



Australian Capital Territory

Victims Rights Legislation Amendment Act 2020

A2020-34

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Australian Capital Territory

Victims Rights Legislation Amendment Act 2020

A2020-34

An Act to amend legislation about victims rights, 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 Rights Legislation Amendment Act 2020*.

2 Commencement

This Act commences on 1 January 2021.

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

3 Legislation amended

This Act amends the [Human Rights Commission Act 2005](#) and the [Victims of Crime Act 1994](#).

Part 2 Human Rights Commission Act 2005

4 Disability and community services commissioner's functions New section 21 (1) (c) (v)

insert

- (v) a victims rights complaint;

5 New section 41C

insert

41C Victims rights complaints

- (1) This section applies if—
- (a) a person engages with a justice agency; and
 - (b) the person believes the justice agency has not complied with their victims rights; and
 - (c) the person is a victim.
- (2) The person may complain to the commission about the justice agency's conduct (a *victims rights complaint*).

Note Alternatively, a victim may make a justice agency complaint to a justice agency (see *Victims of Crime Act 1994*, s 18D) or may raise a victims rights concern with the victims of crime commissioner (see *Victims of Crime Act 1994*, s 18F).

- (3) If the victims of crime commissioner refers a person's victims rights concern to the commission under the *Victims of Crime Act 1994*, section 18G (3), the victims rights concern is taken to be a victims rights complaint made by the person to the commission under this Act.

Note A person need not have made a justice agency complaint to a justice agency, nor raised a victims rights concern with the commissioner, under the *Victims of Crime Act 1994* before making a victims rights complaint to the commission under this Act.

- (4) In this section:

victim—see the *Victims of Crime Act 1994*, section 6.

victims rights—see the *Victims of Crime Act 1994*, section 14A.

victims rights concern—see the *Victims of Crime Act 1994*, section 18F (2).

6 What complaints may be made under this Act? New section 42 (1) (eb)

insert

- (eb) a victims rights complaint;

Note A victims rights complaint is about the conduct of a justice agency.

7 Who may make a complaint under this Act? Section 43 (1)

omit

act or service

substitute

act, service or conduct

8 Section 43 (1), new note

insert

Note 2 If a person's victims rights concern is referred to the commission, the person is taken to have made a victims rights complaint (see s 41C).

**9 Consideration without complaint or appropriate complainant
Section 48 (1) (a)**

omit

act or service

substitute

act, service or conduct

10 Section 48 (2)

omit

or older people service complaint

substitute

, older people service complaint or victims rights complaint

**11 Referral of advocacy matters
Section 51A (1)**

omit

children and young people complaint

substitute

children and young people service complaint

**12 Referral to appropriate statutory office-holder
Section 52A (1) (a)**

omit

act or service

substitute

act, service or conduct

**13 Compulsory attendance at conciliation
Section 59 (4)**

substitute

- (4) Subsection (3) does not apply—
- (a) if the complaint is a victims rights complaint—to a justice agency; or
 - (b) if the person has a reasonable excuse for not attending the conciliation as required.

**14 Power to ask for information, documents and other things
Section 73 (5)**

substitute

- (5) Subsection (4) does not apply—
- (a) if the complaint is a victims rights complaint—to a justice agency; or
 - (b) if the person has a reasonable excuse for failing to provide the information to the commission as required.

15 Section 73 (7)

substitute

- (7) Subsection (6) does not apply—
- (a) if the complaint is a victims rights complaint—to a justice agency; or
 - (b) if the person has a reasonable excuse for failing to produce the document or other thing to the commission as required.

**16 Requiring attendance etc
Section 74 (4)**

substitute

- (4) Subsection (3) does not apply—
- (a) if the complaint is a victims rights complaint—to a justice agency; or
 - (b) if the person has a reasonable excuse for not attending before the interviewer as required.

17 Section 74 (6)

substitute

- (6) Subsection (5) does not apply—
- (a) if the complaint is a victims rights complaint—to a justice agency; or
 - (b) if the person has a reasonable excuse for failing to continue to attend as required by the interviewer.

18 Section 74 (8)

substitute

- (8) Subsection (7) does not apply—
- (a) if the complaint is a victims rights complaint—to a justice agency; or
 - (b) if the person has a reasonable excuse for failing to answer the question.

**19 Responding to recommendations
New section 85 (1A)**

insert

- (1A) However, subsection (1) does not apply to an entity that is a justice agency if the report is in relation to a victims rights complaint.

20 New section 100B

insert

100B Independence of DPP

- (1) The director of public prosecutions need not comply with a provision of this Act that relates to a victims rights complaint if the director considers that compliance would prejudice—
- (a) the independence of the director of public prosecutions; or
 - (b) the prosecution of an offence.
- (2) If the director of public prosecutions does not comply with a provision of this Act, the director must tell the commission—
- (a) that the director has not complied with a provision of the Act; and
 - (b) the provision not complied with; and
 - (c) the reason for not complying.

- (3) The director of public prosecutions must include in the director's annual report under the *Annual Reports (Government Agencies) Act 2004* the information mentioned in subsection (2) for each occasion on which the director does not comply with a provision of this Act.

21 Dictionary, note 2

insert

- DPP

22 Dictionary, new definitions

insert

justice agency—see the *Victims of Crime Act 1994*, section 8.

victims rights complaint—see section 41C (2).

Part 3 Victims of Crime Act 1994

23 New section 3AA

in part 1, insert

3AA Objects of Act

The objects of this Act are to—

- (a) acknowledge the central role of victims in the criminal justice process; and
- (b) contribute to upholding the safety, privacy and dignity of people adversely affected by crime; and
- (c) help victims deal with the effects of criminal offences; and
- (d) acknowledge, promote and uphold the rights and interests of victims in the administration of justice; and
- (e) recognise and establish appropriate ways for agencies involved in the administration of justice to engage with victims in order to minimise adverse outcomes and prevent trauma for victims; and
- (f) establish requirements for monitoring and reviewing victims rights.

24 Part 2

omit

25 New sections 7 and 8

in part 2A, insert

7 Meaning of *administration of justice*

In this Act:

administration of justice includes the provision of services by a justice agency.

8 Meaning of *justice agency*

(1) In this Act:

justice agency—

(a) means any of the following entities:

- (i) the director-general of the administrative unit responsible for maintaining a register of victims of offenders under the *Crimes (Sentence Administration) Act 2005*, section 215 (the *adult offenders victims register unit*);
- (ii) the director-general of the administrative unit responsible for maintaining the affected person register under the *Mental Health Act 2015*, part 7.2 (the *affected person register unit*);
- (iii) the chief police officer;
- (iv) the director-general of the administrative unit responsible for the *Corrections Management Act 2007* (the *corrective services unit*);
- (v) a court or tribunal, when acting in an administrative capacity;
- (vi) the director of public prosecutions;
- (vii) a referring entity, when acting in an administrative capacity;

- (viii) the director-general of the administrative unit responsible for the *Crimes (Restorative Justice) Act 2004* (the *restorative justice unit*);
 - (ix) the sentence administration board, when acting in an administrative capacity;
 - (x) the victims of crime commissioner;
 - (xi) the director-general of the administrative unit responsible for this Act;
 - (xii) the director-general of the administrative unit responsible for maintaining a register of victims of young offenders under the *Crimes (Sentence Administration) Act 2005*, section 215A (the *youth justice victims register unit*);
 - (xiii) the director-general responsible for the *Children and Young People Act 2008*;
 - (xiv) an entity prescribed by regulation; but
- (b) does not include any of the following:
- (i) the Chief Justice, a judge or associate judge;
 - (ii) the Chief Magistrate, a magistrate or any office that must be occupied by a magistrate.
- (2) For subsection (1), definition of *justice agency*, paragraph (a), an entity that is a court or tribunal is *acting in an administrative capacity* other than when it is exercising its jurisdiction in relation to any proceeding before it.

Note 1 A director-general may delegate to a public employee or another person a function given to the director-general under this Act (see *Public Sector Management Act 1994*, s 20).

Note 2 An entity that is not a justice agency need not comply with victims rights (see s 18), although the entity should have regard to victims rights (see s 18A).

26 **Functions**
Section 11 (d)

omit

the governing principles

substitute

victims rights

27 **Section 11 (e)**

substitute

(e) to ensure victims rights concerns are dealt with promptly and effectively;

(ea) to promote the prompt and effective resolution of complaints about victims rights made to relevant complaints entities;

28 **New section 11 (2)**

after the notes, insert

(2) In this section:

relevant complaints entity—see section 18G (4).

29 **Concerns and complaints**
Section 12

omit

30 New part 3A*insert***Part 3A Victims rights****Division 3A.1 Preliminary****14 Object—pt 3A**

The object of this part is to ensure that, in the administration of justice, engagement with victims is governed by the victims rights.

14A Meaning of *victims rights*

In this Act:

victims rights means the rights in the following divisions:

- (a) division 3A.2 (Victims rights—respect, privacy and safety);
- (b) division 3A.3 (Victims rights—access to support, services, legal and financial assistance);
- (c) division 3A.4 (Victims rights—information about administration of justice processes);
- (d) division 3A.5 (Victims rights—information about investigations, proceedings and decisions);
- (e) division 3A.6 (Victims rights—participation in proceedings).

Note The victims rights are not exhaustive. Victims have a range of rights under other territory laws.

14B Definitions—pt 3A

In this part:

authorised officer—see the *Bail Act 1992*, dictionary.

detained offender means an offender who—

- (a) has been sentenced for the offence; and
- (b) is—
 - (i) a detainee within the meaning of the *Corrections Management Act 2007*, section 6; or
 - (ii) a young detainee within the meaning of the *Children and Young People Act 2008*, section 95.

forensic mental health order—see the *Mental Health Act 2015*, dictionary.

forensic patient—see the *Mental Health Act 2015*, section 127.

intensive correction order—see the *Crimes (Sentencing) Act 2005*, section 11 (2).

mental health order—see the *Mental Health Act 2015*, dictionary.

offender means a person convicted or found guilty of an offence by a court.

parole order—see the *Crimes (Sentence Administration) Act 2005*, section 117.

registered affected person, in relation to a forensic patient—see the *Mental Health Act 2015*, section 129.

registered victim, of an offender—see the *Crimes (Sentence Administration) Act 2005*, section 213.

transfer or release, of a detained offender, means—

- (a) the transfer of the detainee from their place of detention; or

Examples

- 1 transporting an offender from a detention place to hospital
- 2 transferring an offender from a correctional centre to an equivalent institution interstate

- (b) the release of a detainee from their place of detention, including for a temporary absence.

Examples—temporary absence

- 1 to work or seek work
- 2 to attend a funeral or visit a relative suffering a serious illness
- 3 to attend a place of education or training
- 4 to participate in a prison program that includes release under a pre-release permit scheme

victim impact statement, for an offence—see the *Crimes (Sentencing) Act 2005*, section 47.

young offender—see the *Crimes (Sentence Administration) Act 2005*, dictionary.

Division 3A.2 Victims rights—respect, privacy and safety

14C Respectful engagement with victims

- (1) A justice agency must engage with a victim respectfully and with appropriate regard to the victim’s personal situation, needs, concerns, rights and dignity.
- (2) A justice agency must take into account, and be responsive to, the individual needs of a victim, particularly needs relating to any of the following:
 - (a) age;
 - (b) disability;
 - (c) gender identity;
 - (d) race;
 - (e) religion;
 - (f) sex;

- (g) sexuality;
- (h) parental, family, carer or kinship responsibilities.

14D Respectful engagement with child victims

If a primary victim is a child, a justice agency must—

- (a) as far as practicable, consider the child's views, wishes and circumstances before engaging with the child's parent or carer as the victim in relation to victims rights; and
- (b) engage with the child in a way that is appropriate for a person of the child's age who is not a victim.

14E Contact with victims

- (1) A justice agency must contact a victim if, in exercising a function in relation to victims rights, it is required to do so (a *required contact*).
- (2) However, a justice agency need not make a required contact with a victim if—
 - (a) the justice agency has told the victim about each required contact (including the right to which each contact relates) and the victim does not want any required contact, or does not want the particular required contact; or
 - (b) another agency has already made the required contact with the victim; or
 - (c) it is not possible or practicable in the circumstances to make the required contact with the victim; or
 - (d) for a person who is a victim under section 6 (1), definition of *victim*, paragraph (b) or (c) (an *associated victim*)—the justice agency—
 - (i) has already made the required contact with the primary victim; and

- (ii) considers it unnecessary to also contact the associated victim.

Examples—par (b)

- 1 if the DPP is required to give a victim information, the DPP may arrange with the chief police officer for a police officer to give the information to the victim
- 2 if the ACAT is required to give a victim information, the ACAT may arrange for the commissioner give the information to the victim

Examples—par (c)

- 1 the victim cannot be found after reasonable steps have been taken to find the victim
- 2 the proceedings progress too quickly for the victim to be contacted
- 3 a justice agency is not aware of a victim or cannot reasonably find a victim's contact details

14F Victims' privacy

- (1) A justice agency must not disclose personal information about a victim or a family member of the victim, unless the information is disclosed—
 - (a) in the course of a proceeding before a court or tribunal; or
 - (b) under a territory law; or
 - (c) with the victim's consent.

- (2) In this section:

educational institution means a school, college or other educational institution, whether or not operated in the ACT or by or on behalf of the Territory.

personal information, about a person, includes—

- (a) a person's home address and contact details; and
- (b) if the person is employed—the place where the person is employed; and

- (c) if the person is a student—the educational institution the person attends.

14G Storage and return of victims' property

- (1) If a victim's property is held by a justice agency for the purpose of investigating or prosecuting a criminal offence, the property must be—
 - (a) handled and stored in a lawful, respectful and secure manner; and
 - (b) returned to the victim as soon as practicable after it is no longer needed for that purpose.
- (2) However, for subsection (1) (b)—
 - (a) the property must not be returned to the victim if the victim's possession of the property would be an offence; and
 - (b) the property need not be returned to the victim directly.

Note The *Court Procedures Rules 2006* sets out for how long exhibits put into evidence may be kept by the court in proceedings (see r 6762), including in appeals proceedings (see r 5194), duties on parties to claim exhibits (see r 6763) and disposal of exhibits (see r 6766).

14H Victims' appearance at preliminary or committal hearings

The director of public prosecutions must not require a victim to appear at a preliminary hearing or a committal hearing unless—

- (a) a court directs the victim to appear; or
- (b) the director of public prosecutions considers the victims' appearance necessary in the interests of justice.

Note Under the *Magistrates Court Act 1930*, s 90AA, written statements may generally be admitted as evidence in a committal hearing, however, the court may give leave for evidence to be given in person at the hearing if it considers it necessary in the interests of justice (see that [Act](#), s 90AA (7)).

141 Minimising victims' exposure to accused etc

- (1) This section applies to a victim of an offence if the victim—
- (a) is in a court or tribunal building for a proceeding for the offence; and
 - (b) has told a relevant justice agency that the victim may need protection from violence or harassment by any of the following people:
 - (i) an accused person for the offence;
 - (ii) a defence witness;
 - (iii) a family member of the accused or any person supporting the accused.
- (2) The relevant justice agency must, as far as practicable, minimise the victim's exposure to the person while in the court or tribunal building.

Note The *Evidence (Miscellaneous Provisions) Act 1991*, pts 4.2 and 4.3 set out special requirements that apply in particular proceedings to stated kinds of witnesses, including children and intellectually impaired witnesses, to minimise the exposure of a witness to an accused. Particularly, that *Act* sets out—

- when a stated kind of witness may give evidence by audiovisual link in particular proceedings (see tables 43.1 to 43.4 and div 4.3.5); and
- that a court may order that an accused person be screened from a witness while the witness is giving evidence in a courtroom (see s 47); and
- that a witness in a relevant proceeding must not be examined personally by the accused person (see s 48); and
- that a court may order that the court be closed to the public while a witness is giving evidence (see s 50).

(3) In this section:

exposure, of a victim to another person—

(a) includes—

(i) any form of physical contact between the victim and the other person; and

(ii) face-to-face communication between the victim and the other person; but

(b) does not include—

(i) oral communication by telephone; or

(ii) written communication, including electronic communication.

relevant justice agency means either of the following justice agencies:

(a) the director of public prosecutions;

(b) a court or tribunal, when acting in an administrative capacity.

14J Minimising registered victims' exposure to offenders etc

(1) This section applies if—

(a) an offender is sentenced; or

(b) for a detained offender—the offender is transferred or released from their place of detention.

- (2) A relevant justice agency must, as soon as practicable, tell each registered victim of the offender about actions the victim may take to minimise their exposure to, and prevent contact from, the offender.

Examples—actions victim may take

- 1 apply for a personal protection order under the *Personal Violence Act 2016*
- 2 ask that the offender be directed to not contact the victim by phone or mail under the *Corrections Management Act 2007*, s 47 (6) or s 48 (5)
- 3 ask that a young offender be directed to not contact the victim by phone or mail under the *Children and Young People Act 2008*, s 174 (6) or s 175 (4)

- (3) In this section:

relevant justice agency means either of the following justice agencies:

- (a) the youth justice victims register unit;
- (b) the adult offenders victims register unit.

Division 3A.3 Victims rights—access to support, services, legal and financial assistance

15 Referral of victims to support services

- (1) The chief police officer must, as soon as practicable, refer a victim of an offence to a service that provides support or assistance suitable for the victim and the victim's circumstances.

Examples—as soon as practicable

- 1 after a person reports an offence to police
- 2 after police become aware an offence has been committed

- (2) However, a referral need not be made if it would not be appropriate in the circumstances.

Example—not appropriate in the circumstances

the victim does not consent to the referral

15A Provision of aids or adjustments to victims

A justice agency must, unless the court directs otherwise, ensure a victim of an offence is provided with, or is able to access—

- (a) any special requirement the victim is entitled to in relation to a proceeding for the offence under the *Evidence (Miscellaneous Provisions) Act 1991*, part 4.2; and
- (b) any aid or adjustment that is reasonably necessary to enable the victim to fully participate in the administration of justice for the offence.

Examples—aid or adjustment

- 1 assistance animal
- 2 intermediary or support person
- 3 interpreter or translator

Note 1 The *Evidence (Miscellaneous Provisions) Act 1991* sets out—

- (a) when a court may appoint an intermediary in a criminal proceeding for a witness with a communication difficulty (see that *Act*, ch 1B); and
- (b) when a court may order that a witness have a support person in court while giving evidence (see that *Act*, s 49 and s 101).

Note 2 The *Evidence Act 2011*, s 30 sets out when a witness in a proceeding may give evidence through an interpreter.

Note 3 This section applies to a court or tribunal, a referring entity or a member of the sentence administration board only when acting in an administrative capacity, but does not apply to a judge, a magistrate, or a court or tribunal when exercising its jurisdiction in relation to any proceeding before it (see s 8 (1), definition of *justice agency*, par (a) (v), (vii) and (ix) and s (2)).

15B Victims may request referral of offences to restorative justice

- (1) A victim of an offence may—
- (a) at any stage during the administration of criminal justice for the offence, ask a justice agency whether the offence may be referred for restorative justice; and
 - (b) at any stage of the criminal justice process for the offence, ask a referring entity for that stage of the process to refer the offence for restorative justice.

Note 1 The *Crimes (Restorative Justice) Act 2004* sets out eligibility requirements for restorative justice (see that *Act*, pt 5) and the process for referral of offences for restorative justice (see that *Act*, pt 6).

Note 2 Under the *Crimes (Restorative Justice) Act 2004*, s 28A, in stated circumstances, an offence may be referred for restorative justice by a post-sentence referring entity without telling the offender that the offence is being considered for restorative justice.

- (2) In this section:

stage, of the criminal justice process, has the same meaning as in the *Crimes (Restorative Justice) Act 2004*, section 22.

15C Reimbursement and financial assistance for victims

- (1) A victim who is required to attend court to give evidence as a witness in a criminal proceeding may be able to claim reimbursement of expenses incurred or income lost in attending court.

Examples—expenses

transport, parking, meals

Note Under the *Court Procedures Rules 2006*, r 4331, a person who attends the Magistrates Court as a witness in the hearing of a criminal proceeding is entitled to be paid witness expenses.

- (2) A victim may apply for financial assistance under the *Victims of Crime (Financial Assistance) Act 2016*.

Note Eligibility requirements apply for financial assistance under the *Victims of Crime (Financial Assistance) Act 2016*, div 3.1.

- (3) A victim who suffers loss or incurs expense as a direct result of the commission of an offence, or has property stolen, may ask the director of public prosecutions to apply for a reparation order under the *Crimes (Sentencing) Act 2005*, section 19 or section 20.

Note A victim who suffers loss or expense as a direct result of the commission of an offence may be entitled to reparation from the offender by way of payment of money or otherwise, for the loss or expense (see *Crimes (Sentencing) Act 2005*, s 19). A victim whose property is stolen may be entitled to have the property restored to them or to payment of the value of the property (see that *Act*, s 20).

Division 3A.4 Victims rights—information about administration of justice processes

15D Police to tell victims about administration of justice processes after offence reported

- (1) The chief police officer must, as soon as practicable, give a victim of a relevant offence information about the administration of justice processes that result from reporting the offence.

Examples—resulting administration of justice processes

- 1 charging and prosecuting an alleged offender
- 2 giving evidence and the burden of proof in a proceeding
- 3 a victim's role in a proceeding as a witness for the prosecution

- (2) In this section:

relevant offence means—

- (a) an indictable offence; or
- (b) any other offence in relation to which the victim has asked the chief police officer to be given information about administration of justice processes.

15E DPP to give information to victim witnesses

- (1) This section applies if a victim of an offence is required to attend court to give evidence as a witness for the prosecution in a proceeding for the offence.
- (2) The director of public prosecutions must, within a reasonable period before the witness is to give evidence, tell the victim about, or where to find information about—
 - (a) the hearing or trial process; and
 - (b) the role, rights and responsibilities of witnesses.

15F Police and DPP to tell victims about victim impact statement

- (1) A relevant justice agency must, within a reasonable period before a victim of an offence would be able to make a victim impact statement, tell the victim the following:
 - (a) who may make a victim impact statement;
 - (b) that a victim impact statement may be made orally or in writing;
 - (c) what information a victim impact statement must and may include;

- (d) how a victim impact statement may be used in court during a proceeding, including that—
- (i) a copy of the victim impact statement will be given to the offender; and
 - (ii) the victim may be cross-examined about the contents of the victim impact statement; and
 - (iii) the court must consider the victim impact statement in deciding how the offender should be sentenced.

Note The *Crimes (Sentencing) Act 2005*, pt 4.3 sets out the requirements for victim impact statements. A victim impact statement may only be made for an offence that is punishable by imprisonment for longer than 1 year (see that [Act](#), s 48).

- (2) In this section:

relevant justice agency means either of the following justice agencies:

- (a) the chief police officer;
- (b) the director of public prosecutions.

15G DPP to tell victims about decisions to discontinue prosecution and review of decisions

- (1) This section applies if a person is charged with 1 or more offences in relation to a victim.
- (2) The director of public prosecutions must tell the victim which of the director's decisions in relation to the charges are automatically reviewed.

- (3) If the director of public prosecutions decides to discontinue the prosecution of 1 or more of the charges, the director must, as soon as practicable after making the decision, tell the victim how the victim may request a review of the decision if—
- (a) as a result of the decision, the person is not prosecuted for any charge in relation to the victim; and
 - (b) the decision will not be automatically reviewed.

15H Justice agencies to tell eligible victims about victims register etc

- (1) A relevant justice agency must, as soon as practicable after an offender is sentenced for an offence, tell each victim who is eligible to be registered on the victims register—
- (a) how the victim may become registered on the victims register; and
 - (b) the rights of registered victims to information about offenders who are sentenced; and
 - (c) the role of registered victims in relation to the release of offenders from imprisonment under a parole order or on licence.

Note 1 Registration of victims of offenders is dealt with in the *Crimes (Sentence Administration) Act 2005*, ch 10.

Note 2 Release under parole and on licence are dealt with in the *Crimes (Sentence Administration) Act 2005*, ch 7 and pt 13.1.

- (2) In this section:

relevant justice agency means either of the following justice agencies:

- (a) the youth justice victims register unit;
- (b) the adult offenders victims register unit.

victims register means—

- (a) the register of victims of offenders kept under the *Crimes (Sentence Administration) Act 2005*, section 215; or
- (b) the register of victims of young offenders kept under the *Crimes (Sentence Administration) Act 2005*, section 215A.

15I Justice agencies to tell victims about justice agency complaints and victims rights concerns

- (1) This section applies if a victim tells a justice agency that the victim—
 - (a) believes the agency has not complied with their victims rights; or
 - (b) is otherwise dissatisfied with the justice agency’s services in relation to victims rights.
- (2) The justice agency must, as soon as practicable, tell the victim how the victim may—
 - (a) make a justice agency complaint to the justice agency; or
 - (b) if the victim believes the agency has not complied with their victims rights—
 - (i) raise a victims rights concern with the commissioner; or
 - (ii) make a victims rights complaint to the human rights commission; or

Note **Justice agency complaint**—see s 18D (2).
Victims rights complaint—see the *Human Rights Commission Act 2005*, s 41C (2).
Victims rights concern—see s 18F (2).

- (c) if another entity has power to deal with the matter—make a complaint about the matter to the other entity.

Examples

- 1 if the matter relates to corrupt conduct, the victim may be able to make a complaint to the integrity commission
- 2 if the matter relates to a member of the Australian Federal Police, the victim may be able to make a complaint to the Australian Commission for Law Enforcement Integrity (ACLEI)

Division 3A.5 Victims rights—information about investigations, proceedings and decisions

16 Police to give written confirmation to victims reporting offences

- (1) If a victim of a relevant offence reports the offence to a police officer, the chief police officer must, as soon as practicable, give the victim written confirmation of the report, including the name and contact details of—
 - (a) the police officer who took the report; and
 - (b) another police officer the victim may contact about the report.
- (2) However, the chief police officer need not give written confirmation of the report if doing so is likely to affect the safety of the victim or another person.
- (3) In this section:

relevant offence means—

 - (a) an indictable offence; or
 - (b) any other offence in relation to which the victim has asked the chief police officer to provide written confirmation of the report.

16A Police to update victims about status of investigations

- (1) If a police officer is investigating a relevant offence, the chief police officer must give a victim of the offence an update about the status of the investigation—
 - (a) as soon as practicable after a change in the status of the investigation; and
 - (b) at least every 6 weeks.
- (2) However, if the victim wishes to be updated less frequently, the chief police officer may update the victim at another time agreed between the chief police officer and the victim.
- (3) Also, if the chief police officer considers that giving the victim an update about the status of the investigation would prejudice the investigation or any other investigation, the chief police officer—
 - (a) must not tell the victim about the status of the investigation; but
 - (b) must tell the victim as much as possible about the progress of the investigation.
- (4) In this section:
change in the status of an investigation, for an offence, includes—
 - (a) a person being charged with the offence; or
 - (b) a warrant being issued for the arrest of a person accused of committing the offence.
relevant offence means—
 - (a) an indictable offence; or
 - (b) any other offence in relation to which the victim has asked the chief police officer to update the victim about the status of the investigation.

16B DPP to consider victims' views about dealing with charges

- (1) This section applies if—
- (a) a person has been charged with a relevant offence; and
 - (b) the director of public prosecutions is considering taking any of the following actions in relation to the charge (a *proposed action*):
 - (i) substantially modifying the nature of the case in a proceeding for the charge, including by—
 - (A) accepting a guilty plea for a lesser charge; or
 - (B) discontinuing the prosecution of the charge;
 - (ii) applying to the ACAT for an assessment order in relation to the person.

Note The DPP may apply to the ACAT for an assessment order in relation to a person alleged to have committed an offence if the DPP believes on reasonable grounds that it may not be appropriate to prosecute the person considering the nature and circumstances of the alleged offence and the person's apparent mental disorder or mental illness (see [Mental Health Act 2015](#), s 35).

- (2) The director of public prosecutions must, as soon as practicable and before taking the proposed action, seek and consider the victim's views about the proposed action.
- (3) However, the director of public prosecutions need not seek the victim's views if the director of public prosecutions considers that it would prejudice the prosecution of an offence.
- (4) In this section:
- assessment order*—see the [Mental Health Act 2015](#), dictionary.
- relevant offence* means—
- (a) an indictable offence; or

- (b) any other offence in relation to which the victim has asked the director of public prosecutions to tell the victim about any proposed action.

16C Police and DPP to update victims about bail decisions

- (1) This section applies if a victim of an offence has expressed concern to a relevant justice agency about the need for protection from violence or harassment by an accused person for the offence.
- (2) The relevant justice agency must, as soon as practicable, tell the victim if—
 - (a) a court or an authorised officer makes a decision about a grant of bail, or reviews a bail decision, in relation to the accused person; or
 - (b) bail is granted to the accused person and a condition is imposed on the grant of bail to protect the victim or a family member of the victim.

Note The [Bail Act 1992](#), s 47A outlines that victims should be given notice of bail decisions if they have expressed safety concerns.

- (3) In this section:

accused person—see the [Bail Act 1992](#), dictionary.

relevant justice agency means either of the following justice agencies:

- (a) the chief police officer;
- (b) the director of public prosecutions.

16D DPP to tell victims about hearings

- (1) This section applies if—
 - (a) a person has been charged with an offence; and
 - (b) a court has set a hearing date for the charge.

- (2) The director of public prosecutions must, as soon as practicable after the hearing date has been set, tell a victim of the offence the date, time and place of the hearing.

Note The DPP need not give the information mentioned in s (2) to the victim if another justice agency has already given the information to the victim (see s 14E (2) (b)).

16E DPP to tell victims about reparation orders

- (1) This section applies if—
- (a) an offender is convicted or found guilty of an offence against a territory law; but
 - (b) the court has not yet sentenced or made a non-conviction order for the offender.
- (2) The director of public prosecutions must tell a victim of the offence—
- (a) that a court may make a reparation order against the offender under the *Crimes (Sentencing) Act 2005* or another territory law; and
 - (b) if the director of public prosecutions decides not to apply for the order—
 - (i) the decision; and
 - (ii) unless the director of public prosecutions considers that it would prejudice the prosecution of an offence—the reason for the decision.

Note 1 Reparation orders are dealt with under the *Crimes (Sentencing) Act 2005*, s 19, s 20 and ch 7. Reparation orders are made on the basis of facts established by evidence given at trial, available documents, admissions by the offender, or submissions made by or for anyone (including the DPP) (see that *Act*, s 110).

Note 2 The DPP need not give the information mentioned in s (2) to the victim if another justice agency has already given the information to the victim (see s 14E (2) (b)).

16F DPP to tell victims about outcomes of trials and appeals

- (1) The director of public prosecutions must, as soon as practicable after a proceeding for a relevant offence has ended, tell a victim of the offence about—
 - (a) the outcome of the proceeding, including any sentence imposed by the court on the offender; and
 - (b) if the offender appeals a decision under paragraph (a)—
 - (i) the nature of the appeal; and
 - (ii) the outcome of the appeal.

Note The DPP need not give the information mentioned in s (1) to the victim if another justice agency has already given the information to the victim (see s 14E (2) (b)).

- (2) In this section:

relevant offence means—

- (a) an indictable offence; or
- (b) any other offence in relation to which the victim has asked the director of public prosecutions to tell the victim about the outcome of the proceeding.

16G Justice agencies to tell victims about inquiries for parole or release on licence

- (1) This section applies if the sentence administration board intends to start an inquiry into an application for—
 - (a) parole by an offender under the *Crimes (Sentence Administration) Act 2005*, chapter 7 (Parole); or
 - (b) the release of an offender on licence under the *Crimes (Sentence Administration) Act 2005*, part 13.1 (Release on licence).

- (2) A relevant justice agency must, as soon as practicable, tell a victim of an offender—
- (a) about the inquiry; and
 - (b) how the victim may—
 - (i) make a submission to the board; or
 - (ii) tell the board about any concern in relation to the inquiry; or
 - (iii) ask the board not to give the submission or concern to the offender or another person.

Note 1 The sentence administration board must seek a registered victim's views before starting an inquiry for parole (see *Crimes (Sentence Administration) Act 2005*, s 123) or release on licence (see that *Act*, s 292) for an offender.

Note 2 The sentence administration board must ensure, as far as practicable, that documents are not given to a person if it may endanger a victim or someone else, and other reasons (see *Crimes (Sentence Administration) Act 2005*, s 192).

- (3) The relevant justice agency must also give the victim the following information to assist the victim to make a submission or tell the board about a concern:
- (a) information about the offender;
 - (b) information about any assistance available to the victim to make a submission or tell the board about a concern.

Note 1 The *Crimes (Sentence Administration) Act 2005* sets out the information that must be given to a victim for an inquiry for parole (see that *Act*, s 124) or release on licence (see that *Act*, s 292 (6)).

Note 2 Information about an offender may only be disclosed to a registered victim of the offender if the disclosure is appropriate in the circumstances (see s 16I).

(4) In this section:

relevant justice agency means either of the following justice agencies:

- (a) the adult offenders victims register unit;
- (b) the sentence administration board when acting in an administrative capacity.

16H Justice agencies to tell victims about parole or release on licence decisions

- (1) If the sentence administration board decides to make, or refuse to make, a parole order for an offender, the relevant justice agency must, as soon as practicable, take reasonable steps to tell each relevant victim of the offender about—
 - (a) the board’s decision; and
 - (b) if the board decides to make a parole order for the offender—
 - (i) the offender’s parole release date; and
 - (ii) in general terms, the offender’s parole obligations.
- (2) If the Executive makes a decision to grant, or refuse to grant, an offender a licence to be released from imprisonment, the relevant justice agency must, in writing, take reasonable steps to tell each relevant victim of the offender, as soon as practicable, about—
 - (a) the Executive’s decision; and
 - (b) if the Executive grants a licence to the offender—
 - (i) the offender’s licence release date; and
 - (ii) in general terms, the offender’s release on licence obligations.

- (3) The relevant justice agency may also tell a relevant victim the general area where the offender will live while on parole or release.

Note The *Crimes (Sentence Administration) Act 2005* sets out the information to be given to victims in relation to parole orders for offenders (see that [Act](#), s 133) and licences granted for release of offenders from imprisonment (see that [Act](#), s 298).

- (4) In this section:

relevant justice agency means either of the following justice agencies:

- (a) the adult offenders victims register unit;
- (b) the sentence administration board when acting in an administrative capacity.

relevant victim, of an offender—

- (a) for a parole order—see the *Crimes (Sentence Administration) Act 2005*, section 133 (6); and
- (b) for a grant of licence for release—see the *Crimes (Sentence Administration) Act 2005*, section 298 (8).

16I Justice agencies may give information about offenders to registered victims

- (1) A relevant justice agency may tell a registered victim of an offender information about the offender if—
- (a) the offender has been sentenced; and
 - (b) the victim asks the relevant justice agency for the information; and

- (c) the relevant justice agency is satisfied the disclosure is appropriate in the circumstances.

Note Under the *Crimes (Sentence Administration) Act 2005*, if an offender has been sentenced, information about the offender may be disclosed to a registered victim of the offender if the disclosure is appropriate in the circumstances (see that *Act*, s 216 and s 216A).

- (2) In this section:

relevant justice agency means either of the following justice agencies:

- (a) the youth justice victims register unit;
- (b) the adult offenders victims register unit.

16J Justice agencies to tell registered victims about transfer etc of detained offenders

- (1) This section applies if—
- (a) a detained offender—
 - (i) is to be transferred or released from imprisonment or detention; or
 - (ii) escapes from custody; and
 - (b) either—
 - (i) a registered victim of the offender has expressed concern about their safety or the need for protection from the offender to a relevant justice agency; or
 - (ii) the relevant justice agency believes the offender's transfer, release or escape is likely to affect the registered victim's safety.

- (2) The relevant justice agency must, as soon as practicable, tell the registered victim—
- (a) if the detained offender is to be transferred or released from imprisonment or detention—
 - (i) of the transfer or release; and
 - (ii) any condition of the release that may affect the registered victim’s safety; and
 - (b) if the detained offender escapes from custody—of the escape.
- (3) However, subsection (2) does not apply if the relevant justice agency is satisfied the disclosure is not appropriate in the circumstances.

Note Under the *Crimes (Sentence Administration) Act 2005*, if an offender has been sentenced, information about the offender may be disclosed to a registered victim of the offender if the disclosure is appropriate in the circumstances (see that *Act*, s 216 and s 216A).

- (4) In this section:

relevant justice agency means either of the following justice agencies:

- (a) the youth justice victims register unit;
- (b) the adult offenders victims register unit.

16K Adult offender victims register unit to tell victim about intensive correction orders

- (1) This section applies if an offender is subject to an intensive correction order and—
- (a) the offender has breached any of the offender’s intensive correction order obligations; or
 - (b) the sentence administration board has decided to—
 - (i) suspend or cancel the offender’s intensive correction order; or

- (ii) amend or discharge the offender's intensive correction order; or
- (iii) reinstate the offender's previously cancelled intensive correction order.

Note Only adult offenders may be subject to an intensive correction order (see [Crimes \(Sentencing\) Act 2005](#), s 11).

- (2) The adult offenders victims register unit must, as soon as practicable, tell a registered victim of the offender about the breach, suspension, cancellation, amendment, discharge or reinstatement of the offender's intensive correction order if—
 - (a) it is likely to affect the victim's safety; or
 - (b) the victim has expressed concern about their safety or the need for protection from the offender to the adult offenders victims register unit.

16L DPP to tell victims about court requirements and orders relating to offender's mental health

- (1) If a court requires an offender in relation to a relevant offence to submit to the jurisdiction of the ACAT under any of the following provisions, the director of public prosecutions must, as soon as practicable, tell a victim of the offence about the requirement:
 - (a) the [Crimes Act 1900](#), part 13 (Unfitness to plead and mental impairment);
 - (b) the [Crimes Act 1914](#) (Cwlth), part 1B (Sentencing, imprisonment and release of federal offenders).

- (2) If the Magistrates Court orders that an offender in relation to a relevant offence be taken to an approved mental health facility without requiring that the person submit to the jurisdiction of the ACAT, the director of public prosecutions must, as soon as practicable, tell a victim of the offence about the order.

Note 1 Under the *Crimes Act 1900*, s 309 the Magistrates Court may order that an accused be taken by a police officer or corrections officer to an approved mental health facility for clinical examination for the purpose of deciding whether the accused needs immediate treatment or care because of mental impairment.

Note 2 The DPP need not give the information mentioned in s (1) or (2) to the victim if another justice agency has already given the information to the victim (see s 14E (2) (b)).

- (3) In this section:

approved mental health facility—see the *Mental Health Act 2015*, dictionary.

offender includes a person—

- (a) who is arrested in connection with an offence; or
- (b) in relation to whom there are sufficient grounds on which to charge the person in connection with an offence; or
- (c) who is charged in connection with an offence.

relevant offence means—

- (a) an indictable offence; or
- (b) any other offence in relation to which the victim has asked the director of public prosecutions to tell the victim about the information mentioned in this section.

16M ACAT to tell victims about mental health orders etc

- (1) If the ACAT is considering making any of the following orders for an offender, the ACAT must, as soon as practicable, tell a registered affected victim of the offender that the ACAT is considering making the order:
 - (a) if section 16L (1) or (2) applies to the offender—a mental health order;
 - (b) a forensic mental health order;
 - (c) an order under the *Mental Health Act 2015*, section 180 to release the offender from custody.
- (2) If the ACAT makes an order mentioned in subsection (1) for an offender, the ACAT must, as soon as practicable, tell a registered affected victim of the offender—
 - (a) that the order has been made; and
 - (b) the nature and length of the order.

Note 1 The *Mental Health Act 2015*, s 134 sets out information in relation to a forensic patient that must be disclosed to a registered affected person if a mental health order has been made (see that *Act*, s 134 (2)). Other information may be disclosed if necessary for the registered affected person's safety and wellbeing (see that *Act*, s 134 (3)). However, identifying information about a child, or a person who was a child when the offence was committed or alleged to have been committed, may only be given in certain circumstances (see that *Act*, s 134 (4)).

Note 2 The ACAT need not give the information mentioned in this section to the victim if another justice agency has already given the information to the victim (see s 14E (2) (b)).

(3) In this section:

offender—see section 16L (3).

Note A victim can only be a registered affected person in relation to an offender who is a forensic patient.

registered affected victim, of an offender, means a victim who is a registered affected person for an offence committed or alleged to have been committed by the offender.

16N Affected person register unit to tell victims about affected person register etc

- (1) The affected person register unit must tell a victim who is an affected person because of an offence committed, or alleged to have been committed, by a forensic patient—
- (a) about the affected person register; and
 - (b) the rights of a registered affected person; and
 - (c) if the victim is a registered affected person—
 - (i) when the victim’s information will be removed from the register; and
 - (ii) if an order has been made in relation to the forensic patient—
 - (A) the information mentioned in the *Mental Health Act 2015*, section 134 (2) in relation to the forensic patient; and
 - (B) any other information about the forensic patient that the affected person register unit considers necessary for the victim’s safety and wellbeing; and
 - (C) whether the ACAT intends to hold a hearing in relation to the order.

(2) In this section:

affected person—see the [Mental Health Act 2015](#), section 128 (1).

affected person register—see the [Mental Health Act 2015](#), section 130.

Division 3A.6 Victims rights—participation in proceedings

17 Justice agency to present victims' concerns about protection in bail submissions

(1) If a court or an authorised officer is considering whether to grant bail to, or is reviewing a bail decision for, an accused person, a relevant justice agency must—

- (a) ask a victim of the accused person whether the victim has any concerns about the need for protection from violence or harassment by the accused person; and
- (b) if the victim has expressed concern to the relevant justice agency about the need for protection from violence or harassment by the accused person—tell the court or authorised officer about the concern.

Note The [Bail Act 1992](#), s 23A outlines that a victim's concern about the need for protection from violence or harassment by an accused person must be considered by a court or authorised officer when making a decision about the grant of bail to the accused person.

(2) In this section:

accused person—see the [Bail Act 1992](#), dictionary.

relevant justice agency means either of the following justice agencies:

- (a) the chief police officer;
- (b) the director of public prosecutions.

17A Victims may make victim impact statements

- (1) A victim of an offence may be eligible to make a victim impact statement under the *Crimes (Sentencing) Act 2005*, part 4.3.
- (2) The director of public prosecutions must ensure, as far as practicable, that no one other than the eligible victim decides whether or not to make a victim impact statement.

Note Under the *Crimes (Sentencing) Act 2005*, pt 4.3, a victim of an offence may make a victim impact statement for the offence if the offence is punishable by imprisonment for longer than 1 year. The statement may be made orally or in writing (see that [Act](#), s 50) and must be considered by the court in deciding how an offender should be sentenced (see that [Act](#), s 53).

17B Corrective services unit to consider victims' views about pre-sentence report or intensive correction assessment

- (1) This section applies to a victim of a relevant offence if a court has ordered that a pre-sentence report or an intensive correction assessment be prepared in relation to the offender.
- (2) In preparing the report or assessment, the corrective services unit must seek and consider the victim's concerns about the need for protection from violence or harassment by the offender.

Note Under the *Crimes (Sentencing) Act 2005*, an assessor who is preparing a pre-sentence report or an intensive correction assessment for an offender may ask a victim of the offender to provide information (see that [Act](#), s 43 and s 46E).

- (3) In this section:

intensive correction assessment—see the *Crimes (Sentencing) Act 2005*, dictionary.

pre-sentence report—see the *Crimes (Sentencing) Act 2005*, dictionary.

relevant offence means—

- (a) an indictable offence; or
- (b) any other offence in relation to which the victim has asked the corrective services unit to contact the victim about protection from violence or harassment by the offender.

17C Victims may be in courtroom for proceedings

A victim of an offence may be present in the courtroom during a proceeding for the offence, unless the court directs otherwise.

Note 1 Under the *Court Procedures Act 2004*, s 72 (2), if a child or young person is the subject of a criminal proceeding in a court, the court may exclude a victim to which the proceeding relates from being present at the hearing of the proceeding if the court considers it is appropriate to do so having regard to the victim's behaviour or expected behaviour, or the nature of the victim's relationship with the child or young person.

Note 2 The *Evidence (Miscellaneous Provisions) Act 1991*, pts 4.2 and 4.3 set out when a stated kind of witness may give evidence by audiovisual link in particular proceedings (see tables 43.1 to 43.4 and div 4.3.5).

17D Victims may make submissions for parole or release on licence inquiries

- (1) This section applies if the sentence administration board intends to start an inquiry into an application by an offender for—
 - (a) parole by an offender under the *Crimes (Sentence Administration) Act 2005*, chapter 7; or
 - (b) the release of an offender on licence under the *Crimes (Sentence Administration) Act 2005*, part 13.1.

- (2) A victim of an offence to which the offender's application relates may—
- (a) make an oral or written submission to the board about the granting of parole or a licence for the offender, including the likely effect on the victim, or on the victim's family, if parole or the licence were to be granted; or
 - (b) tell the board, orally or in writing, about any concern of the victim or the victim's family about the need to be protected from violence or harassment by the offender.

Note Under the *Crimes (Sentence Administration) Act 2005*, the sentence administration board must seek a registered victim's views before starting an inquiry for parole (see that [Act](#), s 123) or release on licence (see that [Act](#), s 292) for an offender.

- (3) The board, when acting in an administrative capacity, must ensure, as far as practicable, that a victim's submission is not given to a particular person if—
- (a) the victim asks the board to not give the submission to the person; and
 - (b) a judicial officer of the board considers there is a substantial risk that giving the submission to the person would endanger the victim or anyone else.

Note The sentence administration board must ensure, as far as practicable, that documents are not given to certain people for the reason mentioned in s (3) (b) and other reasons (see *Crimes (Sentence Administration) Act 2005*, s 192).

- (4) If the board intends to give the victim's submission to a particular person after being asked not to by the victim under subsection (3) (a), the board must tell the victim of the board's intention.

17E Victims may give statement to ACAT for mental health orders etc

- (1) This section applies if the ACAT is considering making any of the following orders for an offender:
 - (a) a mental health order;
 - (b) a forensic mental health order;
 - (c) an order under the *Mental Health Act 2015*, section 180 to release the offender from custody.
- (2) The following people may appear and give evidence at the hearing in relation to the order or provide a statement to the ACAT in relation to the order:
 - (a) a victim who is a registered affected person for an offence committed or alleged to have been committed by the offender;
 - (b) another victim with the leave of the ACAT.

Note 1 In making a mental health order, the ACAT must take into account the views of people appearing in the proceeding (see *Mental Health Act 2015*, s 56). In making a forensic mental health order, the ACAT must take into account any statement by a registered affected person and the views of people appearing in the proceeding (see *Mental Health Act 2015*, s 99).

Note 2 Certain hearings under the *Mental Health Act 2015* must be held in private (see that *Act*, s 194).

Note 3 A victim can only be a registered affected person in relation to an offender who is a forensic patient.

17F Affected person register unit to assist victims to participate in order hearings

- (1) This section applies if the ACAT is considering making any of the following orders for an offender:
 - (a) if section 16L (1) or (2) applies to the offender—a mental health order;
 - (b) a forensic mental health order;
 - (c) an order under the *Mental Health Act 2015*, section 180 to release the offender from custody.
- (2) The affected person register unit must—
 - (a) tell a victim of the offender how the victim may—
 - (i) apply to the ACAT for leave to participate in any hearing in relation to the order; and
 - (ii) if leave is granted—participate in the hearing; and
 - (b) for a victim who is a registered affected person—
 - (i) offer to assist the victim to participate in the hearing; and
 - (ii) if the victim accepts the offer—assist the victim to participate in the hearing.

Note A victim can only be a registered affected person in relation to an offender who is a forensic patient.

- (3) In this section:
participate, in a hearing in relation to an order, includes—
 - (a) appear and give evidence at the hearing of the order; or
 - (b) provide a statement to the ACAT in relation to the order.

17G Victims may participate in restorative justice

- (1) A victim of an offence may take part in a process of restorative justice under the *Crimes (Restorative Justice) Act 2004* in relation to the offence if the victim is—
 - (a) an eligible victim; and
 - (b) a suitable victim.
- (2) In this section:

eligible victim—see the *Crimes (Restorative Justice) Act 2004*, section 17.

suitable victim—see the *Crimes (Restorative Justice) Act 2004*, section 34.

Note The *Crimes (Restorative Justice) Act 2004* sets out when a victim of an offence is an eligible victim (see that *Act*, s 17) and the matters the director-general must consider in deciding whether an eligible victim is a suitable victim (see that *Act*, s 34) for restorative justice in relation to the offence.

Division 3A.7 Implementing victims rights**Subdivision 3A.7.1 Complying with victims rights****18 Justice agencies must comply with victims rights**

- (1) A justice agency must, when engaging with a victim, comply with all victims rights that apply to the victim.
- (2) If complying with a particular right would support a victim, despite the right not applying to the victim, a justice agency should, as far as practicable, comply with the right in relation to the victim.
- (3) In considering whether complying with a right would support a victim, the justice agency should have regard to the individual needs of the victim and their circumstances.

18A Other entities should have regard to victims rights

An entity that is not a justice agency should have regard to victims rights when engaging with a victim.

Examples—entities that should have regard to victims rights

- 1 non-government organisations that engage with victims
- 2 government policy areas that engage with victims

18B Victims' representatives

- (1) A victim may nominate a person, in writing, to be the victim's representative (a *representative*) to do any of the following for the victim, as nominated by the victim:

- (a) to exercise some or all victims rights;
- (b) to receive some or all information required to be given to the victim in relation to victims rights;
- (c) to make a justice agency complaint, raise a victims rights concern or make a victims rights complaint for the victim.

Note **Justice agency complaint**—see s 18D (2).

Victims rights complaint—see the [Human Rights Commission Act 2005](#), s 41C (2).

Victims rights concern—see s 18F (2).

- (2) A victim may nominate anyone to be their representative, including—
- (a) a relative or friend of the victim; or
 - (b) an officer or employee of an organisation whose functions include the provision of information, support or services to victims.

Examples—par (b)

- victim liaison officer
- victim support agency

- (3) If a victim nominates a representative and the nominee agrees to be the victim's representative, the representative must be given the information they are allowed to be given under subsection (1) (b).

18C Justice agencies to tell victims about administration of justice processes

A justice agency must make the following information available to a victim in a way the victim understands:

- (a) victims rights and how a victim may make a justice agency complaint, raise a victims rights concern or make a victims rights complaint if the victim believes a justice agency has not complied with their victims rights;
- (b) how to report an offence to a police officer and the administration of justice processes that result from making a report;
- (c) any services that provide support or assistance, including legal and financial assistance, that are available to the victim;
- (d) hearing and trial processes, including the role, rights and responsibilities of witnesses;
- (e) restorative justice options that are available to victims, including the referral process, and that there are eligibility and suitability requirements for restorative justice under the *Crimes (Restorative Justice) Act 2004*.

Subdivision 3A.7.2 Complaints and concerns about victims rights

18D Victims may make justice agency complaints to justice agencies

- (1) This section applies if—
 - (a) a victim engages with a justice agency; and
 - (b) the victim—
 - (i) believes the justice agency has not complied with their victims rights; or
 - (ii) is otherwise dissatisfied with the justice agency's services in relation to victims rights.

- (2) The victim may make a complaint about the justice agency's conduct to the justice agency (a *justice agency complaint*).

Note Alternatively, a victim may raise a victims rights concern with the commissioner (see s 18F) or make a victims rights complaint to the human rights commission (see *Human Rights Commission Act 2005*, s 41C).

- (3) A justice agency complaint may be made orally or in writing.
- (4) A justice agency must record an oral complaint in writing if—
 - (a) the agency considers the complaint is of a sufficiently serious nature to be recorded in writing; or
 - (b) the victim asks the agency to record the complaint in writing.

Note A complaint may be made for a victim by the victim's representative if nominated to do so by the victim (see s 18B).

- (5) A justice agency complaint may be withdrawn at any time by—
- (a) the victim; or
 - (b) if the victim has nominated a representative to make the complaint—the victim’s representative.
- (6) In this section:
representative—see section 18B (1).

18E Justice agencies to deal with justice agency complaints

- (1) If a victim makes a justice agency complaint to a justice agency, the justice agency must—
- (a) give the victim information about the process that will be used for resolving the complaint; and
 - (b) take all reasonable steps to resolve the complaint as soon as practicable.
- (2) The victim must give the justice agency any document or information that the victim can provide and which is reasonably required by the justice agency to resolve the complaint.

18F Victims may raise victims rights concern with commissioner

- (1) This section applies if—
- (a) a victim engages with a justice agency; and
 - (b) the victim believes the justice agency has not complied with their victims rights.

- (2) The victim may raise a concern (a *victims rights concern*) about the justice agency's conduct with the commissioner.

Note 1 Alternatively, a victim may make a justice agency complaint to a justice agency (see s 18D) or make a victims rights complaint to the human rights commission (see *Human Rights Commission Act 2005*, s 41C).

Note 2 A victim need not have made a justice agency complaint to a justice agency before raising a victims rights concern with the commissioner.

- (3) A victims rights concern may be raised orally or in writing.

Note A concern may be raised for a victim by the victim's representative if nominated to do so by the victim (see s 18B).

- (4) A victims rights concern may be withdrawn at any time by—

- (a) the victim; or
- (b) if the victim has nominated a representative to raise the concern—the victim's representative.

- (5) In this section:

representative—see section 18B (1).

18G Commissioner to deal with victims rights concerns

- (1) If a victim raises a victims rights concern about a justice agency with the commissioner—

- (a) the commissioner must—
 - (i) give the victim information about the process that will be used for resolving the concern; and
 - (ii) take all reasonable steps to resolve the concern as soon as practicable; and
- (b) the justice agency must, on request, give the commissioner any document or information that the justice agency could provide to the victim and which is reasonably required by the commissioner to resolve the concern.

- (2) However, a justice agency must not give the commissioner a document or information if—
- (a) the victim does not consent to the giving of the document or information; or
 - (b) the director of public prosecutions considers that it would prejudice the prosecution of an offence.

Note The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

- (3) If the commissioner is unable to resolve a victims rights concern, the commissioner may, with the victim's consent—
- (a) refer the concern to a relevant complaints entity; and
 - (b) if the concern is referred under paragraph (a)—give the entity any information the commissioner has in relation to the concern.
- (4) In this section:

relevant complaints entity means any of the following entities:

- (a) the human rights commission;
- (b) the ombudsman;
- (c) the integrity commission;
- (d) any other entity authorised to investigate a complaint relating to the administration of justice.

Division 3A.8 Miscellaneous

18H Justice agencies to make victims rights guidelines

- (1) Each justice agency must make and publish written guidelines on the agency's website (the agency's ***victims rights guidelines***) to—
- (a) assist the agency to comply with victims rights; and

- (b) establish appropriate processes and procedures to enable the agency to respond to and resolve justice agency complaints.
- (2) A justice agency must make and publish the guidelines not later than 12 months after the day this section commences.
- (3) Subsection (2) and this subsection expire 12 months after the day they commence.

18I Justice agencies to include justice agency complaints in annual report

- (1) A justice agency must include the following in the agency's annual report under the *Annual Reports (Government Agencies) Act 2004*:
 - (a) a statement of how many written justice agency complaints were made to the agency in the year;
 - (b) for each written complaint made—
 - (i) the right in relation to which the complaint was made; and
 - (ii) whether the agency resolved the complaint.

Note 1 **Justice agency complaint**—see s 18D (2).

Note 2 The DPP may also be required to include other information in relation to victims rights complaints in the DPP's annual report (see *Human Rights Commission Act 2005*, s 100B).

- (2) However, the justice agency must not include any information that would identify a complainant or a victim of an offence.
- (3) In this section:

written justice agency complaint includes a justice agency complaint made orally by a victim and recorded in writing by a justice agency.

18J Commissioner to include victims rights concerns in annual report

- (1) The commissioner must include the following in the human rights commission's annual report under the *Annual Reports (Government Agencies) Act 2004*:
 - (a) a statement of how many victims rights concerns were raised with the commissioner in the year;
 - (b) for each concern raised—
 - (i) the right in relation to which the concern was raised; and
 - (ii) whether the commissioner resolved the concern; and
 - (iii) if the commissioner referred the concern under section 18G (3)—the entity to which the concern was referred.
- (2) However, the commissioner must not include any information that would identify a complainant or a victim of an offence.

18K Legal rights not affected

- (1) The Legislative Assembly does not intend by this part to—
 - (a) create in any person any legal right or give rise to any civil cause of action; or
 - (b) affect in any way the interpretation of any territory law; or
 - (c) affect in any way the operation of any territory law, including a law that deals with the same subject matter as a victims right; or
 - (d) affect the validity, or provide grounds for review, of any judicial or administrative act or omission.
- (2) However, nothing prevents a contravention of this Act from being the subject of disciplinary proceedings against an official.

18L Review of victims rights

- (1) The Minister must review the operation of this part as soon as practicable after the end of its 3rd year of operation.
- (2) The Minister must present a report of the review to the Legislative Assembly within 12 months after the day the review is started.
- (3) This section expires 5 years after the day it commences.

31 New section 29A

insert

29A Delegation by chief police officer

The chief police officer may delegate a function under this Act to a police officer.

Note For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

32 Dictionary, note 2

insert

- ACAT
- associate judge
- Chief Justice
- Chief Magistrate
- chief police officer
- Executive
- indictable offence (see s 190)
- judge
- magistrate
- sentence administration board

33 Dictionary, definition of *administration of justice*

substitute

administration of justice—see section 7.

34 Dictionary, new definitions

insert

adult offenders victims register unit—see section 8.

affected person register unit—see section 8.

authorised officer, for part 3A (Victims rights)—see section 14B.

corrective services unit—see section 8.

detained offender, for part 3A (Victims rights)—see section 14B.

forensic mental health order, for part 3A (Victims rights)—see section 14B.

forensic patient, for part 3A (Victims rights)—see section 14B.

35 Dictionary, definition of *governing principles*

omit

36 Dictionary, new definitions

insert

intensive correction order, for part 3A (Victims rights)—see section 14B.

justice agency—see section 8.

justice agency complaint—see section 18D (2).

mental health order, for part 3A (Victims rights)—see section 14B.

offender, for part 3A (Victims rights)—see section 14B.

parole order, for part 3A (Victims rights)—see section 14B.

referring entity—see the *Crimes (Restorative Justice) Act 2004*, dictionary.

registered affected person, in relation to a forensic patient, for part 3A (Victims rights)—see section 14B.

registered victim, of an offender, for part 3A (Victims rights)—see section 14B.

restorative justice—see the *Crimes (Restorative Justice) Act 2004*, section 10.

restorative justice unit—see section 8.

transfer or release, of a detained offender, for part 3A (Victims rights)—see section 14B.

victim impact statement, for an offence, for part 3A (Victims rights)—see section 14B.

victims rights—see section 14A.

victims rights complaint—see the *Human Rights Commission Act 2005*, section 41C (2).

victims rights concern—see section 18F (2).

young offender, for part 3A (Victims rights)—see section 14B.

youth justice victims register unit—see section 8.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2 July 2020.

2 Notification

Notified under the [Legislation Act](#) on 29 July 2020.

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 Rights Legislation Amendment Bill 2020, which was passed by the Legislative Assembly on 23 July 2020.

Clerk of the Legislative Assembly

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