

UNIFORM CRIMINAL INJURIES COMPENSATION ACT

(1970 proceedings; pages 39, 299)

1. (1) In this Act

Interpretation

(a) "Board" means the Criminal Injuries Compensation Board established under this Act;

(NOTE: Where a province prefers to add to the duties of an existing board, insert here the name of the appropriate board.)

(b) "child" includes an illegitimate child and a child to whom a victim stands *in loco parentis*;

(c) "dependant" means a spouse, child or other relative of a deceased victim who was, in whole or in part, dependent upon the victim for support at the time of his death and includes a child of the victim born after his death;

(d) "injury" means actual bodily harm;

(e) "peace officer" means a peace officer as defined in the *Criminal Code* (Canada);

R.S.C. 1970,
c. 34

(f) "victim" means a person injured or killed in the circumstances set out in section 5(1).

(2) For the purpose of this Act, pregnancy, mental or nervous shock are deemed to be an injury.

Pregnancy and
mental or
nervous shock

(3) The Board may direct that persons were spouses of each other for the purposes of this Act where the Board finds that,

Unmarried
spouse

(a) although not married, they cohabited as man and wife and were known as such in the community where they lived; and

(b) the relationship was of some permanence, and the Board may direct that any person to whom a victim or applicant was married and who was living apart from the victim or applicant under circumstances that would have disentitled such person to alimony was not a spouse of the victim or applicant for the purposes of this Act.

2. The Attorney General (*or other Minister*) is responsible for the administration of this Act.

Administration
of Act

3. (1) The Criminal Injuries Compensation Board is established and shall be composed of not fewer than three and not more than five members who shall be appointed by

The Criminal
Injuries
Compensation
Board
established

the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall appoint one of such members as chairman and one or more of them as vice-chairmen.

Board a
corporation

(2) The Board is a corporation to which the *Companies Act*, (or as appropriate) does not apply.

Quorum

(3) Two members of the Board, one of whom must be the chairman or a vice-chairman, constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board.

Duties of
chairman

(4) The Chairman shall have general supervision and direction over the conduct of the affairs of the Board, and shall arrange the sittings of the Board and assign members to conduct hearings as circumstances require.

(NOTE: Where an existing board is adopted under paragraph 1(1)(a), the province should omit the parts of section 4 that are provided for elsewhere in its legislation.)

Publishing
reports

4. The Board shall prepare and periodically publish a summary of its decisions and the reasons therefor.

Injuries
compensable

5. (1) Where any person is injured or killed, by any act or omission in the Province of any other person occurring in or resulting from

(a) the commission of an offence within the description of any criminal offence mentioned in the Schedule, except an offence arising out of the operation of a motor vehicle but including assault by means of a motor vehicle;

(b) lawfully arresting or attempting to arrest any offender or suspected offender, or assisting a peace officer in making or attempting to make an arrest; or

(c) lawfully preventing or attempting to prevent the commission of any offence or suspected offence, or assisting a peace officer in preventing or attempting to prevent the commission of such offence or suspected offence,

the Board, on application therefor, may make an order that it, in its discretion exercised in accordance with this Act, considers proper for the payment of compensation to,

(d) the victim;

(e) a person who is responsible for the maintenance of the victim;

(f) where the death of the victim has resulted, the victim's dependants or any of them or the person who was responsible for the maintenance of the victim immediately before his death or who has, on behalf of the victim or his estate, incurred an expense referred to in section 7(1)(a) or (e).

(2) Subsection (1) does not apply in respect of the injury or death of a peace officer occurring under circumstances entitling him or his dependants to compensation payable out of public moneys under any other Act of the Province of Canada or payable by an organization that is supported in whole or in part by public funds.

Peace officers
excepted

(3) Where a claim is for less than \$100, no application shall be entertained by the Board and where the award determined is less than \$100, no award shall be made.

Minimum Loss

6. An application for compensation shall be made within one year after the date of the injury or death but the Board, before or after the expiry of the one-year period, may extend the time for such further period as it considers warranted.

Limitation
period for
application

7. Compensation may be awarded for

Compensation

- (a) expenses actually and reasonably incurred or to be incurred as a result of the victim's injury or death;
- (b) pecuniary loss or damages incurred by the victim as a result of total or partial disability affecting the victim's capacity for work;
- (c) pecuniary loss or damages incurred by dependants as a result of the victim's death;
- (d) maintenance of a child born as a result of rape;
- (e) other pecuniary loss or damages resulting from the victim's injury and any expense that, in the opinion of the Board, it is reasonable to incur.

(2) Where the injury to a person occurred in the circumstances mentioned in section 5(1)(b) or (c) the Board may, in addition to the compensation referred to in subsection (1), award compensation to the injured person for any other damage resulting from the injury for which compensation may be recovered at law, other than punitive or exemplary damages.

Idem

8. (1) Where an application is made to the Board, the Board shall fix a time and place for the hearing of the

Notice of
hearing

application and shall at least ten days before the day fixed cause notice thereof to be served upon the applicant, upon the Attorney General, upon the offender where practicable and upon any other person appearing to the Board to have an interest in the application.

Idem

- (2) The notice of hearing shall contain
- (a) a statement of the time and place of the hearing;
 - (b) a reference to the rules of procedure applicable to the proceedings;
 - (c) a concise statement of the grounds for the application; and
 - (d) a statement that, if a party who has been duly notified does not attend at the hearing, the Board may proceed in his absence and he is not entitled to notice of any further proceedings.

Parties

9. (1) Every person upon whom notice of a hearing is served and any other person specified by the Board is a party to the proceedings.

Failure to attend

(2) If any party to the proceedings does not attend the hearing, the Board may proceed in his absence.

Hearing dispensed with

10. With the consent of the applicant, the Board may make an order for compensation without a hearing and sections 8 and 9 do not apply.

Adjournment

11. (1) A hearing may be adjourned from time to time by the Board on reasonable grounds,

- (a) on its own initiative; or
- (b) on the request of any party to the proceedings.

Summonses

(2) The Board may, in the prescribed form, command the attendance before it of any person as a witness.

Oaths

- (3) The Board at a hearing may require any person
- (a) to give evidence under oath; and
 - (b) to produce such documents and things as the Board may require.

Evidence

(4) The Board may receive in evidence any statement, document, information or matter that, in its opinion, may assist it to deal effectually with the matter before it, whether or not the statement, document, information or matter is given or produced under oath or would be admissible as evidence in any court of law.

(5) If a person is convicted of a criminal offence in respect of an act or omission on which a claim under this Act is based, proof of the conviction shall, after the time for an appeal has expired or if an appeal was taken, it was dismissed and no further appeal is available, be taken as conclusive evidence that the offence has been committed.

Conviction as
conclusive
evidence

(6) A witness at a hearing shall be deemed to have objected to answer any question asked him upon the ground that his answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury or for the giving of contradictory evidence.

Protection for
witnesses

(7) Any person who, without lawful excuse,
(a) on being duly summoned as a witness before the Board, makes default in attending;
(b) being in attendance as a witness before the Board refuses to take an oath legally required by the Board to be taken, or to produce any document or thing in his power or control legally required by the Board to be produced by him, or to answer any question to which the Board may legally require an answer; or
(c) does any other thing that if done in a court of law would be contempt,
is guilty of an offence punishable under subsection (8).

Offences

(8) The Board may certify an offence under subsection (7) to the appropriate court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

Enforcement

(9) A member of the Board has power to administer oaths and receive affirmations for the purposes of any of its proceedings.

Administration
of oaths

12. Any party may be represented before the Board by counsel.

Right of party
to counsel

Right of parties
at hearing

13. At a hearing before the Board, any party may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions.

Right of
witness to
counsel

14. (1) Any witness may be represented before the Board by counsel, but at the hearing the counsel may only advise the witness and state objections under the provisions of the relevant law.

Idem

(2) Where a hearing is held in *camera*, a counsel for a witness is not entitled to be present except when that witness is giving evidence.

Hearings to be
opened to
public;
exceptions

15. All hearings shall be open to the public except where,
(a) the person whose act or omission caused the injury or death has not been charged with a criminal offence or, if charged, had not been convicted of any criminal offence;
(b) it would not be in the interests of the victim, or of the dependants of the victim, of an alleged sexual offence to hold the hearings in public; or
(c) it would not be in the interest of the public morality to hold the hearings in public.

Publication of
evidence

16. (1) The Board may make an order prohibiting the publication of any report or account of the whole or any part of the evidence at a hearing where the Board considers it necessary for one of the reasons mentioned in section 15, but in making an order under this subsection the Board shall have regard to the desirability of permitting the public to be informed of the principles and nature of each case.

Offence

(2) Any person who publishes a report or account of any evidence at a hearing contrary to an order of the Board under subsection (1) is guilty of an offence and on summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a term of not more than one year, or to both.

Corporations

(3) Where a corporation is convicted of an offence under subsection (2), the maximum penalty that may be imposed upon the corporation is twenty-five thousand dollars and not as provided therein.

Interim
compensation

17. Where
(a) the applicant is in actual financial need; and
(b) it appears to the Board that it will probably award compensation to the applicant,

the Board may, in its discretion, order interim payments to the applicant in respect of maintenance and medical expenses and, if compensation is not awarded, the amount so paid is not recoverable from the applicant.

18. (1) The final decision of the Board, including reasons therefor, shall be in writing. Decision to be in writing

(2) The reasons for the final decision shall include Contents of reasons for decision

- (a) any agreed findings of facts;
- (b) the findings of fact on the evidence;
- and
- (c) the conclusions of law based on the findings mentioned in clauses (a) and (b).

(3) The Board shall cause to be served on the parties a copy of its final decision, including the reasons therefor. Notice of decision

19. (1) Any notice or document required to be served under this Act or the regulations is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom service is required to be made at the latest address for service appearing on the records of the Board. Service

(2) Where any notice or document mentioned in subsection (1) is served by registered mail, the service shall be deemed to be made on the third day after the day of mailing. Idem

(3) Notwithstanding subsections (1) and (2), the Board may order any other method of service of any notice or document mentioned in subsection (1). Exception

20. (1) An order for compensation may be made whether or not any person is prosecuted for or convicted of the offence giving rise to the injury or death but the Board may, on its own initiative or upon the application of the Attorney General, adjourn its proceedings pending the final determination of a prosecution or intended prosecution. Compensation not dependent on a conviction

(2) Notwithstanding that a person for any reason is legally incapable of forming criminal intent, he shall, for the purposes of this Act, be deemed to have intended an act or omission that caused injury or death for which compensation is payable under this Act. Capacity for mens rea

21. The Board shall, upon request, release documents and things put in evidence at a hearing to the lawful owner or Release of exhibits

the person entitled to possession thereof within a reasonable time after the matter in issue has been finally determined.

Variation of
award

22. (1) The Board may at any time on its own initiative or on the application of the victim, any dependant of the victim, the Attorney General or the offender, vary an order for payment of compensation in such manner as the Board thinks fit, whether as to terms of the order or by increasing or decreasing the amount ordered to be paid, or otherwise.

Idem

(2) In proceedings under subsection (1), the Board shall consider

- (a) any new evidence that has become available;
- (b) any change of circumstances that has occurred since the making of the order or any variation thereof, as the case may be, or that is likely to occur; and
- (c) any other matter the Board considers relevant.

Procedure,
etc., on review

(3) This Act, except section 6, applies to a review under subsection (1) in the same manner as to an application for compensation.

Costs

23. The Board may, with respect to any hearing or other proceeding under this Act, make such order as to costs as it thinks fit, including a counsel fee not exceeding fifty dollars.

Appeal

24. Subject to section 22, a decision of the Board is final except that an appeal lies to the Court of Appeal from any decision of the Board on any question of law.

Considerations
of Board

25. (1) In determining whether to make an order for compensation and the amount thereof, the Board shall have regard to all relevant circumstances, including any behaviour of the victim that may have directly or indirectly contributed to his injury or death.

Idem

(2) In determining the amount of compensation, if any, to be awarded to an applicant, the Board shall deduct

- (a) any amount recovered from the person whose act or omission resulted in the injury or death, whether as damages or compensation, pursuant to an action at law or otherwise; and

- (b) any benefits received or to be received
 - (i) by the victim in respect of his injury,

or

(ii) by the applicant in respect of the death of the victim, under an Act of Canada or of the Province or of any other Province of Canada other than benefits under a pension plan or program under such an Act.

26. The Board may order compensation to be paid in a lump sum or in periodic payments, or both, as the Board thinks fit. Form of compensation

27. (1) In this section, "rate" means the rate for Government of Canada securities of ten years and over as published in the Bank of Canada Statistical Summary. "rate" defined

(2) The amount awarded by the Board to be paid in respect of the injury or death of one victim shall not exceed, Maximum awards

(a) in the case of lump sum payments, fifteen thousand dollars; and

(b) in the case of periodic payments, the income from a capital sum of fifty thousand dollars calculated at the rate for the month of January in respect of the first six months of each year and for the month of July in respect of the second six months of each year,

and where both lump sum and periodic payments are awarded, one only but not both may exceed half of the maximum therefor prescribed in clause (a) or (b), as the case may be.

(3) When the total amount of the awards that would, but for subsection (2), have been made in respect of the injury or death of one victim exceeds the maximum amount prescribed by subsection (2), such maximum award shall be distributed in proportion to the amounts of the awards that would, but for subsection (2), have been made. Pro rata distribution

(4) The total amount awarded by the Board to be paid to all applicants in respect of any one occurrence shall not exceed, Maximum total of payments for occurrence

(a) in the case of lump sum payments, a total of one hundred thousand dollars; and

(b) in the case of periodic payments, the income from a capital sum of three hundred and fifty thousand dollars, calculated in the manner prescribed by paragraph (2)(b).

(5) Where the total amount of the awards that would, but for subsection (4), have been made in respect of any one occurrence exceeds the maximum amount prescribed by Pro rata distribution

subsection (4), such maximum award shall be distributed in proportion to the amounts of the awards that would, but for subsection (4), have been made.

Acts deemed an occurrence

(6) For the purposes of this section the Board may deem more than one act to be one occurrence where the acts have a common relationship in time and place.

Exception re claims under cls. (b), (c) of subs. (1) of s. 5

(7) Subsections (1) to (5) do not apply to amounts awarded in respect of an injury or death incurred in the circumstances referred to in section 5(1)(b) or (c), and such amounts shall not be taken into account in determining maximum awards.

Award not subject to garnishment

28. Any compensation or other amount awarded as costs paid or payable under this Act is not subject to garnishment, attachment, seizure or any other legal process and the right thereto is not assignable.

Conditions of payment

29. (1) An order for the payment of compensation may be made subject to such terms and conditions as the Board thinks fit,

- (a) with respect to the payment, disposition, allotment or apportionment of the compensation; or
- (b) as to the holding of the compensation or any part thereof in trust for the victim or the dependants, or any of them, whether as a fund for a class or otherwise.

Idem

(2) Any compensation payable for expenses under section 7 may, in the discretion of the Board, be paid directly to the person entitled thereto.

Civil proceedings

30. (1) Subject to subsections (2), (3) and (4), nothing in this Act affects the right of any person to recover from any other person by civil proceedings damages in respect of the injury or death.

Subrogation

(2) The Board is subrogated to all the rights of the person to whom payment is made under this Act to recover damages by civil proceedings in respect of the injury or death and may maintain an action in the name of such person against whom such action lies, and any sum recovered by the Board shall be applied

- (a) first, to payment of the costs actually incurred in the action and in levying execution; and
- (b) second, to reimbursement to the Board of the value of the compensation awarded,

and the balance, if any, shall be paid to the person whose rights were subrogated.

(3) Any settlement or release does not bar the rights of the Board under subsection (2) unless the Board has concurred therein. Settlement

(4) An applicant for or a person awarded compensation shall forthwith notify the Board of any action he has brought against the offender who caused the injury or death of the victim. Civil actions

31. (1) Compensation ordered to be paid shall be paid out of (the moneys appropriated therefor by the Legislature or the Consolidated Revenue Fund, *as the Province considers appropriate.*) Payment of compensation

(2) Any money to which the Board is entitled under section 30 shall be paid into the Consolidated Revenue Fund. Disposition of money recovered

32. The Lieutenant Governor in council may make regulations Regulations

(a) prescribing rules of practice and procedure in respect of applications to the Board and proceedings of the Board;

(b) requiring the payment of fees in respect of any matter in the jurisdiction of the Board, including witness fees, and prescribing the amounts thereof;

(c) prescribing forms for the purposes of this Act and providing for their use; and

(d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

33. The Crown in right of the Province represented by the Attorney General (*or other Minister named in section 2*), with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada respecting the payment by Canada to the Province of such part of the expenditures required for the purposes of this Act as is agreed upon. Agreements with Canada

34. This Act applies in respect of claims for compensation arising from an injury or death resulting from an act or omission that occurs after this Act comes into force. Application of Act

SCHEDULE
(Subsection 5(1))

<i>Section of Criminal Code</i>	<i>Description of Offence</i>
17	compulsion by threats
18	compulsion of spouse
66	taking part in a riot
78	failure to take care
79	causing injury with intent
146	sexual intercourse with female under 14 or between 14 and 16 years of age
176	common nuisance
179(1)	prostitute
197	failure to provide necessaries
200	abandoning child
202	criminal negligence
203	causing death by criminal negligence
212	murder
213	murder in commission of offences
214(5)	hijacking, sexual assault or kidnapping
217	manslaughter
222	attempted murder
228	causing bodily harm with intent
229	administering noxious thing
230	overcoming resistance to commission of offence
231	traps likely to cause death or bodily harm
232	interfering with transportation facilities
240(2)	failure to keep watch on person towed
240(4)	impaired operation of vessel
241	impeding attempt to save life
244	assault
245.1	assault with a weapon or causing bodily harm
245.2	aggravated assault
246(1)	assaulting a peace officer
246.1	sexual assault
246.2	sexual assault with weapon, threat to a third party or causing bodily harm
246.3	aggravated sexual assault
247	kidnapping
247(2)	illegal confinement
249	abduction of a person under sixteen

250	abduction of a person under fourteen
250.1	abduction in contravention of custody order
250.2	abduction where no custody order
256(1)	procuring feigned marriage
302	robbery
381(1)(a)	intimidation
387(1)	mischief causing actual danger to life
389	arson
392(2)	fire: presumption against person in control of premises
393	false alarm of fire

(NOTE: The above Schedule has been amended as of January 4, 1983 to take into account amendments to the Criminal Code that have been enacted since the adoption of this model Act.)

