

**CRIMINAL INJURIES COMPENSATION SCHEME:  
FURTHER AMENDMENTS**

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**Lodged au Greffe on 21st April 1998  
by the Defence Committee**

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**STATES OF JERSEY**

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## Report

1. The essence of the scope of the Jersey Criminal Injuries Compensation Scheme (R & O) 8143, as amended) is that the Board may make *ex gratia* payments of compensation in any case where the applicant or, in the case of an application by a spouse or dependant, the deceased, sustained in the Island, personal injury directly attributable to -
  - (a) a crime of violence (including arson or poisoning);  
or
  - (b) the apprehension or attempted apprehension of an offender or a suspected offender or to the prevention or attempted prevention of an offence or to the giving of help to a police officer who is engaged in any such activity.
2. The current Scheme came into operation on 1st May 1991, and since that time over 400 applications have been received. Many of those applications have been determined, with those remaining unresolved being at various stages of maturity. Awards to applicants have ranged from nil to just over £38,000 (this latter award being the highest to date).
3. The Scheme currently provides (Article 14) that compensation will not be payable unless the Board is satisfied that the injury was one for which the total amount of compensation payable after deduction of Social Security benefits, but before any other deductions (under Article 15 of the Scheme), would not be less than £500. This provision is designed to eliminate minor claims and reduce the drain on the public purse by enabling a brief perusal of the application to immediately identify the fact that the award could not reach the minima. The increased minimum award proposed by the Committee is (£750). This increase is broadly in line with the cost-of-living index since the inception of the Scheme. The Committee believes that in addition there will be a cost benefit, because Board members will not have to spend several hours examining in detail an application which

they will ultimately reject when a half-hour perusal of the application will arrive at the same decision.

4. As regards the upper limit (Article 24(c)), the need for the increase from £50,000 to £100,000 has two important ramifications -

- (a) the Island has been extraordinarily lucky in not having had an application from an injured person whose award would, if the Scheme permitted it, be well over the current limit of £50,000. The Committee recognises that, although comparatively rare, there have been in recent years in Jersey a number of incidents involving serious injuries. In the event that applications were to be received from such victims, it is likely that the present maximum would be inadequate compensation for a person whose life had been severely damaged, taking into account both general damages (for pain and suffering) and special damages (for loss of earnings, both past and future). The purpose of the Scheme is that the State should compensate a victim of violence and that that compensation should be calculated on the same basis as a claim for personal injuries through the civil court. It is worth noting that even with the limited statutory provisions in the United Kingdom, the maximum award is £250,000. The increase to £100,000 for the Jersey Scheme is merely a suggested increase to attempt to accommodate what is clearly an anomaly which itself arises from the fact that when the Scheme was enacted in 1990, further thought could have been given to the likely maximum award which should properly be made to a claimant. It is recognised that, at present, the Scheme is inconsistent insofar as, on the one hand, it sets out to compensate a person injured by a crime of violence in the same manner as that person would be compensated through the civil courts, whilst on the other, the amount of that award is arbitrarily limited;

(b) by increasing the maximum award, there is a possibility that there will be a greater charge upon public finances. No-one can forecast, let alone guess when, if ever, a claim will be made by a person who, as a result of the injuries suffered from a crime of violence, will be entitled to an award which exceeds £50,000. It is expected that, if the Island ever has such an application, on the civil court recovery basis, it is likely that that applicant would be entitled to an award which exceeds not only the present level, but also the proposed level. In reality, although the awards at the higher level are not common, when claims such as that arise, they tend to justify awards in excess of £100,000. Of concern to the Committee is the potentially adverse public perception in the event that a visitor to the Island was to be severely injured by a criminal act in circumstances in which, in England, he would receive an award in excess of £100,000, but in Jersey could only currently recover £50,000.

5. The other proposed amendments to the Scheme have been recommended to the Committee by the Board in the light of its experience in operating the Scheme for some seven years -

(a) Article 18 - This provides that that the Board will consider applications for compensation arising out of acts of rape and other sexual offences in respect of pain, suffering and shock and in respect of loss of earnings due to consequent pregnancy, and where the victim is ineligible for a maternity grant under the Jersey social security scheme or any similar scheme in operation elsewhere, in respect of the expenses of childbirth. Compensation will not be payable for the maintenance of any child born as a result of a sexual offence, except that where a woman is awarded compensation for rape the Board may award an additional sum, currently not exceeding £5,000, in respect of each child born alive

having been conceived as a result of the rape whom the applicant intends to keep. The proposal is to increase this additional sum to £25,000. Such cases are likely to be extremely rare;

- (b) Article 27 - Compensation will be payable for loss or damage to clothing and other personal adjuncts arising from the injury, but in respect of loss or damage to jewellery, watches or rings the amount awarded shall not currently exceed £100. (Other than this, compensation will not be paid for loss or damage to property). The proposal is to increase this sum to £150;
- (c) Article 34 - Every application is considered by a Panel of two members of the Board and they consider the information and statements which have been obtained and make an initial decision on the amount of any compensation to be awarded. In the event that they are unable to agree or for any other reason they decide, they may send the application to the full Board (usually three members, excluding the original Panel members). At present, the Panel is unable to meet the applicant and the Board is conscious that there have been a number of occasions when the ability of the Panel to view the result of the applicant's injuries (rather than rely on photographs) would have been desirable, not least because this would have precluded the applicant from asking for a hearing under Article 35, thus avoiding much unnecessary work for the Board. The Board intends to produce clear guidelines as to the procedures to be adopted at 'viewings';
- (d) Articles 40 and 41 - The Board is currently able to take into account any relevant matter and may receive oral and written evidence at a hearing. The Board reaches its decision solely in the light of the evidence brought at the hearing and all the information and evidence made available to the

Board members will be made available to the applicant at, if not before, the hearing. The Committee wishes to clarify that in addition to "any relevant matter", the Board will be able to take into account any relevant hearsay, opinion or written evidence whether or not the author gives oral evidence at the hearing. This will enable information and statements initially considered by the two-man Panel to be taken into account at the hearing before the Board.

6. The cost of the Scheme for 1997 was £134,700, with £115,371 of this relating to compensation paid to applicants (comparative figures for 1996 were £225,507 and £195,617 respectively). The Committee's budget for the Scheme for 1998 amounts to £134,700. In the event that a large award were to be paid in respect of serious injuries which led to that budget being exceeded, it might be necessary to seek additional funding from the General Reserve in the event that alternative funds were not available.

### **Explanatory Note**

The purpose of this Act is to further amend the Criminal Injuries Compensation Scheme ("the Scheme") so as to -

- (a) increase the maximum number of members of the Criminal Injuries Compensation Board ("the Board") from nine to ten;
- (b) increase the amount below which compensation will not be paid under the Scheme from £500 to £750;
- (c) increase the maximum amount that the Board may award as an additional sum for a child born following a rape for which the woman is awarded compensation from £5,000 to £25,000;
- (d) increase the total amount which may be awarded under the Scheme from £50,000 to £100,000;
- (e) increase the maximum amount of compensation that may be awarded in respect of loss or damage to jewellery etc. from £100 to £150;
- (f) enable the two members who initially consider an application to ask the applicant to attend for the purpose of viewing his injuries; and
- (g) where an application is referred to the Board by the two Board members who initially consider it or where an applicant dissatisfied with their initial decision requests a hearing, enable information and statements initially considered to be taken into account at the hearing before the Board.

The amounts described in paragraphs (a) to (e) have not been altered since the present scheme came into force in 1991.

**Act amending further the Act of the States dated the 4th day of  
December 1990, establishing a Scheme to provide compensation for  
victims of crimes of violence**

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**STATES OF JERSEY**

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**THE STATES**, adopting a proposition of the Defence Committee, have made the following further amendments of the Scheme established by their Act dated the 4th day of December 1990, to provide compensation for victims of crimes of violence,<sup>1</sup> as amended<sup>2</sup> (hereinafter referred to as “the Scheme”) -

**1.** In Article 4 of the Scheme, in paragraph (a), for the word “nine” there shall be substituted the word “ten”.

**2.** In Article 14 of the Scheme, for the amount “£500” there shall be substituted the amount “£750”.

**3.** In Article 18 of the Scheme, for the amount “£5,000” there shall be substituted the amount “£25,000”.

**4.** In Article 24 of the Scheme, in paragraph (c), for the amount “£50,000” there shall be substituted the amount “£100,000”.

**5.** In Article 27 of the Scheme, for the amount “£100” there shall be substituted the amount “£150”.

**6.** In Article 34 of the Scheme, for the words “and make” there shall be substituted the words “, may request the applicant to attend upon them for the purpose of viewing his injuries and will make”.

<sup>1</sup> No. 8143.

<sup>2</sup> Nos. 8239, 8497 and 8769.



7. In Article 40 of the Scheme, after the words “relevant matter” there shall be inserted the words “, including any information and statements considered by the two members of the Board to whom the application was initially referred under Article 34,”.

8. In Article 41 of the Scheme -

- (a) for the words “the evidence” there shall be substituted the words “the relevant matters taken into account and evidence”; and
- (b) after the word “information” there shall be inserted the word “, statements”.