



Department of Justice
Criminal Injuries Compensation

**GUIDE TO COMPLETING THE CRIMINAL INJURIES COMPENSATION
APPLICATION FORM 2**

How do I obtain an application form?

Post: You may write to the Criminal Injuries Compensation, GPO Box F317 PERTH WA 6841.

Telephone: you may call the office on 08 9425 3250

Online: You may visit the Department of Justice website www.courts.justice.wa.gov.au.

How do I lodge my application?

Email: criminal.injuries@justice.wa.gov.au

Post: GPO Box F317 PERTH WA 6841

In person: Level 10, Golden Square, 32 St Georges Terrace PERTH WA 6000

Please keep a copy of all documents submitted with your application as the Office of Criminal Injuries (OCIC) maintains electronic records and paper copies will be destroyed after finalisation of your application. Please submit the application and any correspondence by one method only, it is not necessary, for example, to email and post the documents.

Please do not send your copy of this Guide with your application form.

Where a person died as a result of an offence the *Criminal Injuries Compensation Act 2003* (the Act) provides compensation for the funeral expenses of the deceased when they were incurred by a close relative, and the loss of financial support to close relatives provided by the deceased. You must use **Form 2** for claims arising from a death.

An application for compensation for funeral expenses and loss of support must be made by the personal representative of the deceased. The Act provides who can be the personal representative for the purposes of making this type of application.

If the deceased had a will, the personal representative is the person nominated as the executor of the will.

If the deceased did not have a will, a person who is entitled to apply to be the administrator of the deceased's estate may apply for criminal injuries compensation as the personal representative of the deceased. A person is entitled to be appointed an administrator if he or she is entitled to a distribution of the estate of the deceased pursuant to the *Administration Act 1903*.

If the deceased had a spouse, he or she is entitled to a distribution of the estate and can apply for criminal injuries compensation as the personal representative. If the deceased had no spouse then the child/children of the deceased can apply. If the children are under 18 years, their surviving parent can apply on their behalf. If the deceased had no spouse or children, then the parents, brothers or sisters of the deceased can apply.

Under the Act, siblings of the deceased are not entitled to compensation for themselves for funeral expenses or loss of support because they are not "close relatives" as *defined in the Act*. A sibling may however apply as the personal representative, on behalf of other close relatives who are dependants or who incurred funeral expenses.

HOW TO COMPLETE FORM 2

PART A: Questions 1 and 2

Question 1: Please identify the applicant, who must be the Personal Representative of the deceased. The Personal Representative is either the executor or administrator of the deceased's estate, or be a person who is entitled to apply to be the executor or administrator. Please also provide details of any person you authorise us to speak to on behalf of the personal representative.

As the OCIC operates in an electronic environment, please provide your email address for communication wherever possible.

Question 2: Please provide the details of the lawyer who is lodging the application.

Questions 3 to 6: In this section you need to provide information about the deceased's will and assets. This information is needed because;

- i) compensation for the funeral expenses is only available to a close relative who incurred the expense, if the deceased's estate was not enough to pay for this expense, and
- ii) in calculating the loss suffered by the dependants of the deceased the assessor must take account of the extent to which the dependant has financially benefitted from the death, for instance by inheriting property of the deceased.

A close relative includes;

- (a) a parent, grandparent or step-parent of the victim; or
- (b) the spouse or a de facto partner of the victim; or
- (c) a child, grandchild or stepchild of the victim.

PART B: Questions 7 to 23

In this section you need to provide information about the incident for which you are claiming compensation. Please provide as much information on the form as you know or can find out. If your application relates to more than one incident, please complete a separate Part B page for each incident.

Questions 7 and 8: An application for compensation must be made within three years of the date of the offence or, if there were multiple offences committed by the same offender, within three years of the date of the last offence. If the application is not lodged within that time, you must provide a signed, dated statement applying for an extension of time. In the statement you need to explain why the application is late and why you think an extension of time should be granted. You can include information about your personal circumstances, the length of delay, how long the court case took to finalise or any other information you think is relevant.

Question 9: Compensation is only available if the incident occurred in WA so you need to specify where it happened, eg Rockingham, Brown St Albany, etc.

Question 10: If the incident causing the death occurred at the deceased's work place you need to consider whether you have a workers' compensation claim before you can claim criminal injuries compensation. Before you submit your application, please finalise any workers' compensation claim and provide details of the claim with your application, including a copy of any agreement reached with the employer/insurer. If you have not made a workers' compensation claim, the Assessor may require you to pursue a workers' compensation claim before your claim for criminal injuries compensation can progress.

Question 11: If the death occurred as a result of an offence involving a motor vehicle you may be eligible for or have received compensation from the Insurance Commission of WA (ICWA). Before you submit your CIC application, please finalise your ICWA claim and provide details of the claim with your application, including a copy of any agreement reached with ICWA. If you have not made a claim, the Assessor may require you to pursue your entitlements before your claim for criminal injuries compensation can progress.

Question 12: Please provide a brief description of the type of offence (eg homicide, dangerous driving) for which you are claiming. If there was more than one offence committed, please list all offences.

Question 13: Please attach a copy of the statement you made to the police (if any). If you do not have a copy, you can request one from the police station where the incident was reported. It is preferable if the copy provided has been signed and dated by you. If you did not make a statement to the police, please provide a signed, dated statement setting out what happened.

Questions 14 to 22: This section asks for information about the offender/s, the police investigation and the prosecution of any person who was charged as a result of the incident. Please provide as much information as you know or are able to find out. In particular, if you know the name of the offender, please provide that information at question 15. The police officer responsible for the investigation may be able to give you information. Do not lodge your claim until the police have finalised their investigation and/or the prosecution of the offender/s has been completed, apart from the circumstances listed at question 23. To prevent time running over the three year limit, you may submit the application before then to preserve the time limit, but it may be returned to you for re submitting when the investigation or court case has been completed.

Question 14: Please state whether the incident has been reported. If a report was not made, please provide a signed and dated statement explaining why it was not reported.

Question 15: The incident report number is usually given to the victim or witness by the police when the incident was reported. Usually the police officer will give you a piece of paper with the number on it. If you know this number, include it here.

Question 16: If you know the name of the offender/s, please provide the name/s in this section. If you do not know the name of the offender/s, you may be able to obtain this information from the police. If the offender is unknown and/or police are not able to provide you with the name of the offender (eg the offender was a juvenile), please write “unknown” in this section.

Question 17: If you know the current address of the offender/s, please list the address/es in this question. If you do not know, please write “unknown”.

Question 18: Your claim cannot be processed until the police investigation is finalised. Please wait until the investigation has been completed before you lodge your application. If you submit your application prior to the finalisation of the investigation, the OCIC will note the date of lodgement and return the application to you so it can be resubmitted after the investigations/court case has been finalised.

Question 19 to 22: Please state if any person/s has been charged for an offence arising out of the incident. Please wait until the prosecution has been completed until you lodge your application. Please state the Court where the matter was heard, the outcome and the date of the outcome. If you do not know these details, please contact the investigating officer who should be able to provide them.

Question 23: Sometimes the Magistrate or Judge may order restitution or compensation to be paid to the victim of an offence. If you have been awarded restitution or compensation by the Court, please advise how much was ordered and how much you have received at the time of making the application.

PART C: Questions 24 to 28

Questions 24 to 27 seek information about a claim for compensation for the funeral expenses of the deceased.

Question 24 and 25: If the expense for the funeral was incurred by a close relative and the estate of the deceased was not enough to cover this expense, compensation is available to the personal representative on behalf of the close relative. If this applies to your application, provide the name and relationship of the person who incurred the expense to the deceased person.

Question 26 and 27: If the account for the funeral has been paid, provide copies of the account/s and receipt/s to establish the value of the claim. An interim payment can be approved for the funeral expenses for "such reasonable amount" as the assessor decides. Funeral expenses do not include ancillary expenses such as transport of family members to attend the funeral, memorial services or catering at the funeral or afterwards.

Question 28: If the personal representative is claiming compensation for the loss of the financial support of the deceased to the dependants, full details of the type and amount of the financial support from the deceased must be provided. A single claim is available for this type of compensation and the application must therefore include *all* the dependants of the deceased. Please provide copies of all relevant financial documents such as bank statements, taxation and salary information and the proceeds of any estate of the deceased. The maximum compensation for both the funeral expenses and the loss of financial support for all dependants is \$75,000 for an incident which occurred on or after 1 January 2004, and lesser amounts for earlier incidents.

PART D

Payment can be made either by electronic funds transfer to an account nominated by you, including your lawyer's account, or by cheque. If you would like a payment made to another person (eg the funeral director), you must provide authority for this by completing and signing the relevant section under this part of the application form. Please attach an additional sheet if more than one payment is required.

PART E

This section requires you to identify under which section of the Act you are claiming. Please tick which section is appropriate to your claim. The Assessor may amend this if necessary when enquiries are completed.

You must sign and date the application form and supporting statements. The form does not have to be witnessed. The application form must be signed by personal representative of the deceased.

The application may not be signed by your solicitor or any other person who assisted in the preparation of the application. The declaration requires the applicant to indicate he or she understands the matters listed.