

Authorised Version No. 002
**Victims of Crime (Financial Assistance
Scheme) Act 2022**

No. 21 of 2022

Authorised Version incorporating amendments as at
1 December 2025

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Scheme) Act 2022**

No. 21 of 2022

Authorised Version incorporating amendments as at
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The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The purposes of this Act are—

- (a) to provide a new scheme to assist victims of crime in their recovery from acts of violence; and
- (b) to amend the **Victims of Crime Assistance Act 1996** in relation to the scheme set out in that Act; and
- (c) to amend the **Victims of Crime Commissioner Act 2015** in relation to victims of crime, the functions of the Commissioner and reporting requirements under that Act; and
- (d) to make consequential amendments to other Acts.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 December 2024, it comes into operation on that day.

3 Definitions

(1) In this Act—

act of violence means a criminal act or a series of related criminal acts, committed by one or more persons, that has—

- (a) occurred in Victoria; and
- (b) directly resulted in injury to or the death of one or more persons, regardless of where injury or death occurred;

Note

For circumstances in which a criminal act is related to another criminal act, see section 4.

administration order has the same meaning as in the **Guardianship and Administration Act 2019**;

application means an application for assistance or variation of assistance under this Act;

child abuse has the meaning given in section 3(1) of the **Child Wellbeing and Safety Act 2005**;

close family member, in relation to a deceased primary victim, means a person who—

- (a) at the time of the victim's death, had a genuine personal relationship with the victim and was also—
 - (i) the spouse or domestic partner of the victim; or
 - (ii) a parent, guardian or step-parent of the victim; or
 - (iii) a child or step-child of the victim; or

(iv) a child of whom the victim was the guardian; or

(v) a sibling or step-sibling of the victim; or

(b) is a close family member under subsection (2);

criminal act means an act or omission by a person that—

(a) constitutes a relevant offence; or

(b) would constitute a relevant offence, if the person were not incapable of being criminally responsible for the act or omission due to—

(i) age, mental impairment or any other legal incapacity that prevents the person from having a required fault element of the offence; or

(ii) the existence of any other lawful defence;

dependant, in relation to a deceased primary victim, means—

(a) an individual who—

(i) was wholly or substantially dependent on the victim's income at the time of the victim's death; or

(ii) would have been so dependent if not for the victim's incapacity due to the injury from which the person died; or

(b) a child of the victim, born after the victim's death, who would have been a dependant under paragraph (a) if born before the victim's death;

domestic partner has the same meaning as in the
Family Violence Protection Act 2008;

family violence has the meaning given in
section 5 of the **Family Violence Protection
Act 2008**;

function includes a power, an authority and a
duty;

guardian, in relation to a victim or an applicant
for assistance (except in section 21(3) and
(4)), does not include—

- (a) the Secretary within the meaning of the
**Children, Youth and Families
Act 2005**; or
- (b) a guardian appointed under the
**Guardianship and Administration
Act 2019**;

injury, in relation to an act of violence, means the
following—

- (a) actual physical harm;
- (b) psychological or psychiatric harm;
- (c) exacerbation of a pre-existing injury
constituted by actual physical harm or
psychological or psychiatric harm;
- (d) any combination of matters referred to
in paragraphs (a), (b) and (c) arising
from the act of violence;
- (e) any trauma that is—
 - (i) associated with the act of
violence; and

- (ii) determined by the scheme decision maker to be an injury for the purposes of this Act—

but does not include any of the matters referred to in paragraphs (a) to (e) to the extent that they arise from loss of or damage to property;

Note

For trauma determined to be an injury, see subsection (3).

interim assistance means assistance under section 37;

internal review means a review under section 45;

legal practitioner means an Australian legal practitioner;

legal proceeding has the same meaning as in the **Evidence (Miscellaneous Provisions) Act 1958**;

medical expenses includes dental, optometry, physiotherapy, psychiatric treatment, psychological treatment, hospital and ambulance expenses;

member of staff means a person referred to in section 54(a) or (b);

parent, in relation to a child, means the following—

- (a) a biological parent of the child;
- (b) a step-parent of the child;
- (c) an adoptive parent of the child;
- (d) a foster parent of the child;
- (e) a guardian of the child;

- (f) a person who has responsibility for the care, welfare and development of the child;

primary victim—see section 9;

related criminal act means a criminal act that is related to another criminal act as provided in section 4;

related victim—see section 15;

relevant offence means any of the following—

- (a) an offence punishable by imprisonment that involves assault on, or injury or threat of injury to, a person;
- (b) an offence against Subdivision (8A), (8B), (8C), (8D), (8E), (8F), (8FAAB) or (8FA) of Division 1 of Part I of the **Crimes Act 1958** or any corresponding previous enactment (sexual offences);
- (c) an offence at common law of rape or assault with intent to rape;
- (d) an offence against section 41A of the **Summary Offences Act 1966** (observation of genital or anal region);
- (e) an offence against section 21A(1) (stalking), 63 (child stealing) or 63A (kidnapping) of the **Crimes Act 1958** or any corresponding previous enactment;
- (f) an offence against section 77A (home invasion) or 77B (aggravated home invasion) of the **Crimes Act 1958**;
- (g) an offence prescribed by the regulations;

S. 3(1) def. of
*relevant
offence*
amended by
No. 38/2022
s. 38(a).

(h) an offence of conspiracy to commit, incitement to commit or attempting to commit an offence referred to in paragraphs (a) to (g);

scheme decision maker means the person employed in accordance with section 52;

secondary victim—see section 13;

Secretary means Secretary to the Department of Justice and Community Safety;

sexual offence means an offence against Subdivision (8A), (8B), (8C), (8D), (8E), (8F), (8FAAB) or (8FA) of Division 1 of Part I of the **Crimes Act 1958** or any corresponding previous enactment (sexual offences) or an offence at common law of rape or assault with intent to rape;

S. 3(1) def. of sexual offence amended by No. 38/2022 s. 38(b).

significant adverse effect, in relation to a victim, includes any grief, distress, trauma or injury experienced or suffered by the victim as a direct result of the act of violence, but does not include any loss of or damage to property;

special financial assistance means assistance referred to in section 11;

special reporting category means a category of persons prescribed to be a special reporting category;

spouse, of a person, means another person to whom the person is married;

Tribunal means the Victims of Crime Assistance Tribunal established by Part 3 of the **Victims of Crime Assistance Act 1996**;

victim means primary victim, secondary victim or related victim;

victim recognition meeting—see section 41(1);

victim recognition statement—see section 40.

- (2) For the purposes of paragraph (b) of the definition of ***close family member***, a person is a close family member of a deceased primary victim if—
 - (a) the victim regarded the person as a close family member at the time of the victim's death; and
 - (b) the scheme decision maker considers that it is reasonable to treat the person as a close family member, having regard to the circumstances of the relationship.
- (3) For the purposes of paragraph (e) of the definition of ***injury***, the scheme decision maker may determine that trauma associated with an act of violence is an injury for the purposes of this Act if satisfied, on the basis of medical or psychological evidence, that treatment or counselling is required for a primary victim or a secondary victim as a result of the trauma.
- (4) For the purposes of section 11 and with respect to a person who is a primary victim under section 9(5), in this Act—
 - (a) references to a primary victim must be construed as including a reference to that person; and
 - (b) references to an act of violence, including in the definition of ***significant adverse effect*** in subsection (1), must be construed as if that person had suffered an injury; and
 - (c) references to an injury must be construed as if the significant adverse effect experienced or suffered by that person were an injury suffered by that person.

4 Related criminal acts

- (1) Subject to this section, a criminal act is related to another criminal act if—
 - (a) the acts were committed against the same person and—
 - (i) occurred at approximately the same time; or
 - (ii) occurred over a period of time and were committed by the same person or persons; or
 - (iii) share some other common factor—
unless the scheme decision maker considers that, having regard to the circumstances of those acts, they ought not to be treated as related criminal acts; or
 - (b) the acts contributed to the injury or death on which an application to the scheme decision maker is based, unless the scheme decision maker considers that, having regard to the circumstances of those acts, they ought not to be treated as related criminal acts; or
 - (c) the scheme decision maker otherwise considers that the acts ought to be treated as related criminal acts.
- (2) A criminal act in respect of which assistance has been paid under this Act is not related to another criminal act occurring after assistance was first paid in respect of that criminal act.
- (3) A criminal act may be related to another criminal act even if charges for offences arising out of those acts are tried or heard separately.
- (4) For the purposes of this Act, a series of related criminal acts committed by one or more persons constitutes a single act of violence.

5 Objectives

The objectives of this Act are—

- (a) to recognise victims of crime, and the impact of acts of violence on victims, by providing a respectful forum for victims to be heard and to have their experiences properly acknowledged by the State; and
- (b) to assist victims in their recovery from acts of violence by providing financial assistance; and
- (c) to complement other services provided to victims by the State; and
- (d) to enable victims to receive financial assistance under this Act, noting that such assistance is not intended to reflect the level of compensation that may be available to victims at common law or otherwise.

6 Guiding principles

In making a decision or taking action under this Act, a person must have regard to the following principles—

- (a) this Act and the scheme that it provides are to support the wellbeing and dignity of victims;
- (b) victims should be protected from further trauma, intimidation or distress;
- (c) the needs of victims, including their safety and wellbeing, are of paramount importance;
- (d) the needs of victims may vary;
- (e) subject to the requirements of this Act, the scheme should be accessible and flexible in providing assistance to victims;

- (f) the scheme should promote cultural safety for victims who are of Aboriginal or Torres Strait Islander descent by—
 - (i) acknowledging Aboriginal and Torres Strait Islander people as descendants of Australia's first people; and
 - (ii) acknowledging that Aboriginal and Torres Strait Islander people have been disproportionately affected by the criminal justice system in a way that has contributed to criminalisation, disconnection, intergenerational trauma and entrenched social disadvantage; and
 - (iii) acknowledging that victims of Aboriginal or Torres Strait Islander descent have cultural rights and familial and Aboriginal community connections relevant to assistance under this Act.

7 Other matters to be considered

In making a decision or taking action under this Act, a person must also have regard to—

- (a) the objectives of this Act; and
- (b) any relevant principles set out in Part 2 of the **Victims' Charter Act 2006**.

8 Effect of death

On the death of a primary victim—

- (a) the victim ceases to be eligible for assistance under this Act; and
- (b) eligibility for assistance does not pass to the victim's estate.

Part 2—Eligibility for assistance

Division 1—Primary victims

9 Who is a *primary victim*?

- (1) A primary victim of an act of violence is a person who is injured or dies as a direct result of an act of violence committed against the person.
- (2) A person is also a primary victim of an act of violence if the person is injured or dies as a direct result of trying to—
 - (a) arrest someone whom the person believes on reasonable grounds has committed an act of violence; or
 - (b) prevent the commission of an act of violence; or
 - (c) aid or rescue someone whom the person believes on reasonable grounds is a victim of an act of violence—

whether or not an act of violence is actually committed.

- (3) A person is also a primary victim of an act of violence if the person—
 - (a) is injured as a direct result of hearing or witnessing, or otherwise being exposed to the effects of, the act of violence; and
 - (b) is under the age of 18 years at the time of the commission of the act of violence.
- (4) A person is also a primary victim of an act of violence if the person is in a category of persons prescribed by the regulations.

- (5) For the purposes of special financial assistance only, a person is also a primary victim of an act of violence if the person experiences or suffers any significant adverse effect as a direct result of an act of violence committed against the person.
- (6) A person is not a primary victim of an act of violence if the person committed, and is criminally responsible for, that act of violence.

Note

See also Subdivision (1) of Division 1 of Part II of the **Crimes Act 1958** for circumstances in which a person involved in the commission of an offence is taken to have committed the offence.

10 Assistance available to primary victims

- (1) A primary victim is eligible for assistance of up to \$60 000 or the higher prescribed amount plus any special financial assistance paid in accordance with section 11.

Note

The maximum amount of assistance is subject to indexation—see section 72.

- (2) The amount of assistance to a primary victim may be made up of amounts—
 - (a) for expenses actually incurred, or reasonably likely to be incurred, by the primary victim for reasonable counselling services; and
 - (b) for medical expenses actually and reasonably incurred, or reasonably likely to be incurred, by the primary victim as a direct result of the act of violence; and

- (c) of up to \$20 000 or the higher prescribed amount for loss of earnings suffered, or reasonably likely to be suffered, by the primary victim as a direct result of the act of violence; and

Note

The maximum amount of assistance for loss of earnings is subject to indexation—see section 72.

- (d) for expenses incurred by the primary victim through loss of or damage to clothing worn at the time of the commission of the act of violence; and
 - (e) for safety-related expenses actually and reasonably incurred, or reasonably likely to be incurred, by the primary victim as a direct result of the act of violence.
- (3) In exceptional circumstances, there may also be included in the amount of assistance paid to a primary victim within the limit set by subsection (1) an amount for other expenses actually and reasonably incurred, or reasonably likely to be incurred, by the primary victim to assist the primary victim's recovery from the act of violence.
 - (4) Except as provided by subsection (2)(d) or (e), a primary victim is not entitled to assistance for expenses incurred through loss of or damage to property.

11 Special financial assistance

- (1) A primary victim is eligible for special financial assistance in accordance with this section if—
 - (a) either—
 - (i) an act of violence was committed against the person; or

- (ii) the person is a primary victim of an act of violence referred to in section 9(3); and
 - (b) the person has experienced or suffered a significant adverse effect as a direct result of that act of violence; and
 - (c) that act of violence is in a category of acts of violence prescribed by the regulations for the purposes of this section.
- (2) The amount of special financial assistance is—
- (a) the minimum amount prescribed by the regulations in relation to the relevant category of act of violence if the scheme decision maker is satisfied that the applicant has experienced or suffered any significant adverse effect as a direct result of the act of violence; and
 - (b) an increased amount up to the maximum amount prescribed by the regulations in relation to the relevant category of act of violence if the scheme decision maker is satisfied that the applicant has suffered any injury as defined in section 3(1) as a direct result of the act of violence.
- (3) For the purposes of this section the regulations may—
- (a) prescribe an act of violence or a class of act of violence as a category A, B, C or D act of violence; and
 - (b) prescribe minimum and maximum amounts in relation to each category of acts of violence.

- (4) The scheme decision maker may be satisfied that an act of violence of a particular category was involved even though—
- (a) no person has been charged with, or found guilty or convicted of, an act of violence of that category in relation to the injury; or
 - (b) a person has been charged with, or found guilty or convicted of, an act of violence of a different category in relation to the injury.

12 Evidence of injury

The regulations may prescribe categories of primary victims who are to be taken, for the purposes of this Act, to have suffered an injury as a result of, or in connection with, an act of violence without having to provide any evidence of that injury.

Division 2—Secondary victims

13 Who is a *secondary victim*?

- (1) A secondary victim of an act of violence is a person who is present at the scene of an act of violence and who is injured as a direct result of witnessing that act.
- (2) A person is also a secondary victim of an act of violence if—
 - (a) the person is injured as a direct result of subsequently becoming aware of an act of violence; and
 - (b) the person is the parent or guardian of the primary victim of the act of violence; and

- (c) the primary victim was under the age of 18 years at the time of the commission of the act of violence.
- (3) A person is not a secondary victim of an act of violence under subsection (2) if the person committed, and is criminally responsible for, that act of violence.

Note

See also Subdivision (1) of Division 1 of Part II of the **Crimes Act 1958** for circumstances in which a person involved in the commission of an offence is taken to have committed the offence.

14 Assistance available to secondary victims

- (1) A secondary victim is eligible for assistance of up to \$50 000 or the higher prescribed amount.

Note

The maximum amount of assistance is subject to indexation—see section 72.

- (2) The amount of assistance to a secondary victim may be made up of amounts—
 - (a) for expenses actually incurred, or reasonably likely to be incurred, by the secondary victim for reasonable counselling services; and
 - (b) for medical expenses actually and reasonably incurred, or reasonably likely to be incurred, by the secondary victim as a direct result of witnessing, or becoming aware of, the act of violence.
- (3) In exceptional circumstances, there may also be included in the amount paid to a secondary victim within the limit set by subsection (1)—

- (a) an amount of up to \$20 000 for loss of earnings suffered, or reasonably likely to be suffered, by the secondary victim as a direct result of witnessing, or becoming aware of, the act of violence; and

Note

The maximum amount of assistance for loss of earnings is subject to indexation—see section 72.

- (b) an amount for any expenses (in addition to those referred to in subsection (2)) actually and reasonably incurred, or reasonably likely to be incurred, by the secondary victim to assist the secondary victim's recovery from witnessing, or becoming aware of, the act of violence.
- (4) A secondary victim is not entitled to assistance for expenses incurred through loss of or damage to property.

Division 3—Related victims

15 Who is a *related victim*?

- (1) A related victim of an act of violence is a person who, at the time of the occurrence of the act of violence—
 - (a) was a close family member of; or
 - (b) was a dependant of; or
 - (c) had an intimate personal relationship with—a primary victim of that act who died as a direct result of that act.

- (2) A person is not a related victim of an act of violence if the person committed, and is criminally responsible for, that act of violence.

Note

See also Subdivision (1) of Division 1 of Part II of the **Crimes Act 1958** for circumstances in which a person involved in the commission of an offence is taken to have committed the offence.

16 Assistance available to related victims

- (1) A related victim is eligible for assistance of up to \$50 000 or the higher prescribed amount.

Note

The maximum amount of assistance is subject to indexation—see section 72.

- (2) The amount of assistance to a related victim may be made up of amounts—
- (a) for expenses actually incurred, or reasonably likely to be incurred, by the related victim for reasonable counselling services; and
 - (b) for medical expenses actually and reasonably incurred, or reasonably likely to be incurred, by the related victim as a direct result of the death of the primary victim; and
 - (c) for distress experienced, or reasonably likely to be experienced, by the related victim as a direct result of the death of the primary victim; and
 - (d) for loss of money that, but for the death of the primary victim, the related victim would have been reasonably likely to receive from the primary victim during a period of up to 2 years after that death; and

- (e) for other expenses actually and reasonably incurred, or reasonably likely to be incurred, by the related victim as a direct result of that death.
- (3) In exceptional circumstances, there may also be included in the amount paid to a related victim within the limit set by subsection (1) an amount for other expenses actually and reasonably incurred, or reasonably likely to be incurred, by the related victim to assist the related victim's recovery from the death of the primary victim of the act of violence.
- (4) A related victim is not entitled to assistance for expenses incurred through loss of or damage to property.

Division 4—Funeral expenses

17 Assistance available to person incurring funeral expenses for primary victim

- (1) A person who has incurred funeral expenses as a direct result of the death of a primary victim of an act of violence may be paid assistance for the funeral expenses actually and reasonably incurred by that person.
- (2) If the person is a secondary victim or related victim of the act of violence, assistance under this section is in addition to any assistance under Division 2 or 3.

Division 5—Limits on assistance

18 Other entitlements to be taken into account

- (1) In determining the amount of assistance to be paid to a person, the scheme decision maker—
- (a) subject to subsection (2), must take into account and reduce the amount by the total amount of—
 - (i) any damages that the person has recovered at common law for the loss, expense or other matter for which the assistance is sought; and
 - (ii) any compensation, assistance or payments of any other kind that the person has received for the loss, expense or other matter for which the assistance is sought; and
 - (iii) any amount of financial assistance that the person has been awarded under section 12 of the **Transport (Compliance and Miscellaneous) Act 1983** in relation to the incident to which the assistance relates; and
 - (b) subject to subsection (2), may take into account and reduce the amount by the total amount of—
 - (i) any damages that the person is likely to recover at common law for the loss, expense or other matter for which the assistance is sought; and
 - (ii) any compensation, assistance or payments of any kind under any scheme, whether statutory or non-statutory, including that managed by the Transport Accident Commission and the Victorian WorkCover Authority

and that established by the **Police Assistance Compensation Act 1968** and any predecessor of any such schemes that the person is likely to receive for the loss, expense or other matter for which the assistance is sought; and

- (iii) any payments under any insurance policy (including life and health insurance) or superannuation scheme that the person is likely to receive for the loss, expense or other matter for which the assistance is sought.
- (2) In determining the amount of special financial assistance or an amount of assistance under section 16(2)(c) for a person, the scheme decision maker must not take into account any payments under any insurance policy (including life and health insurance) or superannuation scheme that the person has received or has not received but is entitled to receive, or would be entitled to receive if the person applied for them, for the loss, expense or other matter for which the assistance is sought.

19 Loss of earnings

Assistance to a primary or secondary victim for loss of earnings is for earnings lost by the primary or secondary victim as a direct result of total or partial incapacity for work during a period of up to 2 years after the occurrence of the act of violence.

20 Person only eligible in one capacity

A person is eligible to apply for, or receive, assistance in respect of a single act of violence in one capacity only.

Part 3—Applying for and receiving assistance

Division 1—Applying for assistance

21 Who may apply for assistance?

- (1) A primary victim, a secondary victim or a related victim of an act of violence may apply to the scheme decision maker for assistance.
- (2) A person who has incurred funeral expenses as referred to in section 17 may apply to the scheme decision maker for assistance under that section.
- (3) If the person entitled to apply is under the age of 18 years, the application may be made on the person's behalf by—
 - (a) a parent or guardian of the person; or
 - (b) another person whom the scheme decision maker considers to be appropriate.
- (4) If the person entitled to apply is a represented person within the meaning of the **Guardianship and Administration Act 2019**, the application may be made on the represented person's behalf by the guardian or administrator appointed under that Act.
- (5) If in any other case the scheme decision maker considers that the person entitled to apply needs assistance in doing so, the application may be made on the person's behalf by any person whom the scheme decision maker considers to be appropriate.
- (6) For the purposes of this Act, a person is still the applicant even if the application is made on the person's behalf by another person under this section.

22 Form and content of application

(1) An application—

- (a) must be in the form approved by the scheme decision maker; and
- (b) must be accompanied by any documentary evidence (such as medical certificates or statements of earnings) indicated in the form as being required to accompany the application; and
- (c) must contain an authorisation for the scheme decision maker to—
 - (i) obtain any other information or any document that the scheme decision maker considers necessary in order to decide the application; and
 - (ii) without limiting subparagraph (i), to obtain information about any application made by the applicant for damages, compensation, assistance or payments of any kind under another scheme (whether statutory or non-statutory) and any decision made on any such application; and
 - (iii) share information about the application with the decision maker under another scheme (whether statutory or non-statutory) that provides for damages, compensation, assistance or payments of any kind; and
 - (iv) share information about the application for the purposes of a complaint under section 59; and

- (d) must contain an acknowledgement that the applicant is aware of the general circumstances in which the applicant may need to repay assistance under this Act; and
 - (e) must state whether or not the act of violence has been reported to the police and, if it has not, must be accompanied by a statutory declaration made by the applicant or the person applying on behalf of the applicant, setting out—
 - (i) the circumstances of the act of violence; and
 - (ii) the reasons for not reporting the matter; and
 - (f) must contain any other information or evidence required by the scheme decision maker.
- (2) A statutory declaration under subsection (1)(e) is not required if the applicant is a person in a special reporting category.

23 Time limits for applying

- (1) Subject to this section, an application must be made—
- (a) within 3 years after the occurrence of the act of violence; or
 - (b) in the case of an application by a related victim or a person who has incurred funeral expenses, within 3 years after the death of the primary victim.
- (2) Subject to subsection (3), an application by or on behalf of a victim who was under the age of 18 years when the act of violence occurred may be made within 3 years after the applicant turns 18 years of age.

- (3) An application by or on behalf of a victim may be made at any time after the occurrence of an act of violence if—
 - (a) the victim was under the age of 18 years when the act of violence occurred; and
 - (b) the act of violence consisted of or involved child abuse or family violence.
- (4) Despite subsection (1), an application by or on behalf of a victim may be made within 10 years after the occurrence of an act of violence if—
 - (a) the victim was at least 18 years old when the act of violence occurred; and
 - (b) the act of violence consisted of or involved a sexual offence or family violence.
- (5) The regulations may prescribe circumstances in which an application may be made by a victim at any time after the occurrence of an act of violence for assistance for expenses actually incurred, or reasonably likely to be incurred, for reasonable counselling services.
- (6) For the purposes of this section, an act of violence that consists of a series of related criminal acts occurs on the occurrence of the last of those criminal acts.

24 Applications made out of time

Despite section 23, the scheme decision maker may consider and decide an application made out of time if the scheme decision maker considers that it is appropriate to do so, having regard to the following matters—

- (a) the age of the applicant at the time of the occurrence of the act of violence;

- (b) whether the applicant has an intellectual disability within the meaning of the **Disability Act 2006** or a mental illness within the meaning of the **Mental Health Act 2014**;
- (c) whether the person who committed, or is alleged by the applicant to have committed, the act of violence was in a position of power, influence or trust in relation to the applicant;
- (d) the physical or psychological effect of the act of violence on the applicant;
- (e) whether the applicant has or had a medical or psychological condition that affected their ability to apply for assistance;
- (f) the nature, dynamics and circumstances of the act of violence, including whether it occurred in the context of a pattern of abuse, family violence or sexual offences;
- (g) whether the applicant is homeless or has experienced homelessness;
- (h) the length of time taken to finalise any legal proceedings related to the act of violence;
- (i) whether the delay in making the application threatens the capacity of the scheme decision maker to make a fair decision on the application;
- (j) any other circumstances that the scheme decision maker considers relevant.

25 Legal or other representation

- (1) An applicant for assistance may be represented or assisted by a legal practitioner or any other person in relation to the application.

- (2) A legal practitioner or other person is not entitled to—
- (a) charge an applicant, or recover from an applicant, any legal or other costs or amounts for representing or assisting the applicant in relation to the application, except to the extent allowed by the scheme decision maker; or
 - (b) claim a lien in respect of any legal or other costs or amounts on any amount of assistance granted to an applicant under this Act; or
 - (c) withhold any legal or other costs or amounts from any amount of assistance granted to an applicant under this Act.

Note

The scheme decision maker may pay an amount to a legal practitioner or other person for representing or assisting an applicant—see section 39.

- (3) Subsection (2) has effect despite anything to the contrary in the Legal Profession Uniform Law (Victoria) or the **Legal Profession Uniform Law Application Act 2014**.

26 Right to withdraw or amend application

- (1) At any time before an application is decided, the applicant, by giving written notice to the scheme decision maker, may—
- (a) withdraw the application; or
 - (b) amend the application.
- (2) If an application is withdrawn under this section, the applicant may, subject to section 23, reapply for assistance.

27 Lapse of application

- (1) The scheme decision maker may give an applicant written notice that the application will lapse unless the applicant responds to the notice within 6 months.
- (2) If the applicant does not respond to a notice under subsection (1) within 6 months after the notice is given, the application lapses at the end of that period.
- (3) If an application lapses under this section, the applicant may, subject to section 23, reapply for assistance.

Division 2—Considering and deciding applications

28 Standard of proof

- (1) The scheme decision maker must be satisfied on the balance of probabilities about the existence of any matter relevant to deciding an application.
- (2) Without limiting subsection (1), the scheme decision maker may determine that an act of violence occurred regardless of the existence, status or outcome of any legal proceeding in relation to the act of violence, including a pending legal proceeding and a criminal proceeding in which the accused has been acquitted or found not guilty.

29 Duty to act expeditiously

- (1) In considering and deciding an application, the scheme decision maker must act with as much expedition as the requirements of this Act and a proper determination of the application permit.

- (2) Without limiting subsection (1), the scheme decision maker—
- (a) subject to paragraph (b), must not delay deciding an application only because there is a legal proceeding, whether civil or criminal, pending in a court relevant to the application; and
 - (b) may delay deciding an application if the scheme decision maker reasonably believes that any information or document in, or accompanying, the application, or otherwise provided in relation to the application, was fraudulent or knowingly false or misleading.

30 No hearings to be conducted

The scheme decision maker must decide applications without conducting oral hearings.

31 Mandatory refusal of application

- (1) The scheme decision maker must refuse an application if—
- (a) subject to subsection (2), the scheme decision maker is satisfied that—
 - (i) the act of violence was not reported to the police within a reasonable time; or
 - (ii) the applicant failed to provide reasonable assistance to any person or body duly engaged in the investigation of the act of violence or in the arrest or prosecution of any person by whom the act of violence was committed or alleged to have been committed; or
 - (b) the application is made in collusion with the person who committed or is alleged to have committed the act of violence; or

- (c) an earlier application for assistance by the applicant in any capacity arising from the same act of violence has been made, whether or not the earlier application has been determined.
- (2) Subsection (1)(a) does not apply if—
- (a) the scheme decision maker considers that there were special circumstances for—
 - (i) the act of violence not being reported to the police within a reasonable time; or
 - (ii) the failure of the applicant to provide the reasonable assistance referred to in subsection (1)(a)(ii); or
 - (b) the applicant is a person in a special reporting category.

32 Reasonable time for reporting act of violence

For the purposes of section 31(1)(a)(i), in considering whether an act of violence was reported to the police within a reasonable time, the scheme decision maker may have regard to any matters that the scheme decision maker considers relevant including—

- (a) the age of the applicant at the time of the occurrence of the act of violence; and
- (b) whether the applicant has an intellectual disability within the meaning of the **Disability Act 2006** or a mental illness within the meaning of the **Mental Health Act 2014**; and
- (c) whether the person who committed, or is alleged by the applicant to have committed, the act of violence was in a position of power, influence or trust in relation to the applicant; and

- (d) whether the applicant was threatened or intimidated by the person who committed, or is alleged to have committed, the act of violence or any other person; and
- (e) the nature of the injury alleged to have been suffered by the applicant; and
- (f) whether the applicant is homeless or has experienced homelessness; and
- (g) whether the applicant has or had a medical or psychological condition that affected their ability to report the act of violence to the police; and
- (h) the nature, dynamics and circumstances of the act of violence, including whether it occurred in the context of a pattern of abuse, family violence or sexual offences.

33 Other matters to be taken into account

In deciding whether to pay assistance or refuse an application, and in determining the amount of assistance to be paid, the scheme decision maker must take the following into account—

- (a) the character, behaviour (including past criminal activity, and the number and nature of any findings of guilt or convictions, that the scheme decision maker considers relevant) or attitude of the applicant at any time, whether before, during or after the commission of the act of violence;
- (b) in the case of an application by a related victim, the character or behaviour (including past criminal activity, and the number and nature of any findings of guilt or convictions, that the scheme decision maker considers relevant) of the deceased primary victim of the act of violence;

- (c) any other circumstances the scheme decision maker considers relevant.

34 Decision on application

- (1) After considering an application and taking into account the matters referred to in sections 31 and 33, the scheme decision maker must decide—
 - (a) to pay assistance to the applicant; or
 - (b) to refuse the application.
- (2) Subject to section 31, the scheme decision maker may decide to pay assistance to an applicant if satisfied—
 - (a) that an act of violence has occurred; and
 - (b) that the applicant is a primary victim, secondary victim or related victim of that act of violence or a person who has incurred funeral expenses as a direct result of the death of such a primary victim; and
 - (c) that the applicant is eligible to receive the assistance.
- (3) The scheme decision maker may impose any conditions the scheme decision maker considers appropriate on the payment of assistance.
- (4) Without limiting subsection (3), the scheme decision maker may impose the following conditions—
 - (a) that the person to whom, or for whose benefit, the assistance is paid must repay the whole or any part of the amount of the assistance in specified circumstances;
 - (b) in the case of assistance payable to a person for the benefit of another person (other than a person for whom an administration order is in effect or a person who is under the age of 18 years), conditions—

- (i) as to the payment of the assistance to or for the benefit of that other person; or
 - (ii) as to the holding of the whole or any part of the assistance on trust for that other person.
- (5) The scheme decision maker may decide to pay assistance in respect of an act of violence even though no person has been charged with, or found guilty or convicted of, an offence arising out of the commission of that act of violence.

35 Notice of decision and statement of reasons

- (1) The scheme decision maker must give an applicant written notice of a decision on the application in accordance with subsection (2).
- (2) The notice must—
 - (a) state whether the decision is to pay assistance to the applicant or to refuse the application; and
 - (b) if the decision is to pay assistance, state—
 - (i) the total amount payable, and a breakdown of that amount showing the amounts payable for each different component of the assistance; and
 - (ii) any conditions on the payment of assistance; and
 - (c) state the reasons for the decision, including the reasons for imposing any conditions on the payment of assistance; and
 - (d) give details of the applicant's right to internal review or VCAT review of the decision (as the case requires).

Division 3—Payment of assistance

36 Form of payment

- (1) Subject to this section, assistance—
 - (a) may be paid in whole or in part—
 - (i) to the applicant; or
 - (ii) to any other person for the benefit of the applicant; and
 - (b) may be paid—
 - (i) wholly as a lump sum; or
 - (ii) partly as a lump sum and partly by instalments; or
 - (iii) wholly by instalments.
- (2) Amounts of assistance to a victim for expenses not yet incurred are only payable on the submission of an invoice or receipt relating to the particular expense.
- (3) The scheme decision maker may specify terms and conditions to be complied with before any instalment is paid.
- (4) The scheme decision maker may defer the payment of assistance in whole or part pending the period for applying for internal or VCAT review of the decision to pay the assistance and, if an application for review is made, until after the review decision comes into operation.
- (5) Any assistance not paid to, or for the benefit of, a person within 10 years after the decision to pay that assistance ceases to be payable unless it is then being held on trust for that person.

37 Interim assistance

- (1) Pending the making of a final decision on an application, the scheme decision maker may pay interim assistance in any circumstances that the scheme decision maker considers appropriate.
- (2) If interim assistance is paid but the application is subsequently refused—
 - (a) on refusing the application, the scheme decision maker may require the applicant to repay the amount of the interim assistance; and
 - (b) if it is not repaid, the scheme decision maker may recover the amount from the applicant as a debt due to the State.
- (3) If the scheme decision maker decides to pay assistance to the applicant on the application, the scheme decision maker must deduct the amount of any interim assistance from the amount of assistance to be paid.
- (4) Sections 34(3) and (4) and 36 apply to interim assistance.

38 Payment of assistance to creditors

- (1) The scheme decision maker may pay an amount of assistance to a creditor in respect of reasonable expenses.
- (2) In this section—

creditor means a person entitled to take proceedings for the recovery of expenses and includes a legal practitioner who has paid expenses on behalf of a client;

expenses means expenses for a treatment or other services provided in respect of which assistance is payable under this Act but does not include legal or other costs or amounts referred to in section 25.

39 Payment for legal or other representation

The scheme decision maker may pay an amount to a legal practitioner or other person for the reasonable legal or other costs in representing or assisting an applicant in relation to an application.

Division 4—Victim recognition

40 Victim recognition statements

If the scheme decision maker decides to pay assistance to a victim under this Act, the scheme decision maker must, at the victim's request, give the victim a statement (*victim recognition statement*) on behalf of the State acknowledging the effects of the act of violence on the victim and expressing the State's condolences.

41 Victim recognition meetings

- (1) If the scheme decision maker decides to pay assistance to a victim under this Act, the scheme decision maker may, at the victim's request, hold a meeting with the victim (*victim recognition meeting*) to acknowledge the effects of the act of violence on the victim and express the State's condolences.
- (2) The scheme decision maker must take all reasonable steps to ensure that a victim recognition meeting is held—
 - (a) in private, with the only permitted attendees being—
 - (i) the victim; and
 - (ii) any support person for the victim; and

- (iii) any legal practitioner representing the victim; and
 - (iv) the scheme decision maker; and
 - (v) any other person the scheme decision maker considers necessary or appropriate; and
- (b) in a manner that—
 - (i) is culturally safe; and
 - (ii) protects the victim from undue trauma, intimidation and distress; and
 - (iii) prioritises the victim's needs, safety and wellbeing.
- (3) In a victim recognition meeting, the scheme decision maker must give the victim the opportunity to—
 - (a) give an oral statement, or read aloud a document, that sets out the effects of the act of violence on the victim; and
 - (b) discuss those effects with the scheme decision maker.
- (4) Anything said or done, or any document produced, at a victim recognition meeting is not admissible as evidence in any legal proceeding.

Division 5—General provisions

42 Assignment of rights to State

- (1) A person to whom, or for whose benefit, assistance is paid may, on or after being notified of the decision to pay the assistance, assign to the State their right to recover from any other person, by civil proceedings, damages or compensation in respect of the injury or death to which the assistance relates.

- (2) Money recovered by the State in the exercise of a right assigned to it in accordance with subsection (1) must be dealt with as follows—
 - (a) the amount of assistance paid to the assignor, or the amount recovered (if it is less), must be paid into the Consolidated Fund; and
 - (b) the balance, if any, must be paid to the assignor.
- (3) An action for recovery under a right assigned to the State under subsection (1) may be taken by the scheme decision maker on behalf of the State, but the scheme decision maker may decline to take or continue the action—
 - (a) if the scheme decision maker considers that—
 - (i) there is a risk to the safety of any person if the action is taken or continued; or
 - (ii) there is no reasonable prospect of success; or
 - (b) in any other circumstances that the scheme decision maker considers relevant.

43 Pursuing other remedies

Except as otherwise provided by this Act, a decision to pay assistance to a person, or the payment of that assistance, does not affect the right of a person to recover from any other person, by civil proceedings or otherwise, any damages, compensation, assistance or payments of any kind.

Part 4—Review, variation and repayment of assistance

Division 1—Reviews

44 What is a *reviewable decision*?

- (1) For the purposes of this Division, a *reviewable decision* is—
 - (a) any of the following decisions made by the scheme decision maker or a delegate of the scheme decision maker—
 - (i) a refusal of an application for assistance, including a decision to require repayment of any interim assistance;
 - (ii) a decision as to the amount of assistance to be paid to an applicant;
 - (iii) a refusal to vary assistance under Division 2;
 - (iv) a decision as to the amount of assistance on an application for variation under Division 2;
 - (v) a decision under Division 3 to require a person to repay an amount of assistance, including a decision as to the amount of the repayment; or
 - (b) a decision made by the scheme decision maker on an internal review under section 45.
- (2) To avoid doubt, a decision to pay or not to pay, or as to the amount of, interim assistance is not a reviewable decision.

45 Internal reviews

- (1) A person whose interests are affected by a reviewable decision made by a delegate of the scheme decision maker may apply in writing to the scheme decision maker for review of the decision.
- (2) Subject to subsection (3), an application for internal review must be made within 28 days after the day on which notice of the reviewable decision, including the reasons for the decision, is given to the person entitled to notice.
- (3) The scheme decision maker may extend or further extend the time for applying for an internal review.
- (4) An internal review must be conducted by—
 - (a) the scheme decision maker; or
 - (b) a member of staff appointed by the scheme decision maker who holds a more senior position than the delegate who made the reviewable decision.
- (5) A decision on an internal review made by a person appointed by the scheme decision maker under subsection (4)(b) is taken to be a decision made by the scheme decision maker.
- (6) On an internal review, the person conducting the review must—
 - (a) affirm the reviewable decision; or
 - (b) amend the reviewable decision; or
 - (c) substitute another decision for the reviewable decision.

- (7) The scheme decision maker must give the applicant for internal review written notice of the decision on the review, including the reasons for the decision, as soon as practicable and in any event within 28 days after the decision.

46 VCAT reviews

- (1) A person whose interests are affected by a reviewable decision made by the scheme decision maker may apply to VCAT for review of the decision.

Note

Applications may be made to VCAT for review of certain scheme decisions made by the scheme decision maker. Applications may also be made to VCAT for review of decisions made on internal review of certain scheme decisions made by a delegate of the scheme decision maker. See the definition of *reviewable decision* in section 44.

- (2) An application for review must be made within 28 days after the day on which notice of the reviewable decision, including the reasons for the decision, is given to the person entitled to notice.

47 Persons whose interests are affected

Despite anything to the contrary in this Act or the **Victorian Civil and Administrative Tribunal Act 1998**, the following are not persons whose interests are affected by a reviewable decision—

- (a) other persons referred to in section 36(1)(a)(ii);
- (b) creditors referred to in section 38.

Division 2—Variation of assistance

48 Variation of assistance

- (1) A person to whom, or for whose benefit, assistance was paid under Part 3 may apply to the scheme decision maker to vary the assistance.

- (2) An application for variation—
- (a) subject to paragraphs (b) and (c), must be made within 10 years after the day on which the decision to pay the assistance was made; or
 - (b) subject to paragraph (c), if the person was under the age of 18 years when the decision to pay the assistance was made, may be made at any time until the person turns 28 years of age; or
 - (c) may be made within the longer time period prescribed by the regulations in relation to any prescribed categories of applications for variation or in any other prescribed circumstances.
- (3) On an application for variation, the scheme decision maker may vary the assistance (including the assistance as previously varied) in any manner that the scheme decision maker thinks fit, whether as to the conditions of the assistance or by increasing or decreasing the amount of assistance or in some other way.
- (4) In considering an application for variation, the scheme decision maker must take into account—
- (a) any fresh evidence that has become available since the decision to pay the assistance was made or the assistance was last varied; and
 - (b) any change of circumstances that has occurred since the decision to pay the assistance was made or the assistance was last varied or that is likely to occur; and

- (c) any payments received by or payable to the person to whom, or for whose benefit, a decision to pay assistance was made in respect of the injury or death since the decision was made or the assistance was last varied; and
 - (d) anything else that the scheme decision maker considers relevant.
- (5) In exercising a power under this section, the scheme decision maker must do so in accordance with the other provisions of this Act relating to the payment of, or the amount of, assistance.
- (6) Without limiting subsection (5), in varying an amount of assistance, the scheme decision maker is bound by the maximum amounts of assistance as in force at the time the assistance was originally paid.

49 Notice of decision and statement of reasons

- (1) The scheme decision maker must give a person who applies for variation of assistance under section 48 written notice of a decision on the application in accordance with subsection (2).
- (2) The notice must—
 - (a) state whether the decision is to vary the assistance or to refuse the application; and
 - (b) if the decision is to vary the assistance, state—
 - (i) the amount of the variation; and
 - (ii) any conditions on the variation; and
 - (c) state the reasons for the decision, including the reasons for imposing any conditions on the variation; and

- (d) give details of the person's right to internal review or VCAT review of the decision (as the case requires).

Division 3—Repayment of assistance

50 Repayment of assistance

- (1) This section applies if, after assistance is paid to a person or for their benefit, the person receives any damages, compensation, assistance or payments of any kind not taken into account in determining the amount of assistance but which the scheme decision maker would have been required to take into account if received before then.
- (2) If this section applies, the scheme decision maker may require the person to repay—
 - (a) the amount of the assistance paid under this Act, if it is equal to or less than the amount of the damages, compensation, assistance or other payments subsequently received; or
 - (b) the amount of the damages, compensation, assistance or other payments subsequently received, if the amount of the assistance paid under this Act is greater.
- (3) In deciding whether to require repayment, the scheme decision maker may take into account any matters the scheme decision maker considers relevant.
- (4) If assistance has been paid to a person or for their benefit and the amount of assistance is decreased on review under Division 1 or variation under Division 2, the scheme decision maker may require the person to repay the amount by which the assistance is decreased.

- (5) Any money that is not repaid as required by the scheme decision maker under this section may be recovered by the scheme decision maker as a debt due to the State.

51 Notice of decision and statement of reasons

- (1) If the scheme decision maker decides to require a person to repay an amount under section 50, the scheme decision maker must give the person written notice of the decision in accordance with subsection (2).
- (2) The notice must—
- (a) state the amount required to be repaid and the date by which it must be repaid; and
 - (b) state the reasons for the decision; and
 - (c) give details of the person's right to internal review or VCAT review of the decision (as the case requires).
- (3) The scheme decision maker may extend or further extend the date stated in a notice by which an amount must be repaid.

Part 5—Administration

Division 1—Scheme decision maker

52 Scheme decision maker

There is to be a scheme decision maker employed by the Secretary under Part 3 of the **Public Administration Act 2004**.

53 Functions of scheme decision maker

- (1) The scheme decision maker has the following functions—
 - (a) to administer the scheme for providing assistance to victims under this Act, including—
 - (i) to receive and decide applications; and
 - (ii) to pay amounts of assistance; and
 - (iii) to review decisions on assistance made by delegates of the scheme decision maker; and
 - (iv) to administer the recovery and repayment processes for amounts of assistance paid;
 - (b) to provide victim recognition statements and conduct victim recognition meetings;
 - (c) to provide—
 - (i) information to victims and others about the scheme and the support services and assistance available to assist recovery from the effects of acts of violence; and
 - (ii) referrals to those support systems and other available assistance;

- (d) to publish guidance material and other resources for victims, support service providers and legal practitioners in relation to the scheme;
 - (e) to conduct education and training, public awareness activities and research in relation to the scheme;
 - (f) to collect and publish annual data and information in relation to the scheme;
 - (g) to make complaints to the appropriate entities about excessive amounts charged to victims by legal practitioners, medical practitioners or counselling service providers;
 - (h) to establish a complaints process in relation to the administration of the scheme, including in relation to the conduct of the scheme decision maker and members of staff;
 - (i) any other functions conferred on the scheme decision maker by or under this or any other Act.
- (2) The complaints process referred to in subsection (1)(h) must be consistent with the Charter principles within the meaning of the **Victims' Charter Act 2006**.

54 Staff

There may be employed by the Secretary under Part 3 of the **Public Administration Act 2004**—

- (a) one or more deputy scheme decision makers; and
- (b) as many other staff as are necessary for the effective operation of this Act.

55 Delegation

The scheme decision maker, by instrument, may delegate to a member of staff any function of the scheme decision maker under this or any other Act, other than this power of delegation.

Division 2—Information gathering and confidentiality

56 Information gathering

- (1) For the purpose of performing functions under this Act, the scheme decision maker may—
 - (a) obtain information and documents from any person; and
 - (b) request an applicant to provide to the scheme decision maker any information or documents relevant to the application; and
 - (c) by written notice, require any person (other than an applicant) to provide to the scheme decision maker, within the period of time specified in the notice, any information or documents relevant to the performance of those functions.
- (2) A person to whom a notice is given under subsection (1)(c) must not, without reasonable excuse, fail to comply with the notice.

Penalty: 10 penalty units.

- (3) The scheme decision maker may extend or further extend the period specified in the notice under subsection (1)(c) for compliance with the requirement.

57 Confidentiality

- (1) The scheme decision maker or a member of staff must not disclose any information in the scheme decision maker's or member of staff's possession relating to an application except to the extent necessary to perform functions under this Act or as otherwise permitted by this Division.
- (2) Subject to sections 61 and 62, the scheme decision maker or a member of staff may disclose any information in the scheme decision maker's or member of staff's possession relating to an application—
 - (a) to the applicant at the applicant's request; or
 - (b) to another person at the written request of the applicant; or
 - (c) in accordance with any authorisation provided by the applicant in the application; or
 - (d) in accordance with section 63 (admissibility of scheme materials in legal proceedings); or
 - (e) for the purposes of annual reporting if the information does not identify, and is not likely to lead to the identification of, any person; or
 - (f) as permitted or required by another law; or
 - (g) to a prescribed person or body, or prescribed category of person or body, for the purpose of performing a prescribed function.

Division 3—General

58 Guidelines

- (1) The scheme decision maker may from time to time make, vary and revoke guidelines for the performance of functions under this Act or for any other matter related to the scheme for providing assistance under this Act.
- (2) Without limiting the matters in relation to which guidelines may be made, guidelines may be made for the purposes of, or in relation to, any of the following matters—
 - (a) determining whether a person is a close family member of a deceased primary victim;
 - (b) determining whether criminal acts are related;
 - (c) determining the assistance available to victims and for funeral expenses;
 - (d) circumstances in which a person may make an application on another person's behalf;
 - (e) determining whether to consider and decide applications made out of time;
 - (f) determining whether past criminal activity, findings of guilt or convictions are relevant to an application;
 - (g) imposing conditions on the payment of assistance as to the circumstances in which the whole or any part of the assistance must be repaid;
 - (h) the payment of assistance to creditors;
 - (i) the payment of amounts to persons for legal or other costs of representing an applicant;

- (j) determining whether to hold victim recognition meetings;
 - (k) determining whether to extend time to apply for internal review;
 - (l) deciding applications for variation of assistance;
 - (m) deciding whether to require repayment of assistance;
 - (n) the payment of additional assistance to persons to whom, or for whose benefit, an award of assistance was made under the **Victims of Crime Assistance Act 1996**.
- (3) The scheme decision maker must—
- (a) publish any guidelines as in effect from time to time on a website maintained by the scheme decision maker or on another Victorian Government website; and
 - (b) make a copy of any guidelines that are in effect available to any person on request without charge.
- (4) In the performance of functions under this Act, the scheme decision maker and all members of staff must have regard to any guidelines that are in effect.

59 Complaints about service providers

- (1) The scheme decision maker may cause a complaint about the costs claimed by a legal practitioner in connection with an application to be made in accordance with Chapter 5 of the Legal Profession Uniform Law (Victoria) if it considers that the amount claimed is not fair or reasonable.

- (2) The scheme decision maker may cause a complaint to be made to the Health Complaints Commissioner under the **Health Complaints Act 2016** or a relevant regulatory body about the amount charged by a medical expert or counselling service provider for the provision of any service in connection with an application if the scheme decision maker considers the amount charged to be grossly excessive.

Part 6—Miscellaneous

Division 1—Publication and admissibility of documents and other information

60 Definition of *publish*

In this Division—

publish means disseminate or provide access to the public or a section of the public by any means, including by—

- (a) publication in a book, newspaper, magazine or other written publication; or
- (b) broadcast by radio or television; or
- (c) public exhibition; or
- (d) any other broadcast or electronic communication.

61 Restriction on publication of scheme documents

- (1) A person must not publish or cause to be published—
 - (a) a document—
 - (i) created in the performance of a function under this Act by the scheme decision maker or a member of staff; and
 - (ii) that identifies, or is likely to lead to the identification of, a person who has made or is otherwise connected with an application; or

(b) a copy of, or extract from, a document referred to in paragraph (a).

Penalty: 20 penalty units or imprisonment for 4 months, or both, in the case of a natural person;

50 penalty units, in the case of a body corporate.

(2) Without limiting subsection (1)(a), a document referred to in that subsection includes any of the following that identifies, or is likely to lead to the identification of, a person who has made or is otherwise connected with an application—

(a) a written notice of a decision made on an application;

(b) a victim recognition statement;

(c) any written material provided to a person by the scheme decision maker or a member of staff at a victim recognition meeting.

(3) Subsection (1) does not apply if the document, or the copy of or extract from the document, is—

(a) admissible as evidence in a legal proceeding; and

(b) required to be published by an order made in that proceeding.

(4) To avoid doubt, a person who committed, or is alleged to have committed, an act of violence in respect of which an application has been made is a person connected with the application.

62 Restriction on publication of scheme decisions

- (1) A person must not publish or cause to be published any information related to a decision made under this Act on an application that identifies, or is likely to lead to the identification of, a person who has made or is otherwise connected with the application.

Penalty: 20 penalty units or imprisonment for 4 months, or both, in the case of a natural person;

50 penalty units, in the case of a body corporate.

- (2) Subsection (1) does not apply in relation to the publication of a document, or a copy of or extract from a document, referred to in section 61(1).

Note

See section 61 for the offence of publishing a document, or a copy of or extract from a document, referred to in section 61(1).

- (3) Subject to subsection (4), subsection (1) does not apply to the publication by, or with the consent of, an adult applicant of information that does not identify, and is not likely to lead to the identification of, any person connected with the application other than—

(a) the applicant; or

(b) another person connected with the application who has consented to the publication.

- (4) Subsection (3) does not apply to the publication of information that identifies, or is likely to identify, a person who committed, or is alleged to have committed, an act of violence who was under the age of 18 years at the time of the commission of the act of violence.

(5) To avoid doubt, a person who committed, or is alleged to have committed, an act of violence in respect of which an application has been made is a person connected with the application.

(6) In this section—

adult applicant means a person who has made an application and who is over the age of 18 years at the time of publishing, or giving consent to the publication of, information referred to in subsection (1).

63 Admissibility of scheme materials in legal proceedings

(1) Subject to subsection (2) and despite anything to the contrary in the **Evidence Act 2008**, the following documents, including any copies of or extracts from them, are not admissible as evidence in any legal proceeding—

- (a) an application;
- (b) a document accompanying an application that was prepared solely for the purposes of the application;
- (c) a document provided to the scheme decision maker or a member of staff in connection with an application that was prepared solely for the purposes of the application;
- (d) a document prepared by the scheme decision maker or a member of staff in connection with an application.

(2) A document referred to in subsection (1) is admissible as evidence—

- (a) in a proceeding for review of a decision made under this Act, if the applicant is a party to that proceeding; or

- (b) in a proceeding for an offence against this Act; or
 - (c) in a proceeding for an offence against section 81, 82, 83 or 83A of the **Crimes Act 1958** (fraud) or an offence of conspiracy to commit, incitement to commit or attempting to commit any such offence; or
 - (d) in a proceeding for an offence against section 314(1) of the **Crimes Act 1958** (perjury) or any other offence that involves an interference with the due administration of justice; or
 - (e) with the consent of the applicant.
- (3) A person cannot be required, by subpoena, summons or otherwise, to produce a document that is inadmissible under this section.

64 Cross-examination and admissibility by consent in legal proceedings

- (1) A victim must not be cross-examined in any legal proceeding on the contents of a document referred to in section 63(1) unless the document is admissible in that proceeding in accordance with section 63(2).
- (2) A victim must not during cross-examination in any legal proceeding be requested to consent to the admission of a document referred to in section 63(1).
- (3) A court must not accept the consent of a victim to the admission of a document referred to in section 63(1) in any legal proceeding unless the court has first advised the victim of the protected status of the document and the effect of providing consent.

- (4) If a victim consents to the admission in any legal proceeding of a document referred to in section 63(1), the court may, as it considers appropriate in the interests of justice, disallow cross-examination on the contents of the document.

Division 2—General

65 Obtaining assistance by fraud

- (1) A person must not, for themselves or for another person, obtain or attempt to obtain assistance fraudulently under this Act, whether or not in collusion with any other person.

Penalty: 120 penalty units or imprisonment for 12 months or both.

- (2) A person must not knowingly assist another person to obtain assistance fraudulently under this Act.

Penalty: 120 penalty units or imprisonment for 12 months or both.

66 False or misleading information

A person must not, in or in relation to an application, provide information that is false or misleading in a material particular, unless the person believes on reasonable grounds—

- (a) in the case of false information, that the information was true; or
(b) in the case of misleading information, that the information was not misleading.

Penalty: 120 penalty units or imprisonment for 12 months or both.

67 Annual report

- (1) Before 30 September each year, the scheme decision maker must give the Minister a report on the performance of the scheme decision maker's functions, powers and duties during the financial year ending on the previous 30 June.
- (2) The Minister must cause a report under subsection (1) to be presented to each House of Parliament within 7 sitting days of that House after the report is received by the Minister.

68 The Consolidated Fund

- (1) The following amounts must be paid out of the Consolidated Fund, which is appropriated by this subsection to the necessary extent—
 - (a) amounts of assistance to be paid under this Act;
 - (b) amounts to be paid under this Act for reasonable costs in assisting or legally representing an applicant in relation to an application.
- (2) The following amounts must be paid into the Consolidated Fund—
 - (a) amounts repaid under this Act;
 - (b) any amount otherwise paid to or recovered by the State under this Act.

69 Assistance held on trust and invested by scheme decision maker

- (1) Except as required by this Act or any other Act, the scheme decision maker, if satisfied that it is appropriate to do so, may hold on trust an amount of assistance otherwise to be paid under this Act.

- (2) The scheme decision maker may invest money held on trust under subsection (1)—
 - (a) on deposit with an ADI; or
 - (b) in any manner in which trust funds may be invested under the **Trustee Act 1958**.
- (3) The scheme decision maker must pay all income from the investment of money under subsection (2) to the person for whose benefit the amount of assistance is to be paid under this Act.

70 Payment of assistance for certain persons

- (1) If a person for whose benefit assistance is to be paid under this Act is also a person for whom an administration order is in effect, the scheme decision maker may pay the assistance to the administrator for that person.
- (2) If a person for whose benefit assistance is to be paid under this Act is also a person under the age of 18 years or any other person under disability for whom an administration order is not in effect, the scheme decision maker may pay the assistance to the Senior Master of the Supreme Court.
- (3) The Senior Master must hold money received under subsection (2) as if—
 - (a) an order had been made in a proceeding in the Supreme Court that the money be paid into court and held on behalf of the person referred to in subsection (2); and
 - (b) the money had been paid into court in accordance with that order.
- (4) This section does not affect the operation of section 179 of the **Guardianship and Administration Act 2019**.

(5) In this section—

person under disability has the same meaning as in section 33A of the **Supreme Court Act 1986**.

71 Independent review of this Act

- (1) Within 2 years of the commencement of this section, the Minister must cause an independent review to be conducted on the operation of this Act.
- (2) The person who conducts the review under subsection (1) must give a written report of the review to the Minister.
- (3) The Minister must cause a copy of the report under subsection (2) to be presented to each House of Parliament within 10 sitting days after the report is received by the Minister.

72 Indexation of maximum amounts of assistance

- (1) In any given financial year, the relevant amount payable to or for the benefit of a victim is to be varied in accordance with the following formula—

$$N = P \times \frac{CPI_i}{CPI_{ii}}$$

where—

CPI_i is the all groups consumer price index for Melbourne in original terms for the last reference period in the previous calendar year most recently published by the Australian Bureau of Statistics; and

CPI_{ii} is the all groups consumer price index for Melbourne in original terms for the corresponding reference period one year earlier than the reference period referred to in **CPI_i** most recently published by the Australian Bureau of Statistics; and

P is the relevant amount payable in the previous financial year; and

N is the new relevant amount payable in the given financial year.

- (2) A calculation under subsection (1) is to be made to 4 decimal places but, for the purposes of any amount payable to or for the benefit of a victim, is to be rounded to the nearest whole dollar (with a calculation that ends in 5 being rounded up).
- (3) If a calculation under subsection (1) would have the effect of reducing the relevant amount payable—
- (a) the reduction does not take effect and the relevant amount is the same as in the previous financial year; and
 - (b) when the relevant amount is calculated under subsection (1) for the purposes of the next or any subsequent financial year—
 - (i) **P** is the amount that, if not for paragraph (a), would have been the relevant amount in the previous financial year; and
 - (ii) if the new relevant amount as calculated would be less than the actual relevant amount in the previous financial year, the relevant amount remains the same as in the previous financial year.

- (4) The scheme decision maker must cause notice specifying each relevant amount as varied under this section to be published before the start of the financial year to which the variation relates—
 - (a) in the Government Gazette; and
 - (b) on a website maintained by the scheme decision maker or another Victorian Government website.
- (5) Failure to publish notice under subsection (4) does not affect the validity of the variation to which the notice relates.
- (6) In this section—
relevant amount means an amount of assistance referred to in section 10(1) or (2)(c), 14(1) or (3)(a) or 16(1).

73 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) Without limiting subsection (1), the regulations may prescribe—
 - (a) additional offences that are relevant offences; and
 - (b) categories of persons who are primary victims; and
 - (c) special reporting categories of persons; and
 - (d) amounts of assistance for which victims may be eligible; and
 - (e) circumstances for the payment of special financial assistance; and

- (f) circumstances in which an application may be made for assistance for expenses relating to reasonable counselling services.

Part 7—Transitional provisions

74 Variation of Tribunal awards

- (1) A person to whom, or for whose benefit, an award of assistance has been made under the **Victims of Crime Assistance Act 1996** (including an award of special financial assistance made in accordance with section 8A of that Act, an award that has been varied under that Act and an award made after the commencement of this section) may apply to the scheme decision maker to vary the award.
- (2) An application for variation of an award—
 - (a) subject to paragraph (b), must be made within 6 years after the day on which the award was originally made under the **Victims of Crime Assistance Act 1996**; or
 - (b) if the person was under the age of 18 years when the award was originally made, may be made at any time until the person turns 24 years of age.
- (3) An application for a minor variation may be made more than once but an application for a substantive variation may be made only once.
- (4) On an application under this section—
 - (a) in the case of an application for a substantive variation, the scheme decision maker may decide to pay additional assistance (including special assistance) to the person subject to any conditions the scheme decision maker thinks fit; or
 - (b) in the case of an application for a minor variation, the scheme decision maker may make the variation sought or any other minor variation the scheme decision maker thinks fit.

- (5) In considering an application under this section, the scheme decision maker must take into account—
- (a) any fresh evidence that has become available since the award was made or last varied; and
 - (b) any change of circumstances that has occurred since the award was made or last varied or that is likely to occur; and
 - (c) any payments received by or payable to the person to whom, or for whose benefit, the award was made in respect of the injury or death since the award was made or last varied; and
 - (d) anything else that the scheme decision maker considers relevant.
- (6) In exercising a power under this section, the scheme decision maker must do so in accordance with the other provisions of this Act relating to the payment of, or the amount of, assistance as in force at the time that the power is exercised.
- (7) Without limiting subsection (6), in deciding an application under this section, the scheme decision maker is bound by the maximum amounts of assistance under this Act as in force at the time the decision under this section is made.
- (8) Division 1 of Part 4 and section 49 apply in relation to an application, and a decision made on an application, under this section as if they were an application for variation of assistance under section 48 and a decision made on such an application.
- (9) In this section—
award does not include an interim award;

minor variation means a variation of an award of assistance under the **Victims of Crime Assistance Act 1996** to give effect to the original intention of the award;

substantive variation means a variation of an award of assistance under the **Victims of Crime Assistance Act 1996** that is not a minor variation.

75 Applications in respect of acts of violence before commencement

- (1) Subject to subsection (2), an application may be made by a person under this Act in respect of an act of violence that occurred before the commencement of section 21 unless—
 - (a) the person received an award before that commencement under the **Victims of Crime Assistance Act 1996** or any corresponding previous enactment in respect of that act of violence; or
 - (b) the person applied before that commencement for an award under the **Victims of Crime Assistance Act 1996** or any corresponding previous enactment in respect of that act of violence and that application was refused.

Note

A person who received an award under the **Victims of Crime Assistance Act 1996** may apply under section 74 for variation of the award.

- (2) A person whose application for an award under the **Victims of Crime Assistance Act 1996** in respect of an act of violence was pending immediately before the commencement of section 21 may apply for assistance under this Act in respect of that act of violence only if—

- (a) the person first withdraws their application under the **Victims of Crime Assistance Act 1996**; and
 - (b) no interim award has been made under that Act in relation to the application.
- (3) Subsection (1) applies whether or not the act or omission constituting the act of violence was a criminal act at the time the act or omission occurred.
- (4) In this section—
award does not include an interim award (except in subsection (2)(b)).

Note

See sections 23 and 24 in relation to time limits for making applications under this Act.

Victims of Crime (Financial Assistance Scheme) Act 2022
No. 21 of 2022

Pt 8
(Headings
and ss 76–91)
repealed by
No. 21/2022
s. 91.

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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 7 April 2022

Legislative Council: 12 May 2022

The long title for the Bill for this Act was "A Bill for an Act to provide a new scheme for providing financial assistance to victims of crime, to amend the **Victims of Crime Assistance Act 1996** and the **Victims of Crime Commissioner Act 2015**, to make consequential amendments to other Acts and for other purposes."

The **Victims of Crime (Financial Assistance Scheme) Act 2022** was assented to on 7 June 2022 and came into operation as follows:

Sections 1, 2, 86–88 on 31 October 2022: Special Gazette (No. 524)
4 October 2022 page 1; sections 3–85, 89–91 on 18 November 2024: Special Gazette (No. 610) 12 November 2024 page 1.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in

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a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

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2 Table of Amendments

This publication incorporates amendments made to the **Victims of Crime (Financial Assistance Scheme) Act 2022** by Acts and subordinate instruments.

Victims of Crime (Financial Assistance Scheme) Act 2022, No. 21/2022

<i>Assent Date:</i>	7.6.22
<i>Commencement Date:</i>	S. 91 on 18.11.24: Special Gazette (No. 610) 12.11.24 p. 1
<i>Note:</i>	S. 91 repealed Pt 8 (ss 76–91) on 1.12.25
<i>Current State:</i>	This information relates only to the provision/s amending the Victims of Crime (Financial Assistance Scheme) Act 2022

Justice Legislation Amendment (Sexual Offences and Other Matters) Act 2022, No. 38/2022

<i>Assent Date:</i>	6.9.22
<i>Commencement Date:</i>	S. 38 on 30.7.23: s. 2(5)
<i>Current State:</i>	This information relates only to the provision/s amending the Victims of Crime (Financial Assistance Scheme) Act 2022

3 Explanatory details

No entries at date of publication.