3. Telephone: (Home)..... (Work)
4. Date and place of birth:
5. Marital status:
6. Occupation:.....
7. Capacity in which application made (1)
8. Date and place on which injury, loss or death occurred ("Incident"):

(1) i.e. Personally; or as personal representative, or guardian etc., and name(s) of person(s) represented.

Schedule

B. PARTICULARS OF GROUNDS

- | | |
|--|--|
| (2) Supply in statement form in chronological order the facts leading up to the incident. | 1. Circumstances of incident (2)
.....
..... |
| (3) See footnote. | 2. Section of Act under which application is authorised (3):
..... |
| (4) Name of court. Name(s) and address(es) of person(s) charged and nature of charge. (It is not necessary to obtain details from the Court as the Chief Assessor will make his own enquiries). | 3. Details of any criminal proceedings taken (4):
.....
.....
.....
.....
..... |
| (5) State what entitlements paid independently of the Act and what steps are proposed to be taken to recover from other sources i.e. Workers Compensation, Medicare, private health insurance, and money ordered by court to be paid over to claimant by offender. | 4. Details of entitlements to damages, compensation or insurance (5):
.....
.....
.....
.....
..... |

C. DETAILS OF: (6)

- (6) Supply in statement form in chronological order particulars of the injury and its effects upon the applicant. Produce vouchers and verification of items of financial loss claimed.
 - (i) injury;
 - (ii) the effect of injury upon claimant;
 - (iv) expenses actually incurred i.e. paid medical and similar accounts and money expended on travel necessary to obtain treatment;
 - (v) loss arising from damage to items of personal apparel; and
 - (vi) loss of earnings.

D. IN THE CASE OF A CLAIM FOR LOSS IN RESPECT OF WHICH DAMAGES COULD BE AWARDED UNDER THE FATAL ACCIDENTS ACT 1959, DETAILS OF: (7)

- (7) Supply in statement form those facts which establish the loss and attach documentary verification.
 - (i) financial losses suffered by each person entitled to compensation (dependent(s)), together with verification such as books of account, copies of taxation returns, statements of assets and liabilities and bank statements;
 - (ii) relationship of dependent(s) with deceased together with verification such as marriage and birth certificates. (6)

(8) Delete as appropriate.

I, the Applicant named in paragraph A above apply for compensation for the injury or loss/death (8) referred to above.

I understand that under section 30 of the Act, the Chief Assessor may seek and receive further information, and make his own investigations.

Signature of Applicant

Date

Footnote: An application is authorised by each of the following sections of the Act —

S.7 — where an offence has been committed for which a person has been convicted.

S.8 — where the accused has been acquitted on account of unsoundness on mind.

S.9 — where the accused found incapable of

Schedule

understanding proceedings or not of sound mind.

S.10 — where the accused dies before verdict.

S.11 — where complaint or indictment withdrawn or the person charged has otherwise not been brought to trial.

S.12 — where no person has been charged with the commission of the alleged offence.

S.14 — where offence alleged to have been committed by person other than a person acquitted.

S.15 — where person not convicted for technical reasons and Attorney General certifies that claim may be made.

Form 2

[Reg. 6(1)]

In the District Court of Western Australia at

NOTICE OF APPEAL UNDER THE
CRIMINAL INJURIES COMPENSATION ACT 1985

In the matter of Part VI of the Criminal Injuries Compensation Act 1985.

TAKE NOTICE that I desire to appeal, under section 41 of the Criminal Injuries Compensation Act 1985, against — [here set out details of the order appealed against, or of the application the refusal of which is appealed against]

.....
.....
.....

I am dissatisfied with the decision of the Chief Assessor because [state briefly the reasons for the appeal]

.....

My address for service is.....

.....

Dated this.....day of..... 20

.....

Appellant

[Schedule amended in Gazette 14 March 1997 p.1504.]

Notes

¹ This is a compilation of the *Criminal Injuries Compensation Regulations 1985* and includes the amendments referred to in the following Table.

Compilation table

Citation	Gazettal	Commencement
<i>Criminal Injuries Compensation Regulations 1985</i>	23 Dec 1985 pp.5061-4	1 Jan 1986 (see regulation 2 and <i>Gazette</i> 23 Dec 1985 p.5059)
<i>Criminal Injuries Compensation Amendment Regulations 1986</i>	13 Jun 1986 pp.1973-4	13 Jun 1986
<i>Criminal Injuries Compensation Amendment Regulations 1987</i>	30 Sep 1987 p.3769	1 Oct 1987 (see regulation 2)
<i>Criminal Injuries Compensation Amendment Regulations 1991</i>	8 Feb 1991 pp.581-2 (Erratum 1 Mar 1991 p.972)	8 Feb 1991
<i>Criminal Injuries Compensation Amendment Regulations 1997</i>	14 Mar 1997 pp.1503-4	14 Mar 1997

² *District Court (Appeal) Rules 1977* repealed by *District Court Rules 1996*.