

WESTERN AUSTRALIA

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**CRIMINAL INJURIES  
COMPENSATION AMENDMENT  
ACT**

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**No. 21 of 1991**

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**AN ACT to amend the *Criminal Injuries Compensation Act 1985*.**

*[Assented to 20 September 1991.]*

The Parliament of Western Australia 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 the *Criminal Injuries Compensation Act 1985*\* is referred to as the principal Act.

*[\*Act No. 73 of 1985 as amended by Act No. 49 of 1988.]*

**Section 15 amended**

3. Section 15 of the principal Act is amended—

(a) by repealing subsections (1) and (2) and substituting the following subsections—

“ (1) Where a person has suffered injury or loss in consequence of the commission of an alleged offence and it appears to the Attorney General that—

(a) that person is not eligible to apply for an award of compensation for that injury or loss and the circumstances of the case are such that it would be unjust if that person were not so eligible; or

(b) a person charged with the commission of the alleged offence has not been convicted of the offence on account of the proceedings being commenced out of time or for other technical reasons not going to the merits of the case,

the Attorney General may certify that a claim may be made under this subsection, and if the Attorney General does so the person who has suffered injury or loss may apply to the Assessor for an award of compensation for that injury or loss.

(2) Where—

(a) the death of a person has occurred in consequence of the commission of an alleged offence;

(b) any close relative of the deceased person has suffered any loss thereby; and

(c) it appears to the Attorney General that—

(i) the personal representative of the deceased person is not eligible to

apply for an award of compensation for that loss and the circumstances of the case are such that it would be unjust if the personal representative were not so eligible; or

- (ii) a person charged with the commission of the alleged offence has not been convicted on account of the proceedings being commenced out of time or for other technical reasons not going to the merits of the case,

the Attorney General may certify that a claim may be made under this subsection, and if the Attorney General does so the person who has suffered injury or loss may apply to the Assessor for an award of compensation for that loss. ”.

### **Section 38A inserted**

4. After section 38 of the principal Act the following section is inserted—

#### **Recovery from offender by Crown**

“ 38A. (1) Where a person is convicted of an offence and an award for the payment of compensation is made under this Act in respect of injury or loss resulting from the act or omission constituting that offence the Under Secretary for Law may notify the offender that the offender may pay to the Crown—

- (a) as a lump sum, the whole or any specified part of the compensation paid or payable; and

- (b) as a lump sum, the whole or any specified part of the amount, if any, deducted under section 26 and remitted to the Commonwealth under a law of the Commonwealth.

(2) If the offender does not make payment to the Crown as requested under subsection (1) within 30 days of the date of the notice, the Under Secretary for Law may make application to the Assessor under section 39 for an order directing that that payment be made to the Crown.

(3) All money recovered by the Crown under this section shall be paid into the Consolidated Revenue Fund.

(4) In subsection (1) "specified" means specified by the Under Secretary for Law in the notification. "

### **Section 39 amended**

5. Section 39 of the principal Act is amended—

- (a) by repealing subsection (1) and substituting the following subsections—

" (1) Where—

- (a) a person is convicted of an offence;
- (b) an award for payment of compensation is made under this Act in respect of injury or loss resulting from the act or omission constituting that offence; and
- (c) the Under Secretary for Law has not given a notice to the offender under section 38A or the offender has not made payment in accordance with a notice under section 38A,

the Assessor may at any time on the application of the Under Secretary for Law make an order directing the offender to pay to the Crown—

(d) the whole or any specified part of the compensation paid or payable; and

(e) the whole or any specified part of the amount, if any, deducted under section 26 and remitted to the Commonwealth under a law of the Commonwealth.

(1a) In subsection (1) “specified” means specified by the Assessor in the order. ”;

and

(b) in subsection (2) by deleting “specified period” and substituting the following—

“ period specified in the notice ”.

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