

CONCURRENCE COPY

CRIMINAL INJURIES COMPENSATION (AMENDMENT) BILL, 1984

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Crimes (Compensation) Amendment Bill, 1984.

The object of this Bill is to amend the Criminal Injuries Compensation Act, 1967 ("the Act"), so as—

- (a) to empower a Court to grant a certificate under the Act for compensation for certain financial loss suffered as a direct consequence of injury sustained as a result of the commission of an offence as well as for compensation for the actual injury (Schedule 1 (1) (a)—proposed definition of "Compensation for injury");
- (b) to make it clear that a Court should be satisfied on the balance of probabilities as to the commission of an offence referred to in paragraph (a) before granting a certificate for compensation under the Act (Schedule 1 (3) (a)—proposed section 4 (1)); and
- (c) to allow the Children's Court to grant a certificate for compensation under the Act on a finding of guilt in the same way as it could if the charge were dismissed, subject to the restriction that, in the case of a person 16 or 17 years of age—
 - (i) such a certificate may only be granted where the Children's Court has directed the person to pay \$1,000 by way of compensation under section 554 of the Crimes Act, 1900; and
 - (ii) such a certificate shall only be granted in respect of the balance of the compensation for injury in excess of \$1,000,
(Schedule 1 (3) (a)—proposed section 4 (1A), (1B), (1D)).

The Bill also makes amendments of a minor or consequential nature and by way of statute law revision.

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The Bill and amendments are a matter of consequential nature and by way of notice to the House

**CRIMINAL INJURIES COMPENSATION (AMENDMENT)
BILL, 1984**

No. , 1984.

A BILL FOR

An Act to amend the Criminal Injuries Compensation Act, 1967, as a consequence of the enactment of the Crimes (Compensation) Amendment Act, 1984, and for other purposes.

[Mr LANDA—16 May, 1984.]

Criminal Injuries Compensation (Amendment).

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

5 Short title.

1. This Act may be cited as the "Criminal Injuries Compensation (Amendment) Act, 1984".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Crimes (Compensation) Amendment Act, 1984.

Amendment of Act No. 14, 1967.

15 3. The Criminal Injuries Compensation Act, 1967, is amended in the manner set forth in Schedule 1.

Transitional.

20 4. (1) The Criminal Injuries Compensation Act, 1967, as in force immediately before the day referred to in section 2 (2), shall continue to apply to and in respect of any payment made under that Act upon an application made in respect of a direction given before that day under section 437 or 554 of the Crimes Act, 1900, or a certificate granted before that day under section 4 of the Criminal Injuries Compensation Act, 1967.

25 (2) If, on the day referred to in section 2 (2), Division 5 of Part IX of the Community Welfare Act, 1982, has not commenced, a reference to the Children's Court in section 4 of the Criminal Injuries Compensation Act,

Criminal Injuries Compensation (Amendment).

1967, as amended by this Act, shall, until that commencement, be read and construed as a reference to a court within the meaning of the Child Welfare Act, 1939.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE CRIMINAL INJURIES COMPENSATION ACT, 1967.

- (1) (a) Section 2, definitions of "Children's Court", "Compensation for injury"—

Before the definition of "Injury", insert:—

"Children's Court" includes a court exercising the powers of the Children's Court.

"Compensation for injury" includes—

- (a) compensation for—

(i) actual and future expenses;

(ii) actual loss of earnings; and

(iii) loss of future earnings or a capacity to earn,

sustained as a direct consequence of injury; and

- (b) in relation to an injury causing the death of a person, compensation for—

(i) actual expenses; and

(ii) loss of material benefits in the nature of support or domestic services,

sustained as a direct consequence of the injury or death.

Criminal Injuries Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CRIMINAL INJURIES COMPENSATION ACT, 1967—
continued.

(b) Section 2, definition of “Under Secretary”—

5 From paragraph (a), omit “and of Justice”.

(c) Section 2, definition of “Under Secretary”—

In paragraph (b), before “Assistant Under Secretary”, insert
“Deputy Under Secretary or”.

(2) (a) Section 3 (a)—

10 Omit “any felony, misdemeanour or other offence”, insert
instead “an offence”.

(b) Section 3—

Omit “Consolidated Revenue Fund”, insert instead “Consoli-
dated Fund”.

15 (3) (a) Section 4 (1)–(1D)—

Omit section 4 (1), insert instead:—

(1) On the acquittal of, or dismissal of an information
against, a person accused of an offence, the Court before which
the person was acquitted or by which the information was
20 dismissed may, if it is satisfied on the balance of probabilities
from the evidence before it relating to the incident the subject
of the charge against the accused person that an offence
(whether or not the offence charged) was committed and if it
is satisfied that a person is aggrieved by reason of its com-
25 mission, grant a certificate stating the sum which it would, on

Criminal Injuries Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CRIMINAL INJURIES COMPENSATION ACT, 1967—
continued.

5 the conviction of a person for the offence it is satisfied was
committed, have directed to be paid to the person so aggrieved
by way of compensation for injury—

- (a) where the offence it is satisfied was committed is an
offence to which section 437 of the Crimes Act, 1900,
applies—under the provisions of that section; or
- 10 (b) in any other case—under the provisions of section 554
of the Crimes Act, 1900.

(1A) Subject to subsection (1D), on finding a person guilty
of an offence, the Children's Court may, if it is satisfied that a
person is aggrieved by reason of the commission of the offence,
grant a certificate stating the sum which, if that finding of guilt
were a conviction, it would have directed to be paid to the
person so aggrieved by way of compensation for injury—

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(a) where the offence committed is an offence to which
section 437 of the Crimes Act, 1900, applies—under
the provisions of that section; or

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(b) in any other case—under the provisions of section 554
of the Crimes Act, 1900.

(1B) In the application of subsection (1) or (1A) in relation
to the granting of a certificate under that subsection by the
Children's Court, any prohibition on the power of the Children's
Court to give directions under section 437 or 554 of the Crimes
Act, 1900, shall be disregarded.

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(1C) A certificate under subsection (1) or (1A) may be
granted to a person by the Court on its own motion or upon
application being made to it by or on behalf of the person.

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Criminal Injuries Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CRIMINAL INJURIES COMPENSATION ACT, 1967—
continued.

5 (1D) Where, on finding a person guilty of an offence, the Children's Court may give a direction under section 554 of the Crimes Act, 1900—

10 (a) that Court shall not grant a certificate under subsection (1A) in relation to the offence unless it has given a direction under section 554 of that Act for payment by the person of \$1,000 by way of compensation for any injury or loss sustained through, or by reason of, the offence; and

(b) the sum that would, but for this paragraph, have been stated in the certificate shall be reduced by \$1,000.

15 (b) Section 4 (2), (3)—

After "subsection (1)" wherever occurring, insert "or (1A)".

(c) Section 4 (3)—

Omit "Consolidated Revenue Fund", insert instead "Consolidated Fund".

20 (4) Section 5 (1) (a)—

Omit "section 4 (1)", insert instead "section 4".

25 (5) (a) Section 7 (1) (a)—

After "Clerk of the Peace", insert ", or, in the case of an application made in respect of a direction given, or a certificate granted, by a Court other than the Supreme Court or District Court, the clerk of the Court which gave the direction or granted the certificate,".

(b) Section 7 (1) (b)—

After "Clerk of the Peace", insert "or the clerk of that Court".

Criminal Injuries Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CRIMINAL INJURIES COMPENSATION ACT, 1967—
continued.

- 5 (c) Section 7 (1) (c), (d)—
Omit “at Sydney” wherever occurring.
- (d) Section 7 (1) (c), (d)—
Omit “for Sydney” wherever occurring, insert instead “for the place at which the certificate was filed”.
- 10 (e) Section 7 (2)—
Omit “437 (1)”, insert instead “437”.
- (f) Section 7 (2)—
Omit “at Sydney”, insert instead “at the place at which the judgment was entered”.
- 15 (g) Section 7 (2)—
Omit “for Sydney”, insert instead “for that place”.
- (h) Section 7 (3)—
Omit “Consolidated Revenue Fund”, insert instead “Consolidated Fund”.

1984

(Amendment)

Continued

WELLS COMPLETION ACT, 1967

Section

10. (1) Where a well is being drilled, the person in charge of the well shall, as soon as practicable, cause to be filed in the office of the Registrar a copy of the plan of the well, showing the location of the well, the depth of the well, the nature of the operations being carried out, and the name of the person in charge of the well.

Section

11. (1) Where a well is being drilled, the person in charge of the well shall, as soon as practicable, cause to be filed in the office of the Registrar a copy of the plan of the well, showing the location of the well, the depth of the well, the nature of the operations being carried out, and the name of the person in charge of the well.

Section

12. (1) Where a well is being drilled, the person in charge of the well shall, as soon as practicable, cause to be filed in the office of the Registrar a copy of the plan of the well, showing the location of the well, the depth of the well, the nature of the operations being carried out, and the name of the person in charge of the well.

**CRIMINAL INJURIES COMPENSATION
(AMENDMENT) ACT, 1984, No. 71**

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 71, 1984.

An Act to amend the Criminal Injuries Compensation Act, 1967, as a consequence of the enactment of the Crimes (Compensation) Amendment Act, 1984, and for other purposes. [Assented to, 27th June, 1984.]

Criminal Injuries Compensation (Amendment).

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

Short title.

1. This Act may be cited as the "Criminal Injuries Compensation (Amendment) Act, 1984".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Crimes (Compensation) Amendment Act, 1984.

Amendment of Act No. 14, 1967.

3. The Criminal Injuries Compensation Act, 1967, is amended in the manner set forth in Schedule 1.

Transitional.

4. (1) The Criminal Injuries Compensation Act, 1967, as in force immediately before the day referred to in section 2 (2), shall continue to apply to and in respect of any payment made under that Act upon an application made in respect of a direction given before that day under section 437 or 554 of the Crimes Act, 1900, or a certificate granted before that day under section 4 of the Criminal Injuries Compensation Act, 1967.

(2) If, on the day referred to in section 2 (2), Division 5 of Part IX of the Community Welfare Act, 1982, has not commenced, a reference to the Children's Court in section 4 of the Criminal Injuries Compensation Act,

Criminal Injuries Compensation (Amendment).

1967, as amended by this Act, shall, until that commencement, be read and construed as a reference to a court within the meaning of the Child Welfare Act, 1939.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE CRIMINAL INJURIES COMPENSATION ACT, 1967.

- (1) (a) Section 2, definitions of "Children's Court", "Compensation for injury"—

Before the definition of "Injury", insert:—

"Children's Court" includes a court exercising the powers of the Children's Court.

"Compensation for injury" includes—

- (a) compensation for—

- (i) actual and future expenses;
- (ii) actual loss of earnings; and
- (iii) loss of future earnings or a capacity to earn,

sustained as a direct consequence of injury; and

- (b) in relation to an injury causing the death of a person, compensation for—

- (i) actual expenses; and
- (ii) loss of material benefits in the nature of support or domestic services,

sustained as a direct consequence of the injury or death.

Criminal Injuries Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CRIMINAL INJURIES COMPENSATION ACT, 1967—
continued.

(b) Section 2, definition of “Under Secretary”—

From paragraph (a), omit “and of Justice”.

(c) Section 2, definition of “Under Secretary”—

In paragraph (b), before “Assistant Under Secretary”, insert “Deputy Under Secretary or”.

(2) (a) Section 3 (a)—

Omit “any felony, misdemeanour or other offence”, insert instead “an offence”.

(b) Section 3—

Omit “Consolidated Revenue Fund”, insert instead “Consolidated Fund”.

(3) (a) Section 4 (1)–(1D)—

Omit section 4 (1), insert instead:—

(1) On the acquittal of, or dismissal of an information against, a person accused of an offence, the Court before which the person was acquitted or by which the information was dismissed may, if it is satisfied on the balance of probabilities from the evidence before it relating to the incident the subject of the charge against the accused person that an offence (whether or not the offence charged) was committed and if it is satisfied that a person is aggrieved by reason of its commission, grant a certificate stating the sum which it would, on

Criminal Injuries Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CRIMINAL INJURIES COMPENSATION ACT, 1967—
continued.

the conviction of a person for the offence it is satisfied was committed, have directed to be paid to the person so aggrieved by way of compensation for injury—

- (a) where the offence it is satisfied was committed is an offence to which section 437 of the Crimes Act, 1900, applies—under the provisions of that section; or
- (b) in any other case—under the provisions of section 554 of the Crimes Act, 1900.

(1A) Subject to subsection (1D), on finding a person guilty of an offence, the Children's Court may, if it is satisfied that a person is aggrieved by reason of the commission of the offence, grant a certificate stating the sum which, if that finding of guilt were a conviction, it would have directed to be paid to the person so aggrieved by way of compensation for injury—

- (a) where the offence committed is an offence to which section 437 of the Crimes Act, 1900, applies—under the provisions of that section; or
- (b) in any other case—under the provisions of section 554 of the Crimes Act, 1900.

(1B) In the application of subsection (1) or (1A) in relation to the granting of a certificate under that subsection by the Children's Court, any prohibition on the power of the Children's Court to give directions under section 437 or 554 of the Crimes Act, 1900, shall be disregarded.

(1C) A certificate under subsection (1) or (1A) may be granted to a person by the Court on its own motion or upon application being made to it by or on behalf of the person.

Criminal Injuries Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CRIMINAL INJURIES COMPENSATION ACT, 1967—
continued.

(1D) Where, on finding a person guilty of an offence, the Children's Court may give a direction under section 554 of the Crimes Act, 1900—

(a) that Court shall not grant a certificate under subsection (1A) in relation to the offence unless it has given a direction under section 554 of that Act for payment by the person of \$1,000 by way of compensation for any injury or loss sustained through, or by reason of, the offence; and

(b) the sum that would, but for this paragraph, have been stated in the certificate shall be reduced by \$1,000.

(b) Section 4 (2), (3)—

After "subsection (1)" wherever occurring, insert "or (1A)".

(c) Section 4 (3)—

Omit "Consolidated Revenue Fund", insert instead "Consolidated Fund".

(4) Section 5 (1) (a)—

Omit "section 4 (1)", insert instead "section 4".

(5) (a) Section 7 (1) (a)—

After "Clerk of the Peace", insert ", or, in the case of an application made in respect of a direction given, or a certificate granted, by a Court other than the Supreme Court or District Court, the clerk of the Court which gave the direction or granted the certificate,".

(b) Section 7 (1) (b)—

After "Clerk of the Peace", insert "or the clerk of that Court".

Criminal Injuries Compensation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CRIMINAL INJURIES COMPENSATION ACT, 1967—
continued.

- (c) Section 7 (1) (c), (d)—
Omit “at Sydney” wherever occurring.
- (d) Section 7 (1) (c), (d)—
Omit “for Sydney” wherever occurring, insert instead “for the place at which the certificate was filed”.
- (e) Section 7 (2)—
Omit “437 (1)”, insert instead “437”.
- (f) Section 7 (2)—
Omit “at Sydney”, insert instead “at the place at which the judgment was entered”.
- (g) Section 7 (2)—
Omit “for Sydney”, insert instead “for that place”.
- (h) Section 7 (3)—
Omit “Consolidated Revenue Fund”, insert instead “Consolidated Fund”.

In the name and on behalf of Her Majesty I assent to this Act.

L. W. STREET,
*By Deputation from
His Excellency the Governor.*

*Government House,
Sydney, 27th June, 1984.*

