



New South Wales

Victims Support and Rehabilitation Amendment Bill 2006

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are to implement key recommendations from the report of the statutory review of the *Victims Support and Rehabilitation Act 1996* (**the *Principal Act***) and the *Victims Rights Act 1996*, and to make other reforms to those Acts and the *Crimes (Sentencing Procedure) Act 1999*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the *Victims Support and Rehabilitation Act 1996* set out in Schedules 1 and 3.

Clause 4 is a formal provision that gives effect to the amendments to other Acts set out in Schedule 2.

Clause 5 is a formal provision that gives effect to Schedule 4. Schedule 4 comprises the proposed *Victims Support and Rehabilitation Regulation 2006* that is to have effect as a regulation under the Principal Act (as amended by the proposed Act).

Clause 6 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments to Victims Support and Rehabilitation Act 1996

Statutory compensation for prescribed expenses

Schedule 1 [4] inserts proposed section 14A into the Principal Act. The proposed section provides that the statutory compensation for which a primary victim is eligible includes statutory compensation for prescribed expenses.

Under the proposed section, statutory compensation for prescribed expenses is compensation for actual expenses of such kinds as are prescribed by the regulations and incurred by a primary victim of an act of violence as a direct result of the act of violence. The actual expenses concerned are prescribed by the proposed *Victims Support and Rehabilitation Regulation 2006* set out in Schedule 4. The maximum amount that may be awarded under the proposed section in respect of an act of violence is \$1,500. This amount may be varied by the regulations.

Schedule 1 [7], [11], [14] and [20] provide for amendments to the Principal Act that are consequential on the amendment provided for by Schedule 1 [4].

Schedule 1 [16] inserts proposed section 23 (1A) into the Principal Act. **Schedule 1 [15]** provides for an amendment that is consequential on the amendment to section 23 of the Principal Act that is made by Schedule 1 [16].

Currently, a primary victim of an act of violence can be awarded up to \$50,000 as statutory compensation, comprising (under section 14 of the Principal Act):

- (a) compensation for compensable injuries received by the victim as a direct result of the act of violence, and
- (b) compensation for financial loss incurred by the victim as a direct result of any such compensable injury.

Currently also, under section 23 of the Principal Act, a person is not eligible to receive more than one award of statutory compensation in respect of the same act of violence. Under proposed section 23 (1A), a primary victim is not prevented from being awarded statutory compensation to which section 14 of the Principal Act applies in addition to statutory compensation for prescribed expenses.

However, to prevent double dipping, proposed section 14A provides that statutory compensation for prescribed expenses is not payable to a primary victim who has already been awarded statutory compensation to which section 14 of the Principal Act applies. Further, under the amendment to section 14 provided for by **Schedule 1 [3]**, statutory compensation to which that section applies is not payable for financial loss to the extent that statutory compensation for prescribed expenses has been awarded for that loss.

Under section 26 of the Principal Act, an application for statutory compensation must be lodged within 2 years after the relevant act of violence unless leave is given for the acceptance of the application after that period.

Schedule 1 [18] inserts proposed section 26 (2A) into the Principal Act. The proposed subsection provides that leave may not be given for the acceptance of an application for statutory compensation lodged out of time if the application is for statutory compensation for prescribed expenses.

Under section 20 of the Principal Act, no statutory compensation may be awarded to a victim unless the total amount of compensation payable to the victim, as compensation for compensable injuries, is at least \$7,500. A primary victim of an act of violence who is not entitled to statutory compensation to which section 14 applies because of the application of section 20 may, however, be awarded statutory compensation for prescribed expenses.

Schedule 1 [19] inserts proposed section 29 (1AA) into the Principal Act. The proposed subsection deals with a case in which an applicant for statutory compensation has applied for statutory compensation to which section 14 applies and is not eligible to receive that kind of compensation (solely because of the operation of section 20), but is eligible to receive statutory compensation for prescribed expenses. In such a case, the compensation assessor may determine the application as an application for statutory compensation for prescribed expenses.

Schedule 1 [31] inserts proposed section 35 (8) and (9) into the Principal Act. Under proposed section 35 (8), an applicant for statutory compensation for prescribed expenses is not generally entitled to receive costs in respect of the application. However, in the case of an application that has been determined as an application for statutory compensation for prescribed expenses because of the application of proposed section 29 (1AA) (as inserted by Schedule 1 [19]), the applicant may be awarded his or her costs if the Tribunal or compensation assessor concerned is of the opinion that the special circumstances of the case justify such an award being made.

Schedule 1 [33] inserts proposed section 35A into the Principal Act. The proposed section enables the Director, on the application of an applicant for statutory compensation for prescribed expenses, to correct any miscalculation in the amount of an award of that kind of compensation. The proposed section enables an application for the correction of such a miscalculation to be made within 28 days after the relevant notice of determination was duly served.

Schedule 1 [32] provides for an amendment that is consequential on the amendment provided for by Schedule 1 [33].

Schedule 1 [34] inserts proposed section 36 (1A) into the Principal Act. The proposed subsection prevents an applicant for statutory compensation for prescribed expenses from appealing to the Tribunal for the correction of a miscalculation in the amount awarded as statutory compensation for prescribed expenses.

Schedule 1 [37] inserts proposed section 42 (1A) into the Principal Act. The proposed subsection requires the Director, Victims Services, after an award of statutory compensation for prescribed expenses is made, to forward to the Compensation Fund Corporation a copy of the relevant notice of determination. Under section 42 (2) of the Principal Act (as amended by **Schedule 1 [38]**), on receiving the notice, the Compensation Fund Corporation is required to pay the relevant amount of the award to the person to whom the award is payable.

Schedule 1 [35] and [36] provide for amendments that are consequential on the amendments provided for by Schedule 1 [37] and [38].

Schedule 1 [49] inserts a definition of *statutory compensation for prescribed expenses* in the Dictionary at the end of the Principal Act.

Other amendments

Schedule 1 [1] inserts proposed section 5 (1A) into the Principal Act. The proposed subsection clarifies that the reference to an offence in the definition of *act of violence* in section 5 of the Principal Act extends to conduct of a person that would constitute an offence were it not for the fact that the person cannot be held criminally responsible for the conduct because of the person's age or mental illness or impairment.

Schedule 1 [2] amends the definition of *member of the immediate family* of a primary victim in section 9 of the Principal Act to include half-brothers and half-sisters of the primary victim. This amendment will enable half-brothers and half-sisters of primary victims to be awarded statutory compensation as family victims.

Schedule 1 [5] inserts proposed section 18 (3A) into the Principal Act. The proposed subsection enables the rules made under the Principal Act to limit the amount of any compensation for the cost of counselling services.

Under section 20 of the Principal Act, statutory compensation is not payable to a victim unless the total amount of compensation payable to the victim, as compensation for compensable injuries, is at least a threshold amount, currently fixed as \$7,500 by proclamation. **Schedule 1 [8]** amends this section, inserting the threshold amount of \$7,500 into section 20 (1) (a). **Schedule 1 [9]** amends section 20 (1) (b) to enable the regulations to prescribe the threshold amount.

Schedule 1 [10] provides for an amendment that is consequential on the amendment provided for by Schedule 1 [9].

Schedule 1 [12] inserts proposed section 20 (3A) into the Principal Act. Generally, under section 17 of the Principal Act, the amount of compensation payable as compensation for compensable injuries is the standard amount calculated in accordance with the schedule of compensable injuries set out in Schedule 1 to the Principal Act. The effect of proposed section 20 (3A) is that if the standard amount of this compensation is reduced under certain provisions of the Act, it is the reduced amount that applies in determining whether or not the compensation is at least the threshold amount required for statutory compensation to be payable.

Schedule 1 [13] inserts proposed section 21 (3A) into the Principal Act. Section 21 of the Principal Act enables payments to be made for approved counselling services for victims of acts of violence. The proposed subsection enables an initial 2 hours of counselling to be provided to an applicant under the section if a compensation assessor is satisfied that counselling may assist in establishing whether or not the applicant is a victim.

Schedule 1 [17] provides for an amendment by way of statute law revision.

Schedule 1 [21] inserts proposed section 30 (1) (b1) into the Principal Act to require a compensation assessor in determining an application for statutory compensation to have regard to whether the act of violence concerned was reported to a relevant health professional or practitioner, or a relevant agency.

Among the matters that a compensation assessor must have regard to in determining an application for statutory compensation is whether the victim failed to take reasonable steps to mitigate the extent of the victim's injury, such as seeking appropriate medical advice or treatment, or undertaking counselling, as soon as practicable after the act of violence was committed. **Schedule 1 [22]** inserts proposed section 30 (2A) into the Principal Act to require that, in determining whether the victim failed to take such steps in cases of acts of violence involving sexual assault or domestic violence, the compensation assessor must have regard to the nature of the relationship between the victim and the person by whom the act of violence is alleged to have been committed.

Under Division 8 of Part 2 of the Principal Act, the amount of an award of compensation made in respect of an act of violence can be recovered from the offender concerned by way of restitution orders.

Schedule 1 [23] inserts proposed section 30 (4A) into the Principal Act. The proposed subsection enables a compensation assessor to postpone the determination of a person's application for statutory compensation pending the determination of another application for statutory compensation if the person has been convicted of an offence related to the act of violence the subject of the other application. If the other application is determined by the making of an award of statutory compensation, an order for restitution could be made against the person under Division 8 of Part 2 of the Principal Act in respect of the act of violence.

Currently, section 31 of the Principal Act enables the amount of an award for statutory compensation to a person to be reduced by the amount of a determination for restitution proposed to be made against the person as a means of giving effect to the proposed determination. **Schedule 1 [24]–[26]** provide for amendments to section 31 of the Principal Act that enable an award for statutory compensation to be reduced as a means of giving effect to a determination for restitution that has already been made against the person.

Schedule 1 [27] inserts section 33 (5) into the Principal Act. The proposed subsection ensures that an interim award for funeral expenses can be made only to the extent that those expenses are reasonable.

Schedule 1 [28] inserts proposed section 33A (1) into the Principal Act. Currently, section 33A enables a person who is not a family victim to be reimbursed for expenses relating to the funeral of a primary victim, but only if there is at least one family victim of the act of violence concerned who is eligible for statutory compensation. The proposed subsection enables the person to be reimbursed for the funeral expenses whether or not there is a family victim who is eligible for statutory compensation.

Schedule 1 [29], [30], [39] and [40] provide for amendments by way of statute law revision.

Schedule 1 [42] inserts clause 7A (3) into Schedule 1 to the Principal Act. Clause 7A describes the scope of the compensable injury of domestic violence. The proposed subclause inserts a new definition of *domestic violence offence* for the purposes of the clause.

Schedule 1 [41] is consequential on the amendment provided for by Schedule 1 [42].

Schedule 1 [43] provides for an amendment by way of statute law revision

Schedule 1 [44] and [46] enact savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 1 [45] enacts a savings and transitional provision to enable the scheme of approved counselling services provided for in section 21 of the Principal Act to be extended to a victim of an act of violence in respect of which an application for compensation has been made and dealt with under the *Victims Compensation Act 1987*.

Schedule 1 [47] amends the definition of *injury* in the Dictionary at the end of the Principal Act to cover psychological or psychiatric harm.

Schedule 1 [48] amends paragraph (g) of the definition of *sexual assault and domestic violence* in the Dictionary at the end of the Principal Act to refer to acts resulting in injury occurring in the commission of personal violence offences (within the meaning of the *Crimes Act 1900*) against specified persons.

Schedule 2 Amendment of other Acts

Schedule 2.1 amends the *Crimes (Sentencing Procedure) Act 1999* to expand the range of persons who may give victims impact statements under Division 2 of Part 3 of that Act.

Schedule 2.2 amends the *Victims Rights Act 1996*. In particular:

- (a) **Schedule 2.2 [1]** amends sections 5 and 6 of that Act to replace references to mental illness or nervous shock with references to psychological or psychiatric harm, and
- (b) **Schedule 2.2 [2]** amends the Charter of Rights appearing in section 6 of that Act to provide that a victim should be treated with cultural sensitivity.

Schedule 3 Amendments to Victims Support and Rehabilitation Act 1996 consequential on commencement of Part 15A of Crimes Act 1900

This Schedule contains amendments consequential on the amendment of the *Crimes Act 1900* by the *Crimes Amendment (Apprehended Violence) Act 2006*.

Schedule 4 Victims Support and Rehabilitation Regulation 2006

This Schedule contains the proposed *Victims Support and Rehabilitation Regulation 2006*. The proposed Regulation prescribes the kinds of actual expenses for which a primary victim can be compensated in an award of statutory compensation for prescribed expenses.



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New South Wales

Victims Support and Rehabilitation Amendment Bill 2006

No. , 2006

A Bill for

An Act to amend the *Victims Support and Rehabilitation Act 1996* with respect to assistance and compensation for victims of violence; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Victims Support and Rehabilitation Amendment Act 2006</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
3 Amendment of Victims Support and Rehabilitation Act 1996 No 115	7
The <i>Victims Support and Rehabilitation Act 1996</i> is amended as set out in Schedules 1 and 3.	8 9
4 Amendment of other Acts	10
The Acts specified in Schedule 2 are amended as set out in that Schedule.	11 12
5 Victims Support and Rehabilitation Regulation 2006	13
(1) Schedule 4 is taken to be and has effect as a regulation made under the <i>Victims Support and Rehabilitation Act 1996</i> .	14 15
(2) Part 2 of the <i>Subordinate Legislation Act 1989</i> does not apply to the regulation set out in Schedule 4.	16 17
(3) For the purposes of section 10 of the <i>Subordinate Legislation Act 1989</i> , the regulation set out in Schedule 4 is taken to have been published on the date of assent to this Act.	18 19 20
(4) Sections 39, 40 and 41 of the <i>Interpretation Act 1987</i> do not apply to the regulation set out in Schedule 4.	21 22
6 Repeal of Act	23
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	24 25
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	26 27

Schedule 1	Amendments to Victims Support and Rehabilitation Act 1996	1
		2
	(Section 3)	3
[1]	Section 5 Act of violence	4
	Insert after section 5 (1):	5
	(1A) For the avoidance of doubt, the reference to an offence in subsection (1) (a) extends to conduct of a person that would constitute an offence were it not for the fact that the person cannot, or might not, be held to be criminally responsible for the conduct because of the person’s age or mental illness or impairment.	6 7 8 9 10 11
[2]	Section 9 Who is a family victim?	12
	Insert “half-brother, half-sister,” after “sister,” in section 9 (3) (e).	13
[3]	Section 14 Compensation payable to primary victims other than for prescribed expenses	14 15
	Insert after section 14 (2):	16
	(3) This section does not apply to statutory compensation for prescribed expenses and statutory compensation under this section is not payable for financial loss to the extent that statutory compensation for prescribed expenses has been awarded for that loss.	17 18 19 20 21
[4]	Section 14A	22
	Insert after section 14:	23
14A	Compensation payable to primary victims for prescribed expenses	24
	(1) The statutory compensation for which a primary victim is eligible includes statutory compensation for prescribed expenses.	25 26
	(2) Statutory compensation for prescribed expenses is compensation for actual expenses of such kinds as are prescribed by the regulations and incurred by a primary victim of an act of violence as a direct result of the act of violence.	27 28 29 30
	(3) No statutory compensation is payable to a person under this section unless the total amount payable to the person as statutory compensation for prescribed expenses is at least:	31 32 33
	(a) subject to paragraph (b)—\$200, or	34
	(b) such other amount as is prescribed by the regulations.	35

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Schedule 1 Amendments to Victims Support and Rehabilitation Act 1996

(4)	The regulations may prescribe the maximum amount that may be awarded in respect of a particular kind of actual expense under this section.	1 2 3
(5)	The total amount that may be awarded to a primary victim as statutory compensation for prescribed expenses in respect of an act of violence is not to exceed:	4 5 6
	(a) subject to paragraph (b)—\$1,500, or	7
	(b) such other amount as is prescribed by the regulations.	8
(6)	Statutory compensation for prescribed expenses is not payable to a primary victim who has already been awarded statutory compensation to which section 14 applies in respect of the same act of violence.	9 10 11 12
(7)	Statutory compensation for prescribed expenses is not payable to a primary victim to the extent that the primary victim has received, or is entitled to receive, payment for that loss under any insurance or agreement or under any other Act or law.	13 14 15 16
(8)	A primary victim who dies ceases to be eligible for statutory compensation for prescribed expenses. Any pending application for compensation made by or on behalf of the primary victim does not survive the death of the primary victim.	17 18 19 20
	Note. If a primary victim dies as the direct result of an act of violence, a member of the victim's family may become eligible under Division 1 of this Part for statutory compensation.	21 22 23
(9)	For the purposes of this section, expenses incurred by a primary victim of an act of violence for the provision of security measures in response to the act of violence are taken to be expenses incurred by the primary victim as a direct result of the act of violence.	24 25 26 27 28
[5]	Section 18 Compensation for financial loss	29
	Insert after section 18 (3):	30
(3A)	The rules may make provision limiting the amount that may be awarded as compensation for the cost of counselling services (for example, by reference to a maximum hourly rate for counselling services and the maximum amount payable). Compensation for counselling services is to be calculated in accordance with any such provisions of the rules.	31 32 33 34 35 36

[6] Section 18 (6)	1
Insert after section 18 (5):	2
(6) This section does not apply to statutory compensation for prescribed expenses.	3 4
[7] Section 19A Deduction from certain awards	5
Insert “or statutory compensation for prescribed expenses” after “victims” in section 19A (3).	6 7
[8] Section 20 Threshold amount of compensation	8
Omit “\$2,400” from section 20 (1) (a). Insert instead “\$7,500”.	9
[9] Section 20 (1) (b)	10
Omit “fixed by proclamation”. Insert instead “prescribed by the regulations”.	11
[10] Section 20 (2)	12
Omit the subsection.	13
[11] Section 20 (3)	14
Insert “or statutory compensation for prescribed expenses” after “victims”.	15
[12] Section 20 (3A)	16
Insert after section 20 (3):	17
(3A) For the purposes of this section:	18
(a) the total amount of compensation payable to a person as compensation for compensable injuries is the total amount arrived at after any reduction in that compensation to be made under section 19, 30 or 31 or the schedule of compensable injuries, and	19 20 21 22 23
(b) no other reduction in that compensation made under this Act is to be taken into account in determining the total amount of that compensation.	24 25 26
[13] Section 21 Special payments for approved counselling services	27
Insert after section 21 (3):	28
(3A) Subject to the rules, a person may be considered to be a victim for the purposes of payments for approved counselling services for an initial period of 2 hours if a compensation assessor is satisfied that counselling may assist in establishing whether or not the person is a victim.	29 30 31 32 33

[14] Section 22 Secondary or family victims	1
Insert “to which section 14 applies” after “compensation” where secondly occurring in section 22 (1).	2 3
[15] Section 23 Eligibility to receive compensation in respect of same act of violence	4 5
Insert “(except as provided by subsection (1A))” after “violence” in section 23 (1).	6 7
[16] Section 23 (1A)	8
Insert after section 23 (1):	9
(1A) This section does not prevent a person from receiving an award of statutory compensation to which section 14 applies in addition to an award of statutory compensation for prescribed expenses in respect of the same act of violence.	10 11 12 13
Note. However, section 14 (3) prevents a person from being granted compensation for financial loss to the extent that statutory compensation for prescribed expenses has been awarded for that loss. Further, under section 14A (6), statutory compensation for prescribed expenses is not payable to a person to the extent that the person has been awarded statutory compensation to which section 14 applies in respect of the same act of violence.	14 15 16 17 18 19 20
[17] Section 25 Lodging of applications	21
Omit “Clerk” wherever occurring in section 25 (3). Insert instead “registrar”.	22
[18] Section 26 Time for lodging applications	23
Insert after section 26 (2):	24
(2A) However, leave may not be given for the acceptance of an application lodged out of time if the application is for statutory compensation for prescribed expenses.	25 26 27
[19] Section 29 Determination of applications	28
Insert after section 29 (1):	29
(1AA) If the application is for statutory compensation to which section 14 applies and the compensation assessor is satisfied that the applicant is not eligible to receive that kind of statutory compensation (solely because of the operation of section 20), but is eligible to receive statutory compensation for prescribed expenses, the compensation assessor may, with the consent of the applicant, determine the application as if it were an application for statutory compensation for prescribed expenses.	30 31 32 33 34 35 36 37

[20]	Section 29 (5) (a)	1
	Insert “(or compensation for prescribed expenses)” after “financial loss”.	2
[21]	Section 30 Reasons for not making award or for reducing amount of compensation payable	3
	Insert after section 30 (1) (b):	4
	(b1) whether the act of violence was reported to a relevant health professional or practitioner, or a relevant agency,	5
		6
		7
[22]	Section 30 (2A)	8
	Insert after section 30 (2):	9
	(2A) In determining the matter referred to in subsection (1) (d1) in the case of an act of violence involving sexual assault or domestic violence, the compensation assessor must have regard to the nature of the relationship between the victim and the person or persons by whom the act of violence is alleged to have been committed.	10
		11
		12
		13
		14
		15
[23]	Section 30 (4A)	16
	Insert after section 30 (4):	17
	(4A) The compensation assessor may postpone the determination of a person’s application for statutory compensation pending the determination of another application for statutory compensation if the person has been convicted of an offence that is a <i>relevant offence</i> under section 46 in relation to that other application.	18
		19
		20
		21
		22
[24]	Section 31 Determination for restitution may be set off against award of compensation	23
	Insert “has been made or” after “Division 8 that” in section 31 (1).	24
		25
[25]	Section 31 (1)	26
	Insert “determination for restitution or” before “proposed determination”.	27
		28
[26]	Section 31 (2)	28
	Omit the subsection. Insert instead:	29
	(2) On the reduction under this section of the amount of an award made to a person, the person is taken to have paid the amount of the determination or proposed determination for restitution to the extent of the reduction.	30
		31
		32
		33

[27] Section 33 Interim awards of compensation	1
Insert after section 33 (4):	2
(5) An interim award of statutory compensation for funeral expenses referred to in subsection (1) (b) may only be made to the extent that the expenses are reasonable.	3 4 5
[28] Section 33A Reimbursement of persons who incur funeral expenses	6
Omit section 33A (1). Insert instead:	7
(1) This section applies if expenses relating to the funeral of a primary victim of an act of violence have been incurred by a person who is not eligible for statutory compensation as a family victim.	8 9 10 11
[29] Section 34 Compensation may be awarded subject to conditions	12
Insert “, other than a family victim,” after “award is made” in section 34 (1A) (a).	13 14
[30] Section 34 (1A) (b)	15
Insert “(other than a family victim)” after “award is made”.	16
[31] Section 35 Costs of applications for compensation and proceedings before Tribunal	17 18
Insert after section 35 (7):	19
(8) This section does not apply in relation to an application for statutory compensation for prescribed expenses except in a case where the application has been determined as an application for statutory compensation for prescribed expenses because of the operation of section 29 (1AA).	20 21 22 23 24
(9) In any such case, the Tribunal or a compensation assessor may award an applicant his or her costs in respect of the application, and in such amounts as the Tribunal or assessor thinks fit, if the Tribunal or assessor is of the opinion that the special circumstances of the case justify such an award being made.	25 26 27 28 29
[32] Part 2, Division 6, heading	30
Omit the heading. Insert instead:	31
Division 6 Reviews by Director and appeals and references to Tribunal and District Court	32 33

[33] Section 35A	1
Insert before section 36:	2
35A Review of amount awarded as statutory compensation for prescribed expenses	3
(1) An applicant for statutory compensation for prescribed expenses may apply to the Director for the correction of a miscalculation in the amount awarded by a compensation assessor as statutory compensation for prescribed expenses.	5
(2) An application to the Director under this section must be made within 28 days after the day on which the relevant notice of the determination of the compensation assessor was duly served.	9
(3) Any such application must be in the form required by the rules and must be lodged with the Director.	12
(4) The Director may determine the application by:	14
(a) affirming the amount awarded by the compensation assessor, or	15
(b) varying the award by correcting any miscalculation in the amount of the award.	17
(5) Written notice is to be given to an applicant under this section of the determination of the Director.	19
[34] Section 36 Appeal to Tribunal by applicant	21
Insert after section 36 (1):	22
(1A) The applicant may not appeal to the Tribunal for the correction of a miscalculation in the amount awarded as statutory compensation for prescribed expenses.	23
Note. An applicant may apply to the Director under section 35A for the correction of such a miscalculation.	26
[35] Section 42 Compensation Fund Corporation to pay compensation	28
Insert “(other than statutory compensation for prescribed expenses)” after “statutory compensation” in section 42 (1).	29
[36] Section 42 (1)	31
Insert “(including costs awarded in respect of an application for statutory compensation for prescribed expenses)” after “costs”.	32
	33

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Schedule 1 Amendments to Victims Support and Rehabilitation Act 1996

[37] Section 42 (1A)	1
Insert after section 42 (1):	2
(1A) After an award of statutory compensation for prescribed expenses is made, the Director is required to forward to the Compensation Fund Corporation a copy of the notice under section 29 of the determination concerned.	3 4 5 6
[38] Section 42 (2)	7
Omit “such an application”.	8
Insert instead “the application or notice (as the case may be)”.	9
[39] Sections 74, 75 (1)–(3) and 77F (1)–(3)	10
Omit “or clerk” wherever occurring.	11
[40] Sections 75 (3) and 77F (3)	12
Omit “office or” wherever occurring.	13
[41] Schedule 1 Compensable injuries	14
Omit clause 7A (1) (a). Insert instead:	15
(a) injury resulting from an act that occurred in the commission of a domestic violence offence,	16 17
[42] Schedule 1, clause 7A	18
Insert after clause 7A (2):	19
(3) In this clause:	20
<i>domestic violence offence</i> means a personal violence offence (within the meaning of the <i>Crimes Act 1900</i>) against any of the following persons:	21 22 23
(a) a person who is or has been married to the person who committed the offence,	24 25
(b) a person who has or has had a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person who committed the offence,	26 27 28
(c) a person who has or has had an intimate personal relationship with the person who committed the offence, whether or not the intimate relationship involves or has involved a relationship of a sexual nature,	29 30 31 32
(d) a person who, at the time of the offence, was living in the same household as the person who committed the offence,	33 34

<p>(e) a person who, at the time of the offence, was living as a long-term resident in the same residential facility as the other person (not being a facility that is a correctional centre within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i> or a detention centre within the meaning of the <i>Children (Detention Centres) Act 1987</i>,</p> <p>(f) a person who, at the time of the offence, had a relationship involving his or her dependence on the ongoing paid or unpaid care of the person who committed the offence,</p> <p>(g) a person who is or has been a parent, guardian or step-parent of the person who committed the offence,</p> <p>(h) a person who is or has been a child or step-child of the person who committed the offence, or some other child of whom the person is the guardian,</p> <p>(i) a person who is or has been a brother, sister, half-brother, half-sister, step-brother or step-sister of the person who committed the offence.</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17</p>
<p>[43] Schedule 1, table</p> <p>Omit “first” from column 1 of the matter relating to “Burns”.</p> <p>Insert instead “third”.</p>	<p>18 19 20</p>
<p>[44] Schedule 3 Savings, transitional and other provisions</p> <p>Insert at the end of clause 1 (1):</p> <p style="padding-left: 40px;"><i>Victims Support and Rehabilitation Amendment Act 2006</i></p>	<p>21 22 23</p>
<p>[45] Schedule 3, Part 2, clause 4A</p> <p>Insert after clause 4 of Schedule 3:</p> <p>4A Application of approved counselling scheme to previous acts of violence</p> <p>Despite clause 4, section 21 extends to a victim of an act of violence (including a victim within the meaning of that section) in respect of which an application for compensation has been made and dealt with under the repealed Act.</p>	<p>24 25 26 27 28 29 30 31</p>

[46] Schedule 3, Part 6	1
Insert after Part 5 of Schedule 3:	2
Part 6 Provisions consequent on enactment of Victims Support and Rehabilitation Amendment Act 2006	3 4 5
21 Definition	6
In this Part:	7
<i>amending Act</i> means the <i>Victims Support and Rehabilitation Amendment Act 2006</i> .	8 9
22 General	10
Except as otherwise provided by this Part, an application for statutory compensation lodged under this Act, but not finally determined, before the commencement of a provision of the amending Act is to continue to be dealt with in accordance with the Act as in force immediately before the commencement of the provision.	11 12 13 14 15 16
23 Acts of violence	17
The amendment made to section 5 by the amending Act extends to an act of violence that occurs before the commencement of the amendment.	18 19 20
24 Statutory compensation for prescribed expenses	21
A primary victim of an act of violence is eligible to receive statutory compensation for prescribed expenses in respect of an act of violence only if the act of violence occurs after the commencement of section 14A (as inserted by the amending Act).	22 23 24 25 26
25 Threshold amount of compensation	27
Section 20 (3A), as inserted by the amending Act, extends to the determination of whether or not statutory compensation is payable in relation to an application for statutory compensation that is lodged, but not finally determined, before the commencement of that subsection.	28 29 30 31 32

26	Application of certain amendments to domestic violence or sexual assault	1 2
(1)	Section 30 (1) (b1) and (2A), as inserted by the amending Act, extend to the determination of an application for statutory compensation lodged, but not finally determined, before the commencement of those provisions, where the act of violence concerned involves domestic violence or sexual assault.	3 4 5 6 7
(2)	The definition of <i>injury</i> , appearing in the Dictionary at the end of this Act, as amended by the amending Act, extends to an injury resulting from an act of violence the subject of an application for statutory compensation lodged, but not finally determined, before the commencement of the amendment, where the act of violence involves domestic violence or sexual assault.	8 9 10 11 12 13
27	Postponement of determination of award pending possible determination for restitution	14 15
	Section 30 (4A), as inserted by the amending Act, extends to an application for statutory compensation lodged, but not finally determined, before the commencement of that subsection.	16 17 18
28	Determination for restitution as set off against award of compensation	19 20
	Section 31, as amended by the amending Act, extends to an application for statutory compensation lodged, but not finally determined, before the commencement of those amendments.	21 22 23
29	Reimbursement of persons who incur funeral expenses	24
	Section 33A, as amended by the amending Act, applies only if the primary victim concerned died as a direct result of an act of violence occurring after the commencement of section 14A (as inserted by the amending Act).	25 26 27 28
[47]	Dictionary	29
	Omit “disorder” from paragraph (b) of the definition of <i>injury</i> .	30
	Insert instead “harm”.	31

[48] Dictionary, definition of “sexual assault and domestic violence”	1
Omit paragraph (g) of the definition. Insert instead:	2
(g) any other act resulting in injury that occurred in the	3
commission of a personal violence offence (within the	4
meaning of the <i>Crimes Act 1900</i>) against any of the	5
following persons:	6
(i) a person who is or has been married to the person	7
who committed the offence,	8
(ii) a person who has or has had a de facto relationship	9
(within the meaning of the <i>Property (Relationships)</i>	10
<i>Act 1984</i>) with the person who committed the	11
offence,	12
(iii) a person who has or has had an intimate personal	13
relationship with the person who committed the	14
offence, whether or not the intimate relationship	15
involves or has involved a relationship of a sexual	16
nature,	17
(iv) a person who, at the time of the offence, was living	18
in the same household as the person who committed	19
the offence,	20
(v) a person who, at the time of the offence, was living	21
as a long-term resident in the same residential	22
facility as the other person (not being a facility that	23
is a correctional centre within the meaning of the	24
<i>Crimes (Administration of Sentences) Act 1999</i> or a	25
detention centre within the meaning of the <i>Children</i>	26
<i>(Detention Centres) Act 1987</i>),	27
(vi) a person who, at the time of the offence, had a	28
relationship involving his or her dependence on the	29
ongoing paid or unpaid care of the person who	30
committed the offence,	31
(vii) a person who is or has been a parent, guardian or	32
step-parent of the person who committed the	33
offence,	34
(viii) a person who is or has been a child or step-child of	35
the person who committed the offence, or some	36
other child of whom the person is the guardian,	37
(ix) a person who is or has been a brother, sister,	38
half-brother, half-sister, step-brother or step-sister	39
of the person who committed the offence.	40

[49] Dictionary

Insert in alphabetical order:

statutory compensation for prescribed expenses—see section 14A.

1
2
3
4

Schedule 2	Amendment of other Acts	1
	(Section 4)	2
2.1	Crimes (Sentencing Procedure) Act 1999 No 92	3
[1]	Section 26 Definitions	4
	Insert after paragraph (b) of the definition of <i>member of the primary victim's immediate family</i> :	5
	(b1) a person to whom the victim is engaged to be married, or	6
		7
[2]	Section 26, definition of "member of the primary victim's immediate family"	8
	Insert "grandparent," after "parent," in paragraph (c) of the definition.	9
		10
[3]	Section 26, definition of "member of the primary victim's immediate family"	11
	Insert ", grandchild" after "a child" in paragraph (d) of the definition.	12
		13
[4]	Section 26, definition of "member of the primary victim's immediate family"	14
	Insert "half-brother, half-sister," after "sister," in paragraph (e) of the definition.	15
		16
		17
2.2	Victims Rights Act 1996 No 114	18
[1]	Sections 5 and 6	19
	Omit ", mental illness or nervous shock" wherever occurring.	20
	Insert instead "or psychological or psychiatric harm".	21
[2]	Section 6 Charter of rights for victims of crime	22
	Insert "cultural sensitivity" after "compassion," in item 6.1.	23

Schedule 3	Amendments to Victims Support and Rehabilitation Act 1996 consequential on commencement of Part 15A of Crimes Act 1900	1
		2
		3
		4
	(Section 3)	5
[1] Schedule 1 Compensable injuries		6
	Insert “Part 15A of” before “the <i>Crimes Act 1900</i> ” in clause 7A (3).	7
[2] Dictionary		8
	Insert “Part 15A of” before “the <i>Crimes Act 1900</i> ” in paragraph (g) of the definition of <i>sexual assault and domestic violence</i> .	9
		10

Schedule 4	Victims Support and Rehabilitation Regulation 2006	1
		2
	(Section 5)	3
1	Name of Regulation	4
	This Regulation is the <i>Victims Support and Rehabilitation Regulation 2006</i> .	5 6
2	Commencement	7
	This Regulation commences on the commencement of section 5 of the <i>Victims Support and Rehabilitation Amendment Act 2006</i> .	8 9
3	Definition	10
(1)	In this Regulation:	11
	<i>the Act</i> means the <i>Victims Support and Rehabilitation Act 1996</i> .	12
(2)	Notes included in this Regulation do not form part of this Regulation.	13
4	Statutory compensation for prescribed expenses	14
(1)	For the purposes of section 14A (2) of the Act, the kinds of actual expenses that may be paid to a primary victim of an act of violence as statutory compensation for prescribed expenses are expenses incurred for any of the following:	15 16 17 18
(a)	the provision of ambulance services,	19
(b)	the provision of dental services,	20
(c)	the provision of physiotherapy services,	21
(d)	the replacement or repair of prescription glasses or prescription contact lenses,	22 23
(e)	the provision of domestic assistance, such as personal care and home help, to the primary victim during the victim's recovery from the act of violence,	24 25 26
(f)	the cleaning of any property (other than clothing or other wearable items),	27 28
(g)	the provision of security measures.	29

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- (2) For the purposes of section 14A (4) of the Act, the maximum amount that may be awarded in respect of each of the expenses referred to in subclause (1) (e)–(g) is \$500. 1
2
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