



Australian Capital Territory

Victims of Crime Amendment Act 2010

A2010-29

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Legislation amended 2
Part 2	Victims of Crime Act 1994
4	New section 3A 3
5	Part 2 heading 3
6	Compliance with principles Section 5 4
7	New section 5 (2) 4
8	Giving information to coordinator—legal immunity Section 6 4
9	New part 2A 4
10	Part 3 6

J2009-289

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Contents

	Page	
11	Victims services scheme—establishment	
	Section 19 (2) (a) and (b)	10
12	Section 19 (2) (e)	10
13	New part 4A	10
14	Part 6	15
15	Dictionary, note 2	18
16	Dictionary, note 2	18
17	Dictionary, note 2	18
18	Dictionary, new definitions	18
19	Dictionary, definition of <i>coordinator</i>	18
20	Dictionary, new definitions	19
21	Dictionary, definition of <i>harm</i>	19
22	Dictionary, new definition of <i>primary victim</i>	19
23	Dictionary, definition of <i>victim</i>	19
24	Dictionary, new definition of <i>victims advisory board</i>	19
Part 3	Victims of Crime Regulation 2000	
25	Part 2	20
26	Responsible service agency	
	Section 21	20
27	Section 22	20
28	Section 22 (b)	20
29	Section 22 (f)	20
30	Section 22 (k) and (l)	20
31	Section 23	21
32	Eligible victims under the victims services scheme	
	Section 24	22
33	Definitions—div 3.2	
	Section 25	22
34	Section 25, definition of <i>reviewable decision</i>	22
35	Sections 25A, 26 and 26A	22
36	Review by internal reviewer	
	Section 27 (1) and (2)	23
37	Eligibility Review Committee	
	Section 28	23

Contents

	Page	
38	Applications to committee for internal review	
	Section 29	23
39	Section 30	23
40	Reviewable decision notices	
	Section 31	24
41	Level 1 service	
	Section 33 (3)	24
42	Level 2 service	
	Section 34 (3)	24
43	Section 34 (8)	25
44	Level 3 service	
	Section 35 (5)	25
45	Section 36	25
46	How contact hours are provided	
	Section 37 (1)	26
47	Section 37 (2) and (3)	27
48	Section 38	27
49	Approved service providers Section 40 (1) and (2)	27
50	Section 40 (3)	27
51	Criteria for approval Section 41	28
52	Section 41 (a) (i)	28
53	Section 41 (d)	28
54	New section 41 (2)	28
55	Section 42	28
56	Cancellation of approval	
	Section 43	29
57	Section 45	29
58	Reviewable decision notices	
	Section 46A	29
59	New section 47A	30
60	Guidelines—volunteers	
	Section 48	31
61	New section 48A	31
62	Section 50 heading	31
63	Section 50 (1)	32
64	Dictionary, note 2	32

Contents

		Page
65	Dictionary, note 2	32
66	Dictionary, note 3	32
67	Dictionary, definitions of <i>AFP member</i> and <i>appointed member</i>	32
68	Dictionary, definition of <i>board</i>	32
69	Dictionary	33
70	Dictionary, definition of <i>health practitioner member</i>	33
71	Dictionary, definition of <i>independent arbitrator</i>	33
72	Dictionary	34
Schedule 1	Consequential amendments	35
Part 1.1	Crimes (Sentencing) Act 2005	35
Part 1.2	Remuneration Tribunal Act 1995	35
Part 1.3	Territory Records Regulation 2009	35
Part 1.4	Victims of Crime (Financial Assistance) Act 1983	36



Australian Capital Territory

Victims of Crime Amendment Act 2010

A2010-29

An Act to amend the *Victims of Crime Act 1994*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Victims of Crime Amendment Act 2010*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Legislation amended

This Act amends the *Victims of Crime Act 1994* and the *Victims of Crime Regulation 2000*.

Note This Act also amends the following legislation (see sch 1):

- *Crimes (Sentencing) Act 2005*
- *Remuneration Tribunal Act 1995*
- *Territory Records Regulation 2009*
- *Victims of Crime (Financial Assistance) Act 1983*.

Part 2 Victims of Crime Act 1994

4 New section 3A

in part 1, insert

3A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

5 Part 2 heading

substitute

Part 2 Objects and principles

3B Object of Act

The object of this Act is to—

- (a) acknowledge, protect and promote the interests of victims in the administration of justice; and
- (b) establish appropriate ways for the treatment of victims by agencies involved in the administration of justice; and
- (c) help victims deal with the effects of criminal offences.

**6 Compliance with principles
Section 5**

omit

mentioned in section 4

7 New section 5 (2)

insert

- (2) If a primary victim is a child, the person must consider the child's views, wishes and circumstances before treating a guardian of the child as a victim when applying the governing principles.

**8 Giving information to coordinator—legal immunity
Section 6**

omit

9 New part 2A

insert

Part 2A Important concepts

6 Who is a *victim*?

- (1) In this Act:

victim means a person who suffers harm because of an offence and includes—

- (a) a person (the ***primary victim***) who suffers harm—
- (i) in the course of, or as a result of, the commission of an offence; or
 - (ii) as a result of witnessing an offence; and

- (b) a family member, of the primary victim, who suffers harm because of the harm to the primary victim; and
 - (c) a person who is financially or psychologically dependent on the primary victim and who suffers harm because of the harm to the primary victim; and
 - (d) a primary victim, a related victim or an eligible property owner within the meaning of the *Victims of Crime (Financial Assistance) Act 1983*, dictionary; and
 - (e) if a person mentioned for this definition is a child or legally incompetent person—a guardian of the child or legally incompetent person.
- (2) However, a **victim** does not include a person who suffers harm because of an offence he or she committed or is alleged to have committed.

- (3) In this section:

guardian means—

- (a) for a child—a parent, a legally appointed guardian of the child or someone else with parental responsibility for the child under the *Children and Young People Act 2008*, division 1.3.2 (Parental responsibility); or
- (b) for a legally incompetent person—a person who is—
 - (i) a legally appointed guardian of the legally incompetent person; or
 - (ii) an attorney, appointed under an enduring power of attorney that has become operative, for the legally incompetent person.

harm includes 1 or more of the following:

- (a) physical injury;
- (b) mental injury or emotional suffering (including grief);

- (c) pregnancy;
- (d) economic loss;
- (e) substantial impairment of a person's legal rights.

legally incompetent person means an adult who is subject to—

- (a) an enduring power of attorney that has become operative; or
- (b) a guardianship order.

10 Part 3

substitute

Part 3 Victims of crime commissioner

Division 3.1 Appointment of commissioner

7 Appointment

- (1) The Minister must appoint a person to be the Victims of Crime Commissioner.

Note For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

- (2) The commissioner must be appointed for not longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def ***appoint***).

- (3) The conditions of appointment of the commissioner are the conditions agreed between the Minister and the commissioner, subject to any determination under the *Remuneration Tribunal Act 1995*.

8 Ending appointment

- (1) The Minister may end the appointment of a person as commissioner—
 - (a) if the person contravenes a law in force in the Territory; or
 - (b) for misbehaviour; or
 - (c) if the person becomes bankrupt or personally insolvent; or
 - (d) if the person is convicted outside the ACT, in Australia or elsewhere, of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year.
- (2) The Minister must end the person's appointment—
 - (a) if the person is absent, other than on approved leave, for 14 consecutive days or for 28 days in any 12-month period; or
 - (b) for physical or mental incapacity, if the incapacity substantially affects the exercise of the person's functions.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

9 Staff

The staff assisting the commissioner are to be employed under the *Public Sector Management Act 1994*.

10 Delegation by commissioner

The commissioner may delegate the commissioner's functions under a territory law to a public servant.

Note For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

Division 3.2 Functions of commissioner

11 Functions

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

- (a) to manage the victims services scheme and any other program for the benefit of victims;
- (b) to advocate for the interests of victims;
- (c) to monitor and promote compliance with the governing principles;
- (d) to ensure concerns and formal complaints about non-compliance with the governing principles are dealt with promptly and effectively;
- (e) to ensure the provision of efficient and effective services for victims;
- (f) to consult on and promote reforms to meet the interests of victims;
- (g) to develop educational and other programs to promote awareness of the interests of victims;
- (h) to distribute information about the operation of this Act and the commissioner's functions;
- (i) to ensure that victims receive information and assistance they need in connection with their involvement in the administration of justice;
- (j) to encourage and facilitate cooperation between agencies involved in the administration of justice with respect to victims;
- (k) to advise the Minister on matters relating to the interests of victims;

- (1) any other function given to the commissioner under this Act or another territory law.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

12 Concerns and complaints

- (1) The commissioner must try to resolve any concern raised with the commissioner by a victim about non-compliance with the governing principles by an agency involved in the administration of justice.
- (2) An agency must, with the victim's consent, give the commissioner any document or information that the agency could provide to the victim and which is reasonably required by the commissioner to resolve a concern under subsection (1).
- (3) Nothing in subsection (1) prevents a victim or the commissioner from making a formal complaint about a concern, or requires a victim to raise a concern with the commissioner before making a formal complaint.
- (4) If the commissioner receives a formal complaint about non-compliance with the governing principles by an agency involved in the administration of justice, the commissioner must refer the complaint to a relevant complaints entity.
- (5) If a complaint is referred to a relevant complaints entity, the commissioner must give the entity all documents and information held by the commissioner about the complaint.
- (6) In this section:
relevant complaints entity means—
 - (a) the human rights commission; or
 - (b) the ombudsman; or

- (c) any other entity authorised to investigate a complaint relating to the administration of justice.

13 Attendance at criminal proceedings

For the exercise of the commissioner's functions under this Act, the commissioner 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.

**11 Victims services scheme—establishment
Section 19 (2) (a) and (b)**

omit

12 Section 19 (2) (e)

omit

coordinator

substitute

commissioner

13 New part 4A

insert

Part 4A Victims advisory board

Division 4A.1 Establishment and membership

22A Establishment of board

The Victims Advisory Board is established.

22B Functions of board

The functions of the board are—

- (a) to advise the Minister on policies, priorities and strategies for the acknowledgment, protection and promotion of the interests of victims in the administration of justice; and
- (b) if asked by the Minister—to help develop and maintain protocols and procedures for the treatment of victims by agencies involved in the administration of justice; and
- (c) any other function given to the board under this Act or another territory law.

22C Membership of board

- (1) The board consists of—
 - (a) the chief executive; and
 - (b) the commissioner; and
 - (c) the members (the *appointed members*) appointed under section 22D.
- (2) The chief executive may delegate his or her functions under this Act to a public servant.

22D Appointed members of board

- (1) The Minister must appoint the following members of the board:
 - (a) a representative of each of the following entities:
 - (i) the DPP;
 - (ii) the Australian Federal Police;
 - (iii) ACT courts;
 - (iv) the administrative unit allocated responsibility for the administration of corrective services;
 - (v) the administrative unit allocated responsibility for the administration of youth justice;

- (vi) the administrative unit allocated responsibility for restorative justice;
 - (b) 3 people who, in the Minister's opinion, represent the interests of victims services groups;
 - (c) 1 person who, in the Minister's opinion, represents the interests of indigenous communities;
 - (d) 1 person who is a lawyer.
- (2) A member must be employed, practise, or live, in the ACT.
- (3) The Minister must not appoint a public servant as a member mentioned in subsection (1) (b) to (d).

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

Note 4 A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

22E Chair

The chair of the board is the chief executive.

22F Conditions of appointment generally

- (1) An appointed member holds the position on a part-time basis.
- (2) An appointed member holds the position on terms not provided by this Act or another territory law that are decided by the Minister.

22G Term of appointment

- (1) An appointed member must be appointed for not longer than 3 years.
- (2) The Minister must end the appointment of—
 - (a) an appointed member mentioned in section 22D (1) (a) if the Minister is satisfied that the member is no longer the representative of the entity the member was appointed to represent; or
 - (b) an appointed member mentioned in section 22D (1) (b) or (c) if the Minister is satisfied that the member no longer represents the interests of the group or community the member was appointed to represent; or
 - (c) any member if the member ceases to be eligible for appointment.
- (3) The Minister may end the appointment of an appointed member—
 - (a) for misbehaviour or physical or mental incapacity; or
 - (b) if the member becomes bankrupt or personally insolvent; or
 - (c) if the member is absent for 3 consecutive meetings; or
 - (d) if the member is convicted of an indictable offence; or
 - (e) if the member fails to comply with section 22J (Disclosure of interests) without reasonable excuse.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

Division 4A.2 Proceedings of board

22H Time and place of meetings

- (1) Meetings of the board are to be held at the times and places it decides.
- (2) However, the board must meet at least twice every year.
- (3) The chair—
 - (a) may at any time call a meeting of the board; and
 - (b) must call a meeting if asked to do so by the Minister or at least 7 members.

22I Procedures governing conduct of meetings

- (1) The chair presides at all meetings at which the chair is present.
- (2) If the chair is absent, the member chosen by the members present presides.
- (3) The board may decide the procedure to be followed for a meeting.
- (4) At a meeting of the board—
 - (a) 7 members form a quorum; and
 - (b) each member has a vote on each question to be decided; and
 - (c) a question is to be decided by a majority of the votes of the members present and voting but, if the votes are equal, the member presiding has a casting vote.
- (5) The board must keep minutes of its meetings.

22J Disclosure of interests

- (1) This section applies to a member of the board if—
 - (a) the member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the board; and

- (b) the interest could conflict with the proper exercise of the member's functions in relation to the board's consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a meeting of the board.
- (3) The disclosure must be recorded in the board's minutes and, unless the board otherwise decides, the member must not—
 - (a) be present when the board considers the issue; or
 - (b) take part in a decision of the board on the issue.

14 Part 6

substitute

Part 6 Miscellaneous**28 Protection from liability**

- (1) An official is not civilly liable for conduct engaged in honestly and without recklessness—
 - (a) in the exercise of a function under this Act; or
 - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act.
- (2) Any civil liability that would, apart from this section, attach to the official attaches instead to the Territory.
- (3) In this section:
 - conduct*** means an act or omission to do an act.
 - official*** means—
 - (a) the commissioner; or

- (b) a member of the staff of the commissioner; or
- (c) a person authorised under this Act to do or not to do a thing.

29 Secrecy

- (1) A person to whom this section applies commits an offence if—
- (a) the person—
 - (i) makes a record of protected information about someone else; and
 - (ii) is reckless about whether the information is protected information about someone else; or
 - (b) the person—
 - (i) does something that divulges protected information about someone else; and
 - (ii) is reckless about whether—
 - (A) the information is protected information about someone else; and
 - (B) doing the thing would result in the information being divulged to someone else.

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

- (2) Subsection (1) does not apply if the record is made, or the information is divulged—
- (a) under this Act or another law applying in the Territory; or
 - (b) in relation to the exercise of a function, as a person to whom this section applies, under this Act or another law applying in the Territory.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see Criminal Code, s 58).

- (3) Subsection (1) does not apply to the divulging of protected information about someone with the person's consent.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

- (4) A person to whom this section applies need not divulge protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act or another law applying in the Territory.

- (5) In this section:

court includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

divulge includes communicate.

person to whom this section applies means a person who—

- (a) is or has been—
- (i) the commissioner; or
 - (ii) a member of the staff of the commissioner; or
- (b) exercises, or has exercised, a function under this Act.

produce includes allow access to.

protected information means information about a person that is disclosed to, or obtained by, a person to whom this section applies because of the exercise of a function under this Act by the person or someone else.

30 Regulation-making power

The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

15 Dictionary, note 2

insert

- adult
- bankrupt or personally insolvent
- child
- domestic partner (see s 169 (1))
- human rights commission

16 Dictionary, note 2

omit

- law, of the Territory

17 Dictionary, note 2

insert

- ombudsman
- parent
- public servant
- territory law

18 Dictionary, new definitions

insert

appointed member—see section 22C (1) (c).

board means the victims advisory board.

commissioner means the Victims of Crime Commissioner appointed under section 7.

19 Dictionary, definition of *coordinator*

omit

20 Dictionary, new definitions

insert

governing principles means the principles mentioned in section 4.

guardian—see section 6 (3).

21 Dictionary, definition of *harm*

omit

22 Dictionary, new definition of *primary victim*

insert

primary victim—see section 6.

23 Dictionary, definition of *victim*

substitute

victim—see section 6.

24 Dictionary, new definition of *victims advisory board*

insert

victims advisory board means the board established under section 22A.

Part 3 Victims of Crime Regulation 2000

25 Part 2

omit

26 Responsible service agency Section 21

omit

27 Section 22

omit everything before paragraph (a), substitute

22 Commissioner's functions—victims services scheme

For the Act, section 19 (2) (e), the commissioner's functions are—

28 Section 22 (b)

omit

and the guidelines made under section 17 (Guidelines)

29 Section 22 (f)

substitute

- (f) to report to the chief executive every 6 months on the services the commissioner provides or arranges; and

30 Section 22 (k) and (l)

substitute

- (k) to provide victims with information and assistance about the criminal justice system, the operation of the victims services scheme and complaint procedures; and

- (1) to keep financial records of the commissioner's operations under the victims services scheme.

31 Section 23

substitute

23 Employment etc of people—contact with eligible victims

- (1) Subsection (2) applies to the employment or engagement of a person who will have contact with eligible victims.
- (2) The commissioner must—
 - (a) be satisfied that the person has—
 - (i) qualifications or experience in working with victims and with people from a diversity of ethnic and cultural backgrounds; and
 - (ii) experience or knowledge of working in a multidisciplinary team environment; and
 - (b) assess and evaluate the victims services the person provides; and
 - (c) encourage the person to undertake continuing education in the provision of services to victims; and
 - (d) take steps to ensure the person is familiar with the *Human Rights Commission Act 2005*.
- (3) The commissioner must take reasonable steps to ensure that a person employed or engaged by the Territory who has been convicted of a serious crime does not have contact with an eligible victim.

**32 Eligible victims under the victims services scheme
Section 24**

omit

responsible service agency

substitute

commissioner

**33 Definitions—div 3.2
Section 25**

omit

responsible service agency

substitute

commissioner

34 Section 25, definition of *reviewable decision*

omit

committee

substitute

health services commissioner

35 Sections 25A, 26 and 26A

omit

responsible service agency

substitute

commissioner

**36 Review by internal reviewer
Section 27 (1) and (2)**

substitute

- (1) The internal reviewer for an internally reviewable decision must review the decision within 28 days (the ***28-day period***) after the day the commissioner receives the application for review of the internally reviewable decision.

**37 Eligibility Review Committee
Section 28**

omit

**38 Applications to committee for internal review
Section 29**

omit

committee

substitute

health services commissioner

39 Section 30

substitute

30 Review by health services commissioner

- (1) The health services commissioner must review the internal reviewer's decision within 28 days (the ***28-day period***) after the day the health services commissioner receives the application for review of the internal reviewer's decision.
- (2) The health services commissioner must—
 - (a) confirm the decision; or
 - (b) vary the decision; or

- (c) set aside the decision and substitute the health services commissioner's own decision.
- (3) If the decision is not varied or set aside within the 28-day period, the decision is taken to have been confirmed by the health services commissioner.

**40 Reviewable decision notices
Section 31**

omit

committee

substitute

health services commissioner

**41 Level 1 service
Section 33 (3)**

omit

responsible service agency

substitute

commissioner

**42 Level 2 service
Section 34 (3)**

omit

responsible service agency

substitute

commissioner

43 Section 34 (8)

substitute

- (8) After the level 2 service contact hours have been given in accordance with the care plan, the commissioner, or the service provider who provided the level 2 service contact hours, must prepare and give a closure report to the case coordinator.

**44 Level 3 service
Section 35 (5)**

substitute

- (5) After the level 3 service contact hours have been given in accordance with the revised care plan, the commissioner, or the service provider who provided the level 3 service contact hours, must prepare and give a closure report to the case coordinator.

45 Section 36

substitute

36 Exceptional cases

- (1) This section applies if the case coordinator for an eligible victim makes a written recommendation to the commissioner that—
- (a) on information available to the case coordinator, further contact hours in addition to level 3 service contact hours would give substantial therapeutic benefit to the victim; and
 - (b) it is impossible or impractical to provide the further contact hours under a scheme or program other than the victims services scheme.
- (2) The commissioner must consider the recommendation and decide whether or not to carry out the recommendation, or a variation of it.

- (3) After the further contact hours have been given, the commissioner, or the service provider who provided the service, must prepare and give a closure report to the case coordinator.
- (4) The closure report must include particulars of the number of contact hours and the extent to which the rehabilitation goals of the revised care plan were achieved.
- (5) On receiving the closure report for the victim, the case coordinator must carry out case closure in relation to the victim.
- (6) In this section:
substantial therapeutic benefit, for a victim, includes achieving his or her rehabilitation goals if—
 - (a) the victim has almost achieved his or her rehabilitation goals at the time the victim's level 3 service contact hours have finished; or
 - (b) the victim will not achieve his or her rehabilitation goals within level 3 service contact hours because of the extent and complexity of the harm suffered by the victim.

46 How contact hours are provided Section 37 (1)

substitute

- (1) Contact hours for an eligible victim who lives in the ACT must be provided by—
 - (a) the commissioner; or
 - (b) an approved service provider; or
 - (c) with the written approval of the commissioner—a person who is not an approved service provider.

47 Section 37 (2) and (3)

omit

responsible service agency

substitute

commissioner

48 Section 38

substitute

38 Arbitration—care plans

If, for an eligible victim who is entitled to receive level 2 or level 3 service, the case coordinator and service provider do not agree about the content of a care plan, the need for additional contact hours or both, the case coordinator must refer the issue in writing to an independent arbitrator nominated by the commissioner.

**49 Approved service providers
Section 40 (1) and (2)**

omit

board

substitute

commissioner

50 Section 40 (3)

omit

51 **Criteria for approval
Section 41**

omit

board

substitute

commissioner

52 **Section 41 (a) (i)**

substitute

- (i) has qualifications or experience in working with victims and with people from a diversity of ethnic and cultural backgrounds; and

53 **Section 41 (d)**

omit

54 **New section 41 (2)**

insert

- (2) For section 37 (1) and (2), the commissioner may only approve the use of a person who is not an approved service provider if satisfied that the person meets the criteria mentioned in subsection (1).

55 **Section 42**

substitute

42 **Suspension of approval**

The commissioner may suspend the approval of a service provider if—

- (a) the commissioner is no longer satisfied on reasonable grounds of the matters mentioned in section 41; or

- (b) the service provider is a suspect in an investigation of an indictable offence; or
- (c) the service provider has been the subject of a complaint to the human rights commission and the complaint has not been decided or has been upheld.

**56 Cancellation of approval
Section 43**

omit

board

substitute

commissioner

57 Section 45

substitute

45 Special financial assistance—statements

If a primary victim asks the commissioner for a statement and certificate under the *Victims of Crime (Financial Assistance) Act 1983*, section 27, the commissioner must provide the statement and certificate.

**58 Reviewable decision notices
Section 46A**

omit

board

substitute

commissioner

59 New section 47A

in part 4, insert

47A Guidelines—victims services scheme etc

- (1) The commissioner may make guidelines about—
 - (a) the way a victim is assessed for eligibility to use the victims services scheme; and
 - (b) the employment or engagement of people who will have contact with eligible victims; and
 - (c) the preparation, content and implementation of care plans; and
 - (d) the eligibility of entities to be approved or used as service providers; and
 - (e) the referral of victims to service providers or other entities dealing with victims; and
 - (f) the establishment and operation of volunteer programs; and
 - (g) the internal review of decisions made by the commissioner; and
 - (h) the holding of indemnity insurance by service providers; and
 - (i) other matters necessary or convenient to be decided with respect to the victims services scheme.

- (2) Guidelines are a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

**60 Guidelines—volunteers
Section 48**

omit

board

substitute

commissioner

61 New section 48A

insert

48A Independent arbitrators

- (1) The commissioner may approve independent arbitrators for this regulation.
- (2) A person is eligible to be approved as an independent arbitrator only if the person is an approved service provider.
- (3) The commissioner must keep a list of approved independent arbitrators.
- (4) The commissioner must keep the list open for inspection (without charge) by an eligible victim.
- (5) If asked by an eligible victim, the commissioner must give a copy of the list (without charge) to the victim.

62 Section 50 heading

substitute

50 Determination of fees for services provided by service providers

63 Section 50 (1)

omit

approved service provider

substitute

service provider

64 Dictionary, note 2

omit

- bankrupt or personally insolvent
- dentist
- doctor

65 Dictionary, note 2

insert

- health services commissioner

66 Dictionary, note 3

insert

- commissioner
- victims advisory board

67 Dictionary, definitions of *AFP member* and *appointed member*

omit

68 Dictionary, definition of *board*

substitute

board means the victims advisory board.

69 Dictionary

omit the definitions of
chairperson
committee
community support member
courts member
deputy chairperson
DPP member

70 Dictionary, definition of *health practitioner member*

omit

71 Dictionary, definition of *independent arbitrator*

omit
section 18
substitute
section 48A

72 Dictionary

omit the definitions of

indigenous member

justice member

legal profession member

manager

migrant member

psychiatrist/psychologist member

responsible service agency

victims groups member

youth policy and services member

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Crimes (Sentencing) Act 2005

[1.1] Section 136 (4) (h)

omit

coordinator

substitute

commissioner

Part 1.2 Remuneration Tribunal Act 1995

[1.2] Schedule 1, part 1.2

insert

- victims of crime commissioner

Part 1.3 Territory Records Regulation 2009

[1.3] Schedule 1, items 21 and 22

substitute

21	Victims Advisory Board	chair of the board
22	Victims of Crime Commissioner	victims of crime commissioner

[1.4] Dictionary, definitions of *Victims Assistance Board* and *Victims of Crime Coordinator*

substitute

Victims Advisory Board means the Victims Advisory Board established under the *Victims of Crime Act 1994*, section 22A.

Victims of Crime Commissioner means the Victims of Crime Commissioner appointed under the *Victims of Crime Act 1994*, section 7.

Part 1.4 Victims of Crime (Financial Assistance) Act 1983

[1.5] Section 27 (1) (b) (v)

omit

person in charge of the responsible service agency prescribed by regulation

substitute

commissioner

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 1 July 2010.

2 Notification

Notified under the Legislation Act on 31 August 2010.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Victims of Crime Amendment Bill 2010, which was passed by the Legislative Assembly on 17 August 2010.

Acting Clerk of the Legislative Assembly

© Australian Capital Territory 2010