

THE CRIMINAL INJURIES COMPENSATION ACT, 1999

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and Tobago**



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 21 of 1999

[L.S.]

AN ACT to establish the Criminal Injuries
Compensation Board, to make provision for the
payment of compensation to victims of criminal
injuries and for matters relating thereto.

[Assented to 29- h September, 1999]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:—

PART I

PRELIMINARY

Short title	1. This Act may be cited as the Criminal Injuries Compensation Act, 1999.
Commencement	2. This Act comes into force on such date as is fixed by the President by Proclamation.
Interpretation	<p>3. In this Act—</p> <p>“application” means an application made under section 24;</p> <p>“Board” means the Criminal Injuries Compensation Board established by section 5 of this Act;</p> <p>“child” includes a step-child, an adopted child and a child of the victim born after his death;</p> <p>“criminal injury” or “injury” includes any harm or damage done to a person’s physical or mental condition as a result of a crime listed in the First Schedule, any disease deliberately, recklessly or negligently inflicted on another person and pregnancy arising out of a rape;</p> <p>“dependant” means—</p> <p>(a) a spouse or former spouse who was being maintained by the victim at the time of the victim’s death;</p> <p>(b) a person who was living in a cohabitational relationship with the victim for not less than three years before his death;</p> <p>(c) a child under the age of eighteen; or</p> <p>(d) a person who at the time of the victim’s death was financially dependant on him;</p>
First Schedule	

“GAAP” means Generally Accepted Accounting Practice which includes the International Accounting Standards adopted by the Institute of Chartered Accountants of Trinidad and Tobago (I.C.A.T.T.);

“member” means a member of the Board;

“Minister” means the Minister to whom responsibility for social services is assigned and “Ministry” has the corresponding meaning;

“Secretary” means the Secretary to the Board;

“victim” means a person who suffers criminal injury or is killed by any act or omission of another person which act or omission is a crime listed in the First Schedule.

First Schedule

4. (1) This Act applies to a—

Application of Act

(a) person who suffers injury; and

(b) dependant of a person who dies, as a result of a crime listed in the First Schedule.

(2) The Minister may by Order amend the First Schedule.

PART II

ESTABLISHMENT, COMPOSITION AND PROCEDURE OF BOARD

5. There is hereby established a body corporate to be known as the “Criminal Injuries Compensation Board” (hereinafter referred to as “the Board”).

Establishment of the Board

6. (1) The Board shall consist of a Chairman and six other members, all of whom shall be appointed by the Minister.

Composition of the Board

(2) The Chairman shall be an attorney-at-law with no less than ten years experience in the practice of criminal law.

(3) The other members of the Board shall comprise the following persons:

(a) a medical practitioner of no less than ten years experience;

- (b) an attorney-at-law of no less than seven years experience in the practice of civil law;
- (c) an attorney-at-law of no less than seven years experience in the practice of criminal law;
- (d) a psychologist;
- (e) a representative from the Ministry with responsibility for social services; and
- (f) a duly appointed representative of the Tobago House of Assembly.

Tenure of office of
Board members

7. (1) Subject to subsections (2) to (6), an appointment to the Board shall be for a period not exceeding three years and the members shall be eligible for reappointment.

(2) The Chairman may resign at any time, by letter addressed to the Minister.

(3) Other members may resign at any time by letter addressed to the Chairman who shall forward it to the Minister.

(4) An appointment to the Board and the termination thereof whether by death, resignation, revocation, effluxion of time or otherwise shall be notified in the *Gazette*.

(5) Where a member is unable to perform the functions of office owing to his absence from Trinidad and Tobago, illness or otherwise, the Minister may appoint another person to act as a temporary member during that period.

(6) Where the absent member is the Chairman, the Minister shall appoint a member, not being a temporary member, to act in his place.

(7) Where a member is absent without leave for three consecutive meetings of the Board he is deemed to have vacated his seat.

8. (1) The Board shall pay its Chairman and other members such remuneration as the Minister approves. Remuneration and allowance

(2) For the purpose of defraying reasonable travelling and out-of-pocket expenses incidental to their office, members of the Board shall be paid such allowances as may be approved by the Minister.

9. The Board shall be responsible for receiving and considering applications for compensation and deciding what compensation, if any, shall be paid. Functions of the Board

10. (1) The Board shall meet at least twice a month and at such other times as may be necessary or expedient for the transaction of its business. Meetings and procedure of the Board

(2) Meetings of the Board shall be held at such place and time and on such day as the Board determines.

(3) The Chairman, or in his absence, a member elected by the Board, shall preside at all meetings of the Board.

(4) Four members of the Board shall form a quorum.

(5) The Chairman shall have a casting vote only.

(6) The decisions of the Board shall be by a majority of votes of the members present and voting.

(7) The Secretary shall keep, in proper form, the minutes of each meeting and the minutes shall be confirmed by the Board and signed by the Chairman at a subsequent meeting.

(8) All decisions made by the Board shall be recorded in the minutes.

(9) The Board may co-opt any person to attend a particular meeting of the Board for the purpose of assisting or advising the Board, but no such co-opted person shall have a right to vote.

(10) Subject to this section, the Board may, by standing orders, regulate its own procedure at meetings.

(11) The Chairman shall cause notices to be issued to all members, for a special meeting of the Board, within seven days of receiving a request in writing signed by any three members, so to do.

(12) A request for a special meeting shall include sufficient indication of the purpose of the requested meeting.

Policy directions

11. In the performance of its administrative functions the Board shall act in accordance with any general policy directions of the Minister.

Seal

12. The Board shall have an official seal that shall be kept in the custody of the Chairman or otherwise as the Board determines.

Execution of documents

13. The seal of the Board shall be affixed to any document required to be executed by it and such document shall be deemed to be duly executed if signed by the Chairman or the Secretary.

PART III

STAFF

Appointment and functions of Secretary

14. (1) The Board shall appoint a suitably qualified person to be the Secretary.

(2) In addition to performing the duties of Secretary, as determined by the Board, the Secretary shall be the Accounting Officer for the purposes of the Exchequer and Audit Act and for that purpose shall be a qualified Accounting Technician. Chap. 69:01

15. (1) The Secretary to the Board shall hold office for not more than five years and shall be eligible for reappointment. Tenure of office of Secretary

(2) The Secretary may resign by giving notice in writing addressed to the Chairman.

(3) The Board may terminate the Secretary's appointment by giving one month's notice or salary in lieu thereof.

16. The Board shall pay the Secretary such remuneration as the Minister approves. Remuneration

17. (1) An officer in the Public Service or in the service of a Statutory Authority may, with the approval of the appropriate Service Commission and the Board, consent to be appointed on transfer to the service of the Board. Appointment on transfer

(2) The officer shall, upon transfer, have preserved this superannuation and pension rights accruing at the time of transfer.

18. (1) An officer in the Public Service or in the service of a Statutory Authority may, with the consent of the appropriate Service Commission and the Board, consent to be transferred on secondment to the service of the Board. Transfer on secondment

(2) Where a transfer on secondment is effected, such arrangements as may be necessary shall be made to preserve the rights of the officer transferred, to any pension, grant or other allowance for which he would have been eligible had he not transferred.

PART IV

FINANCIAL PROVISIONS

Appropriation of moneys for meeting the operating expenses of the Board

19. (1) The Board shall establish a fund consisting of such sums as are appropriated by Parliament from the Consolidated Fund for the purpose of meeting its operating expenses.

(2) The moneys of the fund, in any financial year, shall be applied in defraying the following expenditure:

- (a) the remuneration and allowances of the Chairman and other members of the Board;
- (b) the remuneration and allowances of the Secretary and other members of staff;
- (c) other operating expenses of the Board.

(3) All moneys appropriated by Parliament to meet the operating expenses of the Board shall be paid into a bank account opened with the approval of the Minister of Finance.

Appropriation of moneys for the payment of compensation to victims

20. (1) Parliament shall also appropriate moneys from the Consolidated Fund for the payment of compensation to victims or their dependants, as the case may be.

(2) Moneys appropriated under subsection (1) shall be a separate item of expenditure of the Ministry from which the Ministry shall pay compensation to a victim on the written authority of the Board.

Estimates of expenditure

21. (1) The Board shall, at least seven months before the commencement of each financial year, submit to the Minister, for his approval, an estimate of expenditure in relation to its operating expenses and the payment of compensation for such year, in such form as the Minister may prescribe.

(2) The Board shall, at such time as the Minister directs, furnish him with any further information in relation to the estimate of expenditure as he may require.

(3) The estimate of expenditure as approved by the Minister shall be the expenditure budget of the Board for the financial year to which it relates and is subject to the approval of the Minister of Finance.

22. (1) The Board shall keep proper books of accounts and records of all moneys received and expended by the Board and shall record the matters in respect of which such sums were received and expended. Account and audit

(2) Within three months after the end of each financial year the Board shall cause to be prepared, in respect of that year—

(a) a report setting out the activities of the Board; and

(b) financial statements prepared in accordance with GAAP.

(3) In instances where the standards included in GAAP are inappropriate or inadequate the Treasury shall provide instructions.

(4) The Accounts of the Board are public accounts of Trinidad and Tobago for the purposes of section 116 of the Constitution. Chap. 1:01

(5) As soon as the accounts of the Board have been audited, the Auditor General shall send a copy of the Financial Statements and Report to the Chairman of the Board, the Minister and the Minister of Finance and shall forward the report to Parliament in accordance with section 116 of the Constitution. Chap. 1:01

23. The Financial year of the Board shall be the period of twelve months beginning the first day of October in any year. Financial year

PART V

APPLICATION FOR COMPENSATION

Application for
compensation

24. (1) A victim or his dependant may apply to the Board for compensation in accordance with the provisions of this Act.

Second Schedule

(2) Every application shall be made to the Board in the manner prescribed in the Second Schedule.

(3) An applicant shall submit the following documents with the application:

(a) a medical certificate, evidencing the injury sustained, where the application is being made by the victim; or

(b) the death certificate of the victim, where the application is being made by a dependant.

(4) The applicant shall also submit other relevant documents and other information as requested by the Board.

(5) Where a dependant is—

(a) an infant, the application may be made on his behalf by a parent, guardian or person acting in *loco parentis*;

Chap. 28:02

(b) a mentally and ill person within the meaning of the Mental Health Act, the application may be made by the person with whom he normally resides or a duly authorised medical officer.

Procedure for
determining
applications

25. (1) The Board shall conduct its own inquiries with reference to an application and may consider any statement, document or other information that may assist it in making its decision.

(2) The Board shall obtain a copy of the report of the police complainant in respect of the crime to which

the application refers and may require the applicant or any other person to furnish it, within a specified period, with such other information it may require.

(3) In determining whether or not to pay compensation, consideration shall be given to—

- (a) the nature of the injuries suffered;
- (b) whether there was any provocation by the victim; and
- (c) whether the victim or dependant co-operated with the police and prosecutors in the investigation and prosecution of the case.

(4) In determining the amount of compensation, consideration shall be given to—

- (a) the amount received or receivable from any other source by the victim or his dependant, as a result of the criminal injury;
- (b) the conduct of the victim which contributed to the injury.

(5) For the purposes of subsection (4) (a) all amounts received or receivable shall be disclosed to the Board by the victim or his dependant, in writing, at the time of the making of the application or as soon thereafter as it comes to his knowledge.

(6) For the purpose of subsection (4) (b) and subject to subsection (7) where the infliction of injury to the victim was attributable to the conduct of the victim, the application for compensation may be rejected or the amount of compensation reduced, having regard to the contribution of the victim to the criminal injury.

(7) Where injury to the victim was due to his effort to prevent a crime or to apprehend a person who had committed a crime or to aid or attempt to aid a member of the security forces so to do, the amount of compensation shall not be reduced.

(8) For the purposes of subsection (7) “member of the security forces” means a member of the—

- (a) Police Service;
- (b) Prison Service;
- (c) Fire Service;
- (d) Defence Force to the extent that such member has been assigned to act in aid of the Police;
- (e) Supplemental Police established under the Supplemental Police Act.

Chap. 15:02

(9) Where the application is rejected by the Board, the Board shall inform the applicant in writing.

Board not bound by legal procedure

26. The Board, in considering an application, shall not be bound to entertain submissions from legal or other representatives of a victim or dependant and shall not be bound by the rules of evidence or legal procedure.

Sittings and hearings by the Board

27. (1) The Board shall hear claims for compensation in Port-of-Spain, San Fernando and Tobago at such times and in such places as the Board may determine.

(2) The Board shall notify the applicant of the time and place of the hearing of the relevant application.

(3) Where the Board makes a decision to hear the applicant it shall be entitled to call and examine any other person.

(4) The Board shall reach its decision on the basis of evidence and other information available to it at the hearing.

(5) Subject to section 26 the applicant shall be entitled to be assisted in presenting his case by a legal adviser or by any other person of his choice.

(6) The Board shall not be liable to the applicant for the cost of assistance by a legal adviser but may pay the expenses of other persons required to attend the hearing.

(7) All hearings shall be in private.

28. (1) Subject to section 30(2), the Board shall make its determination regarding an application within thirty days of acknowledgment of receipt of the application and all other supporting documents and information.

Determination of the Board

(2) The decision of the Board shall be final.

Part VI

PAYMENT OF COMPENSATION

29. (1) Subject to an application being submitted to the Board, the Board may pay compensation under this Act to—

Persons entitled to compensation

(a) the victim;

(b) a dependant of the deceased victim; or

(c) the person responsible for the care and maintenance of the victim or dependant, where that person has suffered pecuniary loss or has incurred expense in the care of the injured victim or dependant, as the case may be.

(2) Compensation may be paid in respect of—

(a) expenses reasonably incurred as a result of the injury or death of the victim;

(b) loss of earning power as a result of total or partial incapacity of such victim;

(c) pecuniary loss to the dependant of the deceased victim;

(d) other pecuniary loss or expenses incurred resulting from the personal injury or death of the victim which the Board determines to be reasonable.

30. (1) Compensation may be paid whether or not a person is prosecuted or convicted of the crime on account of which the application was made.

Compensation may be paid notwithstanding prosecution or conviction

(2) The Board may suspend consideration of any application for such period as it thinks appropriate on the ground that the prosecution for the crime, out of which the injury occurred, has commenced or is imminent.

Criminal intent notwithstanding incapacity

31. Notwithstanding the incapacity of the person responsible for the injury or death by reason of age, insanity, or otherwise, compensation may be payable under this Act.

Limitation of application

32. No compensation shall be paid unless the application is made within one year after the date of the injury or death or after that date, upon determination by the Board, that good cause exists for the delayed application.

Grounds for denial

33. No compensation shall be paid where the victim—

- (a) was guilty of a contravention of, or failed to comply with, any law which caused or contributed to his injuries;
- (b) was injured as a result of the operation of a motor vehicle, boat or airplane unless the same was used as a weapon in a deliberate attempt to do the victim harm or to cause bodily injury.

Maximum payment

34. (1) Subject to subsection (2), the amount of compensation payable, under this Act, in respect of the death or injury of any victim shall be within the absolute discretion of the Board and shall be in the nature of an *ex gratia* payment.

(2) No compensation shall be paid, in an amount in excess of twenty-five thousand dollars.

(3) The Minister may, by Order, increase the amount payable generally up to a maximum of fifty thousand dollars.

(4) Subject to the provisions of this Act, as to the payment of compensation to dependants, no compensation is payable for the benefit of the estate of a deceased victim.

35. Compensation shall be paid in lump sum, except Method of payment that in the case of death or protracted disability compensation may provide for periodic payments to compensate for loss of earnings or support.

36. Where a victim or dependant to whom Duty to refund compensation compensation is paid subsequently receives a settlement by way of damages or an award, he shall repay to the Board an amount equal to the compensation paid to him by the Board.

37. A victim or dependant who— Failure to disclose

- (a) provides false information to the Board;
- (b) fails to disclose the amount received from any other source in respect of the injury; or
- (c) fails to refund the compensation in accordance with section 36,

commits an offence and is liable on summary conviction to a fine equal to that of the compensation received or the amount received from other sources whichever is less and to imprisonment for six months.

38. Where the victim or a dependant fails to comply Court's discretion with the requirements of section 36, the Court may in its discretion, having regard to all the circumstances of the victim or dependant, decide whether or not the amount of compensation paid to such victim or dependant shall be refunded to the Board.

39. (1) The Board is subrogated to all the rights of Subrogation of Board 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 action lies.

- (2) Where the Board pursues an action under subsection (1), any amount recovered shall be applied—
- (a) first to the payment of costs actually incurred in the action;
 - (b) second, to the reimbursement to the Board of the value of the compensation awarded; and
 - (c) finally, in respect of the balance, if any, to the payment of the person whose rights were subrogated.

Regulations

40. (1) The Minister may make regulations to give effect to the provisions of this Act including prescribing any procedures to be followed in the making and determination of applications.

(2) The regulations made under this section shall be subject to negative resolution of Parliament.

FIRST SCHEDULE

[Section 4(1)]

CRIMES TO WHICH THIS ACT APPLIES

- (a) Murder;
- (b) Manslaughter;
- (c) Wounding with intent;
- (d) Inflicting injury with or without a weapon;
- (e) Using a drug with intent to commit an offence;
- (f) Administering poison or other destructive or noxious substance so as to endanger life or inflict grievous bodily harm;
- (g) Administering poison with intent to injure or annoy;
- (h) Offences under the Sexual Offences Act.

SECOND SCHEDULE

[Section 24(2)]

APPLICATION FOR COMPENSATION UNDER THE CRIMINAL INJURIES COMPENSATION ACT, 1999

To: The Chairman Criminal Injuries Compensation Board

I.....of..... (Address)

..... being a victim of a crime or a dependant person entitled to compensation, hereby apply for compensation under the above Act and furnish the following particulars—

Name of Victim (Print in block letters)

Name of Applicant (if different from above)

Capacity in which application made.....As Victim [] As Dependant []

Age..... Date of Birth.....Sex.....

Occupation.....

Place of Employment

Earnings (Monthly).....Other.....

NIS #.....

Identification [] Passport [] ID Card.....

Driver's Permit []

Crime committed Date.....

Nature of injuries or loss sustained

Circumstances of injuries or loss sustained.....

No. of dependants and dates of birth

	Name	Date of Birth	Relationship
1.
2.
3.
4.

Police Station where complaint was made.....

Date on which complaint was made

Status of Police Investigation.....
(State whether police investigations have begun, are in progress or are completed)

.....
.....
.....

Court Proceedings
(State whether these are civil or criminal)

Status of Court Proceedings
(State whether these have begun and if they have been completed state the result)

Medical Treatment Received
(Please attach medical certificate)

.....

Whether Insured Yes No

Name of Company

Type of Insurance

Do you waive your right to pursue the cause of action which
arises as a result of the crime? Yes No

