

LAWS OF TRINIDAD AND TOBAGO

PROTECTIVE SERVICES (COMPENSATION) ACT

CHAPTER 23:60

**Act
22 of 1996**

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CHAPTER 23:60

PROTECTIVE SERVICES (COMPENSATION) ACT

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FIRST SCHEDULE.

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CHAPTER 23:60

PROTECTIVE SERVICES (COMPENSATION) ACT

22 of 1996. **An Act to provide for the payment of compensation in respect of officers of the protective services who suffer injury or die in circumstances arising out of and in the course of employment with the State.**

Commencement. [16TH JUNE 1997]
[107/1997].

Short title. **1.** This Act may be cited as the Protective Services (Compensation) Act.

Interpretation. **2.** In this Act—
“claim” means an application for compensation made under this Act and “claimant” has the corresponding meaning;
“Committee” means the body of persons constituting the Compensation Committee established under section 5;
“Minister” means the Member of Cabinet to whom responsibility for National Security is assigned and “Ministry” has the corresponding meaning;

“officer” means a person who holds an office in accordance with any of the Acts listed in the First Schedule;

First Schedule. “permanent partial disablement” means such disablement of a permanent nature as reduces the earning capacity of an officer in the service in which he was employed at the time the disablement was sustained;

“permanent total disablement” means such disablement of a permanent nature as incapacitates an officer for all work which he was capable of performing at the time the disablement was sustained;

“personal injury” means permanent partial disablement or permanent total disablement;

First Schedule. “Protective Services” means the services established by the Acts listed in the First Schedule.

3. (1) Where an officer—

- (a) suffers personal injury;
- (b) dies instantly; or
- (c) dies as a result of personal injury sustained,

Liability to pay compensation.

in circumstances arising out of and in the course of his employment with the State, the State shall be liable to pay compensation in accordance with this Act.

(2) Any award of compensation under this Act, shall be a charge on the Consolidated Fund.

4. (1) In furtherance of section 3, the following persons are entitled to make a claim for compensation (hereafter called “a claim”) under this Act:

Claims for compensation.

- (a) an officer who suffers personal injury;
- (b) a person entitled under any written law to make a claim on behalf of an officer who is so incapacitated by reason of personal injury that he is unable to make a claim himself;
- (c) a named beneficiary of an officer who died in circumstances set out in subsection 3(1)(b) or (c); or
- (d) in the absence of the named beneficiary referred to at paragraph (c), the holder of a grant of probate or a grant of letters of administration.

(2) A claim shall be made in respect of personal injury or death arising after the coming into force of this Act, in accordance with the rules made under section 14.

(3) The time during which a claim may be made shall be as follows:

- (a) in respect of death, within four years of the date on which the death of the officer occurred; or
- (b) in respect of personal injury, within one year of the date on which such personal injury was sustained.

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(4) In all proceedings before the Committee the claimant may appear in person or may be represented by any named person or an Attorney-at-law.

Committee.

5. (1) A Compensation Committee (hereafter referred to as “the Committee”) shall be established for the purposes of performing the functions detailed under this Act.

(2) The Chairman, Secretary and other members of the Committee shall be appointed by the President by instrument in writing for a period of three years on such terms and conditions as the President may determine.

(3) The Committee shall comprise—

Ch. 90:03.

(a) an Attorney-at-law whose name is on the Roll of Attorneys-at-law in accordance with the Legal Profession Act, having at least seven years experience and who shall be Chairman;

(b) an Attorney-at-law whose name is on the Roll of Attorneys-at-law in accordance with the Legal Profession Act and who shall be secretary to the Committee;

Ch. 29:50.

(c) a medical practitioner registered under the Medical Board Act with at least seven years experience;

(d) a medical practitioner registered under the Medical Board Act or other suitably qualified person with at least four years experience in the field of occupational health and safety; and

(e) a person who has at least three years experience in the business of accident and health claims.

(4) At the expiration of his term of office, a member of the Committee shall be eligible for reappointment.

Seal of the
Committee.

6. (1) The Committee shall have a seal which shall be Judicially noticed and shall be kept in the custody of the secretary.

(2) The seal shall be affixed by the secretary in the presence of one other member, and any document purporting to bear the seal of the Committee shall unless the contrary is proved, be received in evidence and be deemed to be such a document without further proof.

7. The Committee shall meet at such times as may be necessary to deal promptly and expeditiously with all matters within its charge, and three members shall constitute a quorum. Meetings and quorum.

8. A member of the Committee who has any interest in a matter before the Committee, shall be disqualified from all sittings on such matter. Disclosure of interest.

9. (1) Where a member of the Committee is unable to perform his duties by reason of— Acting appointments.

- (a) illness;
- (b) absence from Trinidad and Tobago;
- (c) the provisions of section 8; or
- (d) any other circumstance,

the President may appoint another person to act in place of such a member during the period of his inability to perform his duties, and such acting member shall hold the qualifications required by section 5(3).

(2) A person appointed to act under this section, shall perform all the functions as the absent member and shall do so under the same terms and conditions as those enjoyed by the said absent member.

10. (1) A member may resign his office by giving to the President one month's notice of his resignation in writing, which shall take effect from the date of receipt of such notice by the President. Resignation from the Committee and revocation of appointment.

(2) The President may revoke the appointment of a member of the Committee where the member—

- (a) is absent from three consecutive meetings without the written approval of the Minister or without reasonable cause;

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- (b) is guilty of misconduct that may bring the Committee into disrepute;
- (c) is disqualified from the practice of his profession; or
- (d) is unable to perform his functions for any other reason.

Publication in *Gazette*.

11. The appointment of members to the Committee, acting appointments in their absence, the revocation of appointments or resignations from the Committee shall be published in the *Gazette*.

Office of the Committee.

12. The office of the Committee shall be situated in Port-of-Spain and the address shall be published in the *Gazette* and in one daily newspaper.

Functions and jurisdiction of the Committee.

13. (1) The functions of the Committee shall be—

- (a) to receive, investigate, hear and determine claims for compensation filed in accordance with this Act and the rules of the Committee made under section 14, and to make such orders for compensation in accordance with the Second Schedule;
- (b) to discharge any other responsibility that is required by this Act.

Second Schedule.

(2) Where it is proved that an officer suffered personal injury or died in circumstances arising out of and in the course of his employment with the State, the Committee shall, subject to subsections (3) and (4), make an order for the award of compensation in accordance with the Second Schedule and shall give reasons in writing for the award of, or the refusal to award compensation.

Second Schedule.

(3) In hearing a claim, the Committee shall determine—

- (a) whether the injury to, or death of the officer was caused, and to what extent, by his participation in any type of illegal activity and whether any compensation is payable under the circumstances; and

(b) the proportion of contributory negligence if any, on the part of the officer and shall apportion compensation accordingly.

(4) The Committee shall, in determining the quantum of compensation, take into account any payment gratuitously made to an officer or a claimant by the State, in respect of the same personal injury or death.

(5) For the purpose of undertaking its functions, the Committee shall have the same powers as a Court of civil jurisdiction under the Summary Courts Act.

Ch. 4:20.

14. (1) The Committee shall make and publish its own rules in the *Gazette* for the procedure to be followed:

Committee rules and rules of evidence.

- (a) for the initiation of claims; and
- (b) the conduct of its business, and shall publish in the *Gazette* and one daily newspaper the location and times of its sittings.

(2) Notwithstanding subsection (1), the Committee shall be bound by rules of evidence applicable to a Court of civil jurisdiction under the Summary Courts Act.

15. The staff for the Committee shall be selected by the Permanent Secretary of the Ministry from among public officers of that Ministry.

Staff.

16. (1) A party who is aggrieved by a determination of the Committee under section 13, is entitled to appeal to the Court of Appeal, within six weeks of that determination.

Right of appeal.

(2) On hearing an appeal under subsection (1), the Court of Appeal has power—

- (a) if it appears to it that a new hearing should be held, to set aside the order appealed against, and order that a new hearing be held; or
- (b) to order a new hearing on any question without interfering with the finding or decision upon any other question; and

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(c) to make such finding or other order as the circumstances of the case require.

Compensation
otherwise
awarded.

17. In awarding compensation for injury or death under this Act, the Committee shall take into account any damages awarded to an officer or his beneficiary, in respect of the same injury or death.

Annual report.

18. (1) The Committee shall submit to the Minister an annual report dealing with its operations during the preceding year and such report shall be submitted not later than three months of the anniversary date of the appointment of the Committee.

(2) The Minister shall within three months of the receipt of that Report lay the same in Parliament.

Transition.

19. All claims in respect of personal injury or death of an officer, occurring prior to the coming into operation of this Act, shall be treated in accordance with—

- (a) agreements executed between the Minister of Finance and the Associations representing the different Divisions of the Police Service, Fire Service and Prison Service;
- (b) the same principles applicable before the coming into operation of this Act, where there are no such agreements.

Other
entitlements.

20. Nothing in this Act shall be construed in a manner that would disentitle or disqualify an officer from making a claim in respect of personal injury or death, in accordance with—

Ch. 32:01.

(a) The National Insurance Act, the National Insurance Medical Expenses Regulations, the National Insurance (Employment Injury) (Payment of Medical Expenses) Order;

Ch. 15:01.
Ch. 35:50.
Ch. 13:02.
Ch. 23:52.

(b) the Police Service Act, the Fire Service Act, the Prison Service Act and the Pensions Act;

(c) any other legislation that may confer benefits relating to personal injury or death of an officer.

21. The Minister may by Order amend the First and Second Schedules by adding to them any other Service or benefits as the case may be. Amendment of Schedules.

FIRST SCHEDULE

(Section 2).

The Police Service Act, Ch. 15:01.

The Fire Service Act, Ch. 35:50.

The Prison Service Act, Ch. 13:02.

SECOND SCHEDULE

(Section 13).

BENEFITS THAT SHOULD BE GRANTED IN RESPECT OF INJURY OR DEATH ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT

- | | |
|---|---|
| <p>(a) Compensation for death arising out of and in the course of employment</p> | <p>(i) An amount equal to three years gross salary at the date of death; and</p> <p>(ii) Such entitlement as is provided under the Police Service Act, the Fire Service Act, the Prison Service Act and the Pensions Act or any other relevant legislation.</p> |
| <p>(b) Compensation for permanent total disablement, or permanent partial disablement</p> | <p>(i) The same percentages of the amount of (a)(i) above as those included under the Second Schedule to the Workmen's Compensation Act, Ch. 88:05; and</p> |

(ii) Such entitlement provided under the Police Service Act, the Fire Service Act, the Prison Service Act and the Pensions Act or any other relevant legislation.

(c) All necessary injury leave as may be certified by a medical practitioner approved by the Committee

Full pay.

CLAIMS IN RESPECT OF BENEFITS FOR DEATH OR INJURY WHICH SHOULD NOT COME UNDER THE JURISDICTION OF THE COMMITTEE

(d) Those claims which are occasioned by or have happened through the following circumstances:

- (i) war, invasion, act of foreign enemy; and
- (ii) suicide or attempted suicide, venereal disease, the influence or effect (temporary or otherwise) of alcohol, or of drugs not prescribed by a registered medical practitioner.

SUBSIDIARY LEGISLATION

PROTECTIVE SERVICES (COMPENSATION) RULES

ARRANGEMENT OF RULES

RULE

1. Citation.
2. Interpretation.
3. Application of Rules.
4. Claim to the Committee.
5. Filing of documents.
6. Statement of consent or opposition.
7. Service of documents.
8. Committee may request attendance of persons at hearings and written reports.
9. Conduct of hearing.
10. Orders of the Committee.
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SCHEDULE.

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[Subsidiary]

164/2001. **PROTECTIVE SERVICES (COMPENSATION) RULES**
made under section 14

Citation. **1.** These Rules may be cited as the Protective Services (Compensation) Rules.

Interpretation. **2.** In these Rules—
“Act” means the Protective Services (Compensation) Act.
“Chairman” means the Chairman of the Compensation Committee appointed under section 5 of the Act;
“Committee” means the Compensation Committee established by section 5 of the Act;
“interested party” means the Commissioner of Police, the Commissioner of Prisons or the Chief Fire Officer as the case may be;
“Secretary” means the Secretary of the Committee appointed in accordance with section 5 of the Act; and
“Secretariat” means the staff selected by the Permanent Secretary of the Ministry with responsibility for national security from among public officers of that Ministry pursuant to section 15 of the Act, located at the Head Office of the Ministry of National Security.

Application of Rules. **3.** These Rules shall apply to a person who is entitled to make a claim for compensation under section 4 of the Act.

Claim to the Committee. Schedule. Form A. **4.** (1) A claim form submitted to the Committee shall be in the manner prescribed as Form A of the Schedule, shall be signed by the applicant, his Attorney-at-law or agent and shall be addressed to the Secretary of the Committee, Office of the Ministry of National Security.

(2) A claim form may be obtained from the Secretariat of the Committee at the Head Office of the Ministry of National Security

(3) A claim for compensation shall be accompanied by an affidavit of the claimant showing that he satisfies the requirements for compensation under sections 3 and 4 of the Act

and whether any damages have been awarded under section 17 of the Act and the affidavit shall also contain the following:

- (a) whether the claim is made by—
 - (i) an officer as defined by section 2 of the Act;
 - (ii) a person entitled under any written law to make a claim on behalf of an officer who is so incapacitated by reason of personal injury that he is unable to make the claim himself;
 - (iii) a named beneficiary of an officer who died in circumstances set out in subsection 3(1)(b) or (c) of the Act; or
 - (iv) the holder of a grant of probate or a grant of letters of administration, in the absence of a named beneficiary;
- (b) the circumstances under which the officer sustained the injury, setting out the facts and matters showing that the injury arose out of and in the course of the officer's employment; and
- (c) whether any payment was gratuitously made to the officer or claimant by the State, in respect of the injury or death which is the subject of the application.

(4) A claim for compensation together with all supporting documents shall be filed at the Secretariat of the Committee and the Secretary shall cause a copy of the claim to be served on all interested parties within the time prescribed for the making of the claim.

(5) The claimant under section 4(1)(a) or (b) of the Act shall set out all supporting grounds in the claim and shall attach to the claim, medical evidence of the injury.

(6) The claimant under section 4(1)(c) of the Act shall attach to the claim, the death certificate of the victim.

(7) The claimant under section 4(1)(d) of the Act shall attach to the claim, the grant of probate or letters of administration, as the case may be.

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Chap. 23:60 *Protective Services (Compensation)*

[Subsidiary]

Protective Services (Compensation) Rules

Filing of documents.

5. (1) Any document required or authorised under these Rules to be filed at the office of the Committee, shall be filed by leaving the document with a duly authorised officer of the Secretariat, during normal office hours.

(2) Unless the Chairman otherwise directs, a party filing with the Committee a claim or any other supporting documents under these Rules, shall lodge at the office of the Committee in addition to the original, five copies of the claim and other supporting documents where necessary.

Statement of consent or opposition.

6. An interested party shall, within seven days after service upon him of a claim, file at the Secretariat a statement of consent or opposition to the claim, and if the latter, shall set out his reasons for so doing.

Service of documents. Schedule. Form B.

7. The Committee shall give twenty-eight clear days notice to the claimant and all interested parties of the date fixed for the hearing of the claim, in the manner prescribed in Form B of the Schedule.

Committee may request attendance of persons at hearings and written reports.

8. At the hearing of a claim, the Committee shall be entitled to request by notice in writing—

- (a) the attendance of any person whom in its opinion may be able to assist with the determination of the claim; and
- (b) a written report from an interested party setting out the details of the incident giving rise to the claim and stating whether the claimant was acting in the course of his duty.

Conduct of hearing.

9. (1) The Committee shall consider any report of an interested party submitted in accordance with rule 8.

(2) On the hearing of a claim, the claimant and the interested party shall be entitled to tender evidence orally if in the opinion of the Committee further evidence is needed.

(3) An affidavit prepared for the purpose of rebutting evidence contained in a previous affidavit filed by the claimant or the interested party shall be filed at the office of the Committee and a copy thereof served on the other party not less than seven days before the date fixed for the hearing of the claim.

(4) On the hearing of a claim, where evidence is given

by affidavit the Committee may, on the application of the claimant or the interested party, order the attendance for cross-examination of the person who swore to the affidavit and where, after such an order has been made, the person does not attend, the affidavit shall not be used as evidence unless with special leave of the Committee.

(5) A member designated by the Committee shall take written notes of the evidence given by each witness while under examination and these notes shall be signed by the Chairman and shall form part of the records of the particular application.

(6) At the conclusion of the hearing of a claim, the Committee may reserve its decision and order, until a date, no later than three months from the conclusion of the hearing.

(7) In the event of an appeal, the Committee shall also give reasons in writing for its award of compensation, or its refusal to award compensation, as the case may be and the reason shall be recorded in a register kept for this purpose.

10. (1) Where an order of the Committee stipulates the payment of compensation, the Chairman shall direct the Secretary to record the order, in a register kept for this purpose.

Orders of the Committee.

(2) An order made for compensation, shall be in accordance with the Second Schedule of the Act, and shall be forwarded by the Committee to the Permanent Secretary of the Ministry with responsibility for national security for the payment of compensation in accordance with the order.

Second Schedule of the Act.

11. (1) The Secretary shall—

Functions of the Secretary.

- (a) have custody of the official seal of the Committee and affix it to any document to which it is required by law to be affixed or as may be directed by the Chairman and the seal shall be authenticated by the signature of the Chairman and the Secretary;
- (b) have custody and care of all records and documents belonging to the Committee or filed in its office; and
- (c) perform such other duties and functions as may be required by the Committee or as may be imposed by these Rules or the Act.

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[Subsidiary]

Protective Services (Compensation) Rules

(2) A document not required by law to be under seal, that is made by the Committee and all decisions of the Committee, shall be in writing under the hand of the Chairman or the Secretary.

(3) The Secretary shall keep in the office of the Committee all books of records in which shall be entered—

- (a) a true copy of every order, award, directive or decision of the Committee; and
(b) any document that the Committee may require to be entered therein.

(4) An entry made under subrule (3), is the original record of the order, directive, award or decision.

SCHEDULE

FORM A

CLAIM FOR COMPENSATION

[Rule 4(1)].

The Secretary,
Compensation Committee,
Port-of-Spain.

Dear Sir/Madam,

I hereby make a claim for compensation for injury/death as follows:

- 1. Full Name and Rank (Please Print)
2. Tick where appropriate: Police Service, Fire Service, Prison Service
3. Date of Birth
4. Monthly Earnings
5A. Residential Address and Telephone No.
5B. Business Address

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Protective Services (Compensation) Rules

[Subsidiary]

- 6. Give Date and Hour when incident occurred
- 7. Place where incident occurred
- 8. Describe exactly how incident occurred
.....
- 9. What injuries were sustained wholly by the incident?
.....
- 10. Was the Officer on official duties at the time of the incident? If yes, under
whose authority?
- 11. On what date did the Officer stop performing duties?
- 12. Is the Officer expected to return to work?
- 13. Has the Officer done any work since commencement of disability (If yes, please
explain)?
- 14. How long was the Officer totally disabled?(weeks)(days)
- 15. How long was the Officer partially disabled?(weeks)(days)
- 16. Describe fully the Officer's present condition

I, the undersigned, hereby certify that my answers to the foregoing questions are correct and true to the best of my knowledge and belief.

.....
(Witness)

Signed
(Applicant/Attorney-at-law/Agent)

Date
