



Victims Rights and Support Amendment (Transitional Provisions) Regulation 2013

under the

Victims Rights and Support Act 2013

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Victims Rights and Support Act 2013*.

GREG SMITH, MP
Attorney General

Explanatory note

The object of this Regulation is to amend the *Victims Rights and Support Regulation 2013* to make further savings and transitional provisions consequent on the enactment of the *Victims Rights and Support Act 2013* (the **2013 Act**) and the closure of the statutory compensation scheme under the *Victims Support and Rehabilitation Act 1996* (the **repealed Act**). The provisions:

- (a) make certain family victims who lodged an application for statutory compensation under the repealed Act eligible for a special grant of \$5,000 from the Victims Support Fund under clause 5 of Schedule 2 to the 2013 Act in the circumstances specified in that clause, and
- (b) provide that in determining the amount of payments to be made to an applicant who is a family victim under clause 5 there is to be no reduction for any interim payment made under the repealed Act for funeral expenses, and
- (c) ensure that certain rights of appeal under section 38 of the repealed Act in respect of applications for statutory compensation made under the repealed Act before its repeal are preserved.

The Regulation also provides for costs and expenses payable with respect to proceedings before the Administrative Decisions Tribunal under the 2013 Act with respect to victims support to be determined in accordance with section 88 of the *Administrative Decisions Tribunal Act 1997*.

This Regulation is made under the *Victims Rights and Support Act 2013*, including section 117 (the general regulation-making power) and clause 1 of Schedule 2.

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1 Name of Regulation

This Regulation is the *Victims Rights and Support Amendment (Transitional Provisions) Regulation 2013*.

2 Commencement

This Regulation is taken to have commenced on the 3 June 2013 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Victims Rights and Support Regulation 2013

Parts 4 and 5

Insert after Part 3:

Part 4 Miscellaneous

13 Costs and expenses

Costs and expenses payable with respect to proceedings before the Administrative Decisions Tribunal under the Act relating to victims support are to be determined in accordance with section 88 of the *Administrative Decisions Tribunal Act 1997*.

Note. This clause replaces so much of clause 20 of Schedule 2 to the Act as relates to cost and expenses payable in respect of proceedings for victims support under the Act.

Part 5 Savings and transitional provisions

14 Definitions

In this Part:

statutory compensation means statutory compensation within the meaning of the repealed Act.

the repealed Act means the *Victims Support and Rehabilitation Act 1996* (and the regulations and rules made under it) as in force immediately before its repeal by the Act.

15 Applications for compensation under statutory compensation scheme

- (1) The reference to an application under section 26 (1) (b) or (c) of the Act for victims support in clause 5 (3) of Schedule 2 to the Act extends to an application that would, if it had been made by a family victim for victims support as referred to in section 29 (1) (b) or (d) of the Act, have been duly lodged in accordance with the Act within the prescribed period referred to in that subclause.

Note. A family victim may accordingly be eligible for a special grant of \$5,000 in the circumstances set out in clause 5 of Schedule 2 to the Act.

- (2) The amount determined to be payable to an applicant under clause 5 of Schedule 2 to the Act who is a family victim is not, despite clause 5 (6) of that Schedule, to be reduced by the amount of any interim award of statutory compensation made to the

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Schedule 1

Amendment of Victims Rights and Support Regulation 2013

applicant under section 33 of the repealed Act in respect of funeral expenses.

16 Appeals against determinations regarding applications for statutory compensation

- (1) Despite the repeal of section 36 of the repealed Act, if notice of a determination of a compensation assessor was served before that repeal and an appeal could have been duly made in accordance with section 36 (3) (a) if it were still in force, an appeal may be made after 3 June 2013 as if section 36 (other than section 36 (2) and (3) (b)) were still in force.
- (2) An appeal referred to in subclause (1) is to be treated as if it were a proceeding referred to in clause 14 of Schedule 2 to the Act.
- (3) Proceedings to which clause 14 of Schedule 2 to the Act applies (including proceedings referred to in subclause (1)) are, subject to clause 13 of Schedule 2 to the Act, to be determined under section 38 (other than section 38 (5) (b)) of the repealed Act as if the repealed Act were still in force.
- (4) For those purposes, a reference in the repealed Act:
 - (a) to the Director or a compensation assessor is taken to be a reference to the Commissioner, and
 - (b) to the Victims Compensation Tribunal is taken to be a reference to the Administrative Decisions Tribunal.
- (5) Despite clause 4 (1) of Schedule 2 to the Act, statutory compensation determined to be payable (less any deductions under section 19A of the repealed Act) pursuant to a determination under section 38 of the repealed Act as provided in accordance with subclause (3) is payable from the Victims Support Fund under the Act.