

Queensland



ANNO SEPTIMO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 44 of 1968

**An Act to Amend The Criminal Code to enable provision to be made for the payment of compensation to persons who suffer injury in certain circumstances**

[ASSENTED TO 19TH DECEMBER, 1968]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1. Short title.** This Act may be cited as *The Criminal Code Amendment Act 1968*, and shall be read as one with *The Criminal Code*.

**2. Commencement.** This Act shall commence on the first day of January, One thousand nine hundred and sixty-nine.

**3. Application of Act.** This Act does not apply in respect of compensation for injury suffered before the commencement of this Act.

**4. New ss. 663A to 663E.** *The Criminal Code* is amended by inserting after section 663 the following words and sections:—

“ CHAPTER LXVA

COMPENSATION FOR INJURY

**663A. Interpretation.** In this Chapter, unless the context otherwise indicates or requires the following terms shall have the meanings respectively assigned to them, that is to say:—

“injury”—bodily harm and includes pregnancy, mental shock and nervous shock;

“Minister”—the Minister for Justice and Attorney-General or other Minister of the Crown for the time being charged with the administration of this Code. The term includes a Minister of the Crown temporarily performing the duties of the Minister charged with the administration of this Code.

**663B. Court may order payment for compensation.** (1) Where a person is convicted on indictment of any indictable offence relating to the person of any person, the Court, on the application by or on behalf of the person aggrieved by the offence, may, in addition to any other sentence or order it may make, order him to pay to the person aggrieved a sum not exceeding two thousand dollars by way of compensation for injury suffered by him by reason of the offence of which the offender is convicted.

(2) In determining whether or not to make an order under subsection (1) of this section and in determining the amount of any order, the Court shall have regard to any behaviour of the person aggrieved which directly or indirectly contributed to the injury suffered by him, and to such other circumstances as it considers relevant (including whether the person aggrieved 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 to the other provisions of this Chapter.

(3) If any money was found on the person of the offender on his arrest, the Court may, if it is satisfied that the money is the property of the offender, order it to be applied towards the payment of any sum ordered to be paid by him under subsection (1) of this section.

(4) The person aggrieved may enforce any order under subsection (1) of this section against the offender as if the order were a judgment of the Court given in an action for the amount of the order less any moneys received by that person under an order made under subsection (3) of this section.

**663C. Governor in Council may approve ex gratia payment where offender convicted.** (1) Where an order has been made under subsection (1) of section 663B of this Code, and the order is for the payment of a sum in excess of one hundred dollars, the person in whose favour the order has been made may make application in writing to the Minister for the approval of the Governor in Council for the payment to him from the Consolidated Revenue Fund of the sum so ordered to be paid.

(2) Subject to subsection (3) of this section, the Minister shall, as soon as practicable after receiving an application under subsection (1) of this section, submit to the Governor in Council a report specifying—

- (a) particulars of the application;
- (b) the order of the Court to which the application relates and the circumstances of the offence in respect of which the order was made;

- (c) any amounts which, to the knowledge of the Minister, the applicant has received or in the opinion of the Minister the applicant would, if he had exhausted all relevant rights of action and other legal remedies available to him, receive, independently of subsection (4) of this section, by reason of the injury to which the application relates;
- (d) particulars of any medical examination of the applicant which may have been requested by the Minister; and
- (e) such other matters concerning the application as the Minister thinks fit.

(3) The Minister may defer submitting his report to the Governor in Council for as long as he considers it necessary to do so to enable him to specify in his report the amounts referred to in paragraph (c) of subsection (2) of this section.

(4) The Governor in Council upon examining the report of the Minister under subsection (2) of this section may, if he considers that in the circumstances of the case the making of a payment to the applicant is justified, approve that the Treasurer pay to the applicant, in such manner and subject to such conditions as the Governor in Council thinks fit, an amount equal to the difference between the amount ordered by the Court and the amounts referred to in paragraph (c) of subsection (2) of this section.

**663D. Governor in Council may approve ex gratia payment in other cases.** (1) Any person who suffers injury—

- (a) whilst assisting any police officer to arrest or attempt to arrest an offender or suspected offender or to prevent or attempt to prevent the commission of any offence;
- (b) by reason of any act or omission which would have rendered the person doing the act or making the omission liable, if he had been criminally responsible for that act or omission, to punishment as for an indictable offence relating to the person of the firstmentioned person; or
- (c) by reason of the commission of an indictable offence relating to the person of that person and—
  - (i) the offence has been reported to a police officer without delay and after due inquiry and search the offender cannot be found;
  - (ii) the offender has not been dealt with summarily nor has an indictment been presented in relation to that offence; or
  - (iii) the offender has not been convicted on an indictment presented in relation to that offence,

may make application in writing to the Minister for the approval of the Governor in Council for the payment to him from the Consolidated Revenue Fund of a sum not exceeding two thousand dollars by way of compensation for injury so suffered by him.

(2) Subject to subsection (3) of this section, the Minister shall, as soon as practicable after receiving an application under subsection (1) of this section, submit to the Governor in Council a report specifying—

- (a) particulars of the application;
- (b) the circumstances of the offence or incident by reason of which the injury was suffered, including particulars of the injury suffered by the applicant;
- (c) particulars of any report by a police officer concerning the offence;
- (d) particulars of any medical examination relating to the injury at or near the time the injury was suffered;
- (e) any amounts which, to the knowledge of the Minister, the applicant has received or in the opinion of the Minister the applicant would, if he had exhausted all relevant rights of action and other legal remedies available to him, receive, independently of subsection (4) of this section, by reason of the injury to which the application relates;
- (f) particulars of any medical examination of the applicant which may have been requested by the Minister; and
- (g) such other matters concerning the application as the Minister thinks fit.

(3) The Minister may defer submitting his report to the Governor in Council for as long as he considers it necessary to do so to enable him to specify in his report the amounts referred to in paragraph (e) of subsection (2) of this section.

(4) The Governor in Council upon examining the report of the Minister under subsection (2) of this section may, if he considers that in the circumstances of the case the making of a payment to the applicant of a sum in excess of one hundred dollars is justified, approve that the Treasurer pay to the applicant, in such manner and subject to such conditions as the Governor in Council thinks fit, such amount not exceeding two thousand dollars as the Governor in Council thinks fit, less the amounts referred to in paragraph (e) of subsection (2) of this section.

(5) The limitation of two thousand dollars mentioned in subsections (1) and (4) of this section shall not apply in respect of a person who suffers injury in the circumstances specified in paragraph (a) of subsection (1) of this section.

**663E. General.** (1) Any payments under subsection (4) of section 663C of this Code or under subsection (4) of section 663D of this Code may be made without further appropriation than this subsection.

(2) Where any payment is made under subsection (4) of section 663C of this Code or under subsection (4) of section 663D of this Code, the Minister shall be subrogated, to the extent of the payment, to all the rights and remedies of the person aggrieved against the person responsible for the injury in respect of the injury for which the payment was made.

(3) Without derogating from the provisions of subsection (2) of this section, where approval has been given for a payment to any person under subsection (4) of section 663C of this Code or under subsection (4) of section 663D of this Code and that person

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(in this subsection referred to as the “injured person”) becomes entitled whether by an order of a court or by a compromise of action to receive an amount of money in respect of the injury in relation to which the approval was given from the person responsible for the injury—

- (a) that amount shall be charged by way of a first charge in favour of the Minister to the extent of the amount of the payment received by the injured person from the Treasurer; and
- (b) (in the case of the injured person receiving payment by way of periodical payments from the Treasurer) the entitlement to receive any further payment shall thereupon cease unless the Governor in Council otherwise directs.

(4) Any moneys recovered by the Minister under subsection (2) or subsection (3) of this section shall be paid to the Consolidated Revenue Fund.

(5) Subject to this section any right, entitlement or remedy under this Chapter shall be in addition to and not in derogation of or substitution for any right, entitlement or remedy under any Act, law, rule or practice of law.”