



Australian Capital Territory

Victims of Crime Act 1994

A1994-83

Republication No 7

Effective: 17 December 2009 – 30 June 2010

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Last amendment made by A2009-49

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Victims of Crime Act 1994* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 17 December 2009. It also includes any amendment, repeal or expiry affecting the republished law to 17 December 2009.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

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

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

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

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Victims of Crime Act 1994

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Victims of Crime Act 1994
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Australian Capital Territory

Victims of Crime Act 1994

An Act relating to victims of crime

Part 1 Preliminary

1 Name of Act

This Act is the *Victims of Crime Act 1994*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act.

Note 2 A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Part 2 Treatment of victims of crime

4 Governing principles

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

- (a) a victim should be dealt with at all times in a sympathetic, constructive and reassuring way and with appropriate regard to his or her personal situation, rights and dignity;
- (b) a victim should be told at reasonable intervals (generally not more than 1 month) of the progress of police investigations about the relevant offence, except if the disclosure might jeopardise the investigation, and, in that case, the victim should be told accordingly;
- (c) a victim should be told about the charges laid against the accused and of any modification of the charges;
- (d) a victim should be told about any decision concerning the accused to accept a plea of guilty to a lesser charge or a guilty plea in return for a recommendation of leniency in sentencing;
- (e) a victim should be told about any decision not to proceed with a charge against the accused;
- (f) if any victim's property is held by the Territory for the purposes of investigation or evidence—inconvenience to the victim should be minimised and the property returned promptly;
- (g) a victim should be told about the trial process and of the rights and responsibilities of witnesses;
- (h) a victim should be protected from unnecessary contact with the accused and defence witnesses during the course of the trial;

- (i) a victim's home address should be withheld unless the court directs otherwise;
- (j) a victim should not have to appear at preliminary hearings or committal proceedings unless the court directs the victim to appear;
- (k) a victim should be given an explanation of the outcome of criminal proceedings and of any sentence and its implications;
- (l) a victim who is known to have expressed concern about the need for protection from an offender should be told about the offender's impending release from custody.

5 Compliance with principles

A person who exercises a function in the administration of justice must have regard to the governing principles mentioned in section 4, as well as other relevant matters.

6 Giving information to coordinator—legal immunity

- (1) This section applies—
 - (a) to a person who exercises, or has exercised, a function in the administration of justice; and
 - (b) if the person—
 - (i) gives information to the coordinator that the person believes on reasonable grounds is required by the coordinator for this Act; and
 - (ii) the information is given honestly.
- (2) A civil proceeding in relation to the information does not lie against the person.
- (3) Subsection (2) does not affect any liability that the Territory would have in relation to the giving of information apart from that subsection.

Part 3 **Victims of crime coordinator**

Division 3.1 **Functions and powers**

7 **Functions**

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

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

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

8 Attendance at criminal proceedings

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

9 Investigations

- (1) The coordinator may investigate conduct in the administration of justice which the coordinator believes on reasonable grounds involves a breach of the governing principles mentioned in section 4.
- (2) A person who exercises, or has exercised, a function in the administration of justice must, as far as practicable, give the coordinator the information asked for by the coordinator for an investigation.
- (3) The coordinator must report the results of an investigation to the Minister.

11 Secrecy

- (1) Subject to subsection (2), a person to whom this section applies shall not—
 - (a) make a record of protected information; or
 - (b) directly or indirectly, divulge or communicate to a person protected information concerning another person;

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

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

- (2) Subsection (1) does not prevent a person to whom this section applies from divulging or communicating protected information to a person about another person with the consent of that other person.
- (3) A person to whom this section applies is not required—
- (a) to divulge or communicate protected information to a court; or
 - (b) to produce a document containing protected information to a court;

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

- (4) In this section:

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

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

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

produce includes permit access to.

protected information means information that—

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

12 Disclosure of information concerning investigations

- (1) Section 11 (1) does not prevent the coordinator from disclosing information to a person or to members of the public about a matter the subject of an investigation under section 9 if the coordinator is

satisfied that the disclosure is necessary and reasonable in the exercise of a function under this Act or another law in force in the ACT.

- (2) In a disclosure mentioned in subsection (1), the coordinator must not—
 - (a) express an opinion that is (expressly or impliedly) critical of a person unless the coordinator has given the person an opportunity to answer the criticism; or
 - (b) identify a person (directly or indirectly) unless it is necessary and reasonable to do so.

13 Protection of coordinators etc

- (1) This section applies to a person who is, or has been—
 - (a) the coordinator; or
 - (b) a person acting under the direction or authority of the coordinator.
- (2) A civil proceeding does not lie against the person in relation to loss, damage or injury of any kind to someone else because of an act done, or omitted to be done, honestly in the exercise (or purported exercise) of a function under this Act or another law.
- (3) Subsection (2) does not affect any liability that the Territory would have in relation to the giving of information apart from that subsection.

Division 3.2 The coordinator

14 The Victims of Crime Coordinator

There is to be a Victims of Crime Coordinator.

15 Appointment of coordinator

The coordinator is appointed by the Minister.

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

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

16 Term of appointment of coordinator

The coordinator must be appointed for a term of not longer than 3 years.

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

17 Conditions of appointment of coordinator

The coordinator holds the position on the conditions (if any) not provided for by this Act that are stated in the instrument of appointment.

18 Ending of appointment of coordinator

The Minister may end the coordinator's appointment—

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

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

18A Delegation by coordinator

The coordinator may delegate the coordinator's functions under this Act to a public servant.

Note 1 For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including a regulation (see Legislation Act, s 104).

Part 4 Victims services scheme

19 Victims services scheme—establishment

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

20 Victims services scheme—eligibility

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

21 Victims services scheme—annual report

The *Annual Reports (Government Agencies) Act 2004* applies in relation to the victims services scheme as if—

- (a) the annual reporting authority nominated in accordance with the regulations were a public authority under that Act; and
- (b) that Act required the annual reporting authority to prepare an annual report relating to the operations of the scheme within the relevant financial year.

Note **Financial year** has an extended meaning in the *Annual Reports (Government Agencies) Act 2004*.

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

For the avoidance of doubt—

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

Part 5 Victims services levy

23 Meaning of *offence*—pt 5

In this part:

offence means an offence dealt with by the Supreme Court or the Magistrates Court other than an offence prescribed by regulation.

24 Imposition of victims services levy

- (1) A levy (a *victims services levy*) is imposed to provide a source of revenue to improve services for victims of crime.
- (2) An adult who is convicted of an offence and ordered by a court to pay a fine in relation to the offence, is liable to pay the Territory a victims services levy of \$10.

Note The victims services levy is recoverable under the *Magistrates Court Act 1930*, pt 3.9 (Enforcement of criminal decisions). However, that Act, s 154D (Fine defaulters—imprisonment) does not apply in relation to the victims services levy.

- (3) The victims services levy is in addition to, and does not form part of, the fine.

25 Notice of levy

- (1) The amount of the victims services levy payable by a person must be stated on—
 - (a) the fine order; and
 - (b) any notice or copy of the fine order given to the person.
- (2) In this section:

fine order—see the *Crimes (Sentencing) Act 2005*, section 14 (2).

26 Levy not to be reduced

- (1) A court must not reduce the victims services levy payable by a person or exonerate a person from liability to pay the levy.
- (2) However, the court may exonerate the person from liability to pay the levy if satisfied in the circumstances of the case that paying the levy is likely to cause undue hardship.

27 Effect of appeal etc

- (1) The commencement of any proceeding to appeal against, or for review of, a conviction for an offence for which a victims services levy is imposed on a person stays the person's liability to pay the levy.
- (2) Setting aside the conviction annuls the person's liability to pay the victims services levy.
- (3) Dismissal of the appeal or review removes the stay of liability.

Part 6 Miscellaneous

28 Regulation-making power

The Executive may make regulations for this Act.

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

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- home address
- law, of the Territory
- Magistrates Court
- Minister
- penalty unit (see s 133)
- police officer
- Supreme Court
- the Territory.

administration of justice includes the provision of police services.

coordinator means the Victims of Crime Coordinator.

harm includes—

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

offence—

- (a) for this Act generally—means an offence against a law in force in the ACT; and
- (b) for part 5 (Victims services levy)—see section 23.

victim means—

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

victims services levy—see section 24.

victims services scheme means the scheme established under part 4.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Victims of Crime Act 1994 No 83

notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
remainder (ss 3-19) commenced 15 June 1995 (s 2 (3))

as amended by

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Victims of Crime (Financial Assistance) (Amendment) Act 1999 No 91 pt 3

notified 23 December 1999
s 1, s 2 commenced 23 December 1999 (s 2 (1))
pt 3 commenced 24 December 1999 (s 2 (2) and Gaz 1999 No S69)

Legislation (Consequential Amendments) Act 2001 No 44 pt 407

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 407 commenced 12 September 2001 (s 2 and see Gaz 2001
No S65)

Statute Law Amendment Act 2003 A2003-41 sch 3 pt 3.21

notified LR 11 September 2003
s 1, s 2 commenced 11 September 2003 (LA s 75 (1))
sch 3 pt 3.21 commenced 9 October 2003 (s 2 (1))

Annual Reports Legislation Amendment Act 2004 A2004-9 sch 1 pt 1.36

notified LR 19 March 2004
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))
sch 1 pt 1.36 commenced 13 April 2004 (s 2 and see Annual Reports
(Government Agencies) Act 2004 A2004-8, s 2 and CN2004-5)

Endnotes

4 Amendment history

Justice and Community Safety Legislation Amendment Act 2007 A2007-22 sch 1 pt 1.15

notified LR 5 September 2007

s 1, s 2 commenced 5 September 2007 (LA s 75 (1))

sch 1 pt 1.15 commenced 6 September 2007 (s 2)

Victims of Crime Amendment Act 2007 A2007-44

notified LR 13 December 2007

s 1, s 2 commenced 13 December 2007 (LA s 75 (1))

remainder commenced 20 December 2007 (s 2)

Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.82

notified LR 26 November 2009

s 1, s 2 commenced 26 November 2009 (LA s 75 (1))

sch 3 pt 3.82 commenced 17 December 2009 (s 2)

4 Amendment history

Name of Act

s 1 sub A2003-41 amdt 3.455

Dictionary

s 2 om 2001 No 44 amdt 1.4232

ins A2003-41 amdt 3.459

Notes

s 3 defs reloc to dict A2003-41 amdt 3.458

sub A2003-41 amdt 3.459

Governing principles

s 4 am A2003-41 amdts 3.460–3.468; A2009-49 amdt 3.207

Compliance with principles

s 5 sub A2003-41 amdt 3.469

Giving information to coordinator—legal immunity

s 6 sub A2003-41 amdt 3.469

Functions and powers

div 3.1 hdg (prev pt 3 div 1 hdg) renum R2 LA

Functions

s 7 am A2003-41 amdts 3.470–3.472

Investigations

s 9 am A2003-41 amdts 3.473–3.475

Powers	
s 10	om A2003-41 amdt 3.476
Secrecy	
s 11	am 1998 No 54 sch
Disclosure of information concerning investigations	
s 12	am A2003-41 amdt 3.477, amdt 3.478
Protection of coordinators etc	
s 13	sub A2003-41 amdt 3.479
The coordinator	
div 3.2 hdg	(prev pt 3 div 2 hdg) renum R2 LA sub A2003-41 amdt 3.480
The Victims of Crime Coordinator	
s 14	sub A2003-41 amdt 3.480
Appointment of coordinator	
s 15	sub A2003-41 amdt 3.480
Term of appointment of coordinator	
s 16	sub A2003-41 amdt 3.480
Conditions of appointment of coordinator	
s 17	sub A2003-41 amdt 3.480
Ending of appointment of coordinator	
s 18	sub A2003-41 amdt 3.480
Delegation by coordinator	
s 18A	ins A2007-22 amdt 1.56
Victims services scheme	
pt 4 hdg	ins 1999 No 91 s 10
Victims services scheme—establishment	
s 19	ins 1999 No 91 s 10 am A2003-41 amdts 3.481–3.483
Victims services scheme—eligibility	
s 20	ins 1999 No 91 s 10 am A2003-41 amdt 3.484
Victims services scheme—annual report	
s 21	ins 1999 No 91 s 10 am A2003-41 amdt 3.485, amdt 3.486 sub A2004-9 amdt 1.49
Victims services scheme—access to information and protection of privacy	
s 22	ins 1999 No 91 s 10 am A2003-41 amdt 3.486, amdt 3.487

Endnotes

4 Amendment history

Victims services levy

pt 5 hdg (prev pt 4 hdg) renum 1999 No 91 s 11
sub A2007-44 s 4

Meaning of offence—pt 5

s 23 (prev s 19) renum 1999 No 91 s 11
am 2001 No 44 amdt 1.4233
sub A2007-44 s 4

Imposition of victims services levy

s 24 ins A2007-44 s 4

Notice of levy

s 25 ins A2007-44 s 4

Levy not to be reduced

s 26 ins A2007-44 s 4

Effect of appeal etc

s 27 ins A2007-44 s 4

Miscellaneous

pt 6 hdg ins A2007-44 s 4

Regulation-making power

s 28 ins A2007-44 s 4

Dictionary

dict ins A2003-41 amdt 3.488
am A2007-44 s 5; A2009-49 amdt 3.208
def **administration of justice** reloc from s 3 A2003-41
amdt 3.458
def **coordinator** sub A2003-41 amdt 3.456
reloc from s 3 A2003-41 amdt 3.458
def **harm** reloc from s 3 A2003-41 amdt 3.458
def **offence** am A2003-41 amdt 3.457
reloc from s 3 A2003-41 amdt 3.458
sub A2007-44 s 6
def **victim** am 1999 No 91 s 9
reloc from s 3 A2003-41 amdt 3.458
def **victims services levy** ins A2007-44 s 7
def **victims services scheme** ins 1999 No 91 s 9
reloc from s 3 A2003-41 amdt 3.458

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R0A 17 Oct 2007	9 Dec 1998– 23 Dec 1999	A1998-54	amendments by A1998-54
R1 12 June 2000	12 June 2000– 11 Sept 2001	A1999-91	amendments by A1999-91
R1 (RI) 17 Oct 2007	12 June 2000– 11 Sept 2001	A1999-91	reissue of printed version
R2 12 Sept 2001	12 Sept 2001– 8 Oct 2003	A2001-44	amendments by A2001-44
R3 9 Oct 2003	9 Oct 2003– 12 Apr 2004	A2003-41	amendments by A2003-41
R4 13 Apr 2004	13 Apr 2004– 5 Sept 2007	A2004-9	amendments by A2004-9
R5 6 Sept 2007	6 Sept 2007– 19 Dec 2007	A2007-22	amendments by A2007-22
R6 20 Dec 2007	20 Dec 2007– 16 Dec 2009	A2007-44	amendments by A2007-44

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