

Authorised Version No. 002
Victims of Crime Assistance Rules 2020

S.R. No. 88/2020

Authorised Version incorporating amendments as at
22 February 2021

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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 and Tribunal officers in the Victims of Crime Assistance Tribunal and for the review of decisions made by judicial registrars and Tribunal officers.

Rule 1(b)
amended by
S.R. No.
9/2021 rule 5.

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 28 August 2020.

4 Revocations

The following Rules are **revoked**—

- (a) the Victims of Crime Assistance Rules 2010¹;
- (b) the Victims of Crime Assistance Amendment No. 1 Rules 2014²;
- (c) the Victims of Crime Assistance Amendment Rules 2016³.

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;

application for review of a decision of a Tribunal officer means an application under section 59A of the Act;

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

Rule 5 def. of
*application for
review of a
decision of a
Tribunal
officer*
inserted by
S.R. No.
9/2021 rule 6.

Order 2—Applications

6 Applications for assistance

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

7 Lodgements for applications for assistance

- (1) Unless paragraph (3) 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 nominated by the Chief Magistrate; or
 - (b) in the absence of any nomination by the Chief Magistrate—
 - (i) at the venue of the Tribunal that is closest to the applicant's place of residence; or
 - (ii) if there is more than one applicant in relation to an act of violence and the applicants are not close family members, at the venue of the Tribunal that is closest to the place where the act of violence occurred.
- (2) For the purposes of paragraph (1)(a), the Chief Magistrate may from time to time, by notice published in the Government Gazette, nominate a venue of the Tribunal as the venue at which an application must be lodged with or posted to, whether generally or for a particular class of application.
- (3) 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 a secondary victim;
and
 - (ii) is aware of the existence of a related victim with respect to the act of violence that is the subject of the application.
- (4) Despite paragraphs (1) and (3), 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 paragraphs.

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

- (1) An application under section 59A of the Act for 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 paragraph (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.

8A Application for review of a decision of a Tribunal officer—Form 3

Rule 8A
inserted by
S.R. No.
9/2021 rule 7.

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

9 Lodgement of application for review of 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 paragraph (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 paragraph.

Rule 9A
inserted by
S.R. No.
9/2021 rule 8.

9A Lodgement of application for review of decision of a Tribunal officer

- (1) An application for review of a decision of a Tribunal officer must be lodged with or posted to a registrar of the Tribunal at the venue of the Tribunal where the decision of the Tribunal officer was made.
- (2) Despite paragraph (1), a registrar of the Tribunal may accept an application for review of a decision of a Tribunal officer 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 paragraph.

Rule 10
(Heading)
amended by
S.R. No.
9/2021
rule 9(1).

10 Application may be lodged by fax, email or other electronic communication

An application to which this Order applies may be lodged with a registrar of the Tribunal by fax, email or other electronic communication.

Rule 10
amended by
S.R. No.
9/2021
rule 9(2).

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, 9A or 10.
- (2) On receipt of an application, the registrar must note the date of receipt of such application on the application.

Rule 11(1)
amended by
S.R. No.
9/2021 rule 10.

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 3A
(Heading and
rules 14A–
14C)
inserted by
S.R. No.
9/2021 rule 11.

Order 3A—Tribunal officers

Rule 14A
inserted by
S.R. No.
9/2021 rule 11.

14A Powers of Tribunal officer

A Tribunal officer—

- (a) may exercise any power delegated to that Tribunal officer by instrument under section 24(4) of the Act; and
- (b) has all the powers of the Tribunal necessary to exercise those delegated powers.

Rule 14B
inserted by
S.R. No.
9/2021 rule 11.

14B Review of a decision of a Tribunal officer by Tribunal

- (1) An application for review of a decision of a Tribunal officer 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.

Rule 14C
inserted by
S.R. No.
9/2021 rule 11.

14C Stay

Unless the Tribunal otherwise orders, the lodging of an application for review of a decision of a Tribunal officer does not operate as a stay of any

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Order 3A—Tribunal officers

final decision made by a Tribunal officer 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.

Form 1—Application for assistance

Rule 6

APPLICATION FOR ASSISTANCE

(Victims of Crime Assistance Rules 2020)

Victims of Crime Assistance Tribunal

Ref. No.

DETAILS OF PERSON WANTING ASSISTANCE

Surname:

Given names:

Address:

Postcode:

Telephone: (H)

(W)

(M)

Occupation:

Date of birth:

Gender:

Male Female Indeterminate/Intersex/Unspecified

Email:

*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

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Form 1—Application for assistance

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

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 OR PERSON UNDER DISABILITY

Your full name:

Address:

Postcode:

Telephone:

Date of birth:

Email:

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 Indeterminate/Other

* 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 the offender's

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

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S.R. No. 88/2020
Form 1—Application for assistance

NOTE: This information is for data collection purposes only.

If more than 2 years have lapsed since the act of violence please outline your reasons for not filing an application within this time:

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 to police.

Have criminal proceedings commenced? Yes No Unknown

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

Are there intervention orders relating to this matter?

Yes No

Case Number (if known)

If the incident occurred in the workplace was it reported to your employer?

Yes No

Has the act of violence been reported elsewhere? Yes No

If yes, please provide details:

WHAT EFFECTS HAVE RESULTED FROM THE ACT OF VIOLENCE?

Physical Yes No

Psychological Yes No

Grief, distress or trauma Yes No

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S.R. No. 88/2020
Form 1—Application for assistance

Provide details:

Did you attend a public hospital? Yes No

If yes, what hospital?

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.

If the Tribunal makes an award would you like it deposited into your bank account? Yes No

HAVE YOU APPLIED FOR ASSISTANCE UNDER ANY OTHER SCHEMES?

	Still Pending	Finalised	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"/> Civil Proceedings/Sentencing	<input type="checkbox"/>	<input type="checkbox"/>	\$	
<input type="checkbox"/> Other (please specify)	<input type="checkbox"/>	<input type="checkbox"/>	\$	

Please provide details of a claim under any of these schemes.

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Form 1—Application for assistance

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

TYPE OF ASSISTANCE SOUGHT

Primary victim

- Special financial assistance
- Counselling
- Medical expenses
- Safety-related expenses
- Loss of earnings
- Loss of or damage to clothing
- Other*

Secondary victim

- Counselling
- Medical expenses
- Loss of earnings*
- Other*

Related victim

- Distress
- Counselling
- Medical expenses
- Funeral expenses
- Other*

- Funeral expenses only**

*Evidence of exceptional circumstances may be required.

IF DEATH WAS CAUSED BY THE ACT OF VIOLENCE

Full name of deceased:

Last known address:

Postcode:

Date of birth:

Relationship to the deceased:

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Date and place of death:

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

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.

Name of potential victim

Age of potential victim if under 18 years of age

Guardian of potential victim (if applicable)*

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]

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*

**Not required if application lodged online.*

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Form 1—Application for assistance

ACKNOWLEDGMENT

I understand and acknowledge that:

- To the best of my knowledge, all information provided in this application is true and correct and that no details relevant to the application have been left out.
 - It is an offence under section 67 of the **Victims of Crime Assistance Act 1996** to knowingly give false or misleading information in, or in relation to, an application for assistance.
- By ticking this checkbox I confirm that I have read and understood all the statements above.

Full name of person completing this application

Signature*

**Not required if application lodged online.*

Date

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

Rule 8

APPLICATION FOR REVIEW OF A DECISION OF A JUDICIAL REGISTRAR

(Victims of Crime Assistance Rules 2020)

Victims of Crime Assistance Tribunal

DETAILS OF PERSON SEEKING REVIEW

Surname:

Given names:

Address:

Postcode:

Telephone: (H)

(W)

(M)

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 their 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.

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

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.

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S.R. No. 88/2020
Form 3—Application for review of a decision of a Tribunal officer

Form 3
inserted by
S.R. No.
9/2021 rule 12.

Form 3—Application for review of a decision of a Tribunal officer

Rule 8A

APPLICATION FOR REVIEW OF A DECISION OF A TRIBUNAL OFFICER

(Victims of Crime Assistance Rules 2020)

Victims of Crime Assistance Tribunal

DETAILS OF PERSON SEEKING REVIEW

Surname:

Given names:

Address:

Postcode:

Telephone: (H)

(W)

(M)

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 Tribunal officer reviewed:

Date of decision:

Tribunal venue where decision made:

Tribunal reference No.:

NOTE: An applicant must file an affidavit with their application setting out the reasons for seeking a review of a final decision of a Tribunal officer.

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.

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S.R. No. 88/2020
Form 3—Application for review of a decision of a Tribunal officer

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: 25 August 2020

LISA HANNAN,
Chief Magistrate

FELICITY BROUGHTON,
Deputy Chief Magistrate

SUSAN WAKELING,
Deputy Chief Magistrate

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.

The Victims of Crime Assistance Rules 2020, S.R. No. 88/2020 were made on 25 August 2020 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 28 August 2020: regulation 3.

The Victims of Crime Assistance Rules 2020 will sunset 10 years after the day of making on 25 August 2030 (see section 5 of the **Subordinate Legislation Act 1994**).

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 regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

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

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

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

- **Punctuation**

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

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule 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 a Statutory Rule 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 a Statutory Rule. See section 36(3)(3D)(3E).

Victims of Crime Assistance Rules 2020
S.R. No. 88/2020
Endnotes

2 Table of Amendments

This publication incorporates amendments made to the Victims of Crime Assistance Rules 2020 by statutory rules, subordinate instruments and Acts.

Victims of Crime Assistance Amendment Rules 2021, S.R. No. 9/2021

Date of Making: 17.2.21

Date of Commencement: 22.2.21: rule 3

3 Amendments Not in Operation

This version does not contain amendments that are not yet in operation.

4 Explanatory details

¹ Rule 4(a): S.R. No. 84/2010.

² Rule 4(b): S.R. No. 13/2014.

³ Rule 4(c): S.R. No. 46/2016.