

L.N. 190 of 2007

**CRIMINAL CODE
(CAP. 9.)**

Criminal Injuries Compensation Regulations, 2007

BY VIRTUE of the powers conferred by article 698 of the Criminal Code (Cap. 9), the Minister of Justice and Home Affairs has made the following regulations:-

Part I

INTRODUCTORY

1. (1) The title of these regulations is the Criminal Injuries Compensation Regulations, 2007. Citation.

(2) The purpose of these regulations is to implement the provisions of Council Directive 2004/80/EC relating to compensation to crime victims.

2. In these regulations, unless the context otherwise requires: Interpretation.

"Assisting Officer" means a person appointed under regulation 3 who shall be the assisting authority;

"award" means an award of compensation made in accordance with the provisions of the Scheme referred to in regulation 5;

"Claims Officer" means a person appointed by the Minister under article 5 who shall be a deciding authority;

"compensation" means compensation payable under an award;

"criminal injuries" means any damage suffered as a consequence of a criminal act;

"dependants" means the persons maintained by the deceased and the persons who were entitled by law to require to be maintained by the deceased;

"Minister" means the Minister responsible for Justice;

"violent intentional crime" means an act which constitutes a

crime under the Criminal Code as specified in the Schedule.

Appointment of
Assisting
Officer.

3. The Assisting Officer shall be appointed by the Minister on such terms and conditions as he considers appropriate and shall receive applications and assist in their evaluation in accordance with these regulations.

Application for
compensation.

4. (1) An application for compensation under these regulations shall be submitted to the Assisting Officer to be forwarded to the Claims Officer who shall determine awards and payments of compensation. The Claims Officer shall be appointed on such terms and conditions as the Minister considers appropriate.

(2) Applications shall be submitted within a reasonable period of time and in any case not later than one year from when the violent intentional crime was committed. Applications must be accompanied by a police report.

(3) The Claims Officer may, at his discretion, request any other additional evidence with the purpose, among other things, to ensure that compensation has not been awarded or will not be awarded from any other source including, if need be, an affidavit by the applicant and may call the applicant to be medically examined or re-examined.

Eligibility to
apply for
compensation.

5. Compensation may be paid in accordance with this Scheme:

(a) to an applicant who has sustained a criminal injury on or after 1st January, 2006; and

(b) where the victim of an injury sustained on or after 1st January, 2006 has since died, to an applicant who is a qualifying claimant for the purposes of regulation 11.

Persons entitled
to
compensation.

6. The persons entitled to compensation are:

(a) citizens of Malta; and

(b) citizens of one of the Member States of the European Union.

No
compensation.

7. No compensation will be paid under this Scheme where the criminal injury was sustained before 1st January, 2006.

8. The Claims Officer may withhold or reduce an award where he considers that:

Eligibility to receive compensation.

(a) the applicant failed to take, without delay, all reasonable steps to inform the police, or other body or person considered by the Claims Officer to be appropriate for the purpose, of the circumstances giving rise to the crime; or

(b) the applicant failed to co-operate with the police or other authority in attempting to bring the assailant to justice; or

(c) the applicant has failed to give all reasonable assistance to the Claims Officer or other body or person in connection with the application; or

(d) the conduct of the applicant before, during or after the incident giving rise to the application makes it inappropriate that a full award or any award at all be made; or

(e) the applicant's character as shown by his criminal convictions or by evidence available to the Claims Officer makes it inappropriate that a full award or any award at all be made.

Part II

ENTITLEMENT TO COMPENSATION

9. The Claims Officer will consider claims for compensation made by or on behalf of :

Persons who may claim compensation under this Scheme.

(a) the person who was the victim of the crime;

(b) any person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred any expenses as a result of the crime;

(c) where the victim has died as a result of the crime, any dependent of the victim or, if he has no dependant, any person who incurred expenses as a result of his death;

(d) where the victim has died otherwise than as a result of the crime, any dependent of the victim.

Compensation established in accordance with article 532A. Cap. 9.

10. Where the Criminal Court, by virtue of article 532A of the Criminal Code, has already established the compensation due to the victim/s of the crime, the Claims Officer will not assess that claim but will proceed to pay compensation subject to the provisions of these regulations.

Compensation in fatal cases.
Cap. 16.

11. Where the victim has died since sustaining the injury the Claims Officer may award compensation to any claimant as provided for in articles 1045, 1046, 1047 and 1048 of the Civil Code.

Method of payment.

12. Compensation will be by way of a lump sum payment, rather than a periodical pension, but it will be open to the Claims Officer to make an interim award and to postpone making a final award in a case in which a final medical assessment of the injury is delayed.

Limitation and restriction of compensation.

13. No compensation will be payable where the Claims Officer is of the opinion that the offender is not indigent or unless proof has been produced that legal action to claim compensation has proved to be fruitless.

Reasonable assistance.

14. No compensation will be payable to an applicant who has not, in the opinion of the Claims Officer, given the Claims Officer all reasonable assistance in relation to any medical report that he may require, and otherwise.

Responsibility or partial responsibility for the offence.

15. No compensation will be payable where the Claims Officer is satisfied that the victim was responsible either because of provocation or otherwise, for the offence giving rise to his injuries and the Claims Officer may reduce the amount of an award where, in his opinion, the victim has been partially responsible for the offence.

Conduct, character and way of life of victim.

16. No compensation will be payable where the Claims Officer is satisfied that the conduct of the victim, his character or his way of life make it inappropriate that he should be granted an award and the Claims Officer may reduce the amount of an award where, in his opinion, it is appropriate to do so having regard to the conduct, character or way of life of the victim.

Subrogation.

17. The Government shall be subrogated into the rights of the victims of the crime against the perpetrator, whether known or unknown.

Payments.

18. No payment to any claimant shall exceed the sum of ten thousand liri (Lm 10,000) and such sum shall not be exceeded where there is more than one claimant claiming by virtue of the same crime.

19. Payments received by the claimants shall be considered to be part of the civil damages sustained. Civil damages.

20. There shall be an Assisting Officer who shall be free to draw up and publish any instructions he considers necessary regarding the procedure for administering these regulations. However, these instructions will be consistent with the provisions of these regulations and with the general intention that the administration of these regulations and, in particular, proceedings before the Assisting Officer, should be informal. Procedures.

21. Applications should be made on the required application form, which is obtainable from the Secretary to the Assisting Officer. Application form.

22. To qualify for compensation it will be necessary to indicate to the Claims Officer that the offence giving rise to injury has been the subject of criminal proceedings or that it was reported to the Police without delay. Qualification for compensation.

23. The Claims Officer's staff will process applications in the first instance and may seek all relevant information as to the circumstances of the injury either from the applicant or otherwise. Processing of applications.

24. An applicant may be accompanied by his legal adviser or another person but the Claims Officer will not pay the costs of legal representation. Legal representation.

25. Hearings will be held in private. Hearings to be held in private.

26. The standard of proof, which the Claims Officer will apply to a determination of any claim, shall be on the balance of probabilities. Standard of proof.

27. The Claims Officer will be entitled to make any arrangements that he considers desirable for the administration of money he awards as compensation. Administration of money awarded.

SCHEDULE

For the purposes of these regulations, any crime arising under the provisions of articles 211 and 262(1)(a) and (c) of the Criminal Code shall be deemed a violent intentional crime.
