

## Criminal Injuries Compensation

### Terms of Reference

In 1974 the Commission was asked to conduct a review of the *Criminal Injuries (Compensation) Act 1970* (WA) ("the Act").

### Background of Reference

The original terms of reference were confined to whether the maximum amounts of compensation payable under the Act should be increased. However, the Commission was also concerned that orders for compensation were made against offenders who usually could not pay the amounts owing, leaving victims looking to the state for compensation. Also, there was no provision for compensation for victims where the offender was not brought to trial, or if brought to trial was acquitted on the ground of insanity. As a result of these additional concerns, the Commission obtained approval to undertake a complete review of the Act.

The Commission issued a working paper in June 1975 which outlined a number of proposed changes to the legislation including increasing the amount of compensation available and amending the Act so that compensation orders are made payable out of the Consolidated Revenue in the first instance.

### Nature and Extent of Consultation

The working paper was distributed widely amongst interested parties and the general public. A notice, inviting submissions, was also placed in *The West Australian* newspaper. Submissions supporting the Commission's proposed amendments to the legislation were received from a variety of sources including the Crown Law Department, the Commissioner of Police, the Australian Labor Party, the Law Society of Western Australia, government departments, legal practitioners and private individuals. After consideration of all submissions and examination of the law in other Australian jurisdictions, the Commission delivered its final report in October 1975.<sup>1</sup>

### Recommendations

The Commission's primary recommendations included:

- Amending the Act so that compensation orders may be made against the Consolidated Revenue fund in the first instance, with the state having a right of recovery from the offender.
- Creating a special tribunal to determine the question of compensation.
- Outlining the powers and responsibilities of a special tribunal.
- Making provision for compensation in cases where offenders are not brought to trial or are acquitted.
- Increasing the limit of compensation to \$7 500.
- Determining who may claim compensation in addition to the immediate victim.
- Ensuring that full rights of appeal are available to the applicant for compensation and the offender against whom an order has been made.

A comprehensive outline of recommendations may be found at pages 26–30 of the final report.

### Legislative or Other Action Undertaken

The Act was replaced by the *Criminal Injuries (Compensation) Act Amendment Act 1976* (WA) which substantially implemented the Commission's recommendations. However, at this stage the government did not act on the recommendation that a special tribunal be created to deal with claims of compensation, nor that claims be met from the Consolidated Revenue fund. These outstanding recommendations were subsequently implemented by the *Criminal Injuries Compensation Act 1982* (WA).<sup>2</sup>

<sup>1</sup> Law Reform Commission of Western Australia, *Criminal Injuries Compensation*, Project No 46 (1975).

<sup>2</sup> This legislation was repealed in 1985 and replaced by the *Criminal Injuries Compensation Act 1985* (WA) which, amongst other things, increased the amount of compensation available to victims.