

1996

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

CRIMINAL INJURIES COMPENSATION (AMENDMENT) BILL 1996

EXPLANATORY MEMORANDUM

**(Circulated by the Authority of
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Attorney-General)**

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OUTLINE

The Criminal Injuries Compensation (Amendment) Bill 1996 introduces a levy on persons convicted of a criminal offence in the Territory.

The rationale is that persons who commit crimes should contribute, although in a relatively small way, towards the cost of the criminal injuries compensation scheme.

FINANCIAL CONSIDERATIONS

It is estimated that the levy will raise around \$332,000 in a full year. On current figures, that is equivalent to around 7% of expenditure on criminal injuries compensation.

CLAUSE NOTES

Clause 1: Short title

This clause provides that the Act may be cited as the *Criminal Injuries Compensation (Amendment) Act 1996*

Clause 2: Commencement

Subclause 1 of clause 2 states that sections 1 (short title), 2 (commencement) and 3 (reference to the Principal Act) commence on the day the proposed Act is notified in the *Gazette*.

Subclause 2 provides that the remaining provisions will commence on a day the Minister fixes by notice in the *Gazette*

Subclause 3 provides that, if the Minister does not notify a commencement date, the remaining provisions will commence 6 months after notification of the proposed Act

Clause 3: Principal Act

This clause refers to the *Criminal Injuries Compensation Act 1983* as the "Principal Act"

Clause 4: Heading - Part I

This clause inserts the heading "PART I - PRELIMINARY" before section 1 of the Principal Act

Clause 5: Heading - Part II

This clause inserts the heading "PART II - COMPENSATION" after section 4 of the Principal Act

Clause 6: Insertion

Clause 6 inserts "PART III - COMPENSATION LEVY" (which includes proposed sections 34A to 34F) after section 34 of the Principal Act.

Proposed section 34A - Interpretation

"Levy" is defined to mean the compensation levy imposed under the proposed subsection 34D(1).

Proposed section 34B - Application of Part

The levy is applicable to convictions for all offences dealt with by the Supreme Court, the Magistrates Court, or the Children's Court [proposed subsection 34B(1)].

The levy will not apply to an offence (a) in respect of which a reparation order is made under section 437 of the *Crimes Act 1900*; section 47 of the *Children's Services Act 1986*; or section 31B of the *Crimes Act 1914* of the Commonwealth; or (b) in respect of which an infringement notice has been served [proposed subsection 34B(2)].

The term "infringement notice" is defined in the proposed subsection 34B(3).

Proposed section 34C - Extended meaning of conviction

For the purpose of imposing the levy, a person will be taken to have been convicted of an offence where a court finds the person guilty but deals with the person without proceeding to conviction. Such an order is made under subsection 556A(1) of the *Crimes Act 1900*, or section 48 of the *Children's Services Act 1986*, or subsection 19B(1) of the *Crimes Act 1914* of the Commonwealth. Also, for the same purpose, a person will be taken to have been convicted of an offence that the court takes into account under section 448 of the *Crimes Act 1900* for sentencing purposes.

Proposed section 34D - Imposition of levy

The amount of the levy will be \$30 [proposed subsection 34D(1)].

The levy is to be in addition to, and is not to form part of, any fine imposed in respect of the same offence [proposed subsection 34D(2)].

Discharge of the levy is to be the first priority out of any money paid to the Territory in respect of an offence [proposed subsection 34D(3)].

Proposed section 34E - Exemptions

A person under 18 years of age who is convicted of an offence may be exempted by the court from liability to pay the levy [proposed subsection 34E(1)].

A court may also exempt a person from liability to pay the levy for second and subsequent convictions imposed on the same day and from liability to pay the levy in relation to another offence that it has taken into account under section 448 of the *Crimes Act 1900* for sentencing the person [proposed subsection 34E(2)]

Proposed section 34F - Effect of appeal etc

Liability to pay a compensation levy is stayed where there is an appeal against, or review of, a conviction in respect of which the levy has been imposed on a person [proposed subsection 34F(1)].

Liability to pay the levy is annulled where a conviction is set aside [proposed subsection 34F(2)].

Liability to pay the levy is restored where appeal or review proceedings are dismissed [proposed subsection 34F(3)].

This clause also inserts the heading "PART IV - MISCELLANEOUS" after the proposed section 34F.

Clause 8: Consequential amendment of *Magistrates Court Act 1930*

This clause amends section 141 of the *Magistrates Court Act 1930* by inserting subsection (1A). Subsection 141(1) of the *Magistrates Court Act* requires a Magistrate to make a minute or memorandum of a conviction or an order against a defendant and requires a defendant to be notified in writing about a conviction or an order against the defendant. The proposed amendment requires the amount of any levy imposed on the defendant also to be specified in such minute, memorandum or notice.