

Version No. 001
Victims of Crime Assistance Rules 2010
S.R. No. 84/2010
Version as at 1 September 2010

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Version No. 001
Victims of Crime Assistance Rules 2010
S.R. No. 84/2010

Version as at 1 September 2010

The Chief Magistrate together with 2 Deputy Chief Magistrates jointly make the following Rules:

ORDER 1—PRELIMINARY

1 Objects

The objects of these Rules are—

- (a) to provide for procedure in the Victims of Crime Assistance Tribunal for the purposes of facilitating applications to the Victims of Crime Assistance Tribunal under the **Victims of Crime Assistance Act 1996**; and
- (b) to provide for powers of judicial registrars in the Victims of Crime Assistance Tribunal and for the review of decisions made by judicial registrars.

2 Authorising provisions

These Rules are made under section 57 of the **Victims of Crime Assistance Act 1996** and all other enabling powers.

3 Commencement

These Rules come into operation on 1 September 2010.

4 Revocation

The Victims of Crime Assistance (Procedure) Rules 2007¹ are **revoked**.

5 Definitions

In these Rules—

application for assistance means an application under section 26 of the Act;

application for review of a decision of a judicial registrar means an application under section 59A of the Act;

the Act means the **Victims of Crime Assistance Act 1996**.

ORDER 2—APPLICATIONS

6 Applications for assistance—Form 1

For the purposes of section 26 of the Act, the prescribed form of application is in Form 1.

7 Lodgement of applications for assistance

- (1) Unless subrule (2) applies, an application for assistance to the Tribunal must be lodged with or posted to a registrar of the Tribunal—
 - (a) at the venue of the Tribunal that is closest to the applicant's place of residence; or
 - (b) if there is more than one applicant in relation to an act of violence and they are not close family members, at the venue of the Tribunal that is closest to the act of violence.
- (2) An application for assistance made to the Tribunal must be lodged with or posted to the registrar of the Tribunal at Melbourne if—
 - (a) the applicant resides outside the State; or
 - (b) the applicant is a related victim; or
 - (c) the applicant is—
 - (i) a primary victim; or
 - (ii) a secondary victim; and—

is aware of the existence of a related victim with respect to the act of violence that is the subject of the application.
- (3) Despite subrules (1) and (2), a registrar of the Tribunal may accept an application for assistance lodged with or posted to a registrar of the Tribunal at a venue of the Tribunal other than a venue determined in accordance with those subrules.

8 Application for review of a decision of a judicial registrar—Form 2

- (1) An application under section 59A of the Act for the review of a final decision of the Tribunal made by a judicial registrar must be in Form 2.
- (2) An application for review of a decision of a judicial registrar must be accompanied by an affidavit that sets out the reasons for the application.
- (3) The application for review of a decision of a judicial registrar and the accompanying affidavit must be lodged within 14 days after the day on which the final decision of the judicial registrar was made.
- (4) The Tribunal may extend time for lodging under subrule (3) before or after the time expires, whether or not an application for review of a decision of a judicial registrar is made before that time expires.

9 Lodgement of application for review of a decision of a judicial registrar

- (1) An application for review of a decision of a judicial registrar must be lodged with or posted to a registrar of the Tribunal at the venue of the Tribunal where the decision of the judicial registrar was made.
- (2) Despite subrule (1), a registrar of the Tribunal may accept an application for review of a decision of a judicial registrar that is lodged with or posted to a registrar of the Tribunal at a venue of the Tribunal other than the venue referred to in that subrule.

10 Application may be lodged by fax

- (1) An application to which this Order applies may be lodged with a registrar of the Tribunal by fax in accordance with this Rule.
- (2) An application lodged by fax must include a cover page stating—
 - (a) the name, address and telephone number of the sender;
 - (b) the date and time of transmission;
 - (c) the total number of pages sent, including the cover sheet;
 - (d) the telephone number from which the application is sent;
 - (e) the name and telephone number of a person to contact in the event of any problem in faxing the application;
 - (f) that the fax is by way of lodgement under Rule 10(1).
- (3) A copy of an application lodged by fax must be lodged with the registrar of the Tribunal within 14 days after the fax was sent.
- (4) Unless a copy of the application is lodged in accordance with subrule (1), the application must be taken to have been struck out.

11 When application made

- (1) An application to which this Order applies is made when it is received by the registrar of the Tribunal in accordance with Rule 7, 9 or 10.
 - (2) On receipt of an application, the registrar must note the date of receipt of such application on the application.
-

ORDER 3—JUDICIAL REGISTRARS

12 Powers of judicial registrar

A judicial registrar—

- (a) may exercise any power delegated to that judicial registrar by instrument under section 24(3) of the Act; and
- (b) has all the powers of the Tribunal necessary to exercise those delegated powers.

13 Review of a decision of a judicial registrar by Tribunal

- (1) An application for review of a decision of a judicial registrar must be determined by the Tribunal after consideration of the application and the accompanying affidavit.
- (2) The Tribunal, after examining the application and accompanying affidavit may—
 - (a) determine the review on the papers; or
 - (b) set a date, time and place for hearing the review.
- (3) In determining the review, the Tribunal may—
 - (a) affirm the final decision; or
 - (b) set aside the final decision and make another final decision in substitution for it.

14 Stay

Unless the Tribunal otherwise orders, the lodging of an application for review of a decision of a judicial registrar does not operate as a stay of any final decision made by a judicial registrar as delegate of the Tribunal.

ORDER 4—GENERAL

15 Venues of the Tribunal

Each venue of the Magistrates' Court is a venue of the Tribunal.

FORMS

FORM 1

Rule 6

APPLICATION FOR ASSISTANCE

(Victims of Crime Assistance Rules 2010)

Victims of Crime Assistance Tribunal

Ref. No.

DETAILS OF PERSON WANTING ASSISTANCE

Surname

Given names

Address

Postcode

Telephone (H)

(W)

Occupation

Date of Birth

Sex Male Female

*Are you of Aboriginal or Torres Strait Islander origin?

person of Aboriginal or Torres Strait Islander origin means a person who is descended from an Aboriginal or Torres Strait Islander and is accepted as an Aboriginal or Torres Strait Islander by an Aboriginal or Torres Strait Islander community.

[Persons of both Aboriginal and Torres Strait Islander origin should mark both "Yes" boxes]

No Yes, Aboriginal

Yes, Torres Strait Islander

NOTE: This information will enable the Tribunal to provide you with information to assist your application.

Have you previously made an application for assistance or compensation under this Act?

Yes No

Have you previously made an application in respect of this act of violence?

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Order 4—General

Form 1

Yes No

Please nominate which category applies to you—

1. Primary Victim
2. Secondary Victim
3. Related Victim
4. Application for payment of funeral expenses

PLEASE NOTE YOU CAN ONLY APPLY IN ONE CATEGORY

PLEASE COMPLETE THIS SECTION IF YOU ARE MAKING THIS CLAIM ON BEHALF OF A CHILD

Your full name

Address

Postcode

Telephone

Date of birth

Relationship to applicant

CIRCUMSTANCES OF THE ACT OF VIOLENCE

What was the act of violence/offence?

Where did the act of violence occur?

Date of act of violence Time am pm

Who committed the act of violence?

Sex of alleged offender Male Female

*Was the alleged offender a family member or domestic partner of the victim? Yes No

If Yes, how are you related to the offender? I am their

[e.g.: wife, son, father, step-sister, former domestic partner]

NOTE: This information is for data collection purposes only.

Victims of Crime Assistance Rules 2010
S.R. No. 84/2010
Order 4—General

Form 1

POLICE REPORTING DETAILS

Has the act of violence been reported to the Police? Yes No

If Yes, please provide the officer's details

Name

Registered number

Rank

Police station

Date of report

If the act of violence was not reported, you must provide a statutory declaration setting out the circumstances of the act of violence and provide the reason for the failure to report the matter.

Have criminal proceedings commenced? Yes No Unknown

If known, provide any details known to you [*i.e. date and location of hearing*]

WHAT EFFECTS HAVE RESULTED FROM THE ACT OF VIOLENCE?

Physical* Yes No

Psychological* Yes No

Grief, distress or trauma Yes No

Provide details

*A medical or psychological report should be filed with the registrar of the Tribunal.

Did you attend a public hospital? Yes No

If yes, what hospital?

<p>ARE YOU APPLYING FOR ASSISTANCE FOR</p> <p>Primary Victim</p> <p><input type="checkbox"/> Special financial assistance</p> <p><input type="checkbox"/> Counselling</p> <p><input type="checkbox"/> Medical expenses</p> <p><input type="checkbox"/> Safety related expenses</p> <p><input type="checkbox"/> Loss of earnings</p> <p><input type="checkbox"/> Loss or Damage to clothing</p> <p><input type="checkbox"/> Other*</p> <p>Secondary Victim</p> <p><input type="checkbox"/> Counselling</p> <p><input type="checkbox"/> Medical expenses</p> <p><input type="checkbox"/> Loss of earnings*</p> <p><input type="checkbox"/> Other*</p> <p>Related Victim</p> <p><input type="checkbox"/> Distress</p> <p><input type="checkbox"/> Counselling</p> <p><input type="checkbox"/> Medical expenses</p> <p><input type="checkbox"/> Funeral expenses</p> <p><input type="checkbox"/> Other*</p> <p><input type="checkbox"/> Funeral expenses only</p>
<p>*Proof of exceptional circumstances may be required.</p>

HAVE YOU APPLIED FOR ASSISTANCE UNDER ANY OTHER SCHEMES?				
	Still Pending	Refused	Amount Received	Reference or claim number
<input type="checkbox"/> WorkCover	<input type="checkbox"/>	<input type="checkbox"/>	\$	
<input type="checkbox"/> Transport Accident Commission	<input type="checkbox"/>	<input type="checkbox"/>	\$	
<input type="checkbox"/> Insurance	<input type="checkbox"/>	<input type="checkbox"/>	\$	
<input type="checkbox"/> Other	<input type="checkbox"/>	<input type="checkbox"/>	\$	
Please provide details of a claim under any of these schemes.				

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Order 4—General

Form 1

Please supply and attach details of any relevant insurance cover [*life or health*] or superannuation benefit entitlements held and any payments received or to be received—

by the applicant

by the deceased

IF DEATH WAS CAUSED BY THE ACT OF VIOLENCE

Full name of deceased

Last known address

Postcode

Date of birth

Relationship to applicant

Date and place of death

NOTE: YOU MUST ALSO COMPLETE THE RELATED VICTIMS PART OF THIS FORM

DETERMINATION OF YOUR APPLICATION

Would you prefer to:

- Attend a hearing at the Tribunal? *OR*
- Have your application determined in your absence?

Do you request that:

- Proceedings be conducted in a closed Court?
- Publication of your application be restricted?

Do you require an interpreter? Yes No If yes, specify a language.

THIS SECTION IS TO BE COMPLETED BY RELATED VICTIM APPLICANTS

As a related victim you are required to list—

- (a) every other person whom you believe may be a related victim; and
- (b) every other person whom you believe may allege that he or she is a related victim; and
- (c) any person whom you believe may apply because they have incurred funeral expenses as a result of the death of the primary victim.

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Order 4—General

Form 1

Name of potential victim:

Age of potential victim if under 18 years of age:

Address of potential victim*:

Relationship of potential victim to the deceased:

**If the potential victim is under 18 years of age, provide the name and address of parent, guardian or administrator.*

[Attach a separate sheet if required]

Signature of applicant

AUTHORISATION OF APPLICANT

I _____ authorise the Victims of Crime Assistance Tribunal to obtain any additional evidence or documentation that the Tribunal considers necessary to enable it to determine my application.

Signature of applicant

STATUTORY DECLARATION

I *[name and occupation]*

of *[address]*

do solemnly declare that the contents of this application are true and correct and I make this solemn declaration conscientiously believing that a person making a false declaration is liable to the penalties of perjury.

Signature of applicant

Declared at

Date

Before me

Signature of person witnessing the declaration

Name of witness

Title of witness

Address of witness

FORM 2

Rule 8

**APPLICATION FOR REVIEW OF A DECISION OF A
JUDICIAL REGISTRAR**

(Victims of Crime Assistance Rules 2010)

Victims of Crime Assistance Tribunal

DETAILS OF PERSON SEEKING REVIEW

Surname

Given names

Address

Postcode

Telephone (H)

(W)

DECISION TO BE REVIEWED

I apply to the Victims of Crime Assistance Tribunal under section 59A of the **Victims of Crime Assistance Act 1996** to have the following decision made by a judicial registrar reviewed:

Date of decision:

Tribunal venue where decision made:

Tribunal reference No.:

NOTE: An applicant must file an affidavit with his or her application setting out the reasons for seeking a review of a final decision of a judicial registrar.

MATERIAL IN SUPPORT OF REVIEW APPLICATION

Do you wish to file any additional material in support of your review application:

Yes

No

If yes, please file all additional supporting material with the Tribunal within 28 days from the date of this application.

DETERMINATION OF YOUR REVIEW APPLICATION

Would you prefer to:

- Attend a hearing at the Tribunal? *OR*
- Have your application determined in your absence?

Do you request that:

- Proceedings be conducted in a closed Court?
- Publication of your application be restricted?

Do you require an interpreter? Yes No If yes, specify a language.

SIGNATURE OF APPLICANT

Signature

Date

*[signed by the person making the application
for review or the applicant's solicitor]*

NOTE: An application for review under section 59A of the **Victims of Crime Assistance Act 1996** is treated as a hearing de novo of the original application for assistance. Upon review, the Tribunal may either refuse the application for review or make its own decision in substitution for the original order.

Dated: 30 August 2010

DANIEL J. MULING,
Acting Chief Magistrate

PETER LAURITSEN,
Deputy Chief Magistrate

LANCE I. MARTIN,
Deputy Chief Magistrate

ENDNOTES

1. General Information

The Victims of Crime Assistance Rules 2010, S.R. No. 84/2010 were made on 30 August 2010 by the Chief Magistrate together with 2 Deputy Chief Magistrates jointly under section 57 of the **Victims of Crime Assistance Act 1996**, No. 81/1996 and came into operation on 1 September 2010: rule 3.

The Victims of Crime Assistance Rules 2010 will sunset 10 years after the day of making on 30 August 2020 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

There are no amendments made to the Victims of Crime Assistance Rules 2010 by statutory rules, subordinate instruments and Acts.

Endnotes

3. Explanatory Details

¹ Rule 4: S.R. No. 43/2007.