



**Victims of Crime Assistance Tribunal**

**Chief Magistrate’s Chambers  
Melbourne Magistrates’ Court**

**Practice Direction**

**No. 8 of 2008**

**DEPENDENCY CLAIMS**

**PRACTICE DIRECTION ISSUED PURSUANT TO SECTION 58  
OF THE VICTIMS OF CRIME ASSISTANCE ACT 1996**

**Purpose**

The purpose of this Practice Direction is to specify the procedure to be followed in relation to claims for financial assistance for dependency by a related victim of an act of violence.

**Background**

Section 13(1) of the *Victims of Crime Assistance Act 1996* provides as follows:

**13 Assistance available to any one related victim**

- (1) Within the limit set by section 12, a related victim may be awarded by the Tribunal assistance of up to \$50,000.
- (2) The amount awarded to a related victim may be made up of amounts –
  - .....
  - (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.

Section 3(1) of the Act provides that a “dependant, in relation to a deceased primary victim of an act of violence, means –

- (a) an individual who was wholly or substantially dependent on the victim’s income at the time of the victim’s death or who would have been but for the incapacity of the victim due to the injury from which he or she died; or
- (b) a child of the victim born after the victim’s death who would have been a dependant of the victim under paragraph (a) if he or she had been born before the victim’s death.”

**Note:** A related victim is only entitled to an award for dependency after exhausting all other entitlements available, including those available pursuant to Social Security, WorkCover and Transport Accident Commission legislation.

### **Procedure for making a claim for dependency**

An application for an award for dependency shall be made in writing by filing the attached dependency claim form. Claims for dependency must be supported by documentation that verifies the figures used to calculate the amount claimed. This may include:

- details of gross pre-death earnings of the deceased primary victim, including how the pre-death earnings have been calculated;
- tax returns of the applicant and the deceased primary victim for the three financial years before the death of the primary victim and the financial years between the date of death and the end date of the period for which the dependency claim is made;
- details of potential eligibility entitlements and payments from WorkCover, Transport Accident Commission, Centrelink or any other payments received by the applicant or the deceased primary victim or to which the applicant or deceased primary victim's estate may be entitled;
- details of the assets and liabilities of the applicant, the estate of the deceased primary victim and the distribution of the estate assets;
- details of the financial contributions made by the deceased primary victim to the applicant for the three financial years immediately before the death of the primary victim;
- verification of the relationship between the applicant and the primary deceased victim, e.g. spouse, child, defacto relationship; and
- all other information or documentation relevant to the claim.

### **Revocation of previous Practice Direction**

This Practice Direction revokes Practice Direction 7/2003 (Dependency Claim).

### **Commencement**

This Practice Direction has effect from 1 January 2009.

**IAN L GRAY**  
Chief Magistrate  
11 December 2008

## VICTIMS OF CRIME ASSISTANCE TRIBUNAL

### DEPENDENCY CLAIM FORM

The Tribunal may award you up to \$50,000 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 two years after that death.

#### **SUPPORTING MATERIAL REQUIRED TO BE FILED:**

*(The following list is a guide only. All claims should be supported by documentation which verifies the figures used to calculate the amount claimed).*

#### **1. EMPLOYMENT DETAILS**

- A.** Tax returns of the applicant related victim and the deceased primary victim for:
  - i) The 3 financial years before the death of the primary victim; and
  - ii) The financial years between the date of death and the end date of the period for which the dependency claim is made.
- B.** Advice in writing from the deceased primary victim's employer or, if the deceased was self-employed, a statement detailing gross pre-death earnings including particulars as to the basis upon which the pre-death earnings have been determined.
- C.** Any other supporting material.

#### **2. OTHER PAYMENT DETAILS**

Details of any payment received or payable by way of social security or other benefit or pursuant to any insurance, superannuation, compensation, assistance or damages claim.

#### **3. OTHER DEPENDENCY DETAILS**

Details of:-

- A.** Documentation verifying the relationship between the applicant related victim and the primary deceased victim. ie. spouse, child, defacto relationship etc. Where appropriate, documentation verifying the nature of the relationship; for instance; length of relationship, financial arrangements, etc.).
- B.** Documentation establishing the financial contributions made by the deceased primary victim to the applicant related victim for the 3 financial years before the death of the primary victim.
- C.** Documentation verifying the assets and liabilities of the related victim applicant, the estate of the deceased primary victim and the distribution of the estate assets.

**VICTIMS OF CRIME ASSISTANCE TRIBUNAL  
DEPENDENCY CLAIM FORM**

**APPLICATION FOR ASSISTANCE BY:**

**REFERENCE NUMBER:**

NOTE: If insufficient space, attach additional pages.

**A. STATE THE PRIMARY VICTIM'S PRE-DEATH WEEKLY GROSS EARNINGS** \$ \_\_\_\_\_ A

How did you calculate this amount? (example: The primary victim's taxation return shows a gross income of \$36,000 for a full year. Therefore, \$36,000 divided by 52 weeks equals weekly gross earnings of \$692).

\_\_\_\_\_

\_\_\_\_\_

**B. YOUR PRE-DEATH WEEKLY DEPENDENCY INCOME** \$ \_\_\_\_\_ B

This is the amount you would have been reasonably likely to receive from the primary victim per week. List the documents relied upon.

\_\_\_\_\_

\_\_\_\_\_

**C. YOUR POST-DEATH DEPENDENCY CLAIM**

Specify the period for which the dependency claim is made

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<b>Date From</b>	<b>Date To</b>	<b>Total time (weeks)</b>	<b>Enter amount specified in <span style="border: 1px solid black; padding: 2px;">B</span> above</b>	<b>Multiply column 3 by column 4 to calculate total dependency claim</b>
<b>TOTAL</b>				\$ _____ <span style="border: 1px solid black; padding: 2px;">C</span>

**D. LESS what you have received for**

(ie. Other entitlements received by you as a result of the death of the primary victim)

Entitlement	Date From	Date To	Amount (\$)
Sick Pay			
Social Security Payments			
Workcover Payments			
T.A.C. Payments			
Insurance Payments			
Other Payments (Provide Details)			
<b>TOTAL</b>			\$ _____ <span style="border: 1px solid black; padding: 2px;">D</span>

**TOTAL** C \$ \_\_\_\_\_

**Less TOTAL** D \$ \_\_\_\_\_ = **TOTAL AMOUNT CLAIMED** \$ \_\_\_\_\_

Dated:     /     /

Signature of applicant: \_\_\_\_\_