

TASMANIA

**VICTIMS OF CRIME ASSISTANCE
REGULATIONS 2021**

STATUTORY RULES 2021, No. 116

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VICTIMS OF CRIME ASSISTANCE REGULATIONS 2021

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Victims of Crime Assistance Act 1976*.

Dated 13 December 2021.

B. BAKER
Governor

By Her Excellency's Command,

ELISE ARCHER
Minister for Justice

1. Short title

These regulations may be cited as the *Victims of Crime Assistance Regulations 2021*.

2. Commencement

These regulations take effect on
15 December 2021.

3. Interpretation

In these regulations –

Act means the *Victims of Crime Assistance Act 1976*;

VAU means the Victim Assistance Unit in the Department.

4. Maximum award of compensation

(1) In this regulation –

CPI figure for Hobart means the Consumer Price Index (All Groups) Number for Hobart published by the Australian Statistician under the authority of the *Census and Statistics Act 1905* of the Commonwealth;

percentage change, in relation to a financial year, means the percentage change between –

- (a) the average of the CPI figures for Hobart in respect of the 4 quarters ending on 31 December immediately preceding the financial year; and
- (b) the average of the CPI figures for Hobart in respect of the 4 quarters ending on 31 December immediately preceding the 4 quarters referred to in paragraph (a);

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subsequent financial year means a financial year after the financial year that ends on 30 June 2022.

- (2) For the purposes of section 6A(1) of the Act –
- (a) the prescribed maximum for the financial year ending on 30 June 2022 is –
 - (i) \$30 000 for a primary victim where there is a single offence; and
 - (ii) \$50 000 for a primary victim where there is more than one offence; and
 - (iii) \$20 000 for a secondary victim; and
 - (iv) \$10 000 for a related victim; and
 - (b) the prescribed maximum for a class of victims in a subsequent year is –
 - (i) the amount calculated by increasing the prescribed maximum for that class of victims for the immediately preceding financial year by the percentage change for the subsequent financial year; or
 - (ii) if a prescribed maximum calculated under subparagraph (i) for a financial year is less than the prescribed maximum for the

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immediately preceding financial year, the prescribed maximum for the immediately preceding financial year.

- (3) For the purpose of section 6A(1A) of the Act, the prescribed maximum is –
- (a) for the financial year ending on 30 June 2022, \$10 000; and
 - (b) for a subsequent financial year –
 - (i) the amount calculated by increasing the prescribed maximum for the immediately preceding financial year by the percentage change for the subsequent financial year; or
 - (ii) if a prescribed maximum calculated under subparagraph (i) for a financial year is less than the prescribed maximum for the immediately preceding financial year, the prescribed maximum for the immediately preceding financial year.
- (4) A prescribed maximum, as set or calculated by this regulation, is to be published on a website, accessible to the general public, that is maintained by, or on behalf of, the Department while the prescribed maximum is in force.

5. Application for award

- (1) An application for an award is to be made to a Commissioner by lodging it with the VAU and including the following particulars:
- (a) the applicant's full name, address and date of birth;
 - (b) a statement as to whether the application is for an interim or final award;
 - (c) details of the criminal conduct giving rise to the application, including –
 - (i) the date of the offence; and
 - (ii) the nature of the offence; and
 - (iii) details of the offence; and
 - (iv) the name of the offender, if known;
 - (d) a statement as to whether the application arises from –
 - (i) a single offence; or
 - (ii) a series of offences committed by the same offender; or
 - (iii) a series of offences committed simultaneously or consecutively by multiple offenders acting in concert;

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- (e) details of any criminal proceedings taken against the offender, including –
 - (i) whether the offender was charged; and
 - (ii) whether those proceedings have been completed; and
 - (iii) the outcome of those proceedings; and
 - (iv) details of any penalty imposed on the offender;
- (f) details of any claim for damages made against the offender by the applicant, including –
 - (i) whether a claim for damages has been made against the offender and, if so, the current status or result of that claim; and
 - (ii) whether a claim for compensation was made in any criminal proceedings taken against the offender and, if so, the current status or result of that claim;
- (g) details of the injuries suffered which form the basis of the application, including –
 - (i) physical injuries; and
 - (ii) psychiatric or psychological injuries; and

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- (iii) the impact of these injuries on the applicant, including details of any pain and suffering;
- (h) details of expenses incurred by the applicant, or by another person on the applicant's behalf, as a result of any relevant injury, including –
 - (i) details of any medical, pharmaceutical, counselling or other treatment expenses not recoverable; and
 - (ii) the cost of purchase and installation of any therapeutic devices; and
 - (iii) the cost of travel undertaken for the applicant's medical or other treatment –
 - (A) by the applicant; and
 - (B) if applicable, by a person accompanying the applicant; and
 - (iv) any other costs incurred as a result of the injury;
- (i) details of any loss of income arising from any total or partial incapacity to work arising from a relevant injury to the applicant or to a primary victim for whom the applicant provides care;

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- (j) details of the costs incurred by the applicant, or by another person on the applicant's behalf, in making the application, including –
 - (i) costs of legal representation; and
 - (ii) costs of medical or other reports obtained to support the application; and
 - (iii) any other costs incurred in making the application;
 - (k) a statement as to whether the applicant wishes to have the matter dealt with –
 - (i) as part of a hearing; or
 - (ii) as part of a hearing in respect of a matter other than the amount of the award; or
 - (iii) on the basis of the materials lodged with the application and without a hearing.
- (2) If an application for an award is made by a person for funeral expenses for a primary victim, the application is also to include details of the funeral expenses that the person actually and reasonably incurred, or is reasonably likely to incur, in relation to the death of the primary victim.
- (3) If an application for an award is made by an applicant on behalf of another person, the

application is also to include the following information:

- (a) the full name, address and date of birth of the person on behalf of whom the application is made (the *claimant*);
 - (b) the relationship of the applicant to the claimant;
 - (c) the reason the application is made by the applicant rather than the claimant;
 - (d) if requested by the Commissioner, evidence of the claimant's consent to the applicant making the application on the claimant's behalf.
- (4) If an application for an award is made by a related victim or a secondary victim, the application is also to include the following information about the primary victim of the offence in respect of which the application is made:
- (a) the primary victim's full name, address and date of birth;
 - (b) the relationship of the applicant to the primary victim (if any);
 - (c) details, if known, of any claim for damages made against the offender by the primary victim including the details specified in subregulation (1)(f)(i) and (ii);

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- (d) details, if known, of the injuries suffered by the primary victim including the details specified in subregulation (1)(g)(i), (ii) and (iii).
- (5) If an application for an award is made by a person who suffered injury as a result of witnessing an offence, the application is also to include a statement of the circumstances in which the applicant witnessed the relevant offence.
- (6) If an application for an award is made by an applicant as a result of the death of a person, the application is also to include the following information:
 - (a) the full name and date of birth of the deceased;
 - (b) the relationship of the applicant to the deceased;
 - (c) details of expenses incurred as a result of the death, including –
 - (i) details of any medical, pharmaceutical or other treatment expenses not recoverable; and
 - (ii) details of funeral expenses; and
 - (iii) any costs of travel arising from the death; and
 - (iv) any other costs incurred as a result of the death;

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- (d) if the applicant was a dependant of the deceased, details of any other financial loss suffered by the applicant as a result of the death.
- (7) If an application for an award is made as a result of an injury incurred in the provision of assistance to a police officer, the application is also to include the following information:
 - (a) the name and rank of the police officer to whom assistance was provided;
 - (b) details of the circumstances giving rise to the provision of assistance;
 - (c) details of the assistance provided.
- (8) An application for an award is to be accompanied by a statutory declaration made by the applicant or the person applying on the claimant's behalf.
- (9) The statutory declaration is to –
 - (a) set out the particulars of the application as specified in this regulation; and
 - (b) be in accordance with the form in Schedule 1.
- (10) An applicant for an award may adduce evidence in support of an application by –
 - (a) filing a statutory declaration by any other person; or

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- (b) filing a document, or a copy of a document, relevant to the application, including an invoice, account, medical report or similar document; or
- (c) lodging any exhibit or other thing, other than a document, with the VAU –
 - (i) at the time of lodging the application; or
 - (ii) at any time before the application is determined.

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SCHEDULE 1 – STATUTORY DECLARATION

Regulation 5(9)

STATUTORY DECLARATION

I,, of
....., solemnly and sincerely
declare that the facts and statements set out in
this application are true to the best of my
knowledge and belief. I make this solemn
declaration by virtue of the *Oaths Act 2001*.

Declared at this day of
..... 20....

.....Signature

Before me
Justice of the Peace / Commissioner for
Declarations

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 14 December 2021.

These regulations are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations –

- (a) prescribe the maximum amount of an award of compensation under the *Victims of Crime Assistance Act 1976* and the information to be included in an application for such an award; and
- (b) are made consequentially on the repeal of the *Victims of Crime Assistance Regulations 2010* under section 11 of the *Subordinate Legislation Act 1992*.