

South Australia

Criminal Injuries Compensation Regulations 2002

under the *Criminal Injuries Compensation Act 1978*

Contents

- 1 Citation
- 2 Commencement
- 3 Revocation
- 4 Interpretation
- 5 Prescribed particulars (s 7(3))
- 6 Legal costs

Schedule—Prescribed Scale of Costs

Legislative history

1—Citation

These regulations may be cited as the *Criminal Injuries Compensation Regulations 2002*.

2—Commencement

These regulations will come into operation on 1 September 2002.

3—Revocation

The *Criminal Injuries Compensation Regulations 1987* (see Gazette 23 December 1987 p. 1962), as varied, are revoked.

4—Interpretation

In these regulations—

Act means the *Criminal Injuries Compensation Act 1978*.

5—Prescribed particulars (s 7(3))

For the purposes of section 7(3) of the Act, the following are the prescribed particulars:

- (a) name, address and date of birth of the claimant;
- (b) name and date of birth of the victim (if not the claimant);
- (c) date, time and place of the offence;
- (d) the type of offence and the details surrounding the offence;
- (e) when and where the offence was reported to the police and, if not reported, the reason for not doing so;

- (f) details of the nature of the injury (for example, broken bones, scars);
- (g) if the victim is dead—
 - (i) the relationship of the claimant to the victim; and
 - (ii) the date of death; and
 - (iii) the date of the funeral;
- (h) name of offender(s) (if known);
- (i) if the offender(s) were convicted of the offence, brief details of the conviction;
- (j) any information as to the whereabouts, income and assets of the offender(s);
- (k) particulars of special damage including—
 - (i) an itemised list of expenses in relation to any treatment and the name of the person or institution to whom the expense was paid or is payable; and
 - (ii) an itemised list of funeral expenses; and
 - (iii) details of membership of any health fund or scheme;
- (l) if the claim is by the victim, details of any loss of earning capacity, including details of—
 - (i) the occupation or business of the claimant at the time of the injury and during the twelve months prior to the injury; and
 - (ii) the gross income received from the occupation or business during the 12 month period ending on 30 June last prior to the injury; and
 - (iii) any disability (including mental disability) from which the claimant is suffering or has suffered as a result of the injury and which is preventing or has prevented, wholly or in part, the claimant from performing his or her occupation or business; and
 - (iv) the periods since the injury during which the claimant has been unable, wholly or in part, to perform his or her usual occupation or business, together with the periods during which the incapacity has been total and the periods during which it has been partial; and
 - (v) where there has been partial incapacity, the nature and extent of that partial incapacity; and
 - (vi) the periods since the injury during which the claimant has been employed or otherwise engaged in any occupation or business, and in respect of each such occupation or business—
 - (A) the nature of the occupation or business; and
 - (B) the address at which it was conducted or performed; and
 - (C) the name of any employer; and
 - (D) the gross income received by the claimant;
- (m) if the claim is by a dependant or dependants of a victim—all the facts on which the claimant relies to establish a claim for financial loss;

- (n) the final amount claimed for financial loss, detailing the calculations used to arrive at that figure;
- (o) the amount claimed for non-financial loss, detailing the calculations used to arrive at that figure;
- (p) copies of all medical reports in the claimant's possession;
- (q) a statement of all amounts received by or on behalf of the claimant from the offender or any other source, and details of any steps taken to obtain payment or compensation from the offender or any other person, corporation, or government department or administrative unit in respect of the injury.

6—Legal costs

- (1) Pursuant to section 10 of the Act, the scale of costs set out in the Schedule is the prescribed scale.
- (2) No fee is payable in respect of proceedings under the Act except as set out in the Schedule.
- (3) However, subregulation (2) does not prevent the Crown from recovering its costs in respect of proceedings under the Act.

Schedule—Prescribed Scale of Costs

1—Interpretation

In this Schedule—

- (a) a claim for compensation is a *limited claim* for compensation if it is limited to a claim for compensation for one or both of the following:
 - (i) for grief suffered in consequence of the death of a person killed by homicide (see section 7(2a) of the Act);
 - (ii) for funeral expenses where a victim dies in consequence of an offence (see section 7(2b) of the Act); and
- (b) a claim for compensation is a *related claim* for compensation if—
 - (i) in proceedings under the Act, the same legal practitioner represents more than one victim of an offence claiming compensation in respect of injury arising from the offence; or
 - (ii) in proceedings under the Act, the same legal practitioner represents more than one victim of a series of offences claiming compensation in respect of injury arising from the series of offences; and
- (c) a *series of offences* means offences committed consecutively by one offender, or offences committed simultaneously or consecutively by offenders acting in concert (see section 9 of the Act).

2—Solicitors fee for claim for compensation

- (1) For a limited claim where the identity of the offender is known, compensation is agreed and an application is made to the court to obtain a consent order \$500

Note—

A solicitor is not entitled to a fee in respect of a limited claim for compensation where the identity of the offender is unknown and the Crown agrees to settle the claim. Such a claim should be dealt with by writing to the Crown Solicitor and providing the Crown Solicitor with details of the claim.

- (2) For any other claim—
- (a) in the case of a claim that is not a related claim \$1 000
 - (b) in the case of related claims—
 - (i) for one of the related claims \$1 000
 - (ii) for each of the other related claims \$800

3—Counsels fee

- (1) Preliminary fee
For all work preparatory to an application to the court for compensation (including, advice on evidence and any other legal advice on the application, conferences and proofing witnesses) and for the first 5 hours of the hearing of the application Not more than \$750
- (2) Additional fee
For each hour or part of an hour after the first 5 hours of the hearing of the application 1/5 of the preliminary fee actually charged
- (3) Compromise of minor's claim
Subject to subclause (4), for an opinion as to the compromise of a minor's claim for compensation \$500
- (4) Compromise of minor's related claim
For an opinion as to the compromise of a minor's related claim for compensation \$350 for each opinion
- 4—On appeal** \$500

5—Disbursements

- (1) If—
- (a) an application for an order for compensation is made to the court, a legal practitioner may recover all disbursements reasonably incurred under the Act as allowed by certificate of the court;
 - (b) a claim for compensation is settled without an application for an order for compensation being made to the court, a legal practitioner may recover all disbursements reasonably incurred as certified by the Crown Solicitor.
- (2) However—
- (a) a legal practitioner may not recover the cost of obtaining a copy of a hospital record before an application for compensation is made to the court unless the Crown Solicitor has agreed that it is necessary to obtain a copy of the record; and

- (b) a legal practitioner may not recover the cost of obtaining a medical or psychological report (other than a report from the claimant's usual or treating general medical practitioner) before an application for compensation is made to the court unless the Crown Solicitor has agreed that it is necessary to obtain the report; and
 - (c) a legal practitioner may not recover the cost of obtaining a report from more than one expert in the same specialty unless the Crown Solicitor has agreed that it is necessary to obtain the additional report.
- (3) For the purposes of subclause (2)(c), psychiatrists and psychologists will be taken to be experts in the same specialty.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2002	179	<i>Gazette 29.8.2002 p3313</i>	1.9.2002: r 2
2002	230	<i>Gazette 19.12.2002 p4797</i>	19.12.2002: r 2

Provisions varied

New entries appear in bold.

Provision	How varied	Commencement
r 6		
r 6(2)	substituted by 230/2002 r 3	19.12.2002
r 6(3)	inserted by 230/2002 r 3	19.12.2002
Sch	substituted by 230/2002 r 4 (Sch)	19.12.2002

Transitional etc provisions associated with regulations or variations

No 230 of 2002

5—Transitional provision

The prescribed scale of costs that applies in respect of proceedings under the Act is—

- (a) if notice is served under section 7(3) of the Act before the commencement of these regulations, the scale set out in the Schedule of the principal regulations immediately before that commencement; and
- (b) if notice is served under section 7(3) of the Act after the commencement of these regulations, the scale set out in the Schedule of the principal regulations (as substituted by regulation 4).