

SOUTH AUSTRALIA

DISTRICT COURT

(CRIMINAL AND MISCELLANEOUS) RULES 1992

PART V – THE CRIMINAL INJURIES DIVISION

(current to Amendment No. 9 (1 July 2010))

The Rules and Schedules following below are subject to Rule 9 of the *District Court (Criminal and Miscellaneous) Rules 1992 Amendment No. 9* (in operation from 1 July 2010) which provides:

9. The whole of **Part V – The Criminal Injuries Division** – is revoked.
 - 9.1 Despite the revocation of Part V that Part will continue for the purpose of completing proceedings commenced in the Criminal Injuries Division of the Court prior to 1 July 2010.

Part V – the Criminal Injuries Division

- V-1** (1) In Part V unless the context otherwise requires:
“Compensation Act” means whichever of the Criminal Injuries Act or the Victims of Crime Act governs the particular proceedings;
“Criminal Injuries Act” means the *Criminal Injuries Compensation Act 1978*;
“Victims of Crime Act” means the *Victims of Crime Act 2001*.
- (2) A claimant under the Victims of Crime Act is a plaintiff.
- V-2** In respect of proceedings pending at the commencement date of the Criminal Injuries Act:–
- (a) a notice given prior to the commencement date pursuant to Rule 12 of the former Criminal Injuries Compensation Rules and which complies with the requirements of that Rule shall be deemed to be a defence for the purposes of these Rules;
- (b) a notice given prior to the commencement date pursuant to Rule 12 of the former Criminal Injuries Compensation Rules and which does not comply with the requirements of that Rule shall be deemed to be a notice of address for service for the purposes of these Rules;
- (c) in which the notice given prior to the commencement date is deemed to be a notice of address for service by virtue of paragraph (b) of this Rule, the time for filing an answering affidavit or a defence shall, notwithstanding the provisions of Rule 7.07, be deemed to have started to run on the commencement date.
- V-3** (1) Except as the Compensation Act or the Rules under this Part otherwise provide Part I of the Supreme Court Rules and the First Schedule to the Supreme Court Rules in force from time to time, as modified for the purposes of the Court by Parts II and III of these Rules, are to apply *mutatis mutandis* to all proceedings in the Criminal Injuries Division of the Court as if such Rules had been made pursuant to Section 51 of the Act.
- (2) An originating application under the Compensation Act is to be brought by summons.
- [Rules V-4 to V-11 detail exceptions to the application of Part I and the First Schedule of the Supreme Court Rules 1987 for the purposes of the Criminal Injuries Division, as provided for in Rule V-3 above. These exceptions, involving SCR 6A, 7.01, 7.04, 12.03, 13, 21.01, 46.01 and 46A.05(1), are reflected in the document “District Court (Criminal and Miscellaneous) Rules 1992 Parts 2 and 3 as applicable in the Criminal Injuries Division” published on the Courts Administration Authority website.]
- V-12** (1) The Masters have the power, authority and jurisdiction to make interlocutory orders in proceedings governed by Part V to the same extent as they have in proceedings under Part II of these Rules.
- (2) Rules 106.2, 106.3, 106.4 and 107 in Part II of these Rules extend to proceedings governed by Part V.
- V-13** (1) An extension of a limitation period may be sought under Section 18 (7) of the Victims of Crime Act:
- (a) in the same summons by which compensation is sought; and/or
- (b) by an interlocutory application which may be determined before other relief in the proceedings.
- V-14** Third party proceedings under Section 28 (2) (a) of the Victims of Crime Act are governed by Rule 37 but the time limit imposed by Rule 37.01 (1) for bringing such proceedings without

leave is not to apply to the Attorney-General.

- V-15** Where the Attorney-General files a certificate under Section 28 (3) (a) of the Victims of Crime Act the Registrar may administratively enter judgment pursuant to that subsection (3).
- V-16** Where Section 28 (4) of the Victims of Crime Act applies to a judgment obtained under subsection 28 (3) of that Act:
- (1) The Crown solicitor is to serve a sealed copy of the judgment on the offender together with notice of the offender's rights under Section 28 (4) of that Act to apply to have the judgment set aside or varied.
 - (2) Whether the offender is then a party to the action or not, the offender may take out an interlocutory application in the proceedings seeking to set aside or vary the judgment.
 - (3) Unless the Court otherwise directs the plaintiff is not to be given notice of, or to be heard on, any application under this Rule.
- V-17**
- (1) An application under Section 28 (5) of the Victims of Crime Act may be taken out in the proceedings in which the statutory compensation was claimed, but the plaintiff is not to be served with, or to be heard on, such an application.
 - (2) Where no proceedings have been brought in the Court for statutory compensation an application under Section 28 (5) of the Victims of Crime Act is to be initiated by an inter partes summons issued by the State of South Australia against the offender.
 - (3) A summons under subrule (2) above may be disposed of summarily by a Master in chambers.
 - (4) An application by the offender under Section 28 (6) of the Act is to be made by filing an affidavit in answer to the application or summons under Section 28 (5) of that Act setting out the good reasons for not entering judgment against the offender.

History of Amendment

V-1	substituted am35
V-1A	inserted am28, revoked am35
V-2	amended am35
V-2(b)	amended am38
V-2(c)	amended am38
V-3	revoked am28, inserted am35
V-4	revoked am28, inserted am35
V-6	amended am28, amended am28
V-7	amended am38
V-8	amended am35
V-10	amended am38
V-11	amended am28
V-12	inserted am33
V-13	inserted am35
V-14	inserted am35
V-15	inserted am35
V-16	inserted am35
V-17	inserted am35
Form V-1	amended am35, revoked am38

Amendments referred to above are amendments to the *District Court Rules 1992* made before 4 September 2006.