



Australian Capital Territory

# **Victims of Crime Act 1994**

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## **About this republication**

### **The republished law**

This is a republication of the *Victims of Crime Act 1994* effective from 12 June 2000 to 11 September 2001.

### **Kinds of republications**

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### **Editorial changes**

The *Legislation (Republication) Act 1996*, part 3, division 2 authorised the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation (Republication) Act 1996*, s 14 and s 16). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

In preparing this republication, amendments have been made under section 13.



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## Victims of Crime Act 1994

An Act relating to victims of crime

### PART 1—PRELIMINARY

#### 1 Short title

This Act may be cited as the *Victims of Crime Act 1994*.

#### 2 Commencement

(1) Section 1 and this section commence on the day on which this Act is notified in the Gazette.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the Gazette.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the Gazette, that provision, by force of this subsection, commences on the first day after the end of that period.

#### 3 Definitions

(1) In this Act:

Note A definition applies except so far as the contrary intention appears (see *Interpretation Act 1967*, s 11G).

*administration of justice* includes the provision of police services.

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**coordinator** means the Victims of Crime Coordinator appointed under subsection 14 (2).

**harm** includes—

- (a) physical injury; and
- (b) mental injury or emotional suffering (including grief); and
- (c) pregnancy; and
- (d) economic loss; and
- (e) substantial impairment of rights accorded by law.

**offence** means an offence against a law in force in the Territory.

**victim** means—

- (a) a person (the **primary victim**) who suffers harm—
  - (i) in the course of, or as the result of, the commission of an offence; or
  - (ii) in the course of assisting a police officer in the exercise of the officer's power to arrest a person or to take action to prevent the commission of an offence; or
- (b) where a primary victim dies as a result of the commission of an offence—any person who was financially or psychologically dependent on the primary victim immediately before his or her death; or
- (c) a person who witnesses the commission of an offence in circumstances in which it is probable that he or she would suffer harm; or
- (d) a primary victim, a related victim or an eligible property owner within the meaning of the *Victims of Crime (Financial Assistance) Act 1983*.

**victims services scheme** means the scheme established under Part 4.

(2) A reference in this Act to the **performance of a function** shall, unless the contrary intention appears, be read as including a reference to the performance of a duty and the exercise of a power.

## **PART 2—TREATMENT OF VICTIMS OF CRIME**

### **4 Governing principles**

In the administration of justice, the following principles shall, as far as practicable and appropriate, govern the treatment of victims:

- (a) a victim should be dealt with at all times in a sympathetic, constructive and reassuring manner and with due regard to his or her personal situation, rights and dignity;
- (b) a victim should be informed at reasonable intervals (generally not exceeding 1 month) of the progress of police investigations concerning the relevant offence, except where such disclosure might jeopardise the investigation, and, in that case, the victim should be informed accordingly;
- (c) a victim should be informed of the charges laid against the accused and of any modification of the charges;
- (d) a victim should be informed of any decision concerning the accused to accept a plea of guilty to a lesser charge or a guilty plea in return for a recommendation of leniency in sentencing;
- (e) a victim should be informed of any decision not to proceed with a charge against the accused;
- (f) where any property of a victim is held by the Crown for the purposes of investigation or evidence—inconvenience to the victim should be minimised and the property returned promptly;
- (g) a victim should be informed about the trial process and of the rights and responsibilities of witnesses;
- (h) a victim should be protected from unnecessary contact with the accused and defence witnesses during the course of the trial;
- (i) a victim's residential address should be withheld unless the court directs otherwise;
- (j) a victim should be relieved from appearing at preliminary hearings or committal proceedings unless the court directs otherwise;
- (k) a victim should be given an explanation of the outcome of criminal proceedings and of any sentence and its implications;

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- (l) a victim who is known to have expressed concern about the need for protection from an offender should be informed of the offender's impending release from custody.

**5 Observance of principles**

A person who performs a function in the administration of justice shall, in addition to any other matter that is relevant, have regard to the governing principles referred to in section 4.

**6 Disclosures to coordinator—legal immunity**

- (1) Where a person to whom this section applies—
  - (a) discloses information to the coordinator which the person believes on reasonable grounds is required by the coordinator for the purposes of this Act; and
  - (b) the disclosure is made in good faith;

no action, suit or proceeding lies against the person in respect of the disclosure.

(2) Subsection (1) does not affect any liability that the Territory would have, but for that subsection, in respect of the disclosure.

(3) This section applies to a person who performs, or has performed, a function in the administration of justice.



## **PART 3—VICTIMS OF CRIME COORDINATOR**

### *Division 1—Functions and powers*

#### **7 Functions**

The coordinator has the following functions in connection with the administration of justice:

- (a) to promote the governing principles referred to in section 4;
- (b) to encourage the provision of efficient and effective services for victims;
- (c) to promote reforms to meet the needs of victims;
- (d) to develop educational and other programs to promote awareness of the needs of victims;
- (e) to disseminate information concerning the operation of this Act and the functions of the coordinator;
- (f) to maintain a register of services available to victims;
- (g) to ensure, as far as practicable, that victims receive the information and assistance they need in connection with their involvement in the administration of justice;
- (h) to advise the Minister on matters relating to victims;
- (i) any other function assigned to the coordinator by or under any other law of the Territory.

#### **8 Attendance at criminal proceedings**

The coordinator is entitled to be present at the hearing of a proceeding in a court in respect of an offence, including any part of the proceeding held in private, unless the court directs otherwise.

#### **9 Investigations**

(1) The coordinator may investigate conduct in the administration of justice which the coordinator believes on reasonable grounds involves a breach of the governing principles referred to in section 4.

(2) A person who performs, or has performed, a function in the administration of justice shall assist the coordinator, as far as practicable, in relation to the giving of information requested by the coordinator for the purposes of an investigation.

(3) The coordinator shall report the results of an investigation to the Minister.

## **10 Powers**

The coordinator has power to do all things necessary or convenient to be done in connection with the performance of the coordinator's functions.

## **11 Secrecy**

(1) Subject to subsection (2), a person to whom this section applies shall not—

- (a) make a record of protected information; or
- (b) directly or indirectly, divulge or communicate to a person protected information concerning another person;

unless the record is made or the information divulged or communicated in relation to the performance of a function, as a person to whom this section applies, under or in relation to this Act or another law.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) Subsection (1) does not prevent a person to whom this section applies from divulging or communicating protected information to a person about another person with the consent of that other person.

(3) A person to whom this section applies is not required—

- (a) to divulge or communicate protected information to a court; or
- (b) to produce a document containing protected information to a court;

except where it is necessary to do so for the purposes of this Act or another law.

(4) In this section:

***court*** includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

***person to whom this section applies*** means a person who is, or has been—

- (a) the coordinator; or

- (b) a person acting under the direction or authority of the coordinator.

*produce* includes permit access to.

*protected information* means information that—

- (a) concerns the affairs of a person; and
- (b) is disclosed to, or obtained by, a person to whom this section applies because of the performance of a function under or in relation to this Act or another law.

## **12 Disclosure of information concerning investigations**

(1) Subsection 11 (1) does not prevent the coordinator from disclosing information to a person or to members of the public about a matter the subject of an investigation under section 9 if the coordinator is satisfied that the disclosure is necessary and reasonable in the performance of a function under or in relation to this Act or another law.

(2) In a disclosure referred to in subsection (1), the coordinator shall not—

- (a) express an opinion that is (expressly or impliedly) critical of a person unless the coordinator has given the person an opportunity to answer the criticism; or
- (b) identify a person (directly or indirectly) unless it is necessary and reasonable to do so.

## **13 Legal immunity**

(1) No action, suit or proceeding lies against a person who is or has been—

- (a) the coordinator; or
- (b) a person acting under the direction or authority of the coordinator;

in relation to an act done or omitted to be done in good faith in the performance, or purported performance, of a function of the coordinator under or in relation to this Act or another law.

(2) Subsection (1) does not affect any liability that the Territory would have, but for that subsection, in respect of the act or omission.

***Division 2—Office of coordinator***

**14 Appointment**

- (1) There shall be a Victims of Crime coordinator.
- (2) The coordinator shall be appointed by the Minister in writing.

**15 Terms of office**

The coordinator holds office, subject to this Division—

- (a) for the period (not exceeding 3 years) specified in the instrument of appointment, but is eligible for reappointment; and
- (b) on such terms and conditions (if any) in relation to matters not provided for by this Act as are specified in the instrument of appointment.

**16 Resignation**

The coordinator may resign by giving a signed notice of resignation to the Minister.

**17 Termination of appointment**

The Minister may terminate the appointment of the coordinator—

- (a) for misbehaviour or physical or mental incapacity; or
- (b) in accordance with the instrument of appointment.

**18 Acting coordinator**

(1) The Minister may, in writing, appoint a person to act as the coordinator—

- (a) during a vacancy in the office of the coordinator, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the coordinator is for any reason unable to perform the functions of the office.

(2) A person appointed to act as the coordinator during a vacancy in the office of coordinator shall not so act continuously for more than 12 months.

(3) Anything done by or in relation to a person purporting to act pursuant to an appointment under subsection (1) is not invalid on the ground that—

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- (a) the appointment was ineffective or had ceased to have effect; or
- (b) the occasion to act had not arisen or had ceased.

## **PART 4—VICTIMS SERVICES SCHEME**

### **19 Victims services scheme—establishment**

(1) A victims services scheme shall be established in accordance with the regulations.

(2) Regulations made for the purposes of this section may provide for the following matters:

- (a) the nomination of a service agency to be responsible for the management of the scheme;
- (b) the establishment of a Victims Assistance Board with the following functions:
  - (i) the preparation of guidelines for the management of the scheme;
  - (ii) the management of funding arrangements for the responsible service agency;
  - (iii) such other functions relating to the scheme as are prescribed by the regulations;
- (c) conditions for eligibility for the scheme;
- (d) different levels of services for different categories of victim, or for victims in different circumstances;
- (e) the performance of functions in relation to the scheme by the coordinator (other than functions inconsistent with the coordinator's other functions under this Act);
- (f) the nomination of a person or body as the annual reporting authority for the scheme;
- (g) any other matters necessary or convenient for the establishment or operation of the scheme.

### **20 Victims services scheme—eligibility**

All victims are eligible for assistance under the victims services scheme, subject to regulations made for the purposes of section 19.

### **21 Victims services scheme—annual report**

The *Annual Reports (Government Agencies) Act 1995* applies in relation to the victims services scheme as if—

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- (a) the annual reporting authority nominated pursuant to the regulations were a public authority within the meaning of that Act;
- (b) that Act required the annual reporting authority to prepare an annual report relating to the operations of the scheme within the relevant reporting period; and
- (c) the appropriate administrative unit for the purposes of that Act were the administrative unit responsible for the administration of this Act.

**22 Victims services scheme—access to information and protection of privacy**

For the avoidance of doubt—

- (a) the victims services scheme is declared to be a health service provider for the purposes of the *Health Records (Privacy and Access) Act 1997*; and
- (b) that Act accordingly applies in relation to any health record (within the meaning of that Act) held by the victims services scheme in relation to a victim.

**PART 5—MISCELLANEOUS**

**23 Regulation-making power**

The Executive may make regulations for this Act.

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**ENDNOTES**

**1 About this republication**

This is a republication of the *Victims of Crime Act 1994* effective from 24 December 1999 to 11 September 2001.

Amending laws are annotated in the table of legislation and table of amendments.

**2 Abbreviation key**

Key to abbreviations in tables

am = amended	pres = present
amdt = amendment	prev = previous
ch = chapter	(prev...) = previously
cl = clause	prov = provision
def = definition	pt = part
dict = dictionary	r = rule/subrule
div = division	reg = regulation/subregulation
exp = expires/expired	renum = renumbered
Gaz = Gazette	reloc = relocated
hdg = heading	R[X] = Republication No
ins = inserted/added	s = section/subsection
LR = Legislation (Republication) Act 1996	sch = schedule
mod = modified	sdiv = subdivision
No = number	sub = substituted
notfd = notified	SL = Subordinate Law
o = order	sp = spent
om = omitted/repealed	* = SL unless otherwise stated
orig = original	† = Act or Ordinance unless otherwise stated
p = page	
par = paragraph	

## Victims of Crime Act 1994

### 3 Table of legislation

Act†	Year and number†	Gazette notification	Commencement	Transitional provisions
<i>Victims of Crime Act 1994</i>	1994 No 83	15 Dec 1994	ss 1 and 2: 15 Dec 1994 remainder: 15 June 1995	
<i>Statute Law Revision (Penalties) Act 1998</i>	1998 No 54	27 Nov 1998	ss 1 and 2: 27 Nov 1998 remainder: 9 Dec 1998 (see Gaz 1998 No 49 p 1078)	—
<i>Victims of Crime (Financial Assistance) (Amendment) Act 1999</i>	1999 No 91	23 Dec 1999	ss 1 and 2: 23 Dec 1999 remainder: 24 Dec 1999 (see Gaz 1999 No S69 p 2)	—

### 4 Table of amendments

Provision	How affected†
s 3 .....	am 1999 No 91 s 9
s 11 .....	am 1998 No 54
pt 4 (ss 19-22).....	ins 1999 No 91 s10
ss 19-22 .....	ins 1999 No 91 s 10
pt 5 (s 23).....	(prev pt 4 (s 19)) renum 1999 No 91 s 11
s 23 .....	(prev s 19) renum 1999 No 91 s 11

### 5 Penalties in this republication

The penalties in this republication have been revised in accordance with the *Interpretation Act 1967*, s 63. The value of a penalty unit for an offence against this Act at the date of publication is, therefore—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

See *Interpretation Act 1967*, s 33AA for additional information.

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