

CRIMINAL INJURIES (COMPENSATION).

No. 69 of 1970.

AN ACT to provide for the payment in certain circumstances of compensation to persons who suffer injury by reason of the commission of offences and for incidental and other purposes.

[Assented to 17th November, 1970.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Criminal Injuries (Compensation) Act, 1970*. Short title.

2. This Act shall come into operation on a date to be fixed by proclamation. Commence-
ment.

Definitions.

3. In this Act, unless the contrary intention appears—

“injury” means bodily harm and includes pregnancy, mental shock and nervous shock;

“offence” means a crime, misdemeanour or simple offence;

“section” means section of this Act;

“Under Secretary” means the person holding the office of Under Secretary, Crown Law Department of the State and includes the person for the time being duly acting in the place of the Under Secretary.

Order by
court for
payment of
compensa-
tion for
injury.

4. (1) Where a person is convicted of an offence, the court by which, or the judge before whom, the person was tried may, at any time after his conviction on the application of a person who has suffered injury in consequence of the commission of the offence, order that a sum, not exceeding two thousand dollars if the offence is an indictable offence, or not exceeding three hundred dollars if the offence is a simple offence, be paid by the person convicted out of his property to such other person, by way of compensation for injury suffered by that other person by reason of the commission of the offence.

(2) In determining whether or not to make an order pursuant to subsection (1) of this section, the court or judge shall have regard to any behaviour of the other person that contributed, directly or indirectly, to the injury suffered by him, and to such other circumstances as it or he considers relevant (including whether that other person is or was a relative of the person against whom the order is sought, or was, at the time of the commission of the offence, living with such person as his wife or her husband or as a member of the household of such person) and shall also have regard to the provisions of this Act.

(3) This section shall be construed as being in addition to, and not in derogation of, the provisions of any other Act.

(4) An order of a court or judge under subsection (1) of this section may be enforced in the same manner as an order of that court for the payment of a fine.

5. Where an order for the payment of a sum in excess of one hundred dollars by way of compensation for injury suffered by reason of the commission of an offence has been made pursuant to section 4 or pursuant to a provision of another Act in the course of proceedings for the trial of a person for an offence, the person in whose favour the order has been made may make application in writing to the Under Secretary for payment to him of the sum, or so much thereof as is payable pursuant to this Act, out of the Consolidated Revenue Fund.

Application for payment of compensation out of Consolidated Revenue Fund.
Cf. s. 669 The Criminal Code.

6. (1) On the acquittal of a person accused of an offence or the dismissal of a complaint or information against him, the court before which that person was, or would have been tried, may on application by a person claiming to be aggrieved by reason of the commission of the offence, grant a certificate stating the sum to which he would have been entitled pursuant to an order under section 4 if the accused person had been convicted of the offence and an order had been made under that section.

Application by aggrieved person for compensation when accused acquitted, etc.

(2) A certificate shall not be granted under subsection (1) of this section if the sum referred to in that subsection would amount to less than one hundred dollars.

(3) The court shall not grant a certificate under this section, unless it is satisfied that the person claiming to be aggrieved has in fact suffered injury by reason of an offence committed by some other person.

(4) A person to whom a certificate has been granted under this section may make application in writing to the Under Secretary for payment to him of the sum specified in the certificate out of the Consolidated Revenue Fund.

Payment of
compensa-
tion by
Treasurer to
applicant.

7. (1) Subject to section 8, the Under Secretary shall, as soon as practicable after receiving an application under section 5 or subsection (4) of section 6, send to the Treasurer of the State a statement signed by the Under Secretary setting forth the particulars of the application and specifying—

- (a) the sum ordered to be paid to the applicant as referred to in section 5 or the sum specified in the certificate granted to the applicant under subsection (1) of section 6, as the case may be; and
- (b) any amounts that, in the opinion of the Under Secretary, the applicant has received, or would, if he had exhausted all relevant rights of action and other legal remedies available to him, receive, independently of this Act, by reason of the injury to which the application relates.

(2) The Under Secretary shall make such inquiry as may be necessary for the effectual operation of this section.

(3) Where the Treasurer of the State, after receiving the statement of the Under Secretary relating to such an application as is referred to in subsection (1) of this section, considers that in the circumstances of the case the making under this subsection of a payment to the applicant is justified, the Treasurer of the State may pay to the applicant out of the Consolidated Revenue Fund an amount equal to the difference between the appropriate amount referred to in paragraph (a) of subsection (1) of this section, and the amounts referred to in paragraph (b) of that subsection, as specified in that statement.

(4) Any payments under subsection (3) of this section may be made without further appropriation than this Act.

8. The Under Secretary may defer sending to the Treasurer of the State any statement under subsection (1) of section 7, for as long as he considers it necessary to do so, to enable him to specify in the statement the amounts referred to in paragraph (b) of that subsection.

Deferment
of statement
of Under
Secretary.

9. (1) Where any payment is made under section 7 in pursuance of an application made under section 5, or a certificate granted under section 6, the Under Secretary has and may exercise, to the extent of the payment, the rights of the person for whose benefit the payment was made against the person convicted of the offence or the person who committed the offence in respect of which the payment was made, and the rights of the first mentioned person shall be to that extent divested from that person and vested in the Under Secretary.

Subrogation
of rights to
Under
Secretary.

(2) All money paid to the Under Secretary in full or partial satisfaction of his rights under subsection (1) of this section, shall be paid by him into the Consolidated Revenue Fund.
