

South Australia

# Victims of Crime (Transitional) Regulations 2017

under the *Victims of Crime Act 2001*

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### 1—Short title

These regulations may be cited as the *Victims of Crime (Transitional) Regulations 2017*.

### 2—Commencement

These regulations will be taken to have come into operation on 11 August 2016.

### 3—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Criminal Injuries Compensation Act 1978* (as it applies pursuant to Schedule 1 clause 2 of the *Victims of Crime Act 2001*).

**Note—**

The *Criminal Injuries Compensation Act 1978* has been repealed but applies in respect of an injury arising from an offence committed before the commencement of the *Victims of Crime Act 2001* (see Schedule 1 clause 2 of the *Victims of Crime Act 2001*).

### 4—Prescribed particulars

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.

## 5—Legal costs

- (1) Pursuant to section 10 of the Act, the scale of costs set out in Schedule 1 is the prescribed scale.
- (2) For the avoidance of doubt, there is no fee payable in proceedings under the Act except as set out in Schedule 1.

## Schedule 1—Scale of costs

### 1—Interpretation

In this Schedule—

- (a) *CPI* means the Consumer Price Index (All groups index for Adelaide) published by the Australian Bureau of Statistics; and
- (b) if a monetary amount is followed by the word (*indexed*), the amount is 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.

### 2—Solicitor fee

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|-----|---|-------------------|
| (1) | If an application is made to a court                    | \$1 400 (indexed) |
| (2) | If a claim is settled without an application to a court | \$700 (indexed)   |
| (3) | For all work relating to an appeal                      | \$700 (indexed)   |

### 3—Counsel fee

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|-----|--|-------------------|
| (1) | Preliminary fee  |                   |
|     | For all work preparatory to an application to a court (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 | \$1 000 (indexed) |
| (2) | Additional fee   |                   |
|     | For each hour or part of an hour after the first 5 hours of the hearing of the application   | \$200 (indexed)   |
| (3) | For attending at a pre-trial conference (including preparatory work)   | \$250 (indexed)   |

- (4) For all work relating to an appeal \$700 (indexed)

**4—Disbursements**

- (1) If an application is made to a court, a legal practitioner may recover all disbursements reasonably incurred under the Act as allowed by certificate of the court.
- (2) If a claim is settled without an application to a court, a legal practitioner may recover all disbursements reasonably incurred as certified by the Crown Solicitor.

## **Schedule 2—Transitional provision**

### **1—Transitional provision**

These regulations apply in relation to legal costs under section 10 of the *Criminal Injuries Compensation Act 1978* relating to matters finalised after the commencement of these regulations.

## 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](http://www.legislation.sa.gov.au).

### Principal regulations

Year	No	Reference	Commencement
2017	9	<i>Gazette 9.2.2017 p393</i>	11.8.2016: r 2