

**Scheme of Compensation for
Personal Injuries Criminally Inflicted
Effective from 20 April 2021**

General

1. The Criminal Injuries Compensation Tribunal established under Paragraph 16 of the Scheme may pay compensation in accordance with this Scheme in respect of personal injury where the injury is directly attributable to a crime of violence, or, as provided for in Paragraph 4, to circumstances arising from the action of the victim in assisting or attempting to assist the prevention of crime or the saving of human life. The injury must have been sustained within the State or aboard an Irish ship or aircraft. Arson and poisoning will be regarded as coming within the scope of the expression “crime of violence” and, in determining whether any act is a crime for the purposes of the Scheme, the Tribunal will not take account of any legal immunity which the person who inflicted the injury may have by reason of his mental health, his youth or otherwise. The word “injury”, as used in the Scheme, includes a fatal injury.

2. The Tribunal will be entirely responsible for deciding in any particular case whether compensation is payable under the Scheme, and, if so, the amount. There will be no appeal against or review of a final decision of the Tribunal.

Persons who may claim compensation under this Scheme

3. The Tribunal will consider claims for compensation made by or on behalf of;

- (a) the person who sustained the injury (the victim);
- (b) any person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred any expenses as a result of the victim’s injury;
- (c) where the victim has died as a result of the injury, any dependent of the victim or, if he has no dependent, any person who incurred expenses as a result of his death;
- (d) where the victim has died otherwise than as a result of the injury, any dependent of the victim.

4. The Tribunal will also consider claims in respect of injury received in the following circumstances:

- (a) because of, or in the course of, the victim’s coming to the assistance of a member of the Garda Síochána
 - (i) because of an unlawful attack upon the member, or
 - (ii) because the member was attempting to prevent a crime or to take a person into custody, or
 - (iii) in the course of a riot, or a disturbance or threatened disturbance of the peace, or
 - (iv) in the course of an attempt to rescue a person in custody, or
 - (v) because the member was engaged in saving a human life;

- (b) because of, or in the course of, attempting to prevent a crime in a public place;
- (c) because of, or in the course of, attempting to prevent, in a public place, the escape of a person who had committed a crime, or the rescue of a person in custody;
- (d) because of, or in the course of, attempting to save a human life.

5. If the injury is inflicted in the circumstances set out in the Scheme and any person would be entitled to claim compensation (whether statutory or non-statutory) otherwise than under the Scheme for the injury, he will not be prohibited from also claiming compensation under the Scheme but the Tribunal will decide the claim on the basis that no payment under the Scheme should result in compensation being duplicated and may accordingly decide either to make no award or to make a reduced award and may, moreover, decide that an award will be subject to conditions as to its repayment in whole or in part in the event of compensation being subsequently received from another source.

Nature and extent of compensation

6. Subject to the limitations and restrictions contained elsewhere in this Scheme, the compensation to be awarded by the Tribunal will be on the basis of damages awarded under the Civil Liabilities Acts except that compensation will not be payable

- (a) by way of exemplary, vindictive or aggravated damages;
- (b) in respect of the maintenance of any child born to any victim of a sexual offence.
- (c) in respect of loss or diminution of expectation of life;
- (d) where the victim has died, for the benefit of the victim's estate, or
- (e) in so far as injuries sustained on or after 1 January, 2006 are concerned, with the exception of fatal cases, in respect of pain and suffering. In fatal cases, the maximum award for compensation for pain and suffering is limited to the maximum amount set in any Statutory Instrument made pursuant to section 49 (1A) of the Civil Liability Act 1961 as amended.

7. Where the victim has died otherwise than as a result of the injury the Tribunal may award compensation in respect of loss of earnings, expenses and liabilities incurred before the death but only to a dependent who would, in the opinion of the Tribunal, otherwise suffer hardship.

8. Compensation will be by way of a lump sum payment, rather than a periodical pension, but it will be open to the Tribunal 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

9. No compensation will be payable unless the Tribunal is satisfied that the injury is such that compensation of not less than €500 should be awarded.

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

11. No compensation will be payable in respect of injuries inflicted in a traffic offence except in a case where there has been, in the opinion of the Tribunal, a deliberate attempt to run down the victim.

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

13. No compensation will be payable where the Tribunal 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 Tribunal may reduce the amount of an award where, in its opinion, it is appropriate to do so having regard to the conduct, character or way of life of the victim.

14. Compensation will be reduced by the value of the entitlement of the victim or claimant to social welfare benefits payable as a result of the injury and will be reduced, to the extent determined by the Tribunal, in respect of the entitlement of the victim to receive, under his conditions of employment, wages or salary while on sick leave.

15. The Tribunal will deduct from the amount of an award under this Scheme any sums paid to or for the benefit of the victim or his dependants by way of compensation or damages from the offender or any person on the offender's behalf following the injury.

Finance and Administration

16. The Scheme will be administered by the Criminal Injuries Compensation Tribunal, the members of which will be appointed by the Minister for Justice. It will consist of a Chair and 13 ordinary members. The Chair and each member will be either a practising barrister or a practising solicitor. The members of the Tribunal will act on a part-time basis but they will be paid fees for work done on a basis to be determined by the Minister for the Public Service.

17. Compensation will be payable out of funds made available to the Tribunal out of moneys provided by the Oireachtas. [See Annex.]

18. The Tribunal will submit annually to the Minister for Justice a full report on the operation of the Scheme together with their accounts. The report and accounts will be laid before both Houses of the Oireachtas. In addition, the Tribunal may, in connection with its annual report or otherwise, publish such information concerning the Scheme and decisions in individual cases as may, in its opinion, assist intending applicants for compensation.

Procedures etc.

19. The Tribunal will be free to draw up and publish any instructions it considers necessary regarding the procedure for administering the Scheme. However, these instructions will be consistent with the provisions of the Scheme and with the general intention that the administration of the Scheme and, in particular, proceedings before the Tribunal, should be informal.

20. Applications should be made as soon as possible but, except in circumstances determined by the Tribunal to justify exceptional treatment, not later than three months after the event giving rise to the injury. No applications may be accepted by the Tribunal where the event giving rise to the injury took place more than two years prior to the date of application.

21. Applications should be made on the Tribunal's application form. This will be obtainable from the Secretary to the Tribunal.

22. To qualify for compensation it will be necessary to indicate to the Tribunal that the offence giving rise to injury has been the subject of criminal proceedings or that it was reported without delay to the Gardaí or to the Garda Síochána Ombudsman Commission (GSOC) in any case where the crime is alleged to have been carried out by a member of An Garda Síochána. However, the Tribunal will have discretion to dispense with this requirement where they are satisfied that all reasonable efforts were made by or on behalf of the claimant to notify the Garda Síochána or the GSOC as the case may be, of the offence and to cooperate with them.

23. The Tribunal'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.

24. A decision by the Tribunal on a claim may, in the first instance, be taken by a duly authorised officer of the Tribunal where the amount claimed does not exceed €3,000. Where the claim is for a greater sum than €3,000 or where the claimant is not satisfied with a decision by that officer, the decision will normally be taken by one member of the Tribunal. However where a decision involves an award of €75,000 or more, that decision will be taken by three Tribunal members. The Tribunal will have discretion to hear any claim at a hearing before three members of the Tribunal and a person who is dissatisfied with a decision of first instance given by one member or three members as the case may be, may also have his claim so heard. In the latter case the member or members who gave the initial decision will not be amongst the three members of the Tribunal present at the hearing. Apart from an appeal by an applicant against a decision of a duly authorised officer or against a decision of first instance given by one member or three members as the case may be, there will be no appeal against a decision of the Tribunal.

25. The proceedings at the hearing of the Tribunal will be by way of a presentation of his case by the applicant who will be entitled to call, examine and cross examine witnesses. It will be for the claimant to establish his case. A member of the Tribunal's staff may make submission to the Tribunal on the case and will also be entitled to call, examine and cross examine witnesses. All information before the Tribunal will be available to the applicant.

26. An applicant may be accompanied by his legal adviser or another person but the Tribunal will not pay the costs of legal representation.

27. The Tribunal may, at its discretion, pay the necessary and reasonable expenses of witnesses.

28. Hearings will be in private.

29. The decisions of the Tribunal, appropriately redacted to remove personal data, may be made publicly available.

30. The standard of proof which the Tribunal will apply to a determination of any claim will be the balance of probabilities.

31. The Tribunal will be entitled to make any arrangements which it considers desirable for the administration of money it awards as compensation.

Annex

Payment of Awards by the Tribunal

Applicants should note that the budgetary subhead under which the monies awarded under the Scheme are provided has been designated by Government as a “*cash-limited grant scheme*”.

This means that the Tribunal has no capacity or authority to pay out more funds in any one year than has been voted by the Dáil. Thus, if the Tribunal’s funding becomes exhausted before the end of a financial year it has to wait until the next financial year, when it is again voted funds, before making any further payments to applicants.

Government Accounting Procedures and Practices provide the following explanation of cash-limited grant schemes:

Cash-limited Grant Schemes. C3 – Grants and Grants-in-Aid

The exercise of virement to create or increase a cash-limited grant Scheme is not permissible. The ambit of a Vote that contains a cash-limited grant scheme includes a reference to the fact that the individual subhead for the scheme is designated “cash-limited”.

The term “cash-limited” means that the funds available for a particular scheme for the year will be limited to the cash amount specified in the Estimates allocation and so entitlement to payment in the year under the scheme will be contingent on the availability of funds. In cases where a scheme is “cash-limited”, the Government can decline to take a Supplementary Estimate to increase the subhead allocation. Departments administering such schemes should clarify in advance to applicants that the relevant scheme is cash limited