

1990 - No. 275

VICTIMS COMPENSATION ACT 1987 - REGULATION
(Relating to forms)

NEW SOUTH WALES



[Published in Gazette No. 62 of 11 May 1990]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Victims Compensation Act 1987, has been pleased to make the Regulation set forth hereunder.

JOHN DOWD
Attorney General.

Commencement

1. This Regulation commences on 11 May 1990.

Amendments

2. The Victims Compensation Regulation 1988 is amended:
 - by inserting in clause 2 (1), in alphabetical order, the following definition:
"approved" means approved by the Registrar;
 - by inserting after clause 2 the following clause:

Notice of secondary victim's intention to claim

- 2A. A notice of a secondary victim's intention to claim compensation referred to in section 15 must be in the approved form.

(c) by inserting after clause 5 the following clauses:

Notice to show cause

6. For the purposes of section 43 (4) of the Act, Form 6 is the prescribed form for a notice to show cause.

Notice of intention to show cause

7. For the purposes of section 44 (2) of the Act, Form 7 is the prescribed form for a notice of intention to show cause.

Application to enter into arrangement with Registrar

8. An application to enter into an arrangement with the Registrar referred to in section 47 (2) (c) of the Act must be in the approved form.

Application to set aside restitution

9. An application to have a determination for restitution set aside by the Tribunal referred to in section 49A of the Act must be in the approved form.

(d) by inserting in Schedule 1 after Form 5 the following forms:

Form 6

(C1.6)

NOTICE TO SHOW CAUSE

Victims Compensation Act 1987
(Section 43)

TO: Defendant's Name

..... Address

..... Postcode

V.C.T. FILE No. C /

DATE OF AWARD OF COMPENSATION:

AMOUNT OF AWARD:

OFFENCE ON WHICH THE AWARD WAS BASED:

DATE OF CONVICTION FOR OFFENCE:

FACTS ON WHICH THE AWARD WAS BASED:

By virtue of the above award, the Victims Compensation Tribunal ordered an amount of \$ to be paid. The award of compensation was based on the following facts:

You were CONVICTED* of an offence of by the Court on

That offence constitutes an "act of violence" within the meaning of the Victims Compensation Act 1987. As a consequence of which the victim, (name of victim) was awarded "Compensation for injury" in the sum of "\$" and "Compensation for expenses" in the sum of "\$"

TAKE NOTICE that pursuant to the provisions of the Victims Compensation Act 1987 the Registrar has commenced proceedings against you for an Order to be made for the restitution of the award made.

The Tribunal may make a determination for restitution against you and the maximum amount that may be ordered to be paid by you is the amount that has been paid to a victim under the award of compensation to which the determination relates. This amount may be reduced by the Tribunal having regard to your culpability and other relevant considerations in relation to the act of violence on which the award of compensation was based.

You may, at any time before the determination is made by the Tribunal, file in the offices of the Tribunal a notice of intention to show cause in the prescribed form. This notice must set out the grounds of the defence on which you intend to rely.

The Tribunal will determine the restitution proceedings against you at the expiration of two months after service of this notice on you and may, if you have not filed a notice of intention to show cause, determine the action without conducting a hearing. If you file a notice of intention to show cause, then the Tribunal will conduct a hearing and you will be advised of the hearing date.

1990 - No. 275

You may, at any time prior to a final determination being made by the Tribunal, negotiate in an attempt to come to an arrangement with the Registrar on the amount to be paid and the method of payment. Although such an agreement may not be binding on the Tribunal, the Tribunal must have regard to it.

* A reference to a conviction includes a reference to:

- (a) an order made under section 556A of the Crimes Act 1900; and
- (b) an order made under section 33 (1) (b)-(g) of the Children (Criminal Proceedings) Act 1987.

Form 7

(C1.7)

NOTICE OF INTENTION TO SHOW CAUSE

Victims Compensation Act 1987
(Section 44)

NAME:

ADDRESS:

PLACE OF ORDER: VICTIMS COMPENSATION TRIBUNAL,
SYDNEY

DATE OF ORDER:

AMOUNT OF ORDER

FILE NUMBER:

I consider that I have a valid defence to the Order made by the Tribunal and I hereby lodge my notice of intention to show cause and rely on the following grounds:

.....

STATUTORY DECLARATION

I, do solemnly and sincerely declare that the statements made in this notice are true and correct to the best of my knowledge, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900.

Taken and declared before me at

this day of 19

.....
Defendant

.....
Justice of the Peace/Solicitor

*** NOTES FOR THE DEFENDANT**

A recovery action may not be determined before the expiration of 2 months after service on the defendant of the notice to show cause by which the action has been commenced. In any recovery action in which the defendant has not filed a notice of intention to show cause, the Tribunal may determine the action without conducting a hearing. In any recovery action in which the defendant has filed a notice of intention to show cause, the Tribunal must conduct a hearing. If the defendant admits that the full amount is due and owing, then an arrangement may be entered with the Registrar and an instalment application may also be filed.

EXPLANATORY NOTE

The object of this Regulation is to amend the Victims Compensation Regulation 1988 to provide for certain prescribed forms to be used:

- (a) by the Registrar to commence an action before the Victims Compensation Tribunal to recover an amount from a person who has been convicted of an offence in respect of which an award of compensation has been made by that Tribunal (Form 6); and
- (b) by the defendant in such an action (Form 7).

The Regulation also provides for other forms to be approved by the Registrar of the Tribunal.