



ANALYSIS

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1969, No. 55

An Act to amend the Criminal Injuries Compensation Act 1963 [2 October 1969]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Criminal Injuries Compensation Amendment Act 1969, and shall be read together with and deemed part of the Criminal Injuries Compensation Act 1963 (hereinafter referred to as the principal Act).

(2) Section 2 and subsection (3) of section 7 of this Act shall come into force on the 1st day of January 1970.

(3) Except as provided in subsection (2) of this section, and subject to section 9 of this Act, this Act shall come into force on its passing.

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by repealing the definition of the term “child”, in subsection (1), and substituting the following definition:

“‘Child’ means any child—

“(a) Who is under the age of 16 years; or

“(b) Who is under the age of 21 years and unmarried, and who is or will be engaged in a course of full-time education or training—and includes a stepchild:”.

(2) The said section 2 is hereby further amended by omitting from the definition of the term “relative”, in subsection (1), the words “and, in respect of an illegitimate victim or offender, includes his or her mother, father, brother, sister, half-brother, or half-sister”.

3. Procedure of Tribunal—(1) Section 12 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) Where an application for compensation is made to the Tribunal under section 17 of this Act in respect of the injury or death of any victim, or under section 22A of this Act in respect of any loss of or damage to property, the Tribunal shall consider any representations made by or on behalf of the applicant and, unless in his application the applicant objects, may make such inquiries as it thinks fit as to the circumstances surrounding the injury or death or, as the case may require, the loss or damage, and as to the nature and extent of any such injury, loss, or damage or of any other loss suffered or expenses incurred, or as to any other matter to which the application relates.

“(1A) If on such inquiry it appears to the Tribunal that the application is one in respect of which an order for the payment of compensation should be made, it may determine the amount of compensation to be awarded and may, with the prior consent of the applicant, make an order for payment of compensation in accordance with such determination.

“(1B) In any case where no order is made under subsection (1A) of this section, the Tribunal shall, on application, fix a time and place for the hearing of the application for compensation, and shall cause notice thereof to be given to the applicant; and the Tribunal shall determine the application for compensation on the evidence adduced at the hearing.

“(1C) Where any application, other than one to which subsection (1) of this section applies, is made to the Tribunal under this Act, the Tribunal shall fix a time and place for the hearing of the application and shall cause notice thereof to be given to the applicant.”

- (2) The said section 12 is hereby further amended—
- (a) By omitting from subsection (2) the word “sitting”, in both places where it occurs in that subsection, and substituting in each case the word “hearing”:
 - (b) By repealing subsection (6).

4. Evidence in proceedings before Tribunal—Section 13 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Without limiting the generality of subsection (1) of this section, the Tribunal may receive in evidence any notes of evidence or depositions taken at any trial of the offender in respect of any alleged offence arising out of the act or omission on which a claim under this Act is based, or any notes of evidence taken in any civil proceedings arising out of that act or omission.”

5. Power to award compensation—(1) Section 17 of the principal Act is hereby amended by adding to paragraph (c) of subsection (1) the words “or to or for the benefit of any child of the victim”.

(2) The said section 17 is hereby further amended by adding the following subsection:

“(8) Without limiting the foregoing provisions of this section, the Tribunal may decline to deal with any application under this section until the applicant has exhausted the civil remedies available to him against the offender, if it is satisfied that the taking of civil proceedings against the offender would not cause hardship to the applicant, and that—

- “(a) The offender is likely to have the means to pay any compensation or damages that might reasonably be awarded against him in civil proceedings arising out of the act or omission; or
- “(b) The victim’s injury was trivial.”

6. Nature of compensation—Section 18 of the principal Act is hereby amended by inserting in subsection (1), after paragraph (c), the following paragraph:

- “(cc) Expenses likely to be incurred, as a result of the victim’s death, in providing services for any child of the victim.”

7. Amount of compensation—(1) Section 19 of the principal Act is hereby amended by repealing paragraphs (a) and (b) of subsection (3), and substituting the following paragraphs:

“(a) In the case of pecuniary loss to the victim as a result of total or partial incapacity for work, a sum equal to \$25 a week, increased by \$3 a week if he has a wife who is dependent on him and by a further \$1.50 a week in respect of each of the victim’s children who is dependent on him, during the period of the victim’s incapacity for work, but in no case for a longer aggregate period than 6 years:

“(b) In the case of pecuniary loss to dependants as a result of the victim’s death, a sum, in respect of all dependants, equal to \$22.50 a week, increased by \$1.50 a week in respect of each of the victim’s children who was dependent on him at the time of his death, but in no case for a longer aggregate period than 6 years:

“(bb) In the case of expenses likely to be incurred, as a result of the victim’s death, in providing services for children of the victim, not being children dependent on him at the time of his death, a sum, in respect of all such children, equal to \$15 a week, but in no case for a longer aggregate period than 6 years:”.

(2) The said section 19 is hereby further amended by inserting in subsection (4), after the words “paragraph (b)”, the words “or paragraph (bb)”.

(3) The said section 19 is hereby further amended by omitting from subsection (5) the words “under the age of sixteen years (or under the age of eighteen years and engaged in a full-time course of education or training)”.

(4) The said section 19 is hereby further amended by omitting from subsection (6) the words “is a schoolchild or is a minor engaged in a full-time course of education or training”, and substituting the words “is a child”.

(5) The said section 19 is hereby further amended by repealing paragraph (a) of subsection (7), and substituting the following paragraph:

“(a) Shall have regard to any behaviour of the victim which directly or indirectly contributed to his injury or death, and for that purpose may have regard to

any finding of any Court in civil proceedings arising out of any act or omission that caused the injury or death; and”.

(6) The Criminal Injuries Compensation Order 1967 is hereby consequentially revoked.

8. Recovery from offender—(1) Section 23 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) On an application under this section the Tribunal shall give the offender an opportunity to be heard in relation to the award of compensation or the amount (if any) that he should be directed to refund under this section.”

(2) The said section 23 is hereby consequentially amended by omitting from subsection (3) the words “shall give the offender an opportunity to be heard”.

(3) The said section 23 is hereby further amended by adding the following subsection:

“(6) The Tribunal on any application made under this section, and the Supreme Court on any appeal by the offender under this section, may, if in its opinion it is desirable in the interests of justice to do so, direct that legal aid be granted to the offender. For the purposes of this subsection and of any direction thereunder, the provisions of the Offenders Legal Aid Act 1954 shall extend and apply as if the application or appeal under this section were criminal proceedings.”

9. Application of this Act—(1) The amendments made to sections 17 and 18 of the principal Act by subsection (1) of section 5 and section 6 of this Act, and paragraph (bb) of subsection (3) of section 19 of the principal Act (as enacted by subsection (1) of section 7 of this Act), shall apply with respect to claims for compensation made to the Tribunal, and not determined, before the passing of this Act, as well as to claims made after the passing of this Act.

(2) Except as provided in subsection (3) of this section, paragraphs (a) and (b) of subsection (3) of section 19 of the principal Act (as substituted by subsection (1) of section 7 of this Act) shall apply only with respect to compensation awarded under the said section 19 after the passing of this Act for any period after the passing of this Act in respect of injuries or death resulting from an act or omission that occurred before or after the passing of this Act.

(3) Where before the passing of this Act compensation by way of periodical payments has been awarded to any person under the said section 19, paragraphs (a) and (b) of subsection (3) of that section (as substituted by subsection (1) of section 7 of this Act) shall apply for the purposes of any variation, under section 21 of the principal Act, of the amount of the payments so awarded for any period after the passing of this Act.

(4) Except as provided in the foregoing provisions of this section, the amendments made by this Act shall apply, so far as they are applicable, with respect to applications made to the Tribunal, and not determined, before the passing of this Act, as well as to applications made after the passing of this Act.

This Act is administered in the Department of Justice
