PLEASE NOTE

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This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*.**

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4292
E-mail: legislation@gov.pe.ca

CHAPTER V-3.1

VICTIMS OF CRIME ACT

1. (1) In this Act — Definitions

(a) "Committee" means the Victim Services Advisory Committee established under section 3; — Committee

(b) "conviction" includes a reprimand, conditional discharge, absolute discharge, and in relation to a young offender includes a finding of guilt; — conviction

(c) "Department" means the Department of Justice and Public Safety; — Department

(d) "enactment" means the *Criminal Code* (Canada) or other Federal statutes or Acts of the Legislature of Prince Edward Island; — enactment

(e) "fine" includes any penalty payable in money; — fine

(f) "Fund" means the Victim Assistance Fund established under section 8; — Fund

(g) "Minister" means the Minister of Justice and Public Safety and Attorney General; — Minister

(h) "surcharge" means the surcharge imposed pursuant to section 9 on conviction under an enactment; — surcharge

(i) "victim" means a person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, by reason of acts which are in violation of criminal laws. — victim

(2) The Minister is responsible for the administration of this Act and may designate officers to act on his behalf. 1988,c.67,s.1; 1993,c.29,s.4; 1993,c.30,s.61; 1995,c.32,s.13; 1997,c.20,s.3; 2000,c.5,s.3; 2010,c.31,s.3; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3. — Administration

PART I
STATEMENT OF PRINCIPLES

2. The following principles are adopted for the guidance of persons in providing justice for victims of crime: — Declaration

(a) victims should be treated with courtesy and compassion and with respect for their dignity, privacy and convenience; — treatment of victims

redress

(b) victims should receive prompt and fair financial redress for the harm that they have suffered;

access to services and assistance

(c) victims should be informed of and should have access to services including social, medical, legal and mental health assistance;

information about court procedures, etc.

(d) victims should be informed about the progress of the investigation and prosecution of the offence, court procedures, the role of the victim in court proceedings and the ultimate disposition of the proceedings;

victim concerns

(e) victims are entitled, where their personal interests are affected, to have their views and concerns brought to the attention of the court where consistent with criminal law and procedure;

safety

(f) victims and their families should be protected from intimidation, retaliation and harassment;

property

(g) victims should have their stolen property returned to them as soon as possible after recovery by law enforcement authorities

victim impact statement

(h) victims are entitled to prepare a victim impact statement and have it considered by the court at sentencing;

information on offender status, etc.

(i) victims are entitled to be informed about the offender's status, including release dates, parole eligibility, and probation terms. 1988,c.67,s.2; 1999,c.47,s.1.

PART II
VICTIM SERVICES

Advisory Committee

3. There is established a committee to be known as the Victim Services Advisory Committee. 1988,c.67,s.3.

Functions

4. (1) The Committee shall

(a) review existing laws, policies and procedures and recommend changes to benefit victims;

(b) assist law enforcement agencies, social agencies and other organizations with the development of guidelines that promote the principles set out in this Act relating to their role in respect of victims;

(c) assist with establishing and updating procedures for the handling of complaints by victims;

(d) assist with the research, development and distribution of information pertaining to the needs, rights and concerns of victims;

(e) provide opportunities for research, discussion, and resolution of issues of concern to victims; and

(f) advise on other matters that the Minister may refer to the Committee for consideration.

Principles

(2) In the performance of its functions the Committee shall be guided by and shall promote the principles set out in section 2.

Recommendations

(3) The Committee may make recommendations to the Minister relating to

(a) the development of policies and legislation respecting assistance to victims;

(b) the provision of services, including criminal injuries compensation, to victims; and

(c) any other matters that the Minister refers to the Committee for its recommendation. 1988,c.67,s.4; 1999,c.47,s.2.

Annual report to Minister

5. The Committee shall make an annual report to the Minister on the activities of the Committee. 1999,c.47,s.3.

Membership

6. (1) The Committee shall consist of not less than nine and not more than fifteen members appointed by the Minister.

Representation

(2) The Committee shall include representatives of Crown attorneys, court clerks, probation services, law enforcement agencies, the Law Society of Prince Edward Island, community organizations and the general public.

Remuneration

(3) Committee members shall not receive remuneration for their services but may receive reimbursement from the Fund of reasonable expenses incurred on behalf of the Committee.

Assistance to the Committee

(4) The Minister shall provide executive, secretarial, and any other assistance the Minister considers necessary to enable the Committee to carry out its functions.

Term of membership

(5) Each member shall be appointed to the Committee for a term of not more than three years and may be reappointed for a second term. 1988,c.67,s.6; 1993,c.22,s.1; 1993,c.30,s.61; 1999,c.47,s.4.

Victim Services

7. The Minister shall establish and administer a program to be known as Victim Services, the purposes of which are

(a) to assist victims as needed throughout their contacts with the criminal justice system;

(b) to help victims to access other needed services;

(c) to receive applications for criminal injuries compensation and investigate claims on behalf of the Minister;

(d) to assist with the preparation and filing of victim impact statements;

(e) to assist justice personnel and community agencies in providing services to victims;

(f) to promote the Statement of Principles set out in section 2. 1999,c.47,s.5.

PART III
VICTIM ASSISTANCE FUND

Establishment of Fund

8. There is hereby established a fund to be known as the Victim Assistance Fund comprising money collected or received under section 9 or 10. 1988,c.67,s.8.

Application of surcharge

9. (1) Where a person is convicted of an offence under an enactment, a surcharge shall be conclusively deemed to have been imposed against the person and shall be collected in the same manner as a fine, and where a fine has been imposed, the surcharge shall be collected before the fine.

Amount of surcharge

(2) The surcharge imposed under subsection (1) shall be such amount or such proportion of the fine as is prescribed by order of the Lieutenant Governor in Council.

No default for surcharge

(3) A surcharge shall not be disposed of or satisfied by participation in a fine option program or by way of imprisonment in default of payment. 1988,c.67,s.9; 1999,c.47,s.6.

Other sources

10. (1) Money from any person or source designated for use by the Fund shall be credited to the Fund and money received that is subject to conditions shall be disbursed pursuant to those conditions.

Gifts to the Crown

(2) Donations designated for use by the Fund are gifts to the Crown and receipts shall be issued accordingly. 1988,c.67,s.10; 1999,c.47,s.7.

Use of Fund

11. The Minister, or a person designated by the Minister, may authorize expenditures from the Fund for

(a) salaries, expenses and other costs associated with Victim Services;

(b) awards to eligible victims through a criminal injuries compensation program;

(c) any other purpose the Minister considers necessary for carrying out the purposes of this Act. 1988,c.67,s.11; 1999,c.47,s.8.

Administration of Fund

12. (1) The Fund shall be

(a) administered by the Minister;

(b) used for the purposes of this Act; and

(c) accounted for separately in the Operating Fund.

(2) Money that is received for or otherwise credited to the Fund shall be deposited with the Minister of Finance for the account of the Fund. Administration of Deposit

(3) The fiscal year of the Fund shall be the twelve month period ending on March 31 in any year. 1988,c.67,s.12; 1993,c.29,s.4; 1997,c.20,s.3; 1999,c.47,s.9; 2010,c.31,s.3; 2012,c.17,s.2; 2015,c.28,s.3. Fiscal year

PART IV
CRIMINAL INJURIES COMPENSATION

13. In this Part Definitions

(a) "applicant" means a person who makes an application for compensation under this Part; applicant

(b) "child" includes a child with respect to whom a victim stands in the place of a parent; child

(c) "dependant" means dependant
(i) a spouse or child of a victim, or
(ii) any other person
who was, in whole or in part, dependent upon the income of a victim at the time of the victim's injury or death;

(d) "designated person" means an employee of the Department designated by the Minister to carry out the duties prescribed by this Act; designated person

(e) "injury" means actual bodily harm and includes emotional trauma or pregnancy resulting from sexual assault and mental or nervous shock; injury

(f) "peace officer" has the same meaning as in section 2 of the *Criminal Code* (Canada) and includes a conservation officer appointed under the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1; peace officer

(g) "victim" means a natural person injured or killed in circumstances set out in subsection 16(1). 1999,c.47,s.10; 2000,c.5,s.3; 2010,c.31,s.3; 2010,c.14,s.3. victim

14. This Part applies in respect of claims for compensation arising from an injury or death resulting from an act that occurs after this Part comes into force. 1988,c.67,s.14. Application of Part

15. (1) The Minister shall administer this Part and shall be responsible for receiving applications and investigating claims for compensation. Administration

Application, etc.

(2) The application and all necessary documentation shall be forwarded to a designated person.

Small claims

(3) Where a claim is for an amount up to the amount prescribed by regulation for small claims, a designated person may

(a) determine eligibility and fix the amount of the claim; and

(b) act on behalf of the Minister and make, or decline to make, an order for compensation.

Claims other than small claims

(4) Where a claim is for an amount greater than that prescribed for small claims pursuant to subsection (3), a designated person shall

(a) examine the claim; and

(b) make a recommendation in writing to the Minister regarding the making of an order for compensation and the amount of compensation. 1988,c.67,s.15; 1993,c.30,s.61; 1999,c.47,s.11.

Entitlement to compensation

16. (1) Where any person is injured or killed by any act that occurred in the province and the injury or death directly resulted to the person

(a) from the commission of an offence under any section of the *Criminal Code* (Canada) prescribed by the regulations; or

(b) while he was

(i) arresting or attempting to arrest any offender or suspected offender, or assisting a peace officer in making or attempting to make an arrest, or

(ii) preventing or attempting to prevent the commission of any offence or suspected offence, or assisting a peace officer in preventing or attempting to prevent the commission of any offence or suspected offence,

the Minister, on receipt of an application in writing, may make an order in accordance with this Act for the payment of compensation

(c) to or for the benefit of the injured person;

(d) to any person, in respect of financial loss suffered by or expenses incurred by that person as the result of the death or injury of the victim; or

(e) to any one or more of the dependants of a victim.

Exceptions

(2) Subsection (1) does not apply

(a) in respect of the injury or death of a peace officer occurring under circumstances entitling the officer or the officer's dependants to compensation payable out of public money under any other provision of law;

(b) where the victim is culpable in relation to the offence or at the time of the commission of the offence was engaged in unlawful activity.

(3) Notwithstanding clause (2)(b), compensation of a lesser amount may be awarded having regard to the degree of victim culpability or of the engagement in unlawful activity. 1988,c.67,s.16; 1999, c.47,s.12.

Reduced amount

Limitation period for application

17. An application for compensation shall be made within one year after the date of the injury or death but the Minister, before or after the expiry of the one-year period, may extend the time for such further period as the Minister considers warranted. 1988,c.67,s.17.

Interim compensation

18. (1) Where

(a) the applicant is in immediate financial need; and

(b) it appears to the Minister or a designated person that a compensation award will probably be granted,

the Minister may order interim payments for financial expenses related to the victim's injury or death.

Interim payment up to small claim

(1.1) Where an interim payment made pursuant to this section is for an amount up to the amount prescribed for small claims, a designated person may order the payment on behalf of the Minister.

Idem

(2) If compensation is not awarded, the amount paid pursuant to subsection (1) is not, in the absence of fraud or misrepresentation, recoverable from the applicant. 1988,c.67,s.18; 1999,c.47,s.13.

Compensation of last resort

19. (1) Compensation pursuant to this Act is compensation of last resort.

Compensation

(2) Compensation may be awarded for

(a) reasonable expenses incurred or likely to be incurred as a result of the victim's injury or death;

(b) financial loss resulting from total, partial or temporary disability affecting the victim's capacity for work;

(c) financial loss to dependants resulting from the victim's death;

(d) pain and suffering;

(e) maintenance of a child born as a result of sexual assault;

(f) financial loss incurred in respect of grief or sorrow as a result of the victim's death;

(g) other financial loss resulting from the victim's injury or death and any expense that in the opinion of the Minister or, in the case of a small claim, in the opinion of a designated person, it was reasonable to incur. 1999,c.47,s.14.

Determining compensation

20. Subject to this Act and the regulations, when assessing an award of compensation, a designated person

(a) shall be guided by previous compensation awards made pursuant to this Act and the regulations; and

(b) may consider awards made pursuant to similar criminal injuries legislation in other Canadian jurisdictions. 1999,c.47,s.15.

Failure to notify of change of address

21. An applicant who moves to a new address and does not inform Victim Services of the new address shall, after a period of one year after the applicant's last contact with Victim Services, be deemed to have withdrawn the application. 1999,c.47,s.16.

Hearing

22. (1) Repealed by 1999,c.47,s.17.

Powers

(2) A designated person has all the powers of a commissioner under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31.

Evidence

(3) A designated person may receive any statement, document, information or matter that may assist the designated person to deal effectively with the application, whether or not the statement, document, information or matter is given or produced under oath or would be admissible as evidence in any court of law.

Compensation not dependent on a conviction

(4) A designated person may recommend that an order for compensation be made whether or not any person is prosecuted for or determined to be guilty of the offence giving rise to the injury or death but the Minister or the Minister's designate may delay making an order for compensation, in whole or in part, pending the final determination of a prosecution.

Conviction as conclusive evidence

(5) If a person is determined to be guilty of a criminal offence in respect of an act on which a claim under this Act is based, proof of the determination of guilt shall be taken as conclusive evidence that the offence has been committed.

Mental capacity of offender

(6) Notwithstanding that a person for any reason is legally incapable of forming criminal intent, the person shall, for the purposes of this Act, be deemed to have intended an act that caused injury or death for which compensation is payable under this Act. 1988,c.67,s.22; 1999,c.47,s.17.

Considerations in assessing claims

23. (1) A designated person, when examining and assessing a claim for compensation shall consider and take into account all the circumstances the designated person considers relevant, and shall take into account

(a) any behavior of the victim or dependant that directly or indirectly contributed to the victim's death or injury;

(b) any provocation or imprudent behavior on the part of the victim or dependant that contributed to the victim's death or injury;

(c) the fact that the victim was engaged in unlawful behavior at the time of the victim's death or injury;

(d) the fact that a dependant was engaged in unlawful behavior, at the time of the victim's death or injury, causally connected to the victim's death or injury;

(e) whether the victim's or dependant's past character and lifestyle contributed in whole or in part to the injury or death of the victim; and

(f) previous criminal injuries compensation awarded to the victim.

Co-operation of victim

(2) A designated person may decline to recommend an order for compensation if the victim does not co-operate fully with law enforcement authorities or Victim Services.

Reference to court

(3) The Minister may refer any matter in relation to a claim to a judge of the Supreme Court where circumstances warrant the holding of a hearing before a judge. 1988,c.67,s.23; 1999,c.47,s.18; 2008,c.20,s.72(91).

Deductions

24. (1) Subject to subsection (2), in assessing the amount of compensation, if any, to be awarded to an applicant, the designated person shall deduct

(a) any amount recovered from the person whose act resulted in the injury or death, whether as damages, compensation or restitution pursuant to an action at law or otherwise; and

(b) any benefits received or to be received

(i) by the victim in respect of the injury,

(ii) by the person who is responsible for the maintenance of the victim, or

(iii) by the applicant in respect of the death of the victim,

under an Act of Canada or of Prince Edward Island or of any other province other than benefits under a pension plan or program under such an Act; and

(c) such other benefits received or to be received by the applicant or other person as the designated person considers reasonable.

Type of deduction to be used in calculation

(1.1) In calculating deductions pursuant to subsection (1), the designated person shall make deductions only for the types of compensation contemplated by subsection 19(2).

Non-deductible items

(2) The Lieutenant Governor in Council may, by regulation, designate certain payments or amounts, or certain classes of payments or amounts, received or to be received by a victim or the dependants of a victim, that shall not be deducted by the designated person in assessing compensation under this Act. 1988,c.67,s.24; 1999,c.47,s.19.

Maximum award

25. (1) The Lieutenant Governor in Council shall, by regulation, establish the maximum amount of compensation that may be awarded

(a) to all applicants in respect of the injury or death of one victim; or

(b) to all applicants in respect of one occurrence.

Distribution

(2) Subject to subsection 23(1), where a victim is killed as a result of circumstances mentioned in subsection 16(1)

(a) the maximum award is payable; and

(b) after deduction of funeral or other expenses, the maximum award shall be divided equally among all dependants who make application for compensation.

Determination of occurrence

(3) For the purposes of this section a designated person may deem more than one act to be one occurrence where the acts have a common relationship in time and place.

Calculation of award

(4) Subject to subsection 23(1), where a victim is injured as a result of circumstances mentioned in subsection 16(1), when assessing the amount of the award, the designated person shall

(a) calculate the total loss;

(b) make deductions in accordance with section 24; and

(c) apply the rules in this section relating to the maximum award. 1988,c.67,s.25; 1999,c.47,s.20.

Conditions of payment

26. (1) An order for the payment of compensation may be made subject to such terms and conditions as the Minister thinks fit

(a) with respect to the payment, disposition, allotment or apportionment of the compensation; or

(b) as to the holding of the compensation or any part thereof in trust for the victim or the dependants, or any of them, whether as a fund for a class or otherwise.

Idem

(2) Any compensation payable for expenses under section 18 or 19 may, in the discretion of the Minister, be paid directly to the person entitled thereto.

Payment in trust

(3) If a person entitled to an award under this Act is under the age of eighteen years or in the opinion of the Minister or a designated person requires assistance in managing the person's own affairs, any amount payable may be paid to the person's parent, spouse or guardian or to the Public Trustee or may be paid to such other person or applied in such manner as the Minister or designated person considers in the best interests of such person, and amounts so paid shall be received and administered by the payee for the benefit of the person. 1988,c.67,s.26; 1999,c.47,s.21.

Release of exhibits

27. The designated person shall, upon request, release documents or copies of documents to the lawful owner or the person entitled to possession thereof within a reasonable time after the matter in issue has been finally determined. 1988,c.67,s.27; 1999,c.47,s.22.

28. (1) Compensation ordered to be paid shall be paid out of the Fund.

Payment of compensation

(2) Any money to which the Minister is entitled under section 32 shall be paid into the Fund. 1988,c.67,s.28.

Disposition of money received

Appeal

29. Subject to section 30, a decision of the Minister is final except that an appeal lies, within thirty days of the date of the decision of the Minister, to a judge of the Supreme Court on any question of law. 1988,c.67,s.29; 1993,c.22,s.3; 2008,c.20,s.72(91).

Variation of award

30. (1) Upon an application made within two years by any interested person or upon the Minister's own initiative, the Minister may vary an order for compensation in such manner as the Minister thinks fit, whether as to the terms of the order or by increasing or decreasing the amount to be paid, or otherwise.

Application

(2) This Act, except section 17, applies to a variation under subsection (1) in the same manner as to an application for compensation.

Documentation

(3) A person who applies for a variation under subsection (1) must provide all relevant documentation within one year of applying for the variation; or must state in writing why the documentation is not yet available or the application for a variation shall be dismissed. 1988,c.67,s.30; 1993,c.22,s.4; 1999,c.47,s.23.

Compensation not subject to garnishment

31. An amount awarded as compensation paid or payable under this Act is not subject to execution, garnishment, attachment, seizure or any other legal process and the right thereto is not assignable. 1988,c.67,s.31.

Civil proceedings

32. (1) Subject to subsections (2), (2.1), (3) and (4), nothing in this Act affects the right of any person to recover from any other person by civil proceedings damages in respect of the injury or death.

Subrogation

(2) The Minister is subrogated to all the rights of 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 that person against any person against whom such action lies, and any amount recovered by the Minister shall be applied

(a) first, in payment of the costs actually incurred in the action and in levying execution; and

(b) secondly, in reimbursement to the Fund of the value of the compensation awarded,

and the balance, if any, shall be paid to the person whose rights were subrogated.

Double recovery

(2.1) Where compensation is paid pursuant to this Act, the Minister may recover the amount of compensation from any judgment, settlement,

restitution, insurance or any other source from which money is paid to the victim or dependant of the victim in respect of the injury or death.

Settlement of civil action

(3) Any settlement or release does not bar the rights of the Minister under subsection (2) unless the Minister has concurred therein.

Notice of civil action

(4) An applicant or a person awarded compensation shall forthwith notify the Minister of any action that person has brought against the person who caused the injury or death of the victim. 1988,c.67,s.32; 1993,c.22,s.5; 1999,c.47,s.24.

Offence and penalty

33. (1) A person who, in connection with a claim for compensation, knowingly

(a) makes a false statement to the Minister or a person designated to act on the Minister's behalf; or

(b) misleads the Minister or a person designated to act on the Minister's behalf

is guilty of an offence and liable on summary conviction to a fine of not more than $500 and, in addition, is liable to repay to the Minister the amount of compensation received.

Recovery of compensation awarded on false evidence

(2) Where a person is convicted of an offence under subsection (1) and the Minister has made an award of compensation on the basis of the evidence of the convicted person, the Minister may recover from the person to whom the compensation was paid all or a portion of the compensation as a debt due Her Majesty. 1988,c.67,s.33; 1999,c.47,s.25.

PART V
GENERAL

Act creates no cause of action

34. This Act does not create any civil cause of action, right to damages or any right of appeal on behalf of any person except the right of appeal under section 29. 1988,c.67,s.34.

Agreements with Canada

35. (1) Subject to the approval of the Lieutenant Governor in Council, the Minister, acting on behalf of Her Majesty in right of the Province, may enter into agreements with any Minister of the Crown, acting on behalf of Her Majesty in right of Canada respecting, subject to such terms and conditions as are agreed upon, the payment by Canada to the province of such part of the expenditures required for the purposes of this Act, or such other agreements in support of the administration of this Act, as is agreed upon.

Other agreements respecting disclosure of information

(1.1) The Minister, acting on behalf of the government, may enter into agreements with the Government of Canada, the Royal Canadian Mounted Police or any other police force in the province respecting the

disclosure of information reasonably required for the purposes of this Act.

Amendment of agreements

(2) Power to enter into any agreement under subsection (1) or (1.1) includes power, subject to the approval of the Lieutenant Governor in Council, to amend the agreement. 1988,c.67,s.35; 1993,c.22,s.6.

Annual report

36. (1) The Minister shall make an annual report on the administration of this Act

Content of report

(2) The annual report shall include

(a) a copy of the report of the Committee on its activities;

(b) a report on the operation of Victim Services;

(c) a report on the operation of the criminal injuries compensation program;

(d) the financial statements of the Fund.

Report to be tabled

(3) The Minister shall table the report in the Legislative Assembly as soon as is practicable. 1988,c.67,s.36; 1999,c.47,s.26.

Regulations

37. The Lieutenant Governor in Council may make regulations. 1988,c.67,s.37.