

House of Assembly

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South Australia

Victims of Crime (Compensation) Amendment Bill 2016

A BILL FOR

An Act to amend the *Victims of Crime Act 2001*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Victims of Crime (Compensation) Amendment Act 2016*.

2—Commencement

- (1) Subject to subsection (2), this Act will be taken to have come into operation on 1 July 2015.
- (2) Section 11 will come into operation on the day on which this Act is assented to by the Governor.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Victims of Crime Act 2001*

4—Amendment of section 3—Objects

Section 3(d)—delete paragraph (d) and substitute:

- (d) to provide a limited statutory scheme of compensation to victims most directly affected by criminal offending as an acknowledgement of the harm that they suffer from criminal offending.

5—Amendment of section 4—Interpretation

- (1) Section 4—after the definition of *court* insert:

CPI means the Consumer Price Index (All groups index for Adelaide) published by the Australian Bureau of Statistics;

- (2) Section 4—after its present contents (as amended by this section and now to be designated as subsection (1)) insert:
 - (2) In this Act, if a monetary amount is followed by the word (indexed), the amount is (on or after 1 January 2016) to be adjusted on 1 January of each year by multiplying the stated amount by a proportion obtained by dividing the CPI for the September quarter of the immediately preceding year by the CPI for the September quarter, 2014, on the basis that the quotient used for the purposes of the adjustment will be calculated to 2 decimal places and that the amount obtained from the adjustment will be rounded to the nearest dollar.

6—Amendment of section 17—Eligibility to make claim

- (1) Section 17(2)—after paragraph (a) insert:
 - (ab) a child of the deceased victim (if the child was under the age of 18 at the time of the offence); or
- (2) Section 17(5)(b)—delete "workers compensation for the same harm under Division 5 or 6 of Part 4 of the *Workers Rehabilitation and Compensation Act 1986*" and substitute:

a payment or damages in respect of death or non-economic loss for the same harm under the *Return to Work Act 2014*

- (3) Section 17(6)—delete subsection (6) and substitute:

(6) If—

- (a) a payment or damages under the *Return to Work Act 2014*;
and
- (b) statutory compensation,

are paid for the same harm, the payment of statutory compensation does not give rise to a right to recovery under the *Return to Work Act 2014*.

Note—

Note that this provision will only apply in the comparatively rare cases where the entitlement under the *Return to Work Act 2014* does not operate to the exclusion of a right to statutory compensation under subsection (5)(b) above.

7—Amendment of section 20—Orders for compensation

- (1) Section 20(1)(c)—delete "\$10 000" and substitute:

\$20 000 (indexed)

- (2) Section 20(1)(d)(ii)—delete "\$7 000" and substitute:

\$14 000 (indexed)

- (3) Section 20(3)(a)(ii)—delete "50" and substitute:

60

- (4) Section 20(3)(a)(ii)—delete "arrived at by multiplying the number so assigned by \$1 000" and substitute:

the amount determined in accordance with Schedule a1 as corresponding to the number so assigned

- (5) Section 20(3)(a)(iii)—delete "\$50 000" wherever occurring and substitute in each case:

\$100 000 (indexed)

- (6) Section 20(3)(b)—delete paragraph (b)

- (7) Section 20(3)(c)—delete "\$50 000" and substitute:

\$100 000 (indexed)

8—Amendment of section 25—Legal costs and disbursements

- (1) Section 25(1)(a)—delete "amount allowable under the prescribed scale (plus GST)" and substitute:

amounts prescribed by regulation in relation to such costs (plus GST) as at the time of commencement of the proceedings

- (2) Section 25(1)(b)—delete "allowable under the prescribed scale (plus GST)" and substitute:

prescribed by regulation in relation to such costs (plus GST) as at the time of commencement of the proceedings

(3) Section 25(2)—delete subsection (2) and substitute:

- (2) The regulations may make provision in relation to the recovery of disbursements by a legal practitioner in relation to a claim for statutory compensation.

9—Amendment of section 27—Payment of compensation etc by Attorney-General

Section 27(3)(c)(ii)—after "\$10 000" insert:

(indexed)

10—Amendment of section 28—Right of Attorney-General to recover money paid out from offender etc

Section 28(5)(b)—after "so certified" insert:

(or a lesser amount if the Attorney-General thinks fit)

11—Amendment of section 29—Recovery from claimant

After subsection (2) insert:

- (3) A claimant referred to in subsection (2) must, within 30 days after being paid compensation or damages referred to in subsection (2)(b), notify the Attorney-General in writing of the payment (and including any particulars prescribed by the regulations).

Maximum penalty: \$1 250.

12—Amendment of section 32—Imposition of levy

(1) Section 32(2)—delete "subsection (3)" and substitute:

this section

(2) Section 32—after subsection (3) insert:

- (3a) A court may, at the time of convicting or sentencing a person under the age of 18 years for an offence, exonerate the defendant from liability to pay the levy in relation to that offence.

(3) Section 32(7)(b)—before "the court may not" insert:

subject to subsection (3a),

13—Insertion of section 34A

After section 34 insert:

34A—Disclosure of information

The Crown Solicitor may (despite any other Act or law) disclose to a victim any information that the Crown Solicitor has relating to the whereabouts of an offender or any means of contacting an offender, for the purpose of facilitating the service of documents on the offender by or on behalf of the victim.

14—Amendment of section 37—Regulations

Section 37—after its present contents (now to be designated as subsection (1)) insert:

- (2) The regulations may—
 - (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) be brought into operation on a date specified in the regulations that is earlier than the date of its publication in the Gazette.

15—Insertion of Schedule a1

Before Schedule 1 insert:

Schedule a1—Compensation amounts for non-financial loss (section 20(3)(a))

Numerical value assigned	Corresponding amount
1	\$1 000 (indexed)
2	\$2 000 (indexed)
3	\$4 000 (indexed)
4	\$5 000 (indexed)
5	\$6 000 (indexed)
6	\$7 000 (indexed)
7	\$8 000 (indexed)
8	\$9 000 (indexed)
9	\$10 000 (indexed)
10	\$11 000 (indexed)
11	\$12 000 (indexed)
12	\$13 000 (indexed)
13	\$14 000 (indexed)
14	\$15 000 (indexed)
15	\$16 000 (indexed)
16	\$17 000 (indexed)
17	\$18 000 (indexed)
18	\$19 000 (indexed)
19	\$20 000 (indexed)
20	\$21 000 (indexed)
21	\$22 000 (indexed)
22	\$23 000 (indexed)
23	\$24 000 (indexed)

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Part 2—Amendment of *Victims of Crime Act 2001*

24	\$25 000 (indexed)
25	\$26 000 (indexed)
26	\$27 000 (indexed)
27	\$28 000 (indexed)
28	\$29 000 (indexed)
29	\$30 000 (indexed)
30	\$31 000 (indexed)
31	\$32 867 (indexed)
32	\$34 733 (indexed)
33	\$36 600 (indexed)
34	\$38 467 (indexed)
35	\$40 333 (indexed)
36	\$42 200 (indexed)
37	\$44 067 (indexed)
38	\$45 933 (indexed)
39	\$47 800 (indexed)
40	\$49 667 (indexed)
41	\$52 000 (indexed)
42	\$54 333 (indexed)
43	\$56 667 (indexed)
44	\$59 000 (indexed)
45	\$61 333 (indexed)
46	\$63 667 (indexed)
47	\$66 000 (indexed)
48	\$68 333 (indexed)
49	\$70 667 (indexed)
50	\$73 000 (indexed)
51	\$75 800 (indexed)
52	\$78 600 (indexed)
53	\$81 400 (indexed)
54	\$84 200 (indexed)
55	\$87 000 (indexed)
56	\$89 800 (indexed)
57	\$92 600 (indexed)
58	\$95 400 (indexed)
59	\$98 200 (indexed)
60	\$100 000 (indexed)