



Queensland

Public Sector (Victims Protection) Bill 2005



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2005

A Bill

for

An Act to provide for the payment of compensation to public sector officials who are victims of crime in the course of performing their functions

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

1 Short title 3

This Act may be cited as the *Public Sector (Victims Protection) Act 2005*. 4
5

2 Commencement 6

This Act commences on a day to be fixed by proclamation. 7

3 Dictionary 8

The dictionary in the schedule defines particular words used 9
in this Act. 10

Part 2 Compensation 11

4 Entitlement to compensation 12

(1) This section applies if— 13

(a) a public sector official or the relative of a public sector 14
official suffers loss of, or damage to, property as a result 15
of a violation by another person of the State's criminal 16
laws; and 17

(b) the loss or damage arises out of the official's lawful 18
performance of his or her functions as a public sector 19
official or because of the official's employment as a 20
public sector official. 21

(2) Subject to this Act, the public sector official or relative is 22
entitled to be paid just and reasonable compensation for the 23
loss or damage. 24

5 When compensation is not payable

Compensation is not payable to the public sector official or relative for loss or damage to the extent that an amount for the loss or damage is recovered or recoverable by the official or relative under a policy of insurance.

6 Application for compensation

- (1) A public sector official or relative who suffers loss or damage mentioned in section 4(1) may apply to the relevant chief executive for the official for compensation for the loss or damage.
- (2) The application must be made in writing within 90 days after the public sector official or relative suffers the loss or damage.
- (3) The application must state—
 - (a) details of the public sector official's or relative's loss or damage and the circumstances in which it happened; and
 - (b) the amount of compensation claimed and the grounds for the amount claimed.
- (4) The applicant must also provide any other relevant information reasonably required by the relevant chief executive.
- (5) Despite subsection (2), a relevant chief executive may accept a public sector official's or relative's application for compensation made more than 90 days after the official or relative suffers the loss or damage if the chief executive is satisfied it would be reasonable in all the circumstances to accept the application.

7 Lapsing of application

- (1) If an application for compensation is made under this Act, the relevant chief executive may make a requirement under section 6(4) for information to decide the application by giving the applicant a notice stating—
 - (a) the required information; and

- (b) the time by which the information must be given to the chief executive; and
 - (c) that, if the information is not given to the chief executive by the stated time, the application will lapse.
- (2) The stated time must be reasonable and, in any case, at least 21 days after the requirement is made.
- (3) The relevant chief executive may give the applicant a further notice extending or further extending the time if the chief executive is satisfied it would be reasonable in all the circumstances to give the extension.
- (4) A notice may be given under subsection (3) even if the time to which it relates has lapsed.
- (5) If the applicant does not comply with the requirement within the stated time, or any extension, the application lapses.

8 Deciding application

- (1) The relevant chief executive must consider and decide an accepted application within 60 days after the last of the following to happen—
 - (a) the chief executive receives the application;
 - (b) the chief executive receives all necessary information to decide the application.
- (2) If the relevant chief executive has not decided an accepted application within the period stated in subsection (1) for the application, the chief executive is taken to have refused to pay the compensation.
- (3) In this section—
accepted application means an application made under section 6(1) or an application the chief executive accepts under section 6(5).

9 Notice about decision

As soon as practicable after deciding the application, the chief executive must give the applicant a written notice stating all of the following—

- (a) the decision and the reasons for it; 1
- (b) if the chief executive decides to pay compensation— 2
 - (i) details of the amount and how the amount was 3
assessed; and 4
 - (ii) if the amount is less than the amount claimed—that 5
the applicant may appeal against the decision, and 6
how the applicant may appeal; 7
- (c) if the chief executive decides not to pay 8
compensation—that the applicant may appeal against 9
the decision, and how the applicant may appeal. 10

Part 3 Appeal 11

- 10 Who may appeal 12**
- An applicant for the payment of compensation who is 13
dissatisfied with the chief executive's decision to refuse to pay 14
compensation or about the amount of compensation to be paid 15
may appeal against the decision. 16

- 11 Starting an appeal 17**
- (1) The appeal may be started at— 18
- (a) a Magistrates Court at the place where the person 19
resides or is employed; or 20
 - (b) a Magistrates Court at Brisbane. 21
- (2) The notice of appeal under the *Uniform Civil Procedure Rules* 22
1999 must be filed with the registrar of the court within 23
28 days after— 24
- (a) the day the person is given notice of the decision under 25
section 9; or 26
 - (b) the day the decision is taken to have been made under 27
section 8(2). 28

	(3) The court may, at any time, extend the time for filing the notice of appeal.	1 2
12	Hearing procedures	3
	(1) In hearing the appeal, the court is not bound by the rules of evidence and must comply with natural justice.	4 5
	(2) The appeal is by way of rehearing, unaffected by the chief executive's decision, on the material before the chief executive and any further evidence allowed by the court.	6 7 8
13	Powers of court on appeal	9
	(1) In deciding the appeal, the court may confirm the chief executive's decision or substitute another decision the chief executive could have made for the chief executive's decision.	10 11 12
	(2) The relevant chief executive must give effect to the court's decision.	13 14
14	Appeal to District Court	15
	An appeal lies to the District Court from a decision of a Magistrates Court under section 13, but only on a question of law.	16 17 18
Part 4	Miscellaneous	19
15	Regulation-making power	20
	The Governor in Council may make regulations for this Act.	21

Schedule	Dictionary	1
	section 3	2
<i>health practitioner registration Act</i>	means any 1 of the following Acts—	3 4
• <i>Chiropractors Registration Act 2001</i>		5
• <i>Dental Practitioners Registration Act 2001</i>		6
• <i>Dental Technicians and Dental Prosthetists Registration Act 2001</i>		7 8
• <i>Medical Practitioners Registration Act 2001</i>		9
• <i>Medical Radiation Technologists Registration Act 2001</i>		10
• <i>Occupational Therapists Registration Act 2001</i>		11
• <i>Optometrists Registration Act 2001</i>		12
• <i>Osteopaths Registration Act 2001</i>		13
• <i>Pharmacists Registration Act 2001</i>		14
• <i>Physiotherapists Registration Act 2001</i>		15
• <i>Podiatrists Registration Act 2001</i>		16
• <i>Psychologists Registration Act 2001</i>		17
• <i>Speech Pathologists Registration Act 2001.</i>		18
<i>health professional</i>	means—	19
(a)	a person registered under a health practitioner registration Act; or	20 21
(b)	a person enrolled, registered or authorised to practise under the <i>Nursing Act 1992</i> ; or	22 23
(c)	a person, other than a person referred to in paragraph (a) or (b), who provides a health service, including, for example, a social worker.	24 25 26
<i>health service</i>	has the meaning given by the <i>Health Services Act 1991</i> , section 2.	27 28
<i>public sector official</i>	means any of the following—	29

Schedule (continued)

- | | | |
|-----|--|----------------------|
| (a) | a public service employee; | 1 |
| (b) | a police officer; | 2 |
| (c) | a health service employee under the <i>Health Services Act 1991</i> ; | 3
4 |
| (d) | a health professional, other than a person mentioned in paragraph (c), engaged in delivering a health service on behalf of the State; | 5
6
7 |
| (e) | a person who, under the <i>Education (General Provisions) Act 1989</i> , is a teacher at a State educational institution; | 8
9 |
| (f) | a person who is— | 10 |
| | (i) a fire officer under the <i>Fire and Rescue Service Act 1990</i> ; or | 11
12 |
| | (ii) an ambulance officer under the <i>Ambulance Service Act 1991</i> ; or | 13
14 |
| | (iii) an SES member, an ESU member or another person performing functions under the <i>Disaster Management Act 2003</i> ; | 15
16
17 |
| (g) | another person prescribed under a regulation for this paragraph to be a public sector official. | 18
19 |
| | relative , of a public sector official, means a person who— | 20 |
| (a) | is the spouse or a child or other dependant of the official; and | 21
22 |
| (b) | resides with the official. | 23 |
| | relevant chief executive , for a public sector official, means the chief executive (however described) of the public sector unit or other entity for whom the public sector official is performing functions. | 24
25
26
27 |