

## CRIMINAL INJURIES COMPENSATION AMENDMENT BILL

### EXPLANATORY NOTE

THE purpose of this Bill is to provide for the payment by the State of compensation to persons who suffer loss of or damage to property as a result of acts done by escapers from penal institutions.

For this purpose the Bill inserts a new section in the Criminal Injuries Compensation Act 1963, under which the Crimes Compensation Tribunal will have a discretion, on application, to award compensation, in certain cases, up to £1,000.

*Clause 1* relates to the Short Title.

*Clause 2:* Subsection (1) of the new section 22A provides that the section will apply where a person suffers loss of or damage to real or personal property by any act or omission of an escaper, if the act or omission was intended to facilitate his flight or the avoidance of his recapture, or occurred in the course of escape or attempted escape or while he was fleeing to avoid recapture.

Subsection (2) provides that if the Tribunal is satisfied that the section applies it may in its discretion, on application, order the payment of compensation.

Subsection (3) sets out the matters for which compensation may be awarded—namely, actual loss of or damage to property, expenses incurred in recovering stolen or removed property, and expenses incurred as a result of the loss of the use of property for any period.

Subsection (4): The aggregate amount awarded will not exceed £1,000.

Subsection (5) sets out the matters which the Tribunal must take into account in determining how much compensation (if any) may be awarded. They are any behaviour of the applicant that contributed to the loss or damage, any failure to take reasonable steps to avoid or mitigate it, any compensation or damages received by the applicant from the escaper, and payments received under insurance policies over the property. The Tribunal may also take other relevant circumstances into account.

Subsection (6): If the applicant has not insured the property against such loss or damage, the Tribunal is to treat this as a failure to take reasonable steps to avoid it, if the Tribunal considers that the failure to insure was imprudent having regard to the circumstances of the case and to normal practice.

No. 10—1

Price 1s.

Subsections (7) to (9): The effect of these subsections is to apply, with necessary modifications, the existing provisions of the principal Act.

Subsection (10) defines the term "escaper" as meaning an inmate of a penal institution who escapes or attempts to escape from legal custody. (Under the Penal Institutions Act 1954 an institution includes a prison, a borstal institution, a detention centre, a police jail, and a police station where any short-term prisoner or person in custody is detained.) The definition in this subsection includes those who are in pre-release hostels or are released part-time to engage in employment under section 21A of the Penal Institutions Act (as amended in 1961). It does not include persons subject to ~~periodic detention under the Criminal Justice Amendment Act 1962.~~

*Clause 3* is merely a consequential amendment.

*Hon. Mr Hanan*

**CRIMINAL INJURIES COMPENSATION  
AMENDMENT**

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ANALYSIS

Title	2. Compensation for loss of property
1. Short Title	3. Consequential amendment

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**A BILL INTITULED**

**An Act to amend the Criminal Injuries Compensation Act  
1963**

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

1. **Short Title**—This Act may be cited as the Criminal  
Injuries Compensation Amendment Act 1966, and shall be  
10 read together with and deemed part of the Criminal Injuries  
Compensation Act 1963\* (hereinafter referred to as the  
principal Act).

2. **Compensation for loss of property**—The principal Act is  
hereby amended by inserting, after section 22, the following  
heading and section:

\*1963, No. 134

No. 10—1

*“Compensation for Loss of Property*

“22A. (1) This section shall apply in any case where any person suffers any loss of or damage to any real or personal property through or by means of any act or omission of an escaper (being an act or omission that occurred in New Zealand after the commencement of this section) that was intended to facilitate the flight of the escaper or the avoidance of his recapture, or occurred in the course of his escaping or attempting to escape or while he was fleeing to avoid recapture. 5 10

“(2) In any case where the Tribunal is satisfied that this section applies it may in its discretion, on application, make an order in accordance with this Act for the payment of compensation to or for the benefit of the person who suffered the loss or damage. 15

“(3) Compensation may be awarded by the Tribunal under this section in respect of any one or more of the following matters:

“(a) Actual loss of or damage to any property:

“(b) Expenses actually and reasonably incurred in recovering any property that has been stolen or removed: 20

“(c) Expenses actually and reasonably incurred as a result of the loss of the use of any property for any period. 25

“(4) The amount awarded to any applicant under this section shall not exceed in the aggregate one thousand pounds.

“(5) In determining the amount (if any) to be awarded to any applicant under this section the Tribunal—

“(a) Shall have regard to any behaviour of the applicant which directly or indirectly contributed to the loss or damage, and to any failure by the applicant to take reasonable steps to avoid or mitigate the loss or damage; and 30

“(b) Shall deduct any payments received by the applicant by way of compensation or damages from the escaper or any person on the escaper’s behalf in respect of the loss or damage; and 35

“(c) Shall deduct any payments received by or payable to the applicant under any policy of insurance in respect of the property; and 40

“(d) May have regard to such other circumstances as it considers relevant.

5 “(6) For the purposes of paragraph (a) of subsection (5) of this section, a failure by the applicant to insure against the loss or damage shall, if the Tribunal considers that such failure was imprudent having regard to the circumstances of the case and to normal practice, be treated as a failure to take reasonable steps to avoid the loss or damage.

10 “(7) For the purposes of this section, the following provisions of this Act shall not apply:

“(a) Subsection (1) of section 17:

“(b) Section 18:

“(c) Subsections (3) to (8) of section 19:

“(d) Paragraph (c) of subsection (2) of section 21:

15 “(e) Section 27.

“(8) Subject to the provisions of this section, the provisions of this Act shall apply, so far as they are applicable and with all necessary modifications, in respect of compensation under this section.

20 “(9) In the application of the provisions of this Act for the purposes of this section—

“(a) References to the victim (except in section 2) shall be read as references to the applicant:

25 “(b) References to the offender shall be read as references to the escaper:

“(c) References to injury or death (except in section 2) shall be read as references to loss or damage:

30 “(d) The reference in subsection (1) of section 25 to any sum that has not been deducted under paragraph (b) of subsection (7) of section 19 shall be read as a reference to any sum that has not been deducted under paragraph (b) of subsection (5) of this section.

35 “(10) For the purposes of this section, the term ‘escaper’ means any inmate of a penal institution, within the meaning of the Penal Institutions Act 1954, who escapes or attempts to escape from legal custody.”

**3. Consequential amendment**—The Schedule to the principal Act is hereby amended by omitting the heading “Offences to Which This Act Applies”, and substituting the heading “Offences to Which Section 17 of This Act Applies”.