



ANALYSIS

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1963, No. 134

An Act to provide for the compensation of persons injured by certain criminal acts, and of dependants of persons killed by such acts [25 October 1963]

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 Act 1963.

(2) This Act shall come into force on the first day of January, nineteen hundred and sixty-four.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Child” includes a stepchild and an illegitimate child:

“Dependants”, in respect of a deceased victim, means such of the relatives of the victim as were wholly or partially dependent upon his income at the time of his death or would have been so dependent but for the incapacity due to the injury from which the death resulted:

“Injury” means actual bodily harm; and includes pregnancy and mental or nervous shock; and “injured” has a corresponding meaning:

“Relative”, in respect of a victim or offender, means his or her spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister, or spouse’s parent; and, in respect of an illegitimate victim or offender, includes his or her mother, father, brother, sister, half-brother, or half-sister:

“Tribunal” means the Crimes Compensation Tribunal established under this Act:

“Victim” means a person who is injured or killed by any act or omission of any other person (being an act or omission that occurred in New Zealand) which is within the description of any of the offences specified in any of the enactments mentioned in the Schedule to this Act.

(2) If any child is born to a victim after his death, that child shall be deemed for the purposes of this Act to be a dependant of the victim in the same manner as if the child were born in the victim’s lifetime.

3. Act to bind the Crown—This Act shall bind the Crown.

Crimes Compensation Tribunal

4. Crimes Compensation Tribunal—(1) There is hereby established for the purposes of this Act a Tribunal to be known as the Crimes Compensation Tribunal.

(2) The Tribunal shall consist of three members, to be appointed by the Governor-General on the recommendation of the Minister of Justice, of whom one (who shall be so appointed as Chairman) shall be a barrister or solicitor of the Supreme Court of not less than seven years’ practice, whether or not he holds or has held any judicial office.

(3) Except as otherwise provided in this Act, every member of the Tribunal shall hold office for a term of five years, but may from time to time be reappointed.

(4) Any member of the Tribunal may hold that office concurrently with any other office held by him.

(5) No act or proceeding of the Tribunal, or of any person acting as a member of the Tribunal, shall be invalidated in consequence of there being a vacancy in the membership of the Tribunal at the time of that act or proceeding, or of the subsequent discovery that there was some defect in the appointment of any person so acting, or that he was incapable of being or had ceased to be such a member.

(6) Notwithstanding anything to the contrary in this Act, every member of the Tribunal, unless he vacates office under section 5 or section 6 of this Act, shall continue to hold office until his successor is appointed.

(7) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason of his being a member of the Tribunal.

5. Removal of members from office—(1) Except as provided in this section, any member of the Tribunal may be at any time removed or suspended from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

(2) If at any time the Chairman of the Tribunal holds any other judicial office, he shall not be removed from office as Chairman, except for disability, unless he is removed or suspended from his other judicial office.

6. Resignation of members—Any member of the Tribunal may at any time resign his office by writing addressed to the Minister of Justice.

7. Deputy members—(1) In any case in which the Chairman or any other member of the Tribunal is suspended from office, or becomes incapable of acting by reason of illness, absence, or other sufficient cause, or if the Chairman or any other member deems it not proper or desirable that he should adjudicate on any specified matter, the Governor-General may appoint a suitable person to be the deputy of the Chairman or of that member, as the case may require, to act for the Chairman or member for the period or purpose stated in the appointment, or until the Chairman or member dies,

resigns, or is removed from office, or until the deputy resigns or his appointment is revoked.

(2) No person shall be appointed as deputy Chairman unless he is eligible for appointment as Chairman.

(3) While any deputy acts for a member under this section, he shall be deemed to be a member of the Tribunal and, in the case of a deputy acting for the Chairman, to be the Chairman.

(4) The fact that any person is sitting as the deputy of the Chairman or any other member of the Tribunal shall be conclusive evidence of his authority to do so, and no person shall be concerned to inquire whether the occasion for his appointment has arisen or ceased.

8. Oath to be taken—Before entering upon the duties of his office, the Chairman and each member, deputy Chairman, and deputy member of the Tribunal, unless he has already taken the Judicial Oath, shall take an oath before a Judge of the Supreme Court that he will faithfully and impartially perform the duties of his office.

9. Remuneration and travelling expenses—(1) There shall be paid to the members and deputy members of the Tribunal remuneration by way of salaries, fees, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

(2) The Tribunal is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

10. Tribunal to be a Commission of Inquiry—(1) The Tribunal shall, within the scope of its jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and the provisions of that Act (except sections 11 and 12 thereof) shall apply accordingly, subject to the provisions of this Act and of any regulations made under this Act.

(2) For the purposes of this section, the power to issue summonses requiring the attendance of witnesses before the Tribunal or the production of documents, or to do any other act preliminary or incidental to the hearing of any matter by the Tribunal, may be exercised by the Chairman.

11. Exercise of powers of Tribunal—(1) The Chairman and one other member of the Tribunal shall constitute a quorum at any sitting of the Tribunal, and may also exercise any of the powers of the Tribunal under this Act.

(2) The Chairman shall preside at all sittings of the Tribunal.

(3) Where on any question before the Tribunal the members are divided in opinion, the question shall be determined by the opinion of the Chairman and one of the other members present at a sitting of the Tribunal; and if only one other member is present the opinion of the Chairman shall prevail.

(4) Every decision of the Tribunal shall state the reasons therefor.

12. Procedure of Tribunal—(1) Where any application is made to the Tribunal, 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) Every sitting shall be held in such place as the Tribunal deems convenient, and shall be in public unless in any particular case the Tribunal considers that the sitting or any part thereof should be held in private, having regard—

(a) To the fact that any offender has not been convicted; or

(b) To the interests of the victim of an alleged sexual offence or his dependants, as the case may require;
or

(c) To the interests of public morality.

(3) Any sitting of the Tribunal, and any proceedings before it, may be adjourned from time to time and from place to place.

(4) Where any person entitled to make any application under this Act is under the age of eighteen years the application may be made on his behalf by any parent or person acting in the place of a parent. Where any person so entitled is a mentally defective person within the meaning of the Mental Health Act 1911 or a protected person within the meaning of the Aged and Infirm Persons Protection Act 1912, the application may be made by any committee or manager or person authorised to administer his estate.

(5) Where any application is made to the Tribunal under this Act, the applicant, and any counsel assisting the Tribunal, shall be entitled to appear and be heard.

(6) Any other person may appear and be heard who satisfies the Tribunal that he has a substantial interest in the proceedings.

(7) Where under this Act any person is entitled to appear and be heard by the Tribunal, that person may appear in person or by his counsel or solicitor.

(8) Every person appearing under the foregoing provisions of this section shall have the right to produce evidence and to cross-examine witnesses.

(9) In any proceedings under this Act, the Tribunal may make an order prohibiting the publication of any report or account of the whole or any part of the evidence, if it is satisfied that the making of such an order is necessary in the interests of public morality.

(10) In any proceedings under this Act, the Tribunal may make an order prohibiting the publication of the name of the victim or of any offender, or of any particulars likely to lead to the identification of the victim or any offender, if—

(a) Any offender has not been convicted; or

(b) The Tribunal is satisfied that the making of such an order is necessary to protect the interests of the victim or any dependant of the victim.

(11) In making any order under subsection (9) or subsection (10) of this section, the Tribunal shall have regard to the desirability of ensuring that the public are informed of the principles applied by the Tribunal in the cases coming before it and of the nature of those cases.

(12) Except as otherwise provided in this Act or in regulations made under this Act, the Tribunal may determine its own procedure.

13. Evidence in proceedings before Tribunal—(1) The Tribunal may receive in evidence any statement, document, information, or matter that may in its opinion assist it to deal effectually with the matter before it, whether or not the same would be admissible in a Court of law.

(2) If any person has been convicted of any offence in respect of the act or omission on which a claim under this Act is based, proof of that conviction shall, unless an appeal against the conviction or an application for a rehearing in respect of the charge is pending or a new trial or rehearing has been directed, be taken as conclusive evidence that the offence has been committed.

(3) Subject to the foregoing provisions of this section, the Evidence Act 1908 shall apply to the Tribunal in the same manner as if the Tribunal were a Court within the meaning of that Act.

14. Order to be sent to Secretary for Justice—Where the Tribunal makes an order under any of the provisions of this Act, a copy of the order shall be sent by the Tribunal to the Secretary for Justice.

15. Costs—(1) In any proceedings before it under this Act the Tribunal may make such order as to costs as it thinks fit.

(2) Any such order as to costs may be filed in a Magistrate's Court, and may be enforced as a judgment of that Court.

16. Proceedings before Tribunal not to be challenged—Proceedings before the Tribunal shall not be held bad for want of form. Except as otherwise provided in this Act, no appeal shall lie against any determination of the Tribunal, nor, except on the ground of lack of jurisdiction, shall any proceeding, order, or decision of the Tribunal be liable to be challenged, reviewed, quashed, or called in question by any Court.

Award and Payment of Compensation

17. Power to award compensation—(1) Where any person is injured or killed by any act or omission of any other person (being an act or omission that occurred in New Zealand after the commencement of this Act) which is within the description of any of the offences specified in any of the enactments mentioned in the Schedule to this Act, the Tribunal in its discretion, on application, may make an order in accordance with this Act for the payment of compensation—

- (a) To or for the benefit of the injured person; or
- (b) Where the compensation is in respect of pecuniary loss suffered or expenses incurred, as a result of the victim's injury, by any person responsible for the maintenance of the victim, to that person; or
- (c) Where the death of the victim has resulted, to or for the benefit of the victim's dependants or any one or more of them.

(2) For the purposes of this Act, a person shall be deemed to have intended an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent.

(3) In determining whether to make an order under this section, the Tribunal may have regard to all such circumstances as it considers relevant, and shall have regard to any behaviour of the victim which directly or indirectly contributed to his injury or death.

(4) No order shall be made under this section unless the application has been made within one year after the date of the injury or death:

Provided that the Tribunal may, at any time before or after the expiry of the said period of one year, extend the time for making an application for any further period if in the circumstances of the case the Tribunal thinks it just to do so.

(5) No order shall be made under this section unless the Tribunal is satisfied, on a balance of probabilities,—

(a) That there was such an act or omission as aforesaid; and

(b) That the injury or death resulted from that act or omission.

(6) An order may be made under this section whether or not any person is prosecuted for or convicted of any offence arising out of the act or omission:

Provided that the Attorney-General may at any time apply to the Tribunal for an adjournment of any proceedings under this section on the ground—

(a) That a prosecution for an offence arising out of the act or omission has been commenced; or

(b) That such a prosecution is likely to be commenced soon—

and in any such case the Tribunal may make an order adjourning the proceedings for such period as it thinks fit.

(7) An order made under this section shall not affect the right of any person to recover from any other person by civil proceedings, under any enactment or rule of law, any compensation or damages in respect of the injury or death.

18. Nature of compensation—(1) Compensation may be awarded by the Tribunal under this Act in respect of any one or more of the following matters:

(a) Expenses actually and reasonably incurred as a result of the victim's injury or death:

(b) Pecuniary loss to the victim as a result of total or partial incapacity for work:

(c) Pecuniary loss to dependants as a result of the victim's death:

(d) Other pecuniary loss resulting from the victim's injury, and any expenses which, in the opinion of the Tribunal, it is reasonable to incur:

(e) Pain and suffering of the victim.

(2) No compensation shall be awarded in respect of pain and suffering if the victim—

- (a) Is a relative of the offender; or
- (b) Was at the time of the injury living with the offender as his wife or her husband or as a member of the offender's household.

19. Amount of compensation—(1) Subject to the provisions of this section, where the Tribunal decides to make an order for the payment of compensation it may award such amount as it thinks fit.

(2) Subject as aforesaid, any compensation so awarded may be a lump sum or periodical payments during such period as the Tribunal thinks fit, or both.

(3) Any amount so awarded shall not exceed, in the aggregate—

(a) In the case of pecuniary loss to the victim as a result of total or partial incapacity for work, a sum equal to ten pounds five shillings a week, increased by one pound a week if he has a wife who is dependent on him and by a further ten shillings a week in respect of each of the victim's children under the age of sixteen years (or under the age of eighteen years and engaged in a full-time course of education or training) 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 six 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 nine pounds a week, increased by ten shillings a week in respect of each of the victim's children who was dependent on him at the time of his death and is for the time being under the age of sixteen years (or under the age of eighteen years and engaged in a full-time course of education or training), but in no case for a longer aggregate period than six years:

(c) In the case of other pecuniary loss and of expenses, the sum of one thousand pounds:

(d) In the case of pain and suffering of the victim, the sum of five hundred pounds.

(4) The Governor-General may from time to time, by Order in Council, fix the maximum amount of compensation that may be awarded in cases to which paragraph (a) or paragraph (b) of subsection (3) of this section applies by prescribing for any amount specified in either of those paragraphs any other amount, and thereupon that subsection shall have effect as if it had been amended accordingly.

(5) Where an unmarried victim employs a housekeeper under a contract of service and has any dependent children under the age of sixteen years (or under the age of eighteen years and engaged in a full-time course of education or training), the provisions of paragraph (a) of subsection (3) of this section shall apply as if the victim had a wife dependent on him.

(6) Where the injured victim is a schoolchild or is a minor engaged in a full-time course of education or training, the Tribunal may have regard, for the purposes of this section, to any estimated future total or partial incapacity for work.

(7) In determining the amount (if any) to be so awarded, the Tribunal—

- (a) Shall have regard to any behaviour of the victim which directly or indirectly contributed to his injury or death; and
- (b) Shall deduct any payments received by the victim or any of his dependants, by way of compensation or damages from the offender or any person on the offender's behalf or pursuant to Part VI of the Transport Act 1962, in respect of the injury or death; and
- (c) Shall deduct any payments received by or payable to the victim or any of his dependants under the Workers' Compensation Act 1956 in respect of the injury or death; and
- (d) Shall deduct any payments received by or payable to the victim or any of his dependants under the Social Security Act 1938 or the War Pensions Act 1954 in respect of the injury or death; and
- (e) May have regard to such other circumstances as it considers relevant.

(8) Nothing in section 74 of the Social Security Act 1938 shall apply in respect of any compensation awarded or paid to any person under this Act.

20. Terms of order—(1) Any order for the payment of compensation under this Act may be made on and subject to such terms and conditions as the Tribunal thinks fit as to the payment, disposal, allotment, or apportionment of the compensation to or for the benefit of the victim or the dependants or any of them or to any other person, or as to the holding of the compensation or any part thereof on trust for the victim or the dependants or any of them, whether as a class fund or otherwise.

(2) Without limiting the generality of the provisions of subsection (1) of this section, it is hereby declared that the Tribunal shall have for the purposes of this Act the same powers as the Compensation Court has under sections 58 to 62 and sections 66 to 68 of the Workers' Compensation Act 1956; and where the Tribunal exercises any such power such of those provisions as are applicable to the case shall apply, with all necessary modifications.

(3) Where pursuant to any order under this Act any amount is paid to any person under the age of twenty-one years his receipt therefor shall be a sufficient discharge.

21. Variation of order—(1) The Tribunal may at any time, on the application of the Attorney-General or of the victim or any dependant, or of the offender, vary any order for payment of compensation made under this Act in such manner as the Tribunal thinks fit, whether as to terms of the order or by increasing or decreasing the amount ordered to be paid or otherwise.

(2) In considering any application under this section, the Tribunal may have regard to—

- (a) Any fresh evidence which has become available:
- (b) Any change of circumstances that has occurred since the making of the order or, as the case may be, of any previous variation of the order, or that is likely to occur:
- (c) Any payments received or payable to the victim or any of his dependants under the provisions of the Social Security Act 1938 or the War Pensions Act 1954 or the Workers' Compensation Act 1956 or otherwise in respect of the injury or death since the making of the order or, as the case may be, of any previous variation of the order:
- (d) Any other matter the Tribunal considers relevant.

22. Payment of compensation—The amount of any compensation ordered by the Tribunal to be paid pursuant to this Act, together with any costs awarded to the applicant, shall be paid out of the Consolidated Fund, from money appropriated by Parliament for the purpose.

Recovery of Compensation

23. Recovery from offender—(1) Where any person is convicted of any offence, and an order for the payment of compensation is or has been made under this Act in respect

of injury or death resulting from the act or omission constituting that offence, the Tribunal may at any time in its discretion, on the application of the Secretary for Justice, make an order directing the offender to refund the whole or any specified part of the amount of the compensation paid or payable, together with the whole or any specified part of any costs awarded in respect of the application for compensation.

(2) Any such order may be for the payment by the offender of a lump sum or of periodical payments during a specified period, or both.

(3) Before making any order under this section the Tribunal shall give the offender an opportunity to be heard, shall obtain and consider a report from a probation officer, and shall have regard to the financial position of the offender, his employment, the possibilities of future employment, his liabilities to his family and otherwise, and such other circumstances as the Tribunal considers relevant.

(4) The Tribunal may at any time, on the application of the Secretary for Justice or of the offender, vary any order made under this section in such manner as it thinks fit. The provisions of subsection (2) of section 21 of this Act shall apply to any such application.

(5) Where any order is made under this section, the offender may appeal to the Supreme Court against the order in the same manner as if it were an order to which section 115 of the Summary Proceedings Act 1957 applies; and the provisions of Part IV of that Act shall apply accordingly, so far as they are applicable and with all necessary modifications.

24. Enforcement of recovery order—(1) Any order made under section 23 of this Act may be filed in a Magistrate's Court, and may thereupon, irrespective of the amount thereof, be enforced as a judgment of that Court.

(2) Section 21c of the Penal Institutions Act 1954 (as inserted by section 2 of the Penal Institutions Amendment Act 1961) is hereby amended by inserting in subsection (4), after paragraph (c), the following paragraph:

“(cc) Any amount ordered by the Crimes Compensation Tribunal to be refunded pursuant to section 23 of the Criminal Injuries Compensation Act 1963:”.

25. Recovery from victim or dependants—(1) Where compensation is paid under this Act to any victim or any dependant in respect of any injury or death, and he receives, by

way of compensation or damages from the offender or any person on the offender's behalf or pursuant to Part VI of the Transport Act 1962, any sum that has not been deducted under paragraph (b) of subsection (7) of section 19 of this Act, he shall refund—

- (a) The amount of the compensation paid to him under this Act, if that amount is equal to or less than the said sum; or
 - (b) The said sum, if the amount of the compensation paid to him under this Act is greater.
- (2) Any sum not so refunded may be recovered as a debt due to the Crown.

26. Application of money recovered—All money recovered from any offender or from any victim or the dependant of any victim pursuant to this Act shall be paid into the Public Account.

Miscellaneous Provisions

27. Compensation not assignable—Except for the purposes of the Divorce and Matrimonial Causes Act 1928 and of the Destitute Persons Act 1910, no money paid or payable by way of compensation under this Act, and no money held by the Public Trustee or any other trustee under any order made by the Tribunal under subsection (2) of section 20 of this Act, shall be capable of being assigned, charged, taken in execution, or attached, nor shall any claim be set off against it, nor shall it be assets in the bankruptcy of the person entitled thereto.

28. Payment of expenses to person entitled thereto—Any compensation payable under this Act in respect of any expenses may be ordered by the Tribunal to be paid to any person entitled to take proceedings for the recovery of those expenses, and his receipt therefor shall be a sufficient discharge.

29. Solicitor's claim to costs—The solicitor of a person claiming compensation under this Act shall not be entitled to recover from him any costs in respect of any proceedings before the Tribunal under this Act, or to claim a lien in respect of any such costs on any sum payable as compensation under any order, or to deduct any such costs from any sum so payable, except to the extent to which the costs have been allowed as between the solicitor and his client by the Tribunal, on the application either of the solicitor or of the client.

30. Expenses incurred in administration of Act—All expenses incurred in the administration of this Act (including any salaries, fees, or allowances or travelling expenses and allowances payable to the members or deputy members of the Tribunal) shall be paid out of the Consolidated Fund from money appropriated by Parliament for the purpose.

31. Offences—(1) Every person commits an offence against this Act who, in or in connection with any proceedings under this Act, wilfully makes any false statement to or otherwise wilfully misleads or attempts to mislead the Tribunal or any other person.

(2) Every person commits an offence against this Act who publishes any report or account in contravention of any order made by the Tribunal under subsection (9) or subsection (10) of section 12 of this Act.

(3) Every person who commits an offence against this Act is liable on summary conviction to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding three months, or to both.

(4) Notwithstanding anything in section 14 of the Summary Proceedings Act 1957, any information in respect of an offence against this Act may be laid at any time within two years from the time when the matter of the information arose.

32. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing the procedure to be followed in respect of applications to the Tribunal and in respect of any proceedings under this Act, including the procedure for the service of notices and documents:
- (b) Prescribing fees to be paid in respect of such applications or proceedings:
- (c) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

33. Act may be extended to other offences—The Governor-General may from time to time, by Order in Council, amend the Schedule to this Act by adding a description of any offence within the meaning of any enactment.

SCHEDULE

Sections 2 (1), 17 (1), 33

OFFENCES TO WHICH THIS ACT APPLIES

Crimes Under the Crimes Act 1961

Section of Crimes Act 1961	Offence
128	Rape
129	Attempt to commit rape
132	Sexual intercourse with girl under twelve
133	Indecency with girl under twelve
134 (2) (a)	Indecent assault on girl between twelve and sixteen
135	Indecent assault on woman or girl
140 (1) (a)	Indecent assault on boy
141 (1) (a)	Indecent assault on a male
172	Murder
173	Attempt to murder
177	Manslaughter
188	Wounding with intent
189	Injuring with intent
190	Injuring by unlawful act
191	Aggravated wounding or injury
192	Aggravated assault
193	Assault with intent to injure
194	Assault on a child, or by a male on a female
196	Common assault
197	Disabling
198	Discharging firearm or doing dangerous act with intent
199	Acid throwing
200	Poisoning with intent
201	Infecting with disease
203	Endangering transport
208	Abduction of woman or girl
209	Kidnapping

This Act is administered in the Department of Justice.
