



Government Gazette

OF

WESTERN AUSTRALIA

(Published by Authority at 3.30 p.m.)

No. 132]

PERTH: MONDAY, 23 DECEMBER

[1985

Criminal Injuries Compensation Act 1985.

PROCLAMATION

WESTERN AUSTRALIA } By His Excellency Professor Gordon Reid,
GORDON REID, } Governor in and over the State of Western
Governor. } Australia and its Dependencies in the Common-
[L.S.] } wealth of Australia.

UNDER section 2 of the Criminal Injuries Compensation Act 1985, I, the Governor, acting with the advice and consent of the Executive Council, do hereby fix 1 January 1986 as the day on which the Criminal Injuries Compensation Act 1985 shall come into operation.

Given under my hand and the Public Seal of the said State, at Perth, on 20 December 1985.

By His Excellency's Command,
J. M. BERINSON,
Attorney General.

GOD SAVE THE QUEEN !

CRIMINAL INJURIES COMPENSATION ACT 1985.
CRIMINAL INJURIES COMPENSATION REGULATIONS 1985.

MADE by His Excellency the Governor in Executive Council.

PART I—PRELIMINARY.

- | | |
|--------------------------------|--|
| Citation. | 1. These regulations may be cited as the Criminal Injuries Compensation Regulations 1985. |
| Commence-
ment. | 2. These regulations shall come into operation on the day fixed for the coming into operation of the Criminal Injuries Compensation Act 1985. |
| Interpretation. | 3. 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. |
| Application of
regulations. | 4. These regulations apply notwithstanding regulation 30 of the District Court (Appeal) Rules 1977. |

PART II—APPLICATIONS FOR COMPENSATION.

- | | |
|---------------------------|---|
| Form of appli-
cation. | 5. 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.

- | | |
|---|--|
| Notice of appeal
and place of
filing. | 6. (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. |
| Service. | 7. (1) A copy of the notice of appeal shall be served on—
(a) the Assessor;
(b) the Under Secretary for Law;
(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 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. |
| Assessor to
transmit
records. | 8. Where a notice of appeal is served on him, the Assessor shall transmit to the registry all relevant records in his possession concerning the application to which the appeal relates. |

- Withdrawal of appeal. 9. (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.
- Costs. 10. (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.

- Substituted service of notices. 11. (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 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.

Schedule.
 Form 1.

[Reg. 5]

CRIMINAL INJURIES COMPENSATION ACT 1985.

Section 16.

APPLICATION FOR COMPENSATION.

To: The Assessor of Criminal Injuries Compensation:

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

A. PARTICULARS OF APPLICANT.

1. Full name of applicant:
2. Address:
3. Telephone:
4. Date and place of birth:
5. Marital status:
6. Occupation:
7. Capacity in which application made⁽¹⁾:

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

B. PARTICULARS OF GROUNDS.

- (2) See footnote. 1. Section of Act under which application is authorized (2):
.....
- 2. Date and place on which injury, loss or death occurred:
.....
.....
- (3) Name of court, name(s) and address(es) of person(s) charged, nature of charge and result of proceedings and date of result. 3. Details of any criminal proceedings taken (3):
.....
.....
.....
.....
- 4. Details of any proceedings taken for damages or compensation:
.....
.....
.....
.....

(4) Give detailed statement of injury or loss, including financial loss, or of circumstances and cause of death, as the case requires. C. DETAILS OF INJURY, LOSS OR DEATH (4):
.....
.....
.....
.....

(5) Delete as appropriate. I, the applicant named in paragraph A above apply for compensation for the injury or loss (5) referred to above.
death

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

Signature of applicant

Date.....

- NOTE: An application is authorized 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 of mind.
 - S.9—where the accused found incapable of 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 Assessor because [state briefly the reasons for the appeal]

.....
My address for service is

Dated this day of 19.....

Appellant.

By His Excellency's Command,

D. G. BLIGHT,
Clerk of the Council.