

2010

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Attorney-General)

## Victims of Crime Amendment Bill 2010

### Contents

---

	Page	
<b>Part 1</b>	<b>Preliminary</b>	
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
<b>Part 2</b>	<b>Victims of Crime Act 1994</b>	
4	New section 3A	3
5	Part 2 heading	3
6	Compliance with principles Section 5	4
7	New section 5 (2)	4

## Contents

---

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

---

	Page	
36	Review by internal reviewer Section 27 (1) and (2)	24
37	Eligibility Review Committee Section 28	24
38	Applications to committee for internal review Section 29	24
39	Section 30	24
40	Reviewable decision notices Section 31	25
41	Level 1 service Section 33 (3)	25
42	Level 2 service Section 34 (3)	25
43	Section 34 (8)	26
44	Level 3 service Section 35 (5)	26
45	Section 36	26
46	How contact hours are provided Section 37 (1)	27
47	Section 37 (2) and (3)	28
48	Section 38	28
49	Approved service providers Section 40 (1) and (2)	28
50	Section 40 (3)	28
51	Criteria for approval Section 41	29
52	Section 41 (a) (i)	29
53	Section 41 (d)	29
54	New section 41 (2)	29
55	Section 42	29
56	Cancellation of approval Section 43	30
57	Section 45	30
58	Reviewable decision notices Section 46A	30
59	New section 47A	31

---

## Contents

---

		Page
60	Guidelines—volunteers Section 48	32
61	New section 48A	32
62	Section 50 heading	32
63	Section 50 (1)	33
64	Dictionary, note 2	33
65	Dictionary, note 2	33
66	Dictionary, note 3	33
67	Dictionary, definitions of <i>AFP member</i> and <i>appointed member</i>	33
68	Dictionary, definition of <i>board</i>	34
69	Dictionary	34
70	Dictionary, definition of <i>health practitioner member</i>	34
71	Dictionary, definition of <i>independent arbitrator</i>	34
72	Dictionary	35
<b>Schedule 1</b>	<b>Consequential amendments</b>	<b>36</b>
<b>Part 1.1</b>	<b>Crimes (Sentencing) Act 2005</b>	<b>36</b>
<b>Part 1.2</b>	<b>Remuneration Tribunal Act 1995</b>	<b>36</b>
<b>Part 1.3</b>	<b>Territory Records Regulation 2009</b>	<b>36</b>
<b>Part 1.4</b>	<b>Victims of Crime (Financial Assistance) Act 1983</b>	<b>37</b>

2010

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Attorney-General)

## **Victims of Crime Amendment Bill 2010**

---

### **A Bill for**

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:

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

4 **2 Commencement**

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

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

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

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

15 **3 Legislation amended**

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

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

- 19
- 20 • *Crimes (Sentencing) Act 2005*
  - 21 • *Remuneration Tribunal Act 1995*
  - 22 • *Territory Records Regulation 2009*
  - *Victims of Crime (Financial Assistance) Act 1983*.

---

## 1 Part 2 Victims of Crime Act 1994

### 2 4 New section 3A

3 *in part 1, insert*

#### 4 3A Offences against Act—application of Criminal Code etc

5 Other legislation applies in relation to offences against this Act.

6 *Note 1 Criminal Code*

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

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

13 *Note 2 Penalty units*

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

### 16 5 Part 2 heading

17 *substitute*

## 18 Part 2 Objects and principles

### 19 3B Object of Act

20 The object of this Act is to—

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

1 **6 Compliance with principles**  
2 **Section 5**

3 *omit*  
4 mentioned in section 4

5 **7 New section 5 (2)**

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

10 **8 Giving information to coordinator—legal immunity**  
11 **Section 6**

12 *omit*

13 **9 New part 2A**

14 *insert*

15 **Part 2A Important concepts**

16 **6 Who is a *victim*?**

- 17 (1) In this Act:
- 18 *victim* means a person who suffers harm because of an offence and  
19 includes—
- 20 (a) a person (the *primary victim*) who suffers harm—
- 21 (i) in the course of, or as a result of, the commission of an  
22 offence; or
- 23 (ii) as a result of witnessing an offence; and



- 1 (b) a family member, of the primary victim, who suffers harm  
2 because of the harm to the primary victim; and
- 3 (c) a person who is financially or psychologically dependent on  
4 the primary victim and who suffers harm because of the harm  
5 to the primary victim; and
- 6 (d) a primary victim, a related victim or an eligible property owner  
7 within the meaning of the *Victims of Crime (Financial  
8 Assistance) Act 1983*, dictionary; and
- 9 (e) if a person mentioned for this definition is a child or legally  
10 incompetent person—a guardian of the child or legally  
11 incompetent person.
- 12 (2) However, a *victim* does not include a person who suffers harm  
13 because of an offence he or she committed or is alleged to have  
14 committed.
- 15 (3) In this section:
- 16 *guardian* means—
- 17 (a) for a child—a parent, a legally appointed guardian of the child  
18 or someone else with parental responsibility for the child under  
19 the *Children and Young People Act 2008*, division 1.3.2  
20 (Parental responsibility); or
- 21 (b) for a legally incompetent person—a person who is—
- 22 (i) a legally appointed guardian of the legally incompetent  
23 person; or
- 24 (ii) an attorney, appointed under an enduring power of  
25 attorney that has become operative, for the legally  
26 incompetent person.
- 27 *harm* includes 1 or more of the following:
- 28 (a) physical injury;
- 29 (b) mental injury or emotional suffering (including grief);

- 1 (c) pregnancy;
- 2 (d) economic loss;
- 3 (e) substantial impairment of a person's legal rights.
- 4 *legally incompetent person* means an adult who is subject to—
- 5 (a) an enduring power of attorney that has become operative; or
- 6 (b) a guardianship order.

7 **10 Part 3**

8 *substitute*

9 **Part 3 Victims of crime commissioner**

10 **Division 3.1 Appointment of commissioner**

11 **7 Appointment**

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

14 *Note* For the making of appointments (including acting appointments), see

15 the Legislation Act, pt 19.3.

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

17 *Note* A person may be reappointed to a position if the person is eligible to be

18 appointed to the position (see Legislation Act, s 208 and dict, pt 1,

19 def *appoint*).

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

1    **8           Ending appointment**

2           (1) The Minister may end the appointment of a person as  
3           commissioner—

4               (a) if the person contravenes a law in force in the Territory; or

5               (b) for misbehaviour; or

6               (c) if the person becomes bankrupt or personally insolvent; or

7               (d) if the person is convicted outside the ACT, in Australia or  
8               elsewhere, of an offence that, if it had been committed in the  
9               ACT, would be punishable by imprisonment for at least 1 year.

10          (2) The Minister must end the person's appointment—

11               (a) if the person is absent, other than on approved leave, for  
12               14 consecutive days or for 28 days in any 12-month period; or

13               (b) for physical or mental incapacity, if the incapacity substantially  
14               affects the exercise of the person's functions.

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

17    **9           Staff**

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

20    **10          Delegation by commissioner**

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

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

1     **Division 3.2                    Functions of commissioner**

2     **11                    Functions**

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

- 5             (a) to manage the victims services scheme and any other program  
6             for the benefit of victims;
- 7             (b) to advocate for the interests of victims;
- 8             (c) to monitor and promote compliance with the governing  
9             principles;
- 10            (d) to ensure concerns and formal complaints about non-  
11            compliance with the governing principles are dealt with  
12            promptly and effectively;
- 13            (e) to ensure the provision of efficient and effective services for  
14            victims;
- 15            (f) to consult on and promote reforms to meet the interests of  
16            victims;
- 17            (g) to develop educational and other programs to promote  
18            awareness of the interests of victims;
- 19            (h) to distribute information about the operation of this Act and the  
20            commissioner's functions;
- 21            (i) to ensure that victims receive information and assistance they  
22            need in connection with their involvement in the administration  
23            of justice;
- 24            (j) to encourage and facilitate cooperation between agencies  
25            involved in the administration of justice with respect to  
26            victims;
- 27            (k) to advise the Minister on matters relating to the interests of  
28            victims;

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

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

## 6 **12 Concerns and complaints**

7 (1) The commissioner must try to resolve any concern raised with the  
8 commissioner by a victim about non-compliance with the governing  
9 principles by an agency involved in the administration of justice.

10 (2) An agency must, with the victim's consent, give the commissioner  
11 any document or information that the agency could provide to the  
12 victim and which is reasonably required by the commissioner to  
13 resolve a concern under subsection (1).

14 (3) Nothing in subsection (1) prevents a victim or the commissioner  
15 from making a formal complaint about a concern, or requires a  
16 victim to raise a concern with the commissioner before making a  
17 formal complaint.

18 (4) If the commissioner receives a formal complaint about  
19 non-compliance with the governing principles by an agency  
20 involved in the administration of justice, the commissioner must  
21 refer the complaint to a relevant complaints entity.

22 (5) However, the commissioner may decide not to refer a complaint to a  
23 relevant complaints entity—

24 (a) if in the opinion of the commissioner—

25 (i) the complaint is frivolous or vexatious or was not made  
26 in good faith; or

27 (ii) the complainant does not have a sufficient interest in the  
28 subject matter of the complaint; or

- 1 (b) if the complainant has not made the complaint to the relevant  
2 agency—until the complainant makes the complaint to the  
3 agency and the agency has had a reasonable opportunity to  
4 respond to the complaint; or
- 5 (c) if the complaint is of a minor nature—until the commissioner  
6 has tried to resolve the complaint between the complainant and  
7 the relevant agency.
- 8 (6) If a complaint is referred to a relevant complaints entity, the  
9 commissioner must give the entity all documents and information  
10 held by the commissioner about the complaint.
- 11 (7) In this section:
- 12 *relevant complaints entity* means—
- 13 (a) the human rights commission; or
- 14 (b) the ombudsman; or
- 15 (c) any other entity authorised to investigate a complaint relating  
16 to the administration of justice.

17 **13 Attendance at criminal proceedings**

18 For the exercise of the commissioner's functions under this Act, the  
19 commissioner is entitled to be present at the hearing of a proceeding  
20 in a court in respect of an offence, including any part of the  
21 proceeding held in private, unless the court directs otherwise.

22 **11 Victims services scheme—establishment**  
23 **Section 19 (2) (a) and (b)**

24 *omit*

1 **12 Section 19 (2) (e)**

2 *omit*

3 coordinator

4 *substitute*

5 commissioner

6 **13 New part 4A**

7 *insert*

8 **Part 4A Victims advisory board**

9 **Division 4A.1 Establishment and membership**

10 **22A Establishment of board**

11 The Victims Advisory Board is established.

12 **22B Functions of board**

13 The functions of the board are—

14 (a) to develop policy, protocols and procedures for the treatment  
15 of victims by agencies involved in the administration of  
16 justice; and

17 (b) to advise the Minister on policies, priorities and strategies for  
18 the acknowledgment, protection and promotion of the interests  
19 of victims in the administration of justice; and

20 (c) any other function given to the board under this Act or another  
21 territory law.

1    **22C       Membership of board**

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

9    **22D       Appointed members of board**

- 10          (1) The Minister must appoint the following members of the board:
- 11               (a) a representative of each of the following entities:
- 12                     (i) the DPP;
- 13                     (ii) the Australian Federal Police;
- 14                     (iii) ACT courts;
- 15                     (iv) the administrative unit allocated responsibility for the
- 16                         administration of corrective services;
- 17                     (v) the administrative unit allocated responsibility for the
- 18                         administration of youth justice;
- 19                     (vi) the administrative unit allocated responsibility for
- 20                         restorative justice;
- 21               (b) 3 people who, in the Minister's opinion, represent the interests
- 22                     of victims services groups;
- 23               (c) 1 person who, in the Minister's opinion, represents the interests
- 24                     of indigenous communities;
- 25               (d) 1 person who is a lawyer.



- 1 (2) A member must be employed, practise, or live, in the ACT.
- 2 (3) The Minister must not appoint a public servant as a member  
3 mentioned in subsection (1) (b) to (d).
- 4 *Note 1* For the making of appointments (including acting appointments), see  
5 the Legislation Act, pt 19.3.
- 6 *Note 2* In particular, an appointment may be made by naming a person or  
7 nominating the occupant of a position (see Legislation Act, s 207).
- 8 *Note 3* Certain Ministerial appointments require consultation with an Assembly  
9 committee and are disallowable (see Legislation Act, div 19.3.3).
- 10 *Note 4* A person may be reappointed to a position if the person is eligible to be  
11 appointed to the position (see Legislation Act, s 208 and dict, pt 1,  
12 def *appoint*).

13 **22E Chair**

14 The chair of the board is the chief executive.

15 **22F Conditions of appointment generally**

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

19 **22G Term of appointment**

- 20 (1) An appointed member must be appointed for not longer than  
21 3 years.
- 22 (2) The Minister must end the appointment of—
- 23 (a) an appointed member mentioned in section 22D (1) (a) if the  
24 Minister is satisfied that the member is no longer the  
25 representative of the entity the member was appointed to  
26 represent; or

- 1 (b) an appointed member mentioned in section 22D (1) (b) or (c) if  
2 the Minister is satisfied that the member no longer represents  
3 the interests of the group or community the member was  
4 appointed to represent; or
- 5 (c) any member if the member ceases to be eligible for  
6 appointment.
- 7 (3) The Minister may end the appointment of an appointed member—
- 8 (a) for misbehaviour or physical or mental incapacity; or  
9 (b) if the member becomes bankrupt or personally insolvent; or  
10 (c) if the member is absent for 3 consecutive meetings; or  
11 (d) if the member is convicted of an indictable offence; or  
12 (e) if the member fails to comply with section 22J (Disclosure of  
13 interests) without reasonable excuse.
- 14 *Note* A person's appointment also ends if the person resigns (see Legislation  
15 Act, s 210).

## 16 **Division 4A.2 Proceedings of board**

### 17 **22H Time and place of meetings**

- 18 (1) Meetings of the board are to be held at the times and places it  
19 decides.
- 20 (2) However, the board must meet at least twice every year.
- 21 (3) The chair—
- 22 (a) may at any time call a meeting of the board; and  
23 (b) must call a meeting if asked to do so by the Minister or at least  
24 7 members.

- 1     **22I       Procedures governing conduct of meetings**
- 2         (1) The chair presides at all meetings at which the chair is present.
- 3         (2) If the chair is absent, the member chosen by the members present
- 4             presides.
- 5         (3) The board may decide the procedure to be followed for a meeting.
- 6         (4) At a meeting of the board—
- 7             (a) 7 members form a quorum; and
- 8             (b) each member has a vote on each question to be decided; and
- 9             (c) a question is to be decided by a majority of the votes of the
- 10                 members present and voting but, if the votes are equal, the
- 11                 member presiding has a casting vote.
- 12         (5) The board must keep minutes of its meetings.
- 13     **22J       Disclosure of interests**
- 14         (1) This section applies to a member of the board if—
- 15             (a) the member has a direct or indirect financial interest in an issue
- 16                 being considered, or about to be considered, by the board; and
- 17             (b) the interest could conflict with the proper exercise of the
- 18                 member's functions in relation to the board's consideration of
- 19                 the issue.
- 20         (2) As soon as practicable after the relevant facts come to the member's
- 21             knowledge, the member must disclose the nature of the interest to a
- 22             meeting of the board.
- 23         (3) The disclosure must be recorded in the board's minutes and, unless
- 24             the board otherwise decides, the member must not—
- 25             (a) be present when the board considers the issue; or
- 26             (b) take part in a decision of the board on the issue.

1 **14 Part 6**

2 *substitute*

3 **Part 6 Miscellaneous**

4 **28 Protection from liability**

- 5 (1) An official is not civilly liable for conduct engaged in honestly and  
6 without recklessness—
- 7 (a) in the exercise of a function under this Act; or
- 8 (b) in the reasonable belief that the conduct was in the exercise of  
9 a function under this Act.
- 10 (2) Any civil liability that would, apart from this section, attach to the  
11 official attaches instead to the Territory.
- 12 (3) In this section:
- 13 *conduct* means an act or omission to do an act.
- 14 *official* means—
- 15 (a) the commissioner; or
- 16 (b) a member of the staff of the commissioner; or
- 17 (c) a person authorised under this Act to do or not to do a thing.

18 **29 Secrecy**

- 19 (1) A person to whom this section applies commits an offence if—
- 20 (a) the person—
- 21 (i) makes a record of protected information about someone  
22 else; and
- 23 (ii) is reckless about whether the information is protected  
24 information about someone else; or

- 1 (b) the person—
- 2 (i) does something that divulges protected information about  
3 someone else; and
- 4 (ii) is reckless about whether—
- 5 (A) the information is protected information about  
6 someone else; and
- 7 (B) doing the thing would result in the information  
8 being divulged to someone else.
- 9 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
10 both.
- 11 (2) Subsection (1) does not apply if the record is made, or the  
12 information is divulged—
- 13 (a) under this Act or another territory law; or
- 14 (b) in relation to the exercise of a function, as a person to whom  
15 this section applies, under this Act or another territory law.
- 16 *Note* The defendant has an evidential burden in relation to the matters  
17 mentioned in s (2) (see Criminal Code, s 58).
- 18 (3) Subsection (1) does not apply to the divulging of protected  
19 information about someone with the person's consent.
- 20 *Note* The defendant has an evidential burden in relation to the matters  
21 mentioned in s (3) (see Criminal Code, s 58).
- 22 (4) A person to whom this section applies need not divulge protected  
23 information to a court, or produce a document containing protected  
24 information to a court, unless it is necessary to do so for this Act or  
25 another territory law.

- 1 (5) In this section:
- 2 *court* includes a tribunal, authority or person having power to  
3 require the production of documents or the answering of questions.
- 4 *divulge* includes communicate.
- 5 *person to whom this section applies* means a person who—
- 6 (a) is or has been—
- 7 (i) the commissioner; or
- 8 (ii) a member of the staff of the commissioner; or
- 9 (b) exercises, or has exercised, a function under this Act.
- 10 *produce* includes allow access to.
- 11 *protected information* means information about a person that is  
12 disclosed to, or obtained by, a person to whom this section applies  
13 because of the exercise of a function under this Act by the person or  
14 someone else.

### 15 **30 Regulation-making power**

16 The Executive may make regulations for this Act.

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

### 19 **15 Dictionary, note 2**

20 *insert*

- 21 • adult
- 22 • bankrupt or personally insolvent
- 23 • child
- 24 • domestic partner (see s 169 (1))
- 25 • human rights commission

1 **16 Dictionary, note 2**

2 *omit*

- 3 • law, of the Territory

4 **17 Dictionary, note 2**

5 *insert*

- 6 • ombudsman  
7 • parent  
8 • public servant  
9 • territory law

10 **18 Dictionary, new definitions**

11 *insert*

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

13 *board* means the victims advisory board.

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

16 **19 Dictionary, definition of *coordinator***

17 *omit*

18 **20 Dictionary, new definitions**

19 *insert*

20 *governing principles* means the principles mentioned in section 4.

21 *guardian*—see section 6 (3).

- 1 **21 Dictionary, definition of *harm***
- 2 *omit*
- 3 **22 Dictionary, new definition of *primary victim***
- 4 *insert*
- 5 *primary victim*—see section 6.
- 6 **23 Dictionary, definition of *victim***
- 7 *substitute*
- 8 *victim*—see section 6.
- 9 **24 Dictionary, new definition of *victims advisory board***
- 10 *insert*
- 11 *victims advisory board* means the board established under
- 12 section 22A.



1 **Part 3** **Victims of Crime Regulation 2000**

2 **25** **Part 2**

3 *omit*

4 **26** **Responsible service agency**  
5 **Section 21**

6 *omit*

7 **27** **Section 22**

8 *omit everything before paragraph (a), substitute*

9 **22** **Commissioner's functions—victims services scheme**

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

11 **28** **Section 22 (b)**

12 *omit*

13 and the guidelines made under section 17 (Guidelines)

14 **29** **Section 22 (f)**

15 *substitute*

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

18 **30** **Section 22 (k) and (l)**

19 *substitute*

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

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

3 **31 Section 23**

4 *substitute*

5 **23 Employment etc of people—contact with eligible victims**

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

1 **32 Eligible victims under the victims services scheme**  
2 **Section 24**

3 *omit*

4 responsible service agency

5 *substitute*

6 commissioner

7 **33 Definitions—div 3.2**  
8 **Section 25**

9 *omit*

10 responsible service agency

11 *substitute*

12 commissioner

13 **34 Section 25, definition of *reviewable decision***

14 *omit*

15 committee

16 *substitute*

17 health services commissioner

18 **35 Sections 25A, 26 and 26A**

19 *omit*

20 responsible service agency

21 *substitute*

22 commissioner

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

3 *substitute*

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

8 **37** **Eligibility Review Committee**  
9 **Section 28**

10 *omit*

11 **38** **Applications to committee for internal review**  
12 **Section 29**

13 *omit*

14 committee

15 *substitute*

16 health services commissioner

17 **39** **Section 30**

18 *substitute*

19 **30** **Review by health services commissioner**

- 20 (1) The health services commissioner must review the internal  
21 reviewer's decision within 28 days (the ***28-day period***) after the day  
22 the health services commissioner receives the application for review  
23 of the internal reviewer's decision.

- 24 (2) The health services commissioner must—

25 (a) confirm the decision; or

26 (b) vary the decision; or

1 (c) set aside the decision and substitute the health services  
2 commissioner's own decision.

3 (3) If the decision is not varied or set aside within the 28-day period, the  
4 decision is taken to have been confirmed by the health services  
5 commissioner.

6 **40 Reviewable decision notices**  
7 **Section 31**

8 *omit*

9 committee

10 *substitute*

11 health services commissioner

12 **41 Level 1 service**  
13 **Section 33 (3)**

14 *omit*

15 responsible service agency

16 *substitute*

17 commissioner

18 **42 Level 2 service**  
19 **Section 34 (3)**

20 *omit*

21 responsible service agency

22 *substitute*

23 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.

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

18 **46 How contact hours are provided**  
19 **Section 37 (1)**

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

- 1 **47 Section 37 (2) and (3)**
- 2 *omit*
- 3 responsible service agency
- 4 *substitute*
- 5 commissioner
- 6 **48 Section 38**
- 7 *substitute*
- 8 **38 Arbitration—care plans**
- 9 If, for an eligible victim who is entitled to receive level 2 or level 3
- 10 service, the case coordinator and service provider do not agree about
- 11 the content of a care plan, the need for additional contact hours or
- 12 both, the case coordinator must refer the issue in writing to an
- 13 independent arbitrator nominated by the commissioner.
- 14 **49 Approved service providers**
- 15 **Section 40 (1) and (2)**
- 16 *omit*
- 17 board
- 18 *substitute*
- 19 commissioner
- 20 **50 Section 40 (3)**
- 21 *omit*



- 1 **51** **Criteria for approval**  
2 **Section 41**
- 3 *omit*
- 4 board
- 5 *substitute*
- 6 commissioner
- 7 **52** **Section 41 (a) (i)**
- 8 *substitute*
- 9 (i) has qualifications or experience in working with victims  
10 and with people from a diversity of ethnic and cultural  
11 backgrounds; and
- 12 **53** **Section 41 (d)**
- 13 *omit*
- 14 **54** **New section 41 (2)**
- 15 *insert*
- 16 (2) For section 37 (1) and (2), the commissioner may only approve the  
17 use of a person who is not an approved service provider if satisfied  
18 that the person meets the criteria mentioned in subsection (1).
- 19 **55** **Section 42**
- 20 *substitute*
- 21 **42** **Suspension of approval**
- 22 The commissioner may suspend the approval of a service provider  
23 if—
- 24 (a) the commissioner is no longer satisfied on reasonable grounds  
25 of the matters mentioned in section 41; or

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

6 **56 Cancellation of approval**  
7 **Section 43**

- 8 *omit*
- 9 board
- 10 *substitute*
- 11 commissioner

12 **57 Section 45**

- 13 *substitute*

14 **45 Special financial assistance—statements**

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

19 **58 Reviewable decision notices**  
20 **Section 46A**

- 21 *omit*
- 22 board
- 23 *substitute*
- 24 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.

1 **60 Guidelines—volunteers**  
2 **Section 48**

3 *omit*

4 board

5 *substitute*

6 commissioner

7 **61 New section 48A**

8 *insert*

9 **48A Independent arbitrators**

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

20 **62 Section 50 heading**

21 *substitute*

22 **50 Determination of fees for services provided by service**  
23 **providers**

1	<b>63</b>	<b>Section 50 (1)</b>
2		<i>omit</i>
3		approved service provider
4		<i>substitute</i>
5		service provider
6	<b>64</b>	<b>Dictionary, note 2</b>
7		<i>omit</i>
8		<ul style="list-style-type: none"><li>• bankrupt or personally insolvent</li></ul>
9		<ul style="list-style-type: none"><li>• dentist</li></ul>
10		<ul style="list-style-type: none"><li>• doctor</li></ul>
11	<b>65</b>	<b>Dictionary, note 2</b>
12		<i>insert</i>
13		<ul style="list-style-type: none"><li>• health services commissioner</li></ul>
14	<b>66</b>	<b>Dictionary, note 3</b>
15		<i>insert</i>
16		<ul style="list-style-type: none"><li>• commissioner</li></ul>
17		<ul style="list-style-type: none"><li>• victims advisory board</li></ul>
18	<b>67</b>	<b>Dictionary, definitions of <i>AFP member</i> and <i>appointed member</i></b>
19		
20		<i>omit</i>

1 **68 Dictionary, definition of *board***  
2 *substitute*  
3 *board* means the victims advisory board.

4 **69 Dictionary**  
5 *omit the definitions of*  
6 *chairperson*  
7 *committee*  
8 *community support member*  
9 *courts member*  
10 *deputy chairperson*  
11 *DPP member*

12 **70 Dictionary, definition of *health practitioner member***  
13 *omit*

14 **71 Dictionary, definition of *independent arbitrator***  
15 *omit*  
16 section 18  
17 *substitute*  
18 section 48A

1	<b>72</b>	<b>Dictionary</b>
2		<i>omit the definitions of</i>
3		<i>indigenous member</i>
4		<i>justice member</i>
5		<i>legal profession member</i>
6		<i>manager</i>
7		<i>migrant member</i>
8		<i>psychiatrist/psychologist member</i>
9		<i>responsible service agency</i>
10		<i>victims groups member</i>
11		<i>youth policy and services member</i>

1 **Schedule 1 Consequential amendments**

2 (see s 3)

3 **Part 1.1 Crimes (Sentencing) Act 2005**

4 **[1.1] Section 136 (4) (h)**

5 *omit*

6 coordinator

7 *substitute*

8 commissioner

9 **Part 1.2 Remuneration Tribunal Act 1995**

10 **[1.2] Schedule 1, part 1.2**

11 *insert*

- 12 • victims of crime commissioner

13 **Part 1.3 Territory Records Regulation**  
14 **2009**

15 **[1.3] Schedule 1, items 21 and 22**

16 *substitute*

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



1 **[1.4] Dictionary, definitions of *Victims Assistance Board* and**  
2 ***Victims of Crime Coordinator***

3 *substitute*

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

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

9 **Part 1.4 Victims of Crime (Financial**  
10 **Assistance) Act 1983**

11 **[1.5] Section 27 (1) (b) (v)**

12 *omit*

13 person in charge of the responsible service agency prescribed by  
14 regulation

15 *substitute*

16 commissioner

---

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2010.

**2 Notification**

Notified under the Legislation Act on 2010.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

---

© Australian Capital Territory 2010