



ANNO DECIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1969

No. 97 of 1969

An Act to make provision for the payment, in certain circumstances, of compensation to persons who suffer injury by reason of the commission of offences; and for other purposes.

[Assented to 18th December, 1969.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short title.

1. This Act may be cited as the "Criminal Injuries Compensation Act, 1969".

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Interpretation.

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

"injury" means physical or mental injury sustained by any person, and includes pregnancy, mental shock and nervous shock :

"offence" means a felony, misdemeanor or other offence proceedings in respect of which are disposed of summarily or upon information :

"the Master" means the Master or a Deputy Master of the Supreme Court.

4. (1) Where a person is convicted of an offence or adjudged guilty of an offence and released without conviction pursuant to the provisions of the Offenders Probation Act, 1913-1963 as amended, the court by which he was tried may, at any time after his conviction or release on the application of a person who has suffered injury in consequence of the commission of the offence, order that a sum, not exceeding one thousand dollars, be paid by the person convicted, or adjudged guilty, of the offence out of his property to the other person, by way of compensation for injury sustained by that other person by reason of the commission of the offence.

Court may order compensation for injury.

(2) In determining whether or not to make an order pursuant to subsection (1) of this section, the court shall have regard to any behaviour of the other person that contributed, directly or indirectly, to the injury sustained by him, and to such other circumstances as it considers relevant (including whether the aggrieved person is or was a relative of the convicted person, or was, at the time of the commission of the offence, living with the convicted person as his wife, or her husband, or as a member of the convicted person's household) and shall 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 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 sustained by reason of the commission of an offence has been made pursuant to section 4 of this Act, or pursuant to any provision of any other 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 Treasurer for the payment of the sum, or so much thereof as is payable pursuant to this Act, out of the General Revenue of the State.

Application for payment of compensation out of general revenue.

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 alleged commission of the alleged offence, grant a certificate stating the sum to which he would have been entitled pursuant to an order under section 4 of this Act if the accused person had been convicted of the alleged offence, or of an offence of which he could have been convicted upon the charge laid against him, and an order had been made under that section.

Certificate may be granted upon acquittal.

(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) Before a certificate is granted under this section, the court must be satisfied that the person claiming to be aggrieved by reason of the alleged commission of the alleged offence has in fact sustained injury by reason of an offence committed by some person.

(4) A person to whom a certificate has been granted under this section may make application, in writing, to the Treasurer for payment to him of the sum specified in the certificate out of the General Revenue of the State.

Claim where
offence has not
been tried.

7. (1) A person claiming to be aggrieved by reason of the commission of an offence may, subject to the appropriate rules of court, apply to a court before which the alleged offence could have been tried for a certificate under this section.

(2) An application shall not be made under this section if a person has been brought to trial charged with the commission of the alleged offence.

(3) The applicant and the Crown shall be entitled to be heard upon the application.

(4) If the court is satisfied that the applicant has sustained injury by reason of the commission of an offence (being the alleged offence, or an offence arising from the circumstances alleged to constitute that offence), it may, in its discretion, grant a certificate to the applicant under this section stating the sum to which he would have been entitled pursuant to an order under section 4 of this Act if the person who committed the offence had been tried and convicted of the offence and an order had been made under that section and stating, if the court thinks fit, a further sum in respect of costs.

(5) A certificate shall not be granted under subsection (4) of this section if the sum first mentioned in that subsection would amount to less than one hundred dollars.

(6) An application under this section must be made within twelve months of the alleged date of the commission of the offence.

(7) A person to whom a certificate has been granted under this section may make application, in writing, to the Treasurer for payment to him of the sum specified in the certificate out of the General Revenue of the State.

8. (1) The Treasurer shall, as soon as practicable after receiving an application under section 5, 6 or 7 of this Act, refer the application to the Master.

Enquiry by
Solicitor-
General.

(2) The Master shall furnish the Treasurer with a statement in writing specifying—

(a) the amount to which the applicant is entitled pursuant to an order under section 4 of this Act, or an order made in respect of injury sustained by him under any provision of any other Act in the course of proceedings for the trial of a person for an offence, or the amount specified in the certificate granted to the applicant under sections 6 or 7 of this Act ;

and

(b) any amount that, in the opinion of the Master, the applicant has received, or would, in the circumstances, be likely to receive, independently of this Act, as compensation for the injury to which the application relates, if he exhausted all relevant rights of action that he is able, or might reasonably be expected, to exercise.

(3) The Master shall make such inquiry as may be necessary for the purposes of this section.

(4) Where the Treasurer, after receiving the statement of the Master, considers that in all the circumstances of the case he is justified in so doing, the Treasurer may pay to the applicant out of the general revenue of the State an amount equal to the difference between the amount referred to in paragraph (a) of subsection (2) of this section and the amount referred to in paragraph (b) of subsection (2) of this section.

9. Any proceedings relating to the recovery of compensation under this Act shall not prejudice or debar any right or claim to recover compensation or damages otherwise than in pursuance of this Act, but where compensation has been recovered under this Act by any person in respect of injury sustained by him, the amount of that compensation shall be taken into account in assessing the compensation or damages to be awarded in respect of the injury in any other proceedings.

Proceedings
under this
Act do not
debar civil
remedies.

Subrogation of
rights to
Treasurer.

10. (1) Where any payment is made under section 8 of this Act in pursuance of an application made under section 5 of this Act, the Treasurer shall have and may exercise the rights of the person for whose benefit the payment was made against the person convicted of the offence to the extent of that payment, and the rights of the first mentioned person shall be to that extent divested from that person and vested in the Treasurer.

(2) Any moneys paid to the Treasurer in full or partial satisfaction of his rights under subsection (1) of this section, shall be paid into the General Revenue of the State.

Financial
provision.

11. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

In the name and on behalf of Her Majesty, I hereby
assent to this Bill.

J. W. HARRISON, Governor.