
AMENDMENTS TO THE CRIMINAL INJURIES COMPENSATION ACT

On 1 January 2004, the *Criminal Injuries Compensation Bill 2003* came into force, replacing the *Criminal Injuries Compensation Act (WA) 1985*. The new *Criminal Injuries Compensation Act (WA) 2003* has some interesting new provisions.

Of note is the power of the Criminal Injuries Compensation Assessor to make an interim award of compensation to a victim to cover the costs of obtaining medical reports and other expenses. This new provision will provide some relief to claimants, as previously all costs incurred had to be met by the claimant, at a time when most claimants are still struggling to deal with the stress associated with being a victim of crime.

In addition, the new Act allows for the claiming of reimbursement for expenses incurred during the claim preparation. Previously such expenses were not covered under the Act, meaning that a claimant not only had to pay for the reports and other expenses before receiving any compensation, but the claimant never got reimbursed for these expenses.

The maximum amount of compensation awardable has also been increased from \$50,000.00 to \$75,000.00. This new rate applies to all injuries suffered after 1 January 2004.

For the Ministry of Justice Press Release on this subject, please go to the following link:

http://www.justice.wa.gov.au/portal/server.pt/gateway/PTARGS_0_2_275_201_0_43/http://justicecontent.extranet.justice.wa.gov.au/news/news.asp?1D143&RecordMethod=load&structureID=25289764&resourceID=23755232

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Compulsory Drug and Alcohol Testing

In a recent decision, the Western Australian Industrial Relations Commission (per Senior Commissioner A R Beech) has determined that it is reasonable for an employer to introduce compulsory urine drug testing.

The Applicant, Pioneer Construction Materials Pty Ltd, was seeking to introduce a "Fitness for Work" policy, which policy included random drug testing by way of urine sample testing.

Pioneer submitted that, as an employer whose employees operate heavy machinery, the objective of introducing compulsory drug testing, "is that an employee be fit for duty for the sake of their own safety as well as the safety of others".

The Western Australian Industrial Relations Commission issued the following declaration:

1. That the proposal to conduct urine testing as part of the fitness for duty policy is reasonable.
2. That urine testing for drugs is able to be re-visited in the future in accordance with Pioneer's ongoing review of its fitness for duty policy.
3. That it is reasonable that employees declare and provide an appropriate doctor's certificate in respect of any over-the-counter medication which could lead to a positive test provided that pioneer pay the employees' reasonable medical costs of obtaining a certificate from their own doctor.
4. That it is reasonable that pioneer pay the employees' reasonable medical costs of obtaining a health assessment from their own doctor for the purposes of the fitness for duty policy.

(Pioneer Construction Materials Pty Ltd -V- Transport Workers' Union Of Australia, Industrial Union Of Workers, Western Australian Branch [2003] WAIRC 10049).