

**MISCELLANEOUS ACTS (VICTIMS COMPENSATION)
REPEAL AND AMENDMENT ACT 1987 No. 238**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Repeals
4. Amendments
5. Savings, transitional and other provisions

SCHEDULE 1—AMENDMENTS

SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

**MISCELLANEOUS ACTS (VICTIMS COMPENSATION) REPEAL
AND AMENDMENT ACT 1987 No. 238**

NEW SOUTH WALES



Act No. 238, 1987

An Act to repeal certain enactments and to amend certain other enactments, and to enact savings, transitional and other provisions, consequent on the enactment of the Victims Compensation Act 1987. [Assented to 16 December 1987]

Miscellaneous Acts (Victims Compensation) Repeal and Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Miscellaneous Acts (Victims Compensation) Repeal and Amendment Act 1987.

Commencement

2. This Act shall commence on the commencement of the Victims Compensation Act 1987.

Repeals

3. The Criminal Injuries Compensation Act 1967 and the Criminal Injuries Compensation (Amendment) Act 1984 are repealed.

Amendments

4. Each Act specified in Schedule 1 is amended as set out in that Schedule.

Savings, transitional and other provisions

5. Schedule 2 has effect.

SCHEDULE 1—AMENDMENTS

(Sec. 4)

Child Welfare Act 1939 No. 17—

Section 83 (4B), (4C)—

Omit the subsections.

Children (Criminal Proceedings) Act 1987 No. 55—

Section 36—

Omit "section 554 (subsections (1) and (2) excepted) of the Crimes Act 1900, make a further order", insert instead "section 61 of the Victims Compensation Act 1987, give a direction".

Community Service Orders Act 1979 No. 192—

Section 4 (3) (a)—

Omit the paragraph, insert instead:

(a) give—

(i) an order under section 438 (1) of the Crimes Act 1900; or

(ii) a direction for compensation under Part 6 of the Victims Compensation Act 1987,

in respect of the offence;

Crimes Act 1900 No. 40—

(1) Section 1—

(a) Omit item (5) of the matter relating to Part XII.

*Miscellaneous Acts (Victims Compensation) Repeal and Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

(b) Omit item (4) of the matter relating to Part XIII.

(2) Sections 437, 437A, 457 and the headings before sections 437 and 457—

Omit the sections and headings.

(3) Section 554 (3)-(11)—

Omit the subsections.

(4) Section 556A (2)—

Omit "by section 437 or section 554 (3)", insert instead "on the court by Part 6 of the Victims Compensation Act 1987".

Criminal Appeal Act 1912 No. 16—

(1) Section 9 (4), (5)—

Omit "section 437 of the Crimes Act, 1900," wherever occurring, insert instead "section 53 of the Victims Compensation Act 1987".

(2) Section 9 (4), (5)—

Omit "that Act" wherever occurring, insert instead "the Crimes Act 1900".

Damages (Infants and Persons of Unsound Mind) Act 1929 No. 25—

Section 2 (5)—

After section 2 (4), insert:

(5) This Act extends to compensation payable under Part 3 of the Victims Compensation Act 1987.

District Court Act 1973 No. 9—

(1) Section 171 (1) (j)—

Omit "sections 437, 437A and", insert instead "section".

(2) Section 171 (1) (j)—

After "1900", insert "and Part 6 of the Victims Compensation Act 1987".

Local Courts Act 1982 No. 164—

Section 14 (6)—

At the end of section 14, insert:

(6) The Chief Magistrate may not make such a requirement in respect of a Magistrate who is a member of the Victims Compensation Tribunal constituted under the Victims Compensation Act 1987 except with the consent of the Chairperson of the Tribunal.

Pre-Trial Diversion of Offenders Act 1985 No. 153—

Section 24 (2)—

Omit "section 437 of the Crimes Act 1900", insert instead "section 53 of the Victims Compensation Act 1987".

Supreme Court Act 1970 No. 52—

Third Schedule, paragraph (j)—

Omit the paragraph.

Transport Accidents Compensation Act 1987 No. 101—

Section 40 (2) (c)—

*Miscellaneous Acts (Victims Compensation) Repeal and Amendment 1987***SCHEDULE 1—AMENDMENTS—*continued***

Omit the paragraph, insert instead:

- (c) a direction for compensation under Part 6 of the Victims Compensation Act 1987;

Workers Compensation Act 1987 No. 70—

- (1) Section 149 (4), definition of “damages”—

Omit paragraph (b), insert instead:

- (b) any award of compensation or direction for compensation under Part 3 or Part 6 of the Victims Compensation Act 1987;

- (2) Section 150 (6)—

Omit “is ordered or directed to be paid under the Crimes Act 1900”, insert instead “is directed to be paid, pursuant to a direction for compensation under Part 6 of the Victims Compensation Act 1987,”.

- (3) Section 150 (8), definition of “damages”—

Omit paragraph (a), insert instead:

- (a) any award of compensation or direction for compensation under Part 3 or Part 6 of the Victims Compensation Act 1987;

SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 5)

Definitions

1. In this Schedule—

“Principal Act” means the Victims Compensation Act 1987;

“repealed Act” means the Criminal Injuries Compensation Act 1967.

Directions under sec. 437 of the Crimes Act 1900

2. (1) Any direction in force, immediately before the commencement of the Principal Act, under section 437 of the Crimes Act 1900 shall be deemed to be a direction for compensation in force under Division 1 of Part 6 of the Principal Act and may, as regards any amount unpaid under the direction, be enforced accordingly.

(2) Without limiting the generality of subclause (1), a direction in force, immediately before the commencement of the Principal Act, under section 437 of the Crimes Act 1900 shall, for the purposes of clause 5, continue to have effect as such a direction to the extent to which it relates to compensation for injury.

Certificates under sec. 457 of the Crimes Act 1900

3. Any certificate issued under section 457 of the Crimes Act 1900 before the commencement of the Principal Act shall be deemed to be a certificate issued under section 57 of the Principal Act.

Directions under sec. 554 (3) of the Crimes Act 1900

4. (1) Any direction in force, immediately before the commencement of the Principal Act, under section 554 (3) of the Crimes Act 1900 shall be deemed to be a direction for compensation in force under Division 2 of Part 6 of the Principal Act and may, as regards any amount unpaid under that direction, be enforced accordingly.

*Miscellaneous Acts (Victims Compensation) Repeal and Amendment 1987*SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

(2) Without limiting the generality of subclause (1), a direction in force, immediately before the commencement of the Principal Act, under section 554 (3) of the Crimes Act 1900 shall, for the purposes of clause 5, continue to have effect as such a direction to the extent to which it relates to compensation for injury.

Continuation of repealed Act in relation to certain directions

5. (1) The repealed Act continues to apply to—

- (a) a direction referred to in clause 2 (2) or 4 (2); and
- (b) a certificate granted under section 4 of the repealed Act before the commencement of the Principal Act,

as if this Act and the Principal Act had not been enacted.

(2) In section 7 of the repealed Act, as continued by subclause (1)—

- (a) a reference to section 437 of the Crimes Act 1900 shall be construed as including a reference to section 53 of the Principal Act; and
- (b) a reference to section 457 of the Crimes Act 1900 shall be construed as including a reference to section 57 of the Principal Act.

Appeals against directions under sec. 437 of the Crimes Act 1900

6. (1) Any appeal under section 5 of the Criminal Appeal Act 1912 commenced before the commencement of the Principal Act, being an appeal that had not been finally disposed of immediately before the commencement of the Principal Act, shall be disposed of as if this Act and the Principal Act had not been enacted.

(2) Clause 2 applies to a direction given under section 437 of the Crimes Act 1900 as a consequence of the decision on any such appeal in the same way as it applies to a direction referred to in that clause.

Applications for compensation may be made by the Secretary of the Attorney General's Department

7. (1) The Secretary of the Attorney General's Department may make an application under section 17 of the Principal Act on behalf of any person in respect of an act of violence (within the meaning of the Principal Act) that occurred before the commencement of the Principal Act.

(2) Such an application shall be dealt with in accordance with the Principal Act as if it had been made by the person on whose behalf it has been made and as if the act of violence had occurred immediately before the commencement of the Principal Act.

Regulations

8. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act and the Principal Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect on the commencement of the Principal Act or a later date.

(3) To the extent to which a provision referred to in subclause (1) takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

Miscellaneous Acts (Victims Compensation) Repeal and Amendment 1987

SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication in the Gazette; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication in the Gazette.
- (4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect despite any other clause of this Schedule.