

MEDIA RELEASE

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Hidden cost of new compensation laws

After more than two decades, the maximum statutory compensation amount available for victims of crime in South Australia is finally set to increase, but at a hidden cost to victims who no longer meet the eligibility threshold.

Last Thursday, the *Victims of Crime (Compensation) Amendment Bill 2015* passed the Legislative Council, doubling the maximum compensation available for victims of crime from \$50,000 to \$100,000. The changes will only apply to offences committed after 1 July 2015.

The Victim Support Service (**VSS**) says that for many victims of crime, statutory compensation is a tangible recognition by the South Australian Government of the financial, social and psychological impact of crime.

VSS Chief Executive Julian Roffe and Law Society President David Caruso commend the South Australian Government for keeping its election promise to double the maximum pay-out and, for the first time, make grief payments eligible to infant children of adult homicide victims.

However, the VSS and Law Society are both concerned that the new laws make it more difficult for some victims to access compensation.

Furthermore, the re-drawn injury scale will mean many victims will be eligible for only a minor increase in compensation for non-economic loss.

“While doubling the maximum pay-out is a welcome first step, we believe that the level of compensation paid to the majority of victims under the new scale will represent an extremely modest increase, especially in the context of a two-decade hiatus in the level of compensation payments and an ever-growing Victims of Crime Fund,” Mr Roffe said.

“We are also concerned that the new scale will raise the entry threshold for compensation. This means that many claimants at the lower end of the scale will miss out on being adequately recompensed.”

Mr Caruso said: “The Law Society has closely analysed the new law. It is clear that most victims making claims under the *Victims of Crime Act* would be only marginally better compensated than they would have been under the old law. Most victims will remain unfairly compensated.”

(See Figure 1 at the bottom of the document for a comparison between the old and new method of calculating compensation).

“The scale was previously updated in 1993. After 23 years without any increase in compensation payable to victims under the Act, the reforms do not offer an improved situation to many victims,” Mr Caruso said.

“Think about it this way: many victims would be worse off under the new scale than if the old scale was indexed to inflation. For example, \$15,000 in 1993 would be the equivalent of about \$23,500 in today’s money. A victim who could have claimed \$15,000 under the old scale would now be eligible for \$19,000 under the new scale.”

“There should be a doubling of pay-outs across the board,” Mr Caruso said.

“The victim eligible for \$15,000 under the old Act should be eligible for \$30,000 under the new Act, but this is not how the scale works. The Government has only doubled the **maximum** pay-out, which would only apply to the most catastrophically injured victims who become profoundly disabled.”

“The Victims of Crime Fund is flush with money,” Mr Caruso said. There’s more than enough in the kitty to fairly compensate victims for the suffering they have endured.”

Victims of crime seeking information and practical support can call the Victim Helpline on 1800 VICTIM (1800 842 846).

Figure 1

STATE OF SA v BOLE

The leading case for assessing compensation for pain and suffering under the Victims of Crime Act is State of SA v Bole (1995) 64 SASR 379.

Details: Ms Bole was physically and sexually assaulted by an intruder in her home. She suffered fractured ribs and an extremely severe post-traumatic stress disorder for several years.

The decision: The Full Court of the Supreme Court assessed Ms Bole’s injuries as 12 on the injury severity scale. Under the previous Act, the severity of one’s injury was assessed on a scale of 0-50, with 50 being the most severe. Thus, Ms Bole’s non-financial loss was assessed as 24 per cent of the worst possible injury. The Court awarded Mrs Bole **\$12,000** in compensation (this amount was calculated by multiplying the numerical value assigned to the injury by \$1000).

What would Ms Bole receive under the new Act?

The new Act has an injury scale spanning 0-60, rather than 0-50. Therefore, a numerical value of 12 on the old scale would amount to 14 on the new scale (i.e. 24 per cent of 60). This would result in compensation of \$15,000.

Claims for psychological pain and suffering which attract an award of \$15,000 will be exceptionally rare. To achieve this level of recognition the claimant will generally need to exhibit chronic psychological symptoms which persist for seven years or more from the date of the offending.

To interview victims of crime lawyer Richard Fletcher about how victims will fare under the new Act, call Mr Fletcher on 0413 373 288.

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Victim Support Service (VSS) is a statewide, community based not-for-profit organisation in South Australia that provides practical and therapeutic support to more than 40,000 victims and witnesses of crime each year in South Australia. Our services include:

- information and advocacy
- therapeutic intervention
- practical assistance
- support for victims of family/domestic violence.

For more information go to www.victimsa.org.