

CASE FOR REFUGEES

Centre for advocacy, support and education for refugees

Criminal Injuries Compensation Fact Sheet

Criminal Injuries Compensation Legislation

If you are injured or suffer loss as a result of a criminal offence, you may be able to make a claim for compensation under the *Criminal Injuries Compensation Act 2003* (WA) ("the Act"). The law is complex in this area and it is strongly recommended that you seek legal advice if you believe that you have a claim for criminal injuries compensation.

A claim can be made for compensation for injury and/or loss caused by an offence that occurred on or after 22 January 1971. The maximum amount of criminal injuries compensation payable to victims of crime is currently AUD\$75,000.00, depending on when the offence occurred.

Who Can Claim?

A victim of crime, and in some cases a close relative, can bring a claim for criminal injuries compensation under the Act. The definition of a close relative is set out in the Act and includes, for example, a parent, grandparent, spouse or child. It does not include a brother or sister.

A victim or close relative may still be able to make a claim for compensation even if the offender is not caught or convicted. This depends on the particular circumstances.

A person who does not know the victim may be able to claim for compensation in circumstances where they experience mental or nervous shock, if they are at the scene of the crime when it happens or at the scene immediately after, and someone was injured or killed as a result of the offence.

What Can Be Claimed?

Victims of crime can claim for injury and/or loss suffered. Injury includes bodily harm, mental or nervous shock and pregnancy. Victims can also claim for losses such as pain and suffering, loss of income and expenses actually and reasonably incurred as a result of the injury.

Close relatives may be able to claim compensation where the victim dies or suffers psychological injury as a result of the crime. Such a claim may include compensation for funeral expenses, the loss of financial support of dependants and mental and nervous shock.

You may be able to claim future treatment costs if your doctor, dentist or psychologist believes that you are likely to need more treatment in the future. There are requirements for receiving future treatment costs and, if awarded, they will not be paid until after you receive the treatment.

What Should a Victim of Crime Do Following the Crime?

If you are a victim of crime you should report the crime to Police as soon as possible and give all information that may be relevant to the event. You may not be awarded compensation, or the award of compensation may be reduced, if you do not help the Police fully with their investigation.

Making a claim for Compensation

The application for criminal injuries compensation is made to the Office of Criminal Injuries

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Compensation. Currently, there is no fee for lodging an application.

The application must include a number of documents, including medical or psychological reports, proof of expenses such as medical expenses, travel costs and funeral expenses, and your written account of what the injury and/or loss is and how it has affected you. For example, if you are unable to work, you should set this out in your written account. CASE for Refugees Inc. can assist you in compiling your application.

Applications for compensation have a three year time limit from the date the crime took place, or the date of the last offence where there are a series of offences over time by the same offender. The time limit may be extended in cases where the Office of Criminal Injuries Compensation decides that "it is just to do so".

Interim Payments

An interim payment claim is an 'up-front' claim for payment or reimbursement of expenses that result from the injury before the application is finalised. An interim payment claim can be made at any time after the incident. You may be able to claim an interim payment for:

- some treatment and report costs;
- travel expenses; and
- funeral expenses.

An interim payment forms part of the award of compensation. If the claim for compensation is refused, then the interim payment becomes a debt which must be repaid to the State.

Other Ways to Obtain Compensation as a Victim of Crime

You may also be entitled to make a common law claim for compensation for injury or loss, or where the offender is convicted, apply to the Court sentencing the offender for a compensation or restitution order. There are advantages and disadvantages to all the methods of making a claim for compensation and you should seek the advice of a lawyer before making a claim.

Where to Go to Get Help

CASE for Refugees Inc. is a non-government, non-religious community legal centre that provides migration and general legal services to the culturally and linguistically diverse (CaLD) communities of Western Australia. CASE for Refugees Inc. can assist you with advice regarding criminal injuries compensation and making a claim.

All services are free of charge, although donations from individuals and organisations are gratefully accepted. All donations of more than AUD\$2.00 are tax deductible.

The contact details for CASE for Refugees Inc. are as follows:

245 Stirling Street, Perth

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Tel: (08) 9227 7311

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