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assistance limits that are granted to each victim on the basis of their relative needs.

- (5) A question of fact for deciding the matter mentioned in subsection (2)(a), or for deciding the category of the act of violence in relation to which special assistance is sought, must be decided on the balance of probabilities.
- (6) The government assessor may be satisfied on the balance of probabilities that an act of violence of a particular category has caused a person's injury even though—
 - (a) no person has been charged with, or convicted of, an act of violence of that category in relation to the injury; or
 - (b) a person has been charged with, or convicted of, an act of violence of a different category in relation to the injury.
- (7) If a regulation prescribes a matter for subsection (1)(c), the government assessor may reduce the amount of assistance that would otherwise be payable to a person on the basis of the matter only if the person's application for assistance is made after the matter is prescribed.

86 Reduction if relevant payment received

- (1) This section applies if the government assessor is reasonably satisfied an applicant for assistance in relation to an act of violence has received, or will receive, a relevant payment for the act.
- (2) The government assessor must reduce the amount of assistance that would otherwise be payable to the applicant by an amount equivalent to the relevant payment.
- (3) If the assistance payable to an applicant is reduced under subsection (2) and an amount of assistance remains payable to the applicant after the reduction, the government assessor must—
 - (a) decide the component of assistance for which the amount is payable, having regard to—

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- (i) the applicant's needs; and
 - (ii) whether the applicant has incurred any expenses; and
 - (iii) anything else the government assessor considers relevant; and
- (b) give the applicant a notice stating—
- (i) the decision; and
 - (ii) the reasons for the decision; and

Note—

See the *Acts Interpretation Act 1954*, section 27B (Content of statement of reasons for decision).

- (iii) the internal review details for the decision.

87 Deferring decision if victim's conduct may be relevant

- (1) This section applies if—
- (a) a person (*applicant*) has applied for assistance in relation to an act of violence; and
 - (b) a person (*charged person*) has been charged with an offence that the government assessor reasonably considers is a relevant offence for the act; and
 - (c) the government assessor reasonably believes that, in relation to the charge, a justification, excuse or defence involving the applicant's conduct may be raised.
- (2) The government assessor may defer deciding the amount of assistance to be granted to the applicant until 1 of the following happens—
- (a) the prosecuting agency decides not to continue with the charge;
 - (b) there is a mistrial for the charge;
 - (c) the charged person is acquitted or convicted of the charge;

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- (3) Part 13, division 2 applies to an increase in assistance granted under section 104 in the same way as it applies to the original grant of assistance.

106 Amendment of assistance if uncounted relevant payment received

- (1) This section applies if—
 - (a) a person is granted assistance; and
 - (b) the person receives, for the act of violence in relation to which assistance is granted, a relevant payment (*uncounted relevant payment*) that—
 - (i) was not taken into account by the government assessor when the assistance was granted; and
 - (ii) would have resulted in a reduction of assistance granted to the person under section 86 if it had been taken into account by the government assessor when the assistance was granted.
- (2) The government assessor must, by notice to the person, amend the amount of assistance granted to reduce it to the amount that would have been granted under section 86 if the government assessor had taken the uncounted relevant payment into account when the assistance was granted.
- (3) If the assistance payable to a person is reduced under subsection (2) and an amount of assistance remains payable to the person after the reduction, the government assessor must decide the component of assistance for which the amount is payable, having regard to—
 - (a) the person's needs; and
 - (b) whether the person has incurred any expenses; and
 - (c) anything else the government assessor considers relevant.
- (4) The notice given under subsection (2) must state the following—

- (a) the government assessor's decisions under subsection (2) and (3);
- (b) the reasons for the decisions;

Note—

See the *Acts Interpretation Act 1954*, section 27B (Content of statement of reasons for decision).

- (c) the internal review details for the decisions.
- (5) The person must refund to the State the amount of assistance paid to the person in excess of the amount of assistance granted following the amendment.
 - (6) An amount refundable under this section is a debt owed to the State by the person.

Part 16 Recovering assistance from offender

107 Purpose of pt 16

This part helps the State to recover assistance granted for an act of violence from a person who is convicted of a relevant offence for the act.

108 References to assistance granted for an act of violence

In this part, a reference to assistance granted for an act of violence is a reference to assistance granted as victim assistance, or funeral expense assistance, in relation to the act.

109 Recovery available only for assistance that is paid

The State may, under this part, recover assistance, or a part of assistance, granted for an act of violence from a person who is convicted of a relevant offence for the act only if the