



Victims Services

History of Legislation

The Victims Rights and Support Act 2013 & Victims Rights and Support Regulation 2013

On 11 August 2011 the NSW Attorney General announced an independent review was to be undertaken of the Victims Compensation Scheme with a view to delivering faster and more effective financial support to victims of violent crime.

An independent consulting firm, PricewaterhouseCoopers (PwC) were engaged to provide an independent assessment of the Scheme and to report back to the Attorney General their findings. The review highlighted the need for change and an emphasis on strengthening the immediate needs of a victim of violent crime, together with providing proper rehabilitation and continuing support. The report provided also highlighted the (then) unworkable nature of the legislation and the significant fiscal contingent liability that had grown over time under the former Act.

The findings of PwC were accepted by the Attorney General and a number of recommendations were put to Parliament. The recommendations resulted in the enactment of the Victims Rights and Support Act 2013 and similarly titled regulation, both of which came into force on 3 June 2013.

The Act and Regulation emphasise the NSW Government's commitment to providing a tailored package of support to victims of violent crime that is both practical and provides financial support to assist victims in their recovery.

The types of support provided by the Act and Regulation include the following:-

- . Information, referrals and advice: to assist ALL victims of crime in their recovery and to give them guidance through the criminal justice and human services systems, including the provision of crisis support, and;
- . Counselling: Up to 22 hours of counselling can be provided to victims of violent crime where the act of violence occurred in NSW, and;
- . Financial Assistance for Immediate Needs: to assist victims of an act of violence that occurred in NSW to access urgent financial support for their health, safety and wellbeing. The package of support is capped at \$5000 and separately \$8000 for funeral expenses, and;
- . Financial Assistance for Economic Loss: to aid victims in their rehabilitation and recovery who have incurred/suffered economic loss directly associated with the act of

violence. Support is capped at \$30,000 with internal 'sub-caps' of \$20,000 for loss of earnings, \$5000 for justice related expenses, \$5000 for cost of living expenses, \$1500 for expenses associated with damage to personal effects/clothing. There are no sub-cap limits for ongoing health/medical/dental expenses.

- Recognition Payment: serves to acknowledge the trauma suffered by the victim of an act of violence and consists of a moderate lump sum payment based on the nature of the offence suffered by the victim. Recognition payments may be made in the sum of \$15000 for financially dependent immediate family members of a deceased primary victim, \$7500 for the non-financially dependent parent of a deceased primary victim, \$10000 for sexual/indecent/attempted sexual assaults that are a series of related acts, sexual assault resulting in serious bodily injury or where 2 or more persons were involved, or which involved an offensive weapon, \$5000 for sexual assault, attempted sexual assault resulting in serious bodily injury, assault resulting in grievous bodily harm and physical assault of a child that is one of a series of related acts, and \$1500 for indecent assault, attempted sexual assault involving violence, robbery involving violence and an assault not resulting in grievous bodily harm.

Prior History

The concept of criminal injuries compensation is not new. It was given statutory recognition in New South Wales in the *Crimes Act 1900*. Victims could apply to the appropriate court for compensation only where there was a convicted offender and any compensation awarded was recoverable from the property (if any) of the convicted offender.

The *Criminal Injuries Compensation Act 1967* continued the court based scheme in respect of claims where there was a convicted offender but also created an administrative scheme where the offender was unknown or where there was no conviction.

With the commencement of that Act on 1 January 1968 New South Wales became only the fourth common law jurisdiction in the world to introduce a government funded criminal injuries compensation scheme.

Despite the many positive aspects of that scheme, there remained a number of inherent deficiencies. A major re evaluation of the scheme was undertaken resulting in the *Victims Compensation Act 1987*.

That Act which commenced on 15 February 1988 was enacted to increase the benefits available to victims of violent crime and to place the awarding of criminal injuries compensation in the hands of an independent tribunal, the Victims Compensation Tribunal.

The 1987 Act proved to have a number of problems and consequently the *Victims Compensation Act 1996* and the *Victims Rights Act 1996* were enacted in 1996.

The *Victims Rights Act 1996*:

- . established a statutory Charter of Rights for victims of crime,
- . established the Victims of Crime Bureau,
- . established the Victims Advisory Board; and
- . provides for Victims Impact Statements

The *Victims Compensation Act 1996* set up a statutory scheme of compensation with applications for compensation being determined by assessors with an appeal to the Victims Compensation Tribunal. An appeal on a point of law lies from the Tribunal to the District Court. The Act also set up an approved counselling scheme for victims.

That Act was amended in 1998 effective from 15 February and 7 April 1999 increasing the Director's power to recover monies from convicted offenders and altering the table of compensable injuries.

The 1996 Act was further amended in 2000 to increase the threshold for statutory compensation and to limit victims who could apply for certain compensable injuries.