



Australian Capital Territory

# **Victims of Crime (Financial Assistance) Act 2016**

**A2016-12**

**Republication No 2**

**Effective: 1 May 2017**

Republication date: 1 May 2017

Last amendment made by [A2017-10](#)  
(republication for amendments by [A2016-42](#)  
as amended by [A2017-10](#))

## About this republication

### The republished law

This is a republication of the *Victims of Crime (Financial Assistance) Act 2016* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 May 2017. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 May 2017.

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](http://www.legislation.act.gov.au)):

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

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

### Editorial changes

The *Legislation 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, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### 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 the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Victims of Crime (Financial Assistance) Act 2016

## Contents

---

	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
3	Dictionary 2
4	Notes 2
5	Offences against Act—application of Criminal Code etc 3
6	Object of Act 3
<b>Part 2</b>	<b>Important concepts</b>
7	Meaning of <i>act of violence</i> 4
8	Meaning of <i>circumstance of aggravation</i> for an offence 4
9	Meaning of <i>injury</i> 5
10	Meaning of <i>homicide</i> 6
11	Meaning of <i>primary victim</i> 7

---

R2  
01/05/17

Victims of Crime (Financial Assistance) Act 2016  
Effective: 01/05/17

contents 1

## Contents

---

	Page
12	7
13	7
14	8
15	8
16	9
17	9
<b>Part 3</b>	<b>Financial assistance</b>
<b>Division 3.1</b>	<b>Eligibility</b>
18	10
19	10
20	10
21	10
22	11
23	11
<b>Division 3.2</b>	<b>Amount of financial assistance</b>
24	11
25	11
<b>Division 3.3</b>	<b>Financial assistance</b>
26	13
27	13
28	14
29	14
30	14
<b>Division 3.4</b>	<b>Applications for financial assistance</b>
31	15
32	17
33	18
34	18
35	18
36	19
37	19

	Page
<b>Division 3.5</b>	<b>Commissioner may ask for information when deciding applications for financial assistance</b>
38	Power to ask for further information 19
39	Power to ask for examination by health practitioner 20
40	Power to ask for information from chief police officer 21
41	Power to ask for information from registrar 23
<b>Division 3.6</b>	<b>Deciding applications for financial assistance</b>
42	Time for deciding application for financial assistance 24
43	Deciding matters relevant to application for financial assistance generally 25
44	Deciding whether applications involve related acts of violence 25
45	Circumstances in which financial assistance must not be given 27
46	Deciding amount of financial assistance 29
47	Reducing amount of financial assistance 31
48	How financial assistance may be given 32
<b>Division 3.7</b>	<b>Variation of amount of financial assistance</b>
49	Application to vary amount of financial assistance previously received 32
50	Deciding varied amount of financial assistance 33
<b>Part 4</b>	<b>Funeral expenses</b>
51	Eligibility to apply for funeral expense payment 35
52	Application for funeral expense payment 35
53	Amount of funeral expense payment 35
54	Time for making application for funeral expense payment 35
55	Notice of repayment and recovery procedures to applicant for funeral expense payment 36
56	Withdrawal of application for funeral expense payment 36
57	Amendment of application before commissioner's decision for funeral expense payment 36
58	Application for funeral expense payment lapses if no contact with commissioner 37
59	Application lapses on death of applicant for funeral expense payment 37
60	Deciding application for funeral expense payment 37
61	How funeral expense payment may be given 38

	Page
<b>Part 5</b>	<b>Repayment of financial assistance and funeral expenses by assisted person</b>
62	Definitions—pt 5 39
63	Suspension of financial assistance or funeral expense payment 39
64	Assisted person must notify commissioner about associated payment 40
65	Assisted person liable for repayment amount 41
66	Repayment arrangement notice 41
67	Repayment direction notice 42
68	Death of assisted person before repayment made 44
<b>Part 6</b>	<b>Recovery from offender</b>
69	Definitions—pt 6 45
70	Offender liable to repay recoverable amount 46
71	Commissioner must decide whether to take recovery action etc 46
72	Commissioner must assess risks associated with recovery action 47
73	Commissioner must consult assisted person before giving recovery intention notice to offender 47
74	Recovery intention notice 48
75	Commissioner may ask registrar for information relevant to recovery action 49
76	Commissioner must not give offender confidential information 50
77	Recovery notice 51
78	Arrangement for payment of recoverable amount 52
79	Commissioner may ask government agency for offender's home address for recovery action 53
<b>Part 7</b>	<b>Victims financial assistance levy</b>
80	Meaning of <i>offence</i> —pt 7 55
81	Meaning of <i>convicted</i> and <i>convicts</i> —pt 7 55
82	Imposition of victims financial assistance levy 56
83	Exemptions 56
84	Effect of appeal etc 57
<b>Part 8</b>	<b>Administration</b>
85	Meaning of <i>official</i> —pt 8 58
86	Functions of commissioner 58



## Contents

---

<b>Part 1.2</b>	<b>Offences</b>	Page 73
<b>Division 1.2.1</b>	<b>General offences</b>	73
<b>Division 1.2.2</b>	<b>Family violence offences</b>	73
<b>Schedule 2</b>	<b>Reviewable decisions</b>	75
<b>Part 2.1</b>	<b>Internally reviewable decisions</b>	75
<b>Part 2.2</b>	<b>Reviewable decisions</b>	76
<b>Dictionary</b>		77
<b>Endnotes</b>		
1	About the endnotes	85
2	Abbreviation key	85
3	Legislation history	86
4	Amendment history	87
5	Earlier republications	89





Australian Capital Territory

# **Victims of Crime (Financial Assistance) Act 2016**

---

An Act to provide financial assistance for people affected by acts of violence,  
and for other purposes

---

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Victims of Crime (Financial Assistance) Act 2016*.

### 3 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 terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*commissioner*—see the *Victims of Crime Act 1994*, dictionary.’ means that the term ‘commissioner’ is defined in that dictionary and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) 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)).

### 4 Notes

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

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

## 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

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

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

*Note 2 Penalty units*

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

## 6 Object of Act

The object of this Act is to help victims of crime by establishing a system for giving financial assistance to—

- (a) assist victims of crime to recover from acts of violence; and
- (b) contribute to the safety of victims of crime and the prevention of future acts of violence; and
- (c) acknowledge the harmful effects of acts of violence; and
- (d) complement other services provided for victims of crime.

## Part 2 Important concepts

### 7 Meaning of *act of violence*

- (1) In this Act:
- act of violence* means conduct that—
- (a) results in a person's injury or death; and
  - (b) is, or happens in the course of, an offence (the *associated offence*) that is—
    - (i) a schedule 1 offence; or
    - (ii) an offence prescribed by regulation; and
  - (c) occurs on or after the commencement of this Act.
- (2) In deciding whether conduct is an *act of violence*, it does not matter whether a person responsible for the conduct—
- (a) has or has not been identified; or
  - (b) lacks the legal capacity to be charged with, or convicted or found guilty of, the associated offence; or
  - (c) has or has not been charged with, or convicted or found guilty of, the associated offence based on the conduct.

### 8 Meaning of *circumstance of aggravation for an offence*

- (1) For this Act, each of the following is a *circumstance of aggravation* for an offence:
- (a) as a direct result of the offence a very serious injury that is not likely to be permanent is caused to the primary victim of the offence;

- (b) the offence forms part of a series of offences that are related;

**Examples—series of offences that are related**

- 1 offences with same offender and same primary victim
- 2 contemporaneous or near contemporaneous offences

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (c) the offence is carried out by a person acting in company;
- (d) a person carrying out the offence uses an offensive weapon against the primary victim of the offence;
- (e) a person carrying out the offence is in a position of power, trust or authority in relation to the primary victim of the offence;
- (f) when the offence was carried out, the primary victim of the offence—
- (i) had an impaired physical, psychological or intellectual capacity; or
  - (ii) was either under 18 years old or more than 65 years old; or
  - (iii) was pregnant.
- (2) However, a circumstance mentioned in subsection (1) (a) to (f) is not a *circumstance of aggravation* for an offence if the circumstance is an element of the offence.

## 9 **Meaning of *injury***

- (1) In this Act:

*injury*—

- (a) means any of the following:
- (i) physical injury;

- (ii) mental illness;
- (iii) mental disorder; and
- (b) includes—
  - (i) the aggravation, acceleration or recurrence of a physical injury, mental illness or mental disorder; or
  - (ii) the contraction, aggravation, acceleration or recurrence of a disease; and
- (c) if the injury occurs in the course of, or as a result of, a sexual offence or family violence offence includes—
  - (i) unplanned pregnancy; or
  - (ii) a sense of violation; or
  - (iii) a reduced sense of self-worth; or
  - (iv) increased fear or feelings of insecurity; or
  - (v) reduced capacity to participate in sexual activity.
- (2) In this section:

*family violence offence* means a schedule 1 offence for which the victim of the offence is a relevant person.

## 10 Meaning of *homicide*

In this Act:

*homicide* means an act that—

- (a) occurs on or after the commencement of this Act; and
- (b) results in the death of a person; and
- (c) is, or happens in the course of, an offence of murder, manslaughter or culpable driving causing death.

**11 Meaning of *primary victim***

In this Act:

*primary victim* means a person who has been injured or dies as a direct result of an act of violence done by another person.

**12 Meaning of *related victim***

In this Act:

*related victim* means any of the following:

- (a) a class A related victim;
- (b) a class B related victim;
- (c) a class C related victim.

**13 Meaning of *class A related victim***

In this Act:

*class A related victim* means a person who, at the time a primary victim dies—

- (a) is a dependant of the primary victim; and
- (b) is 1 of the following:
  - (i) a close family member of the primary victim;
  - (ii) an intimate partner of the primary victim.

*Note* ***Intimate partner***—see the [Family Violence Act 2016](#), s 10.

**14 Meaning of *class B related victim***

In this Act:

*class B related victim* means a person who, at the time a primary victim dies—

- (a) is financially independent of the primary victim; and
- (b) is either—
  - (i) a close family member of the primary victim who has a genuine personal relationship with the primary victim; or
  - (ii) an intimate partner of the primary victim.

*Note* *Intimate partner*—see the *Family Violence Act 2016*, s 10.

**15 Meaning of *class C related victim***

(1) In this Act:

*class C related victim* means a person who, at the time a primary victim dies—

- (a) is financially independent of the primary victim; and
- (b) is a family member of the primary victim.

(2) In this section:

*family member* means a person who—

- (a) has a genuine personal relationship with the primary victim; and
- (b) is—
  - (i) a brother, sister, stepbrother, stepsister, half-brother or half-sister of the primary victim; or



- (ii) if the primary victim was an Aboriginal person or a Torres Strait Islander person—is regarded, in accordance with the primary victim’s Aboriginal community or Torres Strait Islander community, as a person mentioned in subparagraph (i).

## 16 **Meaning of *homicide witness***

In this Act:

***homicide witness***, in relation to a homicide, means a person, other than a primary victim, a related victim or a perpetrator of the homicide, who has been injured as a result of—

- (a) being present when the homicide occurs; or
- (b) being a witness in a criminal investigation or a proceeding related to the homicide.

## 17 **Meaning of *close family member***

- (1) In this Act:

***close family member***, of a primary victim, means a person who is in 1 of the following relationships:

- (a) the domestic partner of the primary victim;  
*Note* ***Domestic partner***—see the [Legislation Act](#), s 169.
- (b) a parent, guardian or step-parent of the primary victim;
- (c) a child or stepchild of the primary victim, or some other child of whom the primary victim is the guardian.

- (2) In this section:

***guardian*** does not include the director-general responsible for administering the [Children and Young People Act 2008](#) or any other person who is a guardian because of the person’s occupation of a statutory office, whether within the ACT or elsewhere.

## Part 3 Financial assistance

### Division 3.1 Eligibility

*Note* In addition to financial assistance, a person may also be eligible for a funeral expense payment.

#### 18 Eligibility for financial assistance

Financial assistance may only be given to a person who is eligible to apply for financial assistance in accordance with this division.

#### 19 Primary victim

A primary victim is eligible to apply for any of the following:

- (a) an immediate need payment;
- (b) an economic loss payment;
- (c) a recognition payment.

#### 20 Class A related victim

A class A related victim is eligible to apply for any of the following:

- (a) an immediate need payment;
- (b) an economic loss payment;
- (c) a recognition payment.

#### 21 Class B related victim

A class B related victim is eligible to apply for any of the following:

- (a) an immediate need payment;
- (b) an economic loss payment;
- (c) a recognition payment.

**22 Class C related victim**

A class C related victim is eligible to apply for any of the following:

- (a) an immediate need payment;
- (b) an economic loss payment.

**23 Homicide witness**

A homicide witness is eligible to apply for any of the following:

- (a) an immediate need payment;
- (b) an economic loss payment.

**Division 3.2 Amount of financial assistance**

**24 Maximum total financial assistance**

The maximum total amount of financial assistance that may be given to a person for an application for financial assistance is the amount prescribed by regulation.

**25 CPI indexation of certain prescribed amounts**

- (1) An amount prescribed by regulation under the following sections must be amended each year in line with variations in the CPI that happen after the commencement of the regulation in which the amount is prescribed:
  - (a) section 24 (Maximum total financial assistance);
  - (b) section 28 (Recognition payment for primary victim);
  - (c) section 29 (Recognition payment for class A related victim);
  - (d) section 30 (Recognition payment for class B related victim).

- (2) However, if an amount required to be amended in accordance with subsection (1) would be reduced because of a reduction in the CPI (a *negative adjustment*), the amount must not be amended in line with the negative adjustment.
- (3) An amount that, in accordance with subsection (2), is not reduced may be increased in line with an adjustment in the CPI that would increase the amount only to the extent that the increase, or part of the increase, is not one that would cancel out the effect of the negative adjustment.
- (4) Subsection (3) does not apply to a negative adjustment once the effect of the negative adjustment has been offset against an increase in line with an adjustment in the CPI.

**Example—adjustments**

An amount prescribed by regulation is \$100. There is a 20% increase in the CPI after the section commences. The amount prescribed becomes \$120 (\$100 + 20%).

There is then a 10% drop in the CPI. The amount does not change from \$120 (although if it had changed it would be \$108).

There is a 20% increase in the CPI. The 20% increase is not to the \$120, but to the \$108.  $\$108 + 20\% = \$129.60$ . So the \$120 becomes \$129.60. This is the amount (\$120) increased by so much of the 20% increase that did not cancel out the effect of the adjustment down to \$108.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (5) In this section:

**CPI** means the All Groups Consumer Price Index (Canberra) issued by the Australian statistician.

## **Division 3.3                      Financial assistance**

### **26                      Immediate need payment**

- (1) A financial payment (an *immediate need payment*) may be made to a person for reasonable expenses incurred, or expected to be incurred, for an immediate need that is related to an act of violence.
- (2) For this section, an expense is a reasonable expense if payment of the expense, at the time the application is made, is likely to—
  - (a) promote the recovery of the person; or
  - (b) prevent further harm to the person; or
  - (c) limit further threats to the safety of the person.
- (3) A regulation may prescribe the following:
  - (a) a particular immediate need for which an immediate need payment may be made;
  - (b) a condition, if any, to making the immediate need payment;
  - (c) the maximum amount, if any, of the payment for the need;
  - (d) the maximum amount, if any, of all immediate need payments that may be made in relation to a single act of violence.

### **27                      Economic loss payment**

- (1) A financial payment (an *economic loss payment*) may be made to a person for economic loss sustained as a result of an act of violence.
- (2) A regulation may prescribe the following:
  - (a) economic loss for which an economic loss payment may be made;
  - (b) a condition, if any, to making the economic loss payment;
  - (c) the maximum amount, if any, of the payment for the loss;

- (d) the maximum amount, if any, of all economic loss payments that may be made in relation to a single act of violence.

## **28 Recognition payment for primary victim**

- (1) A financial payment (a *recognition payment*) may be made to a primary victim for trauma experienced by the primary victim as a result of an act of violence.
- (2) A regulation may prescribe the following:
  - (a) an offence in the course of which the act of violence must occur for a recognition payment to be made;
  - (b) the amount of the recognition payment—
    - (i) generally; and
    - (ii) if a circumstance of aggravation applies to the offence in the course of which the act of violence occurs; and
    - (iii) if the act of violence results in a very serious injury that is likely to be permanent in the primary victim.

## **29 Recognition payment for class A related victim**

- (1) A financial payment (a *recognition payment*) may be made to a class A related victim for trauma experienced by the class A related victim as a result of an act of violence against a primary victim.
- (2) A recognition payment for a class A related victim is a payment of the amount prescribed by regulation.

## **30 Recognition payment for class B related victim**

- (1) A financial payment (a *recognition payment*) may be made to a class B related victim for trauma experienced by the class B related victim as a result of an act of violence against a primary victim.
- (2) A recognition payment for a class B related victim is a payment of the amount prescribed by regulation.

## **Division 3.4 Applications for financial assistance**

### **31 Application to commissioner**

- (1) A person (the *applicant*) may apply to the commissioner for financial assistance.
- (2) An application for financial assistance must—
  - (a) be in writing; and
  - (b) include a contact address for the applicant; and
  - (c) indicate the financial assistance payment that the applicant wishes to claim; and
  - (d) be accompanied by evidence that—
    - (i) the act of violence that is the subject of the application has been reported to a police officer; or
    - (ii) if the applicant is a special reporting class victim and the application does not include a claim for a recognition payment—the act of violence that is the subject of the application has been reported in accordance with subsection (4).

*Note* If a form is approved under s 100 for an application, the form must be used.

- (3) An applicant is a *special reporting class victim* if, in relation to an act of violence that is the subject of an application, the applicant is a primary victim—
  - (a) of a sexual offence; or
  - (b) of an offence in which the person responsible for the act of violence against the primary victim was in a position of power, trust or authority in relation to the primary victim; or
  - (c) who has impaired physical, psychological or intellectual capacity; or

- (d) who was under 18 years old when the act of violence occurred;  
or
  - (e) who did not report the act of violence to police because of threats made, or intimidation by, another person.
- (4) For subsection (2) (d) (ii), an applicant who is a special reporting class victim reports an act of violence in accordance with this section if—
- (a) for an application applying for an immediate need payment only—the applicant reported the act to at least 2 of the following:
    - (i) a government agency;
    - (ii) a doctor or a psychologist or a counsellor or a social worker;
    - (iii) an appropriately qualified non-government agency; or
  - (b) for an application applying for an immediate need payment and an economic loss payment, or for an economic loss payment only—the applicant reported the act to both of the following:
    - (i) a government agency;
    - (ii) a doctor or a psychologist or a counsellor or a social worker.
- (5) In this section:

***appropriately qualified non-government agency*** means an agency specified by the commissioner as an appropriately qualified non-government agency in the commissioner’s guidelines under section 87 (Commissioner’s guidelines).



## **32 Time for making application**

- (1) An application under section 31 must be made within 3 years of the last occurring of the following:
  - (a) the day of the act of violence that is the subject of the application;
  - (b) if there are 2 or more relevant acts of violence—the day of the most recent act of violence;
  - (c) for an application by an individual who was under 18 years old on the day mentioned in paragraph (a) or (b)—the day the individual turns 18.
- (2) The commissioner may extend the time for making an application if the commissioner believes on reasonable grounds that an extension is in the interests of fairness having regard to the following:
  - (a) the age of the person when the act of violence that is the subject of the application occurred;
  - (b) whether the applicant has, or had, impaired physical, psychological or intellectual capacity;
  - (c) whether the person responsible for the act of violence that is the subject of the application was in a position of power, trust or authority in relation to the primary victim;
  - (d) the physical and psychological effect of the act of violence that is the subject of the application on the applicant;
  - (e) whether the extension of time will prevent a fair consideration of the application;
  - (f) any other matter that the commissioner believes on reasonable grounds is relevant.

### **33 Notice of repayment and recovery procedures**

- (1) As soon as practicable after the day the commissioner receives an application under section 31 (Application to commissioner) the commissioner must give the applicant written notice about the action that may be taken against—
  - (a) an applicant under part 5 (Repayment of financial assistance and funeral expenses by assisted person); and
  - (b) an offender under part 6 (Recovery from offender).
- (2) The notice must also state that, if financial assistance is given to the applicant, the person responsible for the act of violence that is the subject of the application may be contacted by the commissioner to recover some or all of the financial assistance given.

### **34 Withdrawal of application**

An application for financial assistance may be withdrawn by the applicant, at any time, by written notice given to the commissioner.

*Note* If a form is approved under s 100 for this provision, the form must be used.

### **35 Amendment of application before commissioner's decision**

An application for financial assistance may be amended by the applicant, at any time before the commissioner has decided the application, by written notice given to the commissioner.

*Note* If a form is approved under s 100 for this provision, the form must be used.

**36 Application lapses if no contact with commissioner**

- (1) This section applies if an applicant does not contact the commissioner within 6 months after the day the commissioner gives notice under section 33 (Notice of repayment and recovery procedures).
- (2) The commissioner must give the applicant notice that the application will lapse under subsection (3) unless the applicant makes contact with the commissioner within 6 months.
- (3) If the applicant does not make contact with the commissioner within 6 months after notice is given under subsection (2), the application lapses.
- (4) If an application lapses under this section, an applicant may reapply for financial assistance under this part.

*Note* See s 32 (Time for making application).

**37 Application lapses on death of applicant**

If an applicant for financial assistance dies before the application is finally decided, the application lapses.

**Division 3.5 Commissioner may ask for  
information when deciding  
applications for financial assistance**

**38 Power to ask for further information**

When deciding an application for financial assistance the commissioner may—

- (a) make any inquiries that the commissioner believes on reasonable grounds are relevant to the application; and

(b) by written notice, ask the applicant to give the commissioner the following:

(i) further information, specified by the commissioner, about the application;

**Examples—further information**

- 1 details about a complaint or report made to police about an act of violence
- 2 details about a report made to an agency providing assistance for family violence about a family violence incident

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

(ii) an authorisation that allows the commissioner to obtain further information about the application from another person.

**39 Power to ask for examination by health practitioner**

(1) When deciding an application for financial assistance, the commissioner may ask the applicant to—

- (a) submit to an examination by a health practitioner; and
- (b) arrange for a report of the examination to be given to the commissioner.

(2) Despite any law or duty requiring a health practitioner to maintain the confidentiality of health examinations, a health practitioner may give the commissioner—

- (a) a report about an examination conducted under this section; and
- (b) any other information the health practitioner considers is relevant to the report about the examination.

*Note* It is an offence for an official to divulge protected information (see s 89 (1)).

- (3) If the commissioner asks for an examination under this section the commissioner must pay for the examination.

#### **40 Power to ask for information from chief police officer**

- (1) When deciding an application for financial assistance in relation to an act of violence, the commissioner may ask the chief police officer or an investigating police officer (the *requested officer*) for—
- (a) information and documents about the following:
- (i) the facts about the act of violence that is the subject of the application;
  - (ii) the progress of an investigation into the act of violence that is the subject of the application (including the police officer responsible for investigating the act of violence);
  - (iii) if a proceeding is not started in relation to the act of violence that is the subject of the application—the reasons for not starting a proceeding;
  - (iv) if a proceeding is started for the act of violence that is the subject of the application—details of the following:
    - (A) the charges laid against the person alleged to have engaged in the act of violence that is the subject of the application;
    - (B) the place and date of hearing of the proceeding;
    - (C) the outcome of the proceeding, including any sentence imposed;
    - (D) the outcome of any appeal;
    - (E) if the proceeding is discontinued—the reasons for discontinuation of the proceeding; and

- (b) a copy of any person's statement about the act of violence that is the subject of the application; and
  - (c) clarification about any of the information mentioned in paragraph (a), including any changes to the information previously provided.
- (2) The requested officer must comply with a request under subsection (1) if the officer has possession of, or access to, the information or documents requested.
- (3) However, the requested officer must not give the commissioner information or documents about an investigation relating to an act of violence that is the subject of the application if the officer believes on reasonable grounds that giving the information or documents may—
- (a) prejudice an investigation to which the information may be relevant; or
  - (b) lead to the identification of an informer; or
  - (c) affect the safety of any person.
- (4) If the requested officer decides under subsection (3) not to comply with a request under subsection (1) the officer must—
- (a) notify the commissioner that the officer will not comply with the request; and
  - (b) give reasons for not complying with the request.
- (5) If the requested officer provides a copy of a person's statement mentioned in subsection (1) (b), the officer must remove all particulars identifying the maker of the statement except particulars the officer believes are relevant to assist the commissioner to decide the application.

- (6) Giving information or documents under this section is authorised despite any other territory law, including a law imposing an obligation to maintain confidentiality about the information or documents.

*Note* It is an offence for an official to divulge protected information (see s 89 (1)).

- (7) In this section:

*investigating police officer*, in relation to an act of violence, means the police officer who is in charge of investigating the act of violence.

#### **41 Power to ask for information from registrar**

- (1) When deciding an application for financial assistance in relation to an act of violence, the commissioner may ask the registrar for information about a proceeding started for the act of violence that is the subject of the application.
- (2) The information that may be requested includes information about the following:
- (a) the charges laid against the person alleged to have engaged in the act of violence that is the subject of the application;
  - (b) the charges laid against another person alleged to have conspired with the person alleged to have engaged in the act of violence that is the subject of the application;
  - (c) the place and date of hearing of the proceeding;
  - (d) the outcome of the proceeding, including any sentence imposed;
  - (e) the outcome of any appeal.

- (3) The registrar must give the information requested under subsection (2) to the commissioner, unless the registrar is satisfied on reasonable grounds that giving the information is—
  - (a) contrary to a law in force in the Territory; or
  - (b) otherwise inappropriate.
- (4) The information may be given by allowing the commissioner access to electronic information maintained by the registrar.
- (5) If the commissioner accesses electronic information it may only be used in connection with the information requested under subsection (2).
- (6) This section is additional to any other Act that provides for information to be given by a registrar.

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

## **Division 3.6 Deciding applications for financial assistance**

### **42 Time for deciding application for financial assistance**

- (1) The commissioner must decide an application for financial assistance as soon as reasonably practicable after—
  - (a) the day the commissioner receives the application; or
  - (b) if the commissioner asks for information under division 3.5 (Commissioner may ask for information when deciding applications for financial assistance)—the day the information is given to the commissioner.
- (2) If an application for financial assistance includes a claim for an immediate need payment, the commissioner must give priority to a decision about the claim (the *expedited decision*) before deciding any other claim in the application.



### **43 Deciding matters relevant to application for financial assistance generally**

The commissioner must be satisfied on the balance of probabilities about the existence of any matter relevant to deciding an application for financial assistance.

#### **Examples—matter relevant to an application for financial assistance**

- 1 whether an offence has occurred
- 2 whether a circumstance of aggravation applies to an offence
- 3 whether a circumstance in which financial assistance must not be given applies
- 4 whether an application involves related conduct
- 5 whether an injury was caused by an act of violence
- 6 whether an economic loss was caused by an act of violence
- 7 the nature and extent of an injury
- 8 the nature and amount of an economic loss

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

### **44 Deciding whether applications involve related acts of violence**

- (1) This section applies if a person makes 2 or more separate applications for financial assistance under division 3.4 (Applications for financial assistance).
- (2) The commissioner must review the applications to work out if the applications are for acts of violence that occur in the course of a series of offences that are related.

#### **Examples—series of offences that are related**

- 1 offences with same offender and same primary victim
- 2 contemporaneous or near contemporaneous offences

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) Acts of violence that occur in the course of a series of offences that are related must be treated as a single act of violence—
- (a) if the series of offences are, or are likely to be, part of a single ongoing offence; or
  - (b) if the effect of treating each act of violence separately would result in the applicant receiving a total amount of financial assistance that would be disproportionately more than the amount of financial assistance that would be appropriate for the totality of harm suffered by the applicant as a result of the acts; or
  - (c) in circumstances prescribed by regulation.
- (4) If the commissioner is satisfied that the acts of violence that are the subject of separate applications appear to be a single act of violence, the commissioner must give the applicant written notice—
- (a) that the separate applications for financial assistance appear to disclose a series of offences that are related, and that without further information suggesting otherwise the acts of violence occurring in the course of the offences must be treated as a single act of violence; and
  - (b) asking the applicant to tell the commissioner, in writing, within 14 days after the notice is received, if there is a reason why the acts of violence should not be treated as a single act of violence.
- (5) After considering any reasons given by the applicant in response to notice under subsection (4) the commissioner must—
- (a) decide whether or not to treat the acts of violence as a single act of violence; and
  - (b) tell the applicant, by written notice, the commissioner's decision.

- (6) If the commissioner decides to treat the acts of violence as a single act of violence, the separate applications are taken to be a single application for financial assistance.
- (7) If the commissioner decides to treat the separate applications as a single application under this section the commissioner must, for an application that includes a primary victim's claim for a recognition payment, decide whether the acts of violence amount to a circumstance of aggravation.

**45**      **Circumstances in which financial assistance must not be given**

- (1) This section applies if the commissioner believes on reasonable grounds that any of the following (a *disqualifying circumstance*) apply in relation to an applicant for financial assistance:
  - (a) the applicant is not eligible for the assistance;
  - (b) the applicant conspired with the person responsible for the act of violence that is the subject of the application for assistance;
  - (c) the applicant was involved in a serious crime when the act of violence that is the subject of the application occurred and the serious crime was the main reason that the act of violence occurred;
  - (d) the applicant is claiming financial assistance as a related victim for the act of violence that is the subject of the application that was related to a serious crime carried out by the primary victim;
  - (e) the applicant has unreasonably failed to give assistance to the police in relation to the act of violence that is the subject of the application.

- (2) The commissioner must give the applicant written notice—
- (a) stating that the application for financial assistance appears to involve a disqualifying circumstance described in the notice, and without further information suggesting otherwise financial assistance will not be given; and
  - (b) asking the applicant to tell the commissioner, in writing, within 14 days after the notice is received, if there is a reason why the disqualifying circumstance does not apply.
- (3) After considering any reasons given by the applicant in response to notice under subsection (2), the commissioner must—
- (a) decide whether or not a disqualifying circumstance applies in relation to the applicant; and
  - (b) tell the applicant, by written notice, the commissioner’s decision.
- (4) If the commissioner decides that a disqualifying circumstance applies in relation to an applicant the commissioner must not give financial assistance to the applicant.
- (5) In this section:
- serious crime* means any of the following:
- (a) an offence against the person;
  - (b) a sexual offence;
  - (c) an offence relating to property;
  - (d) an offence against the [Criminal Code](#), chapter 6 (Serious drug offences) other than section 618 (Cultivating controlled plant);
  - (e) an offence involving dishonesty;

- (f) an offence against a law of the Commonwealth or a State corresponding to a provision of the [Criminal Code](#), part 2.4 (Extensions of criminal responsibility) or section 717 (Accessory after the fact) in relation to an offence mentioned in paragraphs (a) to (e).

*Note* A reference to an offence against a territory law includes a reference to a related ancillary offence, eg attempt (see [Legislation Act](#), s 189).

#### **46 Deciding amount of financial assistance**

- (1) The commissioner must decide the amount of financial assistance that may be given to an applicant for financial assistance if the commissioner—
  - (a) believes on reasonable grounds that the applicant is eligible to apply for the assistance under division 3.1 (Eligibility); and
  - (b) is satisfied that the application for the assistance complies with division 3.4 (Applications for financial assistance); and
  - (c) has decided under section 45, that no disqualifying circumstances apply in relation to the applicant.
- (2) The commissioner must—
  - (a) for an application that includes a claim for an immediate need payment—
    - (i) consider the extent to which services are available to the applicant—
      - (A) under the victims services scheme; and
      - (B) from other sources; and
    - (ii) decide the immediate needs the applicant has; and
    - (iii) decide the immediate need payment to be made to the applicant; and

- (b) for an application that includes a claim for an economic loss payment—
    - (i) consider the extent to which services are available to the applicant—
      - (A) under the victims services scheme; and
      - (B) from other sources; and
    - (ii) decide the applicant’s economic loss; and
    - (iii) decide the economic loss payment to be made to the applicant; and
  - (c) for an application that includes a claim for a recognition payment—
    - (i) identify the act of violence that is the subject of the application; and
    - (ii) for a primary victim—
      - (A) decide whether the act of violence occurs in a circumstance of aggravation; and
      - (B) decide whether the act of violence caused a very serious injury that is likely to be permanent; and
    - (iii) decide the recognition payment to be made to the applicant; and
  - (d) if section 47 applies—reduce the amount in accordance with that section.
- (3) The commissioner must tell the applicant, by written notice, the commissioner’s decision.

## **47 Reducing amount of financial assistance**

- (1) This section applies if the commissioner believes on reasonable grounds that, for an act of violence that is the subject of an application for financial assistance, the applicant has—
  - (a) received an associated payment covering the same harm or loss as the financial assistance is intended to cover; or
  - (b) previously been required to repay an amount under part 5 (Repayment of financial assistance and funeral expenses by assisted person) and has not repaid the amount; or
  - (c) previously been required to repay an amount under part 6 (Recovery from offender) and has not repaid the amount; or
  - (d) been involved in contributory conduct.
- (2) The commissioner must reduce the amount of financial assistance to the applicant by an amount—
  - (a) if circumstances mentioned in subsection (1) (a) apply—equal to the associated payment; or
  - (b) if circumstances mentioned in subsection (1) (b) or (c) apply—equal to the outstanding repayment amount; or
  - (c) if circumstances mentioned in subsection (1) (d) apply—that the commissioner is satisfied is appropriate, taking into account the applicant’s contributory conduct.
- (3) In this section:

**contributory conduct** means any of the following conduct by the applicant:

  - (a) conduct that contributed to the injury suffered by the applicant as a result of the act of violence that is the subject of the application;

- (b) participating in or assisting in the act of violence that is the subject of the application;
- (c) encouraging someone else to participate in or assist in the act of violence that is the subject of the application;
- (d) failing to take reasonable steps to mitigate the extent of injury that arose from the act of violence.

#### **48 How financial assistance may be given**

If the commissioner has decided the amount of financial assistance that an applicant for the assistance is entitled to receive, the assistance may be given in any of the following ways:

- (a) as a single payment, or a series of payments, to the applicant;
- (b) as payment of an invoice for, or on behalf of, the applicant;
- (c) as a refund of expenditure incurred by, or on behalf of, the applicant;
- (d) if the applicant is a child—as a payment to the public trustee and guardian to be held on trust for the applicant.

### **Division 3.7 Variation of amount of financial assistance**

#### **49 Application to vary amount of financial assistance previously received**

- (1) A person may apply to the commissioner to vary an amount of financial assistance received by the person (an *earlier assistance payment*) only if, the person's circumstances have changed, or are likely to change, since the earlier assistance payment.
- (2) An application under subsection (1) must—
  - (a) be made within 7 years after the day the commissioner first gives financial assistance to the person; and



- (b) state particulars about—
  - (i) the earlier assistance payment; and
  - (ii) the variation sought to the earlier assistance payment; and
  - (iii) the act of violence to which the earlier assistance payment relates; and
  - (iv) how the person's circumstances have changed or are likely to change; and
- (c) include any other information prescribed by regulation.

*Note* If a form is approved under s 100 for an application, the form must be used.

- (3) Only 1 application may be made under this section in a year unless the commissioner is reasonably satisfied that exceptional circumstances exist to allow more than 1 application to be made in the year.

## **50 Deciding varied amount of financial assistance**

- (1) If the commissioner receives an application under section 49, the commissioner must decide whether to—
  - (a) refuse to increase the amount of financial assistance to the applicant; or
  - (b) agree to increase the amount of financial assistance to the applicant, and work out the amount of the increase.

- (2) However, if the commissioner decides to increase the amount of financial assistance, the total amount of all financial assistance to the applicant for the act of violence that is the subject of the application must not, including the increased amount, be more than the maximum financial assistance amounts that applied when financial assistance was first given to the applicant for the act of violence.

**Examples—maximum financial assistance amounts**

- 1 the maximum total financial assistance payable for an application for financial assistance under s 24 (Maximum total financial assistance)
- 2 for an immediate need payment—the maximum amount payable for—
  - (a) a particular need; and
  - (b) all immediate needs
- 3 for an economic loss payment—the maximum amount payable for—
  - (a) a particular loss; and
  - (b) all losses

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) The following divisions apply to the commissioner when deciding an application under section 49 (a *variation application*) as if a reference to an application for financial assistance in the divisions was a reference to a variation application:
- (a) division 3.5 (Commissioner may ask for information when deciding applications for financial assistance);
  - (b) division 3.6 (Deciding applications for financial assistance).
- (4) The commissioner must—
- (a) tell the person, by written notice, the commissioner’s decision under subsection (1); and
  - (b) if the decision is to increase the amount of financial assistance—arrange for payment of the increased amount.

## Part 4 Funeral expenses

### 51 Eligibility to apply for funeral expense payment

A person is eligible to apply to the commissioner for a funeral expense payment if the person has paid, or is required to pay, the costs of a funeral for a primary victim who died as a result of homicide.

### 52 Application for funeral expense payment

An application for a funeral expense payment must—

- (a) be in writing; and
- (b) include a contact address for the person making the application (the *applicant*); and
- (c) contain any other information, and comply with any other requirement, prescribed by regulation for the application.

*Note* If a form is approved under s 100 for an application, the form must be used.

### 53 Amount of funeral expense payment

The maximum amount of a funeral expense payment under this part is the lesser of the following:

- (a) the reasonable costs of a funeral that is the subject of an application under section 52;
- (b) an amount prescribed by regulation as the maximum funeral expense payment.

### 54 Time for making application for funeral expense payment

An application under section 52 must be made within 3 years after the day of the death of the primary victim.

**55 Notice of repayment and recovery procedures to applicant for funeral expense payment**

- (1) As soon as practicable after the day the commissioner receives an application under section 52 the commissioner must give the applicant written notice about the action that may be taken against—
  - (a) an applicant under part 5 (Repayment of financial assistance and funeral expenses by assisted person); and
  - (b) an offender under part 6 (Recovery from offender).
- (2) The notice must also state that, if a funeral expense payment is made to the applicant, the person responsible for the act of violence that resulted in the death of the primary victim may be contacted by the commissioner to recover some or all of the payment.

**56 Withdrawal of application for funeral expense payment**

An application under section 52 may be withdrawn by the applicant, at any time, by written notice given to the commissioner.

*Note* If a form is approved under s 100 for this provision, the form must be used.

**57 Amendment of application before commissioner's decision for funeral expense payment**

An application under section 52 may be amended by the applicant, at any time before the commissioner has decided the application, by written notice given to the commissioner.

*Note* If a form is approved under s 100 for this provision, the form must be used.

**58 Application for funeral expense payment lapses if no contact with commissioner**

- (1) This section applies if an applicant does not contact the commissioner within 6 months after the day the commissioner gives notice under section 55 (Notice of repayment and recovery procedures to applicant for funeral expense payment).
- (2) The commissioner must give the applicant notice that the application will lapse under subsection (3) unless the applicant makes contact with the commissioner within 6 months.
- (3) If the applicant does not make contact with the commissioner within 6 months after notice is given under subsection (2), the application lapses.
- (4) If an application lapses under this section, an applicant may reapply for a funeral expense payment under this part.

*Note* See s 54 (Time for making application for funeral expense payment).

**59 Application lapses on death of applicant for funeral expense payment**

If an applicant for a funeral expense payment dies before the application is finally decided, the application lapses.

**60 Deciding application for funeral expense payment**

- (1) The commissioner must decide—
  - (a) whether a funeral expense payment is payable; and
  - (b) if the payment is payable—the amount of the funeral expense payment.

- (2) The following divisions apply to the commissioner when deciding an application under section 52 (a *funeral expense payment application*) as if a reference to an application for financial assistance in the divisions was a reference to a funeral expense payment application:
  - (a) division 3.5 (Commissioner may ask for information when deciding applications for financial assistance);
  - (b) division 3.6 (Deciding applications for financial assistance).
- (3) The commissioner must tell the applicant, by written notice, the commissioner's decision.

**61 How funeral expense payment may be given**

If the commissioner has decided the amount of a funeral expense payment that an applicant for the payment is entitled to receive, the payment may be given in any of the following ways:

- (a) as a single payment, or a series of payments, to the applicant;
- (b) as payment of an invoice for, or on behalf of, the applicant;
- (c) as a refund of expenditure incurred by, or on behalf of, the applicant.

## Part 5                      Repayment of financial assistance and funeral expenses by assisted person

### 62                      Definitions—pt 5

In this part:

*repayment amount*, that applies to an assisted person who has received an associated payment, means the lesser of—

- (a) the amount of financial assistance and a funeral expense payment made to the assisted person; and
- (b) the amount of the associated payment, or any part of the associated payment, that covers the same harm or loss as an amount mentioned in paragraph (a) was intended to cover.

*repayment arrangement notice* means a notice under section 66 (Repayment arrangement notice).

*repayment direction notice* means a notice under section 67 (Repayment direction notice).

### 63                      Suspension of financial assistance or funeral expense payment

- (1) This section applies if—
  - (a) a person (the *applicant*) has applied for financial assistance or a funeral expense payment; and
  - (b) the commissioner has decided the amount of—
    - (i) financial assistance that the applicant is entitled to receive under section 46 (Deciding amount of financial assistance); or

- (ii) a funeral expense payment the applicant is entitled to receive under section 60 (Deciding application for funeral expense payment); and
  - (c) the applicant is entitled to receive an associated payment in relation to the act of violence that is the subject of the application.
- (2) If the commissioner believes on reasonable grounds that the applicant is entitled to receive a payment that will amount to an associated payment once made, the commissioner may suspend payment of any financial assistance or funeral expense payment until after the associated payment is made.
- (3) If the commissioner believes on reasonable grounds that, despite an entitlement to an associated payment, the payment is unlikely to be made, the commissioner may decide not to suspend payment of any financial assistance or funeral expense payment.

#### **64 Assisted person must notify commissioner about associated payment**

- (1) This section applies if an assisted person receives an associated payment after any financial assistance or funeral expense payment is made to the person.
- (2) The assisted person must tell the commissioner, in writing, about the associated payment within 28 days after the day the associated payment is received.

*Note* If a form is approved under s 100 for this provision, the form must be used.

- (3) An assisted person commits an offence if the person—
  - (a) must, under subsection (2), tell the commissioner about an associated payment; and



(b) fails to tell the commissioner about the associated payment.

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

## 65 Assisted person liable for repayment amount

- (1) This section applies if—
  - (a) an assisted person receives an associated payment after receiving financial assistance or a funeral expense payment; and
  - (b) the assisted person—
    - (i) is given a repayment direction notice; and
    - (ii) does not, on or before the repayment date stated in the notice, pay the repayment amount or apply for a review, under section 67 (3) (b), of the repayment direction notice.
- (2) The assisted person is liable to pay to the Territory the repayment amount that applies to the person.
- (3) The repayment amount is a debt due to the Territory, payable by the assisted person.

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

## 66 Repayment arrangement notice

- (1) As soon as practicable after receiving information under section 64 (2) the commissioner must give the assisted person written notice (a *repayment arrangement notice*) that includes the following information:
  - (a) the amount that the assisted person received in financial assistance or a funeral expense payment;

- (b) the amount of the associated payment made to the assisted person that covers the same harm or loss as any financial assistance or funeral expense payment mentioned in paragraph (a);
- (c) a statement of the repayment amount that applies to the assisted person;
- (d) a request for the assisted person to contact the commissioner to arrange payment of, or vary, the repayment amount;
- (e) the commissioner's contact details.

*Note* If a form is approved under s 100 for this provision, the form must be used.

- (2) An assisted person who receives notice under subsection (1) must contact the commissioner within 28 days after receiving the notice to enter an arrangement with the commissioner to do any of the following:
  - (a) pay the repayment amount;
  - (b) vary the repayment amount.
- (3) The commissioner must take into account the circumstances of the assisted person when deciding an arrangement for repayment or variation of a repayment amount.

## **67 Repayment direction notice**

- (1) This section applies if—
  - (a) the commissioner has given an assisted person a repayment arrangement notice under section 66; and
  - (b) the assisted person has not within 28 days after receiving the notice—
    - (i) made contact with the commissioner; or
    - (ii) paid the repayment amount.

- (2) The commissioner must give the assisted person written notice (a ***repayment direction notice***) that includes the following information:
- (a) a statement of the amount that the assisted person received in financial assistance or a funeral expense payment;
  - (b) a statement of the amount of the associated payment made to the assisted person that covers the same harm or loss as any financial assistance or funeral expense payment mentioned in paragraph (a);
  - (c) a statement of the repayment amount that applies to the assisted person;
  - (d) a date (the ***repayment date***) that is at least 28 days after the day the repayment direction notice is given to the assisted person;
  - (e) a statement that—
    - (i) the person must pay the repayment amount on or before the repayment date unless the person applies to the ACAT for review of the repayment direction notice; and
    - (ii) that the repayment amount is a debt due to the Territory, payable by the assisted person, unless the person on or before the repayment date either pays the repayment amount or applies to the ACAT for review of the repayment direction notice;
  - (f) information about review of the repayment direction notice by the ACAT.

*Note* If a form is approved under s 100 for this provision, the form must be used.

- (3) An assisted person who is given notice under subsection (2) must, on or before the repayment date—
  - (a) pay the commissioner the repayment amount; or
  - (b) apply to the ACAT for review of the repayment direction notice.
- (4) An application for review under subsection (3) (b) stays the assisted person's liability to pay the repayment amount.
- (5) However, dismissal of the assisted person's application for review removes the stay of liability.

#### **68 Death of assisted person before repayment made**

If an assisted person who has been given a repayment arrangement notice under section 66 dies before repaying all, or part, of the repayment amount stated in the notice (the *outstanding amount*), the commissioner must not seek to recover the outstanding amount from the estate of the person.

## Part 6 Recovery from offender

### 69 Definitions—pt 6

In this part:

*offender* means a person convicted or found guilty of a recompensed offence.

*recompensed offence* means—

- (a) an offence for which financial assistance has been received by a person; or
- (b) an offence of murder, manslaughter or culpable driving that results in the death of a primary victim whose funeral was the subject of a funeral expenses payment.

*recoverable amount*, that applies to an offender, means the following:

- (a) if the recompensed offence is an offence mentioned in the definition of *recompensed offence*, paragraph (a)—the amount of financial assistance given to a person as a result of the offence;
- (b) if the recompensed offence is an offence mentioned in the definition of *recompensed offence*, paragraph (b)—the amount of a funeral expense payment for the funeral costs of a primary victim of the offence.

*recovery action*, by the commissioner, means action under this part to recover a recoverable amount from an offender who is liable to pay the amount.

*recovery intention notice*—see section 74.

*recovery notice* means a notice under section 77.

## 70 Offender liable to repay recoverable amount

- (1) This section applies if—
  - (a) an offender receives a recovery notice for a recoverable amount; and
  - (b) does not, on or before the recovery date stated in the notice, either pay the recoverable amount or apply for a review of the recovery notice under section 77 (3) (b).

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

- (2) The offender is liable to pay to the Territory a recoverable amount that applies to the offender.
- (3) The recoverable amount is a debt due to the Territory, payable by the offender.

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

## 71 Commissioner must decide whether to take recovery action etc

- (1) The commissioner must, as far as practicable, recover a recoverable amount from an offender who is liable to pay the amount.

### Example

The commissioner does not consider recovery action in a particular case to carry a reasonable prospect of success because the offender is impecunious. It is not practicable for the commissioner to recover a recoverable amount from the offender.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) If 2 or more offenders have been convicted or found guilty of a recompensed offence, each of the offenders is jointly and severally liable under this part.

- (3) If 2 or more offenders have been convicted or found guilty of a recompensed offence, the commissioner may apportion the amount each offender must pay to the Territory.
- (4) If the commissioner decides to recover a recoverable amount from an offender, the commissioner must decide whether the amount should be reduced in accordance with subsection (5).
- (5) In deciding whether a recoverable amount should be reduced, the commissioner must take into account the amount of any repayment by the assisted person under part 5 (Repayment of financial assistance and funeral expenses by assisted person).

**72 Commissioner must assess risks associated with recovery action**

The commissioner must not take, or continue, recovery action without taking into account—

- (a) the objective risks to the safety of any person; and
- (b) the subjective concerns of an assisted person about the commissioner's contact with an offender or recovery action generally.

**73 Commissioner must consult assisted person before giving recovery intention notice to offender**

- (1) If the commissioner intends giving an offender a recovery intention notice, the commissioner must tell each assisted person, to whom the offence that is the subject of the recovery notice relates, the following by written notice:
  - (a) that the commissioner is taking recovery action;
  - (b) that the commissioner will contact the offender to give the offender a recovery notice;

- (c) that the assisted person must, within 28 days after the day the notice is given to the person (the *consultation period*), tell the commissioner, in writing, whether the person has any concerns about the commissioner contacting the offender or the action generally.

*Note* If a form is approved under s 100 for this provision, the form must be used.

- (2) The commissioner must, after the end of the consultation period, take into account the matters raised (if any) by an assisted person.

#### 74 Recovery intention notice

- (1) This section applies if the commissioner—
  - (a) has complied with section 73; and
  - (b) is satisfied on reasonable grounds that, in all the circumstances, recovery action is still practicable and appropriate.
- (2) The commissioner must, as soon as practicable, give the offender written notice (a *recovery intention notice*) of the commissioner's intention to recover a recoverable amount from the offender.
- (3) A recovery intention notice must state the following:
  - (a) that the offender has been convicted or found guilty of a recompensed offence;
  - (b) that a person has received financial assistance, or a funeral expense payment, in relation to the offence;
  - (c) that the offender is liable under this Act to pay the Territory a recoverable amount for the offence, and that the commissioner intends giving the offender a recovery notice for the amount;
  - (d) the recoverable amount;
  - (e) that the offender may object to recovery action against the offender in accordance with subsections (3) and (4);



(f) any other matter the commissioner considers relevant.

*Note* If a form is approved under s 100 for this provision, the form must be used.

- (4) The offender may, within 28 days after the day the recovery intention notice is given to the offender, object to recovery action against the offender on the grounds that—
- (a) the offender is not the person who is liable for the recoverable amount; or
  - (b) the commissioner has not taken into account that the offender has made, or is required to make, a payment in relation to the recompensed offence in accordance with a court order.

- (5) An objection under subsection (3) must be in writing and include any facts relied on by the offender in support of the objection.

*Note* If a form is approved under s 100 for this provision, the form must be used.

## **75 Commissioner may ask registrar for information relevant to recovery action**

- (1) The commissioner may, at any time, ask a registrar for information that is relevant to deciding whether to take, or continue, recovery action in relation to an offender.
- (2) Without limiting subsection (1), the commissioner may ask for information about any of the following:
- (a) the identity of a person charged with an offence before a court;
  - (b) any matter that might reasonably assist the commissioner to work out the whereabouts of a person charged, convicted or found guilty;
  - (c) particulars of the offence;
  - (d) the identity of a victim of the offence;

- (e) the identity of a person convicted or found guilty of the offence;
  - (f) a sentence imposed for the offence.
- (3) The registrar must give the information requested under subsection (2) to the commissioner, unless the registrar is satisfied on reasonable grounds that giving the information is—
- (a) contrary to a law in force in the Territory; or
  - (b) otherwise inappropriate.
- (4) The information may be given by allowing the commissioner access to electronic information maintained by the registrar.
- (5) If the commissioner accesses electronic information it may only be used in connection with the information requested under subsection (2).
- (6) This section applies in addition to a provision of any other Act that provides for information to be given by a registrar.

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

## 76 Commissioner must not give offender confidential information

- (1) The commissioner must not, as far as practicable, in any recovery action, give confidential information about a person who has received financial assistance or a funeral expense payment to the offender convicted or found guilty of the offence to which the assistance or payment relates.
- (2) In this section:
- confidential information***, about an assisted person, includes the name, contact details, medical or psychological reports, counselling notes or other identifying information about the assisted person.

**77 Recovery notice**

- (1) If the commissioner, after giving an offender a recovery intention notice and taking into account any objection to the notice under section 74 (4), is satisfied on reasonable grounds that, in all the circumstances, recovery action from the offender is still practicable and appropriate, the commissioner must give the offender written notice (a *recovery notice*) that includes the following information:
- (a) that the offender has been convicted or found guilty of a recompensed offence;
  - (b) that a person has received financial assistance, or a funeral expense payment, in relation to the offence;
  - (c) that the offender is liable under this Act to pay the Territory a recoverable amount for the offence;
  - (d) that the commissioner has taken into account any objection under section 74 (4);
  - (e) the recoverable amount;
  - (f) a date (the *recovery date*) that is at least 28 days after the day the recovery notice is given to the assisted person;
  - (g) a statement that—
    - (i) the offender must pay the recoverable amount on or before the recovery date unless the person applies to the ACAT for review of the recovery notice; and
    - (ii) that the recoverable amount is a debt due to the Territory, payable by the offender, unless the person on or before the repayment date either pays the recoverable amount or applies to the ACAT for review of the recovery notice;
  - (h) information about review of the recovery notice by the ACAT.

*Note* If a form is approved under s 100 for this provision, the form must be used.

- (2) However, a recovery notice for a recompensed offence must not be given to an offender more than 2 years after whichever of the following happens last:
  - (a) the date on which the offender is convicted or found guilty of the recompensed offence;
  - (b) the date on which—
    - (i) for an offence mentioned in section 69, definition of *recompensed offence*, paragraph (a)—financial assistance is given to a person for the recompensed offence; or
    - (ii) for an offence mentioned in section 69, definition of *recompensed offence*, paragraph (b)—a funeral expenses payment is made to a person for the funeral of the primary victim.
- (3) An offender who is given a recovery notice under subsection (1) must, on or before the recovery date—
  - (a) pay the commissioner the recoverable amount; or
  - (b) apply to the ACAT for review of the recovery notice.
- (4) An application for review under subsection (3) (b) stays the offender's liability to pay the recoverable amount.
- (5) However, dismissal of the offender's application for review removes the stay of liability.

## **78 Arrangement for payment of recoverable amount**

- (1) This section applies if the commissioner believes on reasonable grounds that timely recovery under this part of a recoverable amount for a recompensed offence is unlikely because of the financial circumstances of the offender.

- (2) The commissioner may make an arrangement with the offender to—
  - (a) pay the recoverable amount in instalments; or
  - (b) pay an agreed amount (the *agreed recoverable amount*) as a lump sum or in instalments.
- (3) An arrangement under subsection (2) may include conditions that the commissioner believes on reasonable grounds are appropriate for ensuring timely recovery of the recoverable amount.
- (4) The offender's payment of an agreed recoverable amount for a relevant offence discharges the offender from liability to pay the recoverable amount under section 77 (Recovery notice) for the relevant offence.
- (5) However, an amount stated in an arrangement under subsection (2) is, to the extent that the amount is unpaid under the conditions of the arrangement, a debt due to the Territory.

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

## **79 Commissioner may ask government agency for offender's home address for recovery action**

- (1) If the commissioner decides to take recovery action under this part the commissioner may, at any time, ask a government agency for the offender's home address.
- (2) If a government agency has the information requested under subsection (1) the government agency must give the information to the commissioner unless any other Act, or State or Commonwealth law, prevents the information being given.

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

(3) In this section:

**agency**, of the Commonwealth or a State—

(a) means—

- (i) a government department, however described, of the Commonwealth or State; or
- (ii) a statutory office-holder of the Commonwealth or State; or
- (iii) any other entity established for a public purpose under a law of the Commonwealth or State; and

(b) includes the staff of the agency.

**government agency** means any of the following:

- (a) an administrative unit;
- (b) a Commonwealth or State agency;
- (c) a territory authority;
- (d) a territory instrumentality;
- (e) a territory-owned corporation;
- (f) a statutory office-holder and the staff assisting the statutory office-holder.

## Part 7                      Victims financial assistance levy

### 80            Meaning of *offence*—pt 7

- (1) In this part:

*offence* means an offence dealt with by the Supreme Court, the Magistrates Court, or the Childrens Court but does not include—

- (a) an offence in relation to which a reparation order is made under—
- (i) the *Crimes (Sentencing) Act 2005*; or
  - (ii) the *Crimes Act 1914* (Cwlth), section 21B; or
- (b) an offence in relation to which an infringement notice has been served.

- (2) In this section:

*infringement notice* includes an offence notice under the *Drugs of Dependence Act 1989*.

*Note*     The *Legislation Act*, dictionary, pt 1 defines *infringement notice* as including an infringement notice under the *Magistrates Court Act 1930* or the *Road Transport (General) Act 1999*.

### 81            Meaning of *convicted* and *convicts*—pt 7

- (1) For this part, a person is *convicted* of an offence if—

- (a) the person is convicted or found guilty of the offence; or
- (b) if the person is sentenced for another offence—the offence was taken into account by a court when sentencing the person for the other offence; or
- (c) the person is charged with the offence and an order is made under the *Crimes Act 1914* (Cwlth), section 19B (1) in relation to the offence.

- (2) For this part, a court *convicts* a person if the court makes an order that results in the person being convicted.

## 82 Imposition of victims financial assistance levy

- (1) A levy (the *victims financial assistance levy*) is imposed to provide a source of revenue to contribute to the cost of providing financial assistance for victims of crime.
- (2) A person who is convicted of an offence is liable to pay the Territory a victims financial assistance levy of \$50.

*Note* A victims financial assistance levy is recoverable under the [Crimes \(Sentence Administration\) Act 2005](#), ch 6A (Court imposed fines).

- (3) The victims financial assistance levy is in addition to, and does not form part of, any pecuniary penalty imposed in relation to the offence.

## 83 Exemptions

- (1) A court may direct that a person who is under 18 years of age is exempt from liability to pay the victims financial assistance levy.
- (2) A court that convicts a person of an offence (the *first offence*) may direct that the person is exempt from liability to pay the victims financial assistance levy in relation to another offence (the *other offence*) if—
- (a) the conviction for the other offence occurs later on the same day as the first offence; or
- (b) the court has taken into account the other offence in passing sentence for the first offence.



**84 Effect of appeal etc**

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

## Part 8 Administration

### 85 Meaning of *official*—pt 8

In this part:

*official* means a person who—

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

### 86 Functions of commissioner

- (1) The commissioner has the following functions under this Act:
  - (a) to manage and administer the scheme for the provision of financial assistance to victims;
  - (b) to receive applications for financial assistance and funeral expense payment;
  - (c) to decide applications for financial assistance and funeral expense payment;
  - (d) to pay amounts for financial assistance;
  - (e) to pay amounts for funeral expense payment;
  - (f) to administer repayment and recovery processes in relation to financial assistance and funeral expense payment;
  - (g) to review certain decisions.

*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*).

- (2) The functions of the commissioner under this Act are additional to the functions of the commissioner under the *Victims of Crime Act 1994*, section 11.

### **87 Commissioner's guidelines**

- (1) The commissioner may make guidelines (the *commissioner's guidelines*) for—
- (a) the operation of the financial assistance scheme established under this Act; and
  - (b) the non-government agencies that are appropriately qualified for reporting under section 31 (Application to commissioner).
- (2) The commissioner's guidelines are notifiable instruments.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

### **88 Protection of officials from liability**

- (1) An official is not personally liable for anything done or omitted to be done honestly and without recklessness—
- (a) in the exercise of a function under this Act; or
  - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act.
- (2) Any liability that would, apart from this section, attach to an official attaches instead to the Territory.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation or guidelines (see [Legislation Act](#), s 104).

**89 Secrecy**

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

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

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

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

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

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

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

(5) In this section:

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

*divulge* includes communicate.

*produce* includes allow access to.

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

## Part 9 Notification and review of decisions

### 90 Definitions—pt 9

In this part:

*internally reviewable decision* means a decision mentioned in schedule 2, part 2.1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

*internal review notice*—see the [ACT Civil and Administrative Tribunal Act 2008](#), section 67B (1).

*reviewable decision* means a decision mentioned in schedule 2, part 2.2, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### 91 Internal review notices

If the commissioner or a delegate of the commissioner makes an internally reviewable decision, the commissioner or the delegate of the commissioner must give an internal review notice only to each entity mentioned in schedule 2, part 2.1, column 4 in relation to the decision.

*Note* The requirements for internal review notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

### 92 Applications for reconsideration

- (1) An entity mentioned in schedule 2, part 2.1, column 4 in relation to an internally reviewable decision may apply to the commissioner for reconsideration of the decision.
- (2) The application must be made within 28 days after the day the notice of decision is given to the entity.

- (3) The application must be in writing and must set out the grounds on which reconsideration of the decision is sought.

*Note* If a form is approved under s 100 for an application, the form must be used.

- (4) If the application is made in accordance with this section, the making of the application automatically stays the operation of the decision until the application is finally dealt with.

### **93 Reconsideration of decisions**

- (1) As soon as practicable after receiving an application for reconsideration of a decision (the *first decision*), the commissioner must—
- (a) appoint a person or entity (the *appointed reviewer*) to review the first decision; or
  - (b) review the first decision.
- (2) Within 30 days after the day the commissioner or the appointed reviewer receives the application for reconsideration, the commissioner or the appointed reviewer must—
- (a) reconsider the first decision; and
  - (b) confirm, vary or set aside the decision.

### **94 Reviewable decision notice**

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 2, part 2.2, column 4 in relation to the decision.

*Note* The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

**95 Applications for review**

An entity mentioned in schedule 2, part 2.2, column 4 in relation to a reviewable decision may apply to the ACAT for review of the decision.

*Note* If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.



## Part 10 Miscellaneous

### 96 Limitation on lawyers legal costs

- (1) A lawyer must not charge or seek to recover legal costs that are higher than the amount prescribed by regulation for the following:
  - (a) legal services that relate to an application for financial assistance;
  - (b) legal services that relate to an appeal or review process under this Act.

- (2) In this section:

*legal costs*—see the *Legal Profession Act 2006*, dictionary.

*legal services*—see the *Legal Profession Act 2006*, dictionary.

### 97 WPI indexation of lawyers legal costs

- (1) An amount prescribed by regulation under section 96 must be amended each year in line with variations in the WPI that happen after the commencement of the regulation in which the amount is prescribed.
- (2) However, if an amount required to be adjusted in accordance with subsection (1) would be reduced because of a reduction in the WPI (a *negative adjustment*), the amount must not be amended in line with the negative adjustment.
- (3) An amount that, in accordance with subsection (2), is not reduced may be increased in line with an adjustment in the WPI that would increase the amount only to the extent that the increase, or part of the increase, is not one that would cancel out the effect of the negative adjustment.

- (4) Subsection (3) does not apply to a negative adjustment once the effect of the negative adjustment has been offset against an increase in line with an adjustment in the WPI.

**Example—adjustments**

An amount prescribed by regulation is \$100. There is a 20% increase in the WPI after the section commences. The amount prescribed becomes \$120 (\$100 + 20%).

There is then a 10% drop in the WPI. The amount does not change from \$120 (although if it had changed it would be \$108).

There is a 20% increase in the WPI. The 20% increase is not to the \$120, but to the \$108.  $\$108 + 20\% = \$129.60$ . So the \$120 becomes \$129.60. This is the amount (\$120) increased by so much of the 20% increase that did not cancel out the effect of the adjustment down to \$108.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (5) In this section:

**WPI** means the Wage Price Index, Australia issued by the Australian statistician.

**98 Review of Act**

- (1) The Minister must review the operation of this Act 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 4 years after the day it commences.

**99 Determination of fees**

- (1) The Minister may determine fees for this Act.

*Note* The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**100 Approved forms**

- (1) The commissioner may approve forms for this Act.
- (2) If the commissioner approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see the [Legislation Act](#), s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

**101 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) A regulation may create offences and fix maximum penalties of not more than 10 penalty units for the offences.

## Part 20 Transitional

### 200 Definitions—pt 20

In this part:

*assisted person*—see the [repealed Act](#), dictionary.

*commencement day* means the day this Act, section 6 commences.

*final award*—see the [repealed Act](#), dictionary.

*liability* includes liable to a penalty for an offence against the law.

*penalty* includes punishment and forfeiture.

*privilege* includes immunity.

*related crime*—see the [repealed Act](#), dictionary.

*repealed Act* means the [Victims of Crime \(Financial Assistance\) Act 1983](#) as in force immediately before the commencement day.

*right* includes capacity, interest, status and title.

### 201 Application for financial assistance commenced but not finalised under repealed Act, and later action

- (1) This section applies if an application under the [repealed Act](#), section 27 (Application for financial assistance) (an *initial application*) is made but not finalised before the commencement day.
- (2) The repealed Act continues to apply to—
  - (a) the initial application and any proceeding relating to the initial application; and
  - (b) a later application under the [repealed Act](#), section 46 (Variation of final awards of financial assistance) (a *variation application*) and any proceeding relating to the variation application; and

- (c) the repayment of an amount of financial assistance by an assisted person; and
  - (d) the restitution of an amount of financial assistance from a person found guilty of a related crime.
- (3) Without limiting subsection (2), a reference in the subsection to a matter to which the repealed Act continues to apply includes any right, privilege, liability, investigation, act, remedy or proceeding that is related to the matter.

**202 Application for financial assistance not commenced under repealed Act may be made within 12 months after commencement day, and later action**

- (1) This section applies if, immediately before the commencement day—
- (a) a person is entitled to make an application under the [repealed Act](#), section 27 (Application for financial assistance) (an *initial application*); and
  - (b) the person has not made the initial application.
- (2) The person may, within 12 months after the commencement day, make the initial application to the Magistrates Court.
- (3) The repealed Act continues to apply to—
- (a) the initial application and any proceeding relating to the initial application; and
  - (b) a later application under the [repealed Act](#), section 46 (Variation of final awards of financial assistance) (a *variation application*) and any proceeding relating to the variation application; and
  - (c) the repayment of an amount of financial assistance by an assisted person; and

- (d) the restitution of an amount of financial assistance from a person found guilty of a related crime.
- (4) Without limiting subsection (2), a reference in the subsection to a matter to which the repealed Act continues to apply includes any right, privilege, liability, investigation, act, remedy or proceeding that is related to the matter.

**203 Application for financial assistance under repealed Act not made within 12 months after commencement day may be made under this Act**

- (1) This section applies if, immediately before the commencement day—
  - (a) a person is entitled to make an application under the [repealed Act](#), section 27 (Application for financial assistance); and
  - (b) the person has not, within 12 months of the commencement day, made the application in accordance with section 202.
- (2) The person may apply for financial assistance under this Act for an act of violence that would have been the subject of the application under the [repealed Act](#), section 27.
- (3) This Act applies to the application mentioned in subsection (2).
- (4) However, for an application mentioned in subsection (2) the following apply:
  - (a) if the act of violence that is the subject of the application arises in the course of an offence against the [Crimes Act 1900](#), sections 51 to 62—the maximum amount of a recognition payment that may be given by the commissioner is \$50 000; or

- (b) if paragraph (a) does not apply and the person suffers an injury as a result of the act of violence that is the subject of the application, that was an extremely serious injury under the [repealed Act](#), section 11 (What is an *extremely serious injury*?)—the amount of a recognition payment that may be given by the commissioner is \$30 000.

## 204 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

## 205 Expiry—pt 20

This part expires 5 years after the commencement day.

*Note* Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

## Schedule 1            Offences—act of violence

(see s 7)

### Part 1.1                Definitions

#### 1.1                    Definitions—sch 1

In this schedule:

*Crimes Act* means the *Crimes Act 1900*.

*Criminal Code* means the *Criminal Code 2002*.

*Family Violence Act* means the *Family Violence Act 2016*.

*Firearms Act* means the *Firearms Act 1996*.

*Public Order Act* means the *Public Order (Protection of Persons and Property) Act 1971* (Cwlth).

*RT (S and TM) Act* means the *Road Transport (Safety and Traffic Management) Act 1999*.



## Part 1.2 Offences

### Division 1.2.1 General offences

column 1 item	column 2 legislation	column 3 provision	column 4 description
1	<a href="#">Crimes Act</a>	an offence against pt 2	offences against the person
2	<a href="#">Crimes Act</a>	an offence against pt 3	sexual offences
3	<a href="#">Crimes Act</a>	an offence against pt 4	female genital mutilation
4	<a href="#">Crimes Act</a>	an offence against pt 5	sexual servitude
5	<a href="#">Criminal Code</a>	309	robbery
6	<a href="#">Criminal Code</a>	310	aggravated robbery

### Division 1.2.2 Family violence offences

column 1 item	column 2 legislation	column 3 provision	column 4 description
1	<a href="#">Crimes Act</a>	116	destroying or damaging property
2	<a href="#">Crimes Act</a>	117	arson
3	<a href="#">Crimes Act</a>	151	forcible entry on land
4	<a href="#">Crimes Act</a>	154 (1)	trespass on government premises
5	<a href="#">Crimes Act</a>	154 (2) (a)	engage in unreasonable obstruction etc in relation to the use of government premises
6	<a href="#">Crimes Act</a>	154 (2) (b)	behave in an offensive or disorderly manner while in or on government premises

**Schedule 1** Offences—act of violence  
**Part 1.2** Offences  
**Division 1.2.2** Family violence offences

<b>column 1 item</b>	<b>column 2 legislation</b>	<b>column 3 provision</b>	<b>column 4 description</b>
7	<a href="#">Crimes Act</a>	154 (2) (c)	refuse or neglect to leave government premises when directed
8	<a href="#">Crimes Act</a>	380	possession of offensive weapons and disabling substances
9	<a href="#">Crimes Act</a>	381	possession of offensive weapons and disabling substances with intent
10	<a href="#">Crimes Act</a>	392	offensive behaviour
11	<a href="#">Criminal Code</a>	311	burglary
12	<a href="#">Criminal Code</a>	316	going equipped with offensive weapon for theft etc
13	<a href="#">Criminal Code</a>	403	damaging property
14	<a href="#">Criminal Code</a>	404	arson
15	<a href="#">Criminal Code</a>	405	causing bushfires
16	<a href="#">Criminal Code</a>	406	threat to cause property damage—fear of death or serious harm
17	<a href="#">Criminal Code</a>	407	threat to cause property damage
18	<a href="#">Criminal Code</a>	408	possession of thing with intent to damage property
19	<a href="#">Family Violence Act</a>	43	contravention of family violence order
20	<a href="#">Firearms Act</a>	177	unregistered firearms
21	<a href="#">Firearms Act</a>	221	discharge of firearms or possession endangering life
22	<a href="#">Public Order Act</a>	11	offences on premises in a territory
23	<a href="#">RT (S and TM) Act</a>	6 (1)	negligent driving
24	<a href="#">RT (S and TM) Act</a>	7 (1)	furious, reckless or dangerous driving
25	<a href="#">RT (S and TM) Act</a>	8 (1) or (2)	menacing driving

---

## **Schedule 2      Reviewable decisions**

(see pt 9)

### **Part 2.1                      Internally reviewable decisions**

<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 entity</b>
1	32	not to extend time for making application	applicant for extension of time
2	46	amount of financial assistance	applicant for financial assistance
3	47	amount of reduction of financial assistance	applicant for financial assistance
4	50	variation of amount of financial assistance	applicant for variation
5	63	suspension of financial assistance	applicant for financial assistance
6	71 (3)	deciding amount payable by 2 or more offenders	offender required to pay amount decided

---

## Part 2.2 Reviewable decisions

column 1 item	column 2 section	column 3 decision	column 4 entity
1	32	not to extend time for making application	applicant for extension of time
2	44	deciding whether applications for financial assistance involve related acts of violence	applicant for financial assistance
3	45	financial assistance not to be given	applicant for financial assistance
4	46	amount of financial assistance	applicant for financial assistance
5	47	amount of reduction of financial assistance	applicant for financial assistance
6	50	variation of amount of financial assistance	applicant for variation
7	63	suspension of financial assistance	applicant for financial assistance
8	67	requirement to repay financial assistance	person who received financial assistance
9	71 (3)	deciding amount payable by 2 or more offenders	offender required to pay amount decided
10	77	requirement to pay, and amount of, recoverable amount	offender who received recovery notice

---

## Dictionary

(see s 3)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACT
- child
- Criminal Code
- director-general (see s 163)
- domestic partner (see s 169 (1))
- found guilty
- health practitioner
- home address
- human rights commission
- Minister (see s 162)
- parent
- penalty unit (see s 133)
- proceeding
- public servant
- public trustee and guardian
- registrar
- territory law
- the Territory.

***Aboriginal or Torres Strait Islander person*** means a person who—

- (a) is a descendant of an Aboriginal person or a Torres Strait Islander person; and
- (b) identifies as an Aboriginal person or a Torres Strait Islander person; and
- (c) is accepted as an Aboriginal person or a Torres Strait Islander person by an Aboriginal community or Torres Strait Islander community.

***act of violence***—see section 7.

***application for financial assistance*** means an application to the commissioner under section 31.

***assisted person*** means a person who receives financial assistance under part 3 (Financial assistance) or a funeral expense payment under part 4 (Funeral expenses).

***associated payment*** to a person (the ***applicant***) who has received, or is eligible to receive, financial assistance or a funeral expenses payment—

- (a) means an amount, other than an amount received under this Act, that has been paid to the applicant (or to another person for the applicant) as a result of an act of violence that is the subject of the applicant's application for any financial assistance or funeral expense; and
- (b) includes any of the following to the extent that they relate to the act of violence that is the subject of the application:
  - (i) an award of damages in a civil proceeding;
  - (ii) a payment under a workers' compensation law;
  - (iii) an insurance payment;
  - (iv) a payment made under a reparation order under the [Crimes \(Sentencing\) Act 2005](#).

***circumstance of aggravation***, for an offence—see section 8.

***class A related victim***—see section 13.

***class B related victim***—see section 14.

***class C related victim***—see section 15.

***close family member***, of a primary victim—see section 17.

***commissioner***—see the [Victims of Crime Act 1994](#), dictionary.

***commissioner's guidelines***—see section 87.

**conduct** includes related conduct.

**contact with the commissioner** includes contact with—

- (a) a member of the staff of the commissioner; or
- (b) a delegate of the commissioner.

**convicted**, for part 7 (Victims financial assistance levy)—see section 81.

**convicts**, for part 7 (Victims financial assistance levy)—see section 81.

**Crimes Act**, for schedule 1 (Offences—act of violence)—see schedule 1, section 1.1.

**Criminal Code**, for schedule 1 (Offences—act of violence)—see schedule 1, section 1.1.

**dependant**, of a primary victim, means—

- (a) a person who is wholly or partly dependent for economic support on the primary victim at the time of the primary victim's death; or
- (b) a person who would have been wholly or partly dependent for economic support on the primary victim's income at the time of the primary victim's death but for the incapacity of the primary victim because of the act of violence that resulted in the death; or
- (c) a child of the primary victim born after the primary victim's death who would have been a dependant of the primary victim under paragraph (a) or (b) if the child had been born before the death.

**economic loss payment** means a financial payment under section 27.

**Family Violence Act**, for schedule 1 (Offences—act of violence)—see schedule 1, section 1.1.

***financial assistance*** means any of the following:

- (a) an economic loss payment;
- (b) an immediate need payment;
- (c) a recognition payment.

***financially independent***, of a primary victim, means a person who is not dependant on the primary victim at the time of the primary victim's death.

***Firearms Act***, for schedule 1 (Offences—act of violence)—see schedule 1, section 1.1.

***funeral expense payment*** means a financial payment under part 4 (Funeral expenses).

***homicide***—see section 10.

***homicide witness***, in relation to a homicide—see section 16.

***immediate need payment*** means a financial payment under section 26.

***injury***—see section 9.

***internally reviewable decision***, for part 9 (Notification and review of decisions)—see section 90.

***internal review notice***, for part 9 (Notification and review of decisions)—see the [ACT Civil and Administrative Tribunal Act 2008](#), section 67B (1).

***intimate partner***—see the [Family Violence Act 2016](#), section 10.

***mental disorder***—see the [Mental Health Act 2015](#), dictionary.

***mental illness***—see the [Mental Health Act 2015](#), dictionary.

***offence***, for part 7 (Victims financial assistance levy)—see section 80.



***offence against the person*** means an offence against a provision mentioned in schedule 1 (Offences—act of violence), division 1.2.1 (General offences), column 3, item 1, 5, or 6.

***offender***, for part 6 (Recovery from offender)—see section 69.

***offensive weapon***—see the *Crimes Act 1900*, dictionary.

***official***, for part 8 (Administration)—see section 85.

***primary victim***—see section 11.

***Public Order Act***, for schedule 1 (Offences—act of violence)—see schedule 1, section 1.1.

***recognition payment*** means a financial payment under—

- (a) for a primary victim—section 28; or
- (b) for a class A related victim—section 29; or
- (c) for a class B related victim—section 30.

***recompensed offence***, for part 6 (Recovery from offender)—see section 69.

***recoverable amount***, that applies to an offender, for part 6 (Recovery from offender)—see section 69.

***recovery action***, by the commissioner, for part 6 (Recovery from offender)—see section 69.

***recovery intention notice***, for part 6 (Recovery from offender)—see section 74.

***recovery notice***, for part 6 (Recovery from offender)—see section 69.

***related victim***—see section 12.

**relative**, of a person, means—

- (a) means the person's—
  - (i) father, mother, grandfather, grandmother, stepfather, stepmother, father-in-law or mother-in-law; or
  - (ii) son, daughter, grandson, granddaughter, stepson, stepdaughter, son-in-law or daughter-in-law; or
  - (iii) brother, sister, half-brother, half-sister, stepbrother, stepsister, brother-in-law or sister-in-law; or
  - (iv) uncle, aunt, uncle-in-law or aunt-in-law; or
  - (v) nephew, niece or cousin; and
- (b) if the person has or had a domestic partner (other than a spouse or civil union partner)—includes someone who would have been a relative mentioned in paragraph (a) if the person had been married to or in a civil union with the domestic partner; and

*Note* For the meaning of **domestic partner**, see the [Legislation Act](#), s 169.

For ACT law, a person acquires relatives through civil union in the same way as they acquire them through marriage (see [Civil Unions Act 2012](#), s 6 (2)).

- (c) includes—
  - (i) someone who has been a relative mentioned in paragraph (a) or (b) of the person; and
  - (ii) if the person is an Aboriginal or Torres Strait Islander person, the following people:
    - (A) someone the person has responsibility for, or an interest in, in accordance with the traditions and customs of the person's Aboriginal or Torres Strait Islander community;

- (B) someone who has responsibility for, or an interest in, the person in accordance with the traditions and customs of the person's Aboriginal or Torres Strait Islander community; and
- (iii) someone regarded and treated by the person as a relative; and
- (iv) anyone else who could reasonably be considered to be, or have been, a relative of the person.

**relevant person**, in relation to a person (the **original person**) means—

- (a) a domestic partner or former domestic partner of the original person; or

*Note* A **domestic partner** need not be an adult (see [Legislation Act](#), s 169).

- (b) an intimate partner or former intimate partner of the original person; or
- (c) a relative of the original person; or
- (d) a child of a domestic partner or former domestic partner of the original person; or
- (e) a parent of a child of the original person.

**repayment amount**, that applies to an assisted person who has received an associated payment, for part 5 (Repayment of financial assistance and funeral expenses)—see section 62.

**repayment arrangement notice**, for part 5 (Repayment of financial assistance and funeral expenses by assisted person)—see section 62.

**repayment direction notice**, for part 5 (Repayment of financial assistance and funeral expenses by assisted person)—see section 62.

**reviewable decision**, for part 9 (Notification and review of decisions)—see section 90.

**RT (S and TM) Act**, for schedule 1 (Offences—act of violence)—see schedule 1, section 1.1.

**schedule 1 offence** means—

- (a) an offence against a provision mentioned in an item in schedule 1 (Offences—act of violence), division 1.2.1 (General offences), column 3 of an Act mentioned in the item, column 2; and
- (b) if the victim of an offence is a relevant person in relation to the person who carried out the offence—an offence against a provision mentioned in schedule 1 (Offences—act of violence), division 1.2.2 (Domestic violence offences), column 3 of an Act mentioned in the item, column 2.

**sexual offence** means an offence against a provision mentioned in schedule 1 (Offences—act of violence), division 1.2.1 (General offences), column 3, item 2, 3 or 4.

**very serious injury** means an injury that results in at least 1 of the following:

- (a) a physical bodily impairment that is very serious;
- (b) a disfigurement that is very serious;
- (c) a mental illness or mental disorder that is very serious;
- (d) the death of a foetus.

**victims services scheme** means the victims service scheme established under the *Victims of Crime Act 1994*, section 19.

**workers' compensation law** means the *Workers Compensation Act 1951*, or any other law applying in the ACT that provides for the payment of compensation for injuries arising out of or in the course of employment.

## 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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

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

## Endnotes

3 Legislation history

---

### 3 Legislation history

#### **Victims of Crime (Financial Assistance) Act 2016 A2016-12**

notified LR 16 March 2016

s 1, s 2 commenced 16 March 2016 (LA s 75 (1))

remainder commenced 1 July 2016 (s 2 (1) (a))

as amended by

#### **Justice and Community Safety Legislation Amendment Act 2016**

##### **A2016-37 sch 1 pt 1.21**

notified LR 22 June 2016

s 1, s 2 commenced 22 June 2016 (LA s 75 (1))

sch 1 pt 1.21 commenced 1 July 2016 (LA s 79A and see [A2016-12](#)

s 2 (1) (a))

#### **Family Violence Act 2016 A2016-42 sch 3 pt 3.21 (as am by A2017-10 s 7)**

notified LR 18 August 2016

s 1, s 2 commenced 18 August 2016 (LA s 75 (1))

sch 3 pt 3.21 commenced 1 May 2017 (s 2 (2) as am by [A2017-10 s 7](#))

#### **Family and Personal Violence Legislation Amendment Act 2017**

##### **A2017-10 s 7**

notified LR 6 April 2017

s 1, s 2 commenced 6 April 2017 (LA s 75 (1))

s 7 commenced 30 April 2017 (s 2 (1))

*Note* This Act only amends the Family Violence Act 2016 [A2016-42](#).

## 4 Amendment history

### Commencement

s 2 om LA s 89 (4)

### Meaning of *injury*

s 9 am [A2016-42](#) amdt 3.93

### Meaning of *class A related victim*

s 13 am [A2016-42](#) amdt 3.94

### Meaning of *class B related victim*

s 14 am [A2016-42](#) amdt 3.95

### Power to ask for further information

s 38 am [A2016-42](#) amdt 3.96

### How financial assistance may be given

s 48 am [A2016-37](#) amdt 1.42

### Review of Act

s 98 [exp 1 July 2020 \(s 98 \(3\)\)](#)

### Repeals and consequential amendments

pt 11 hdg om LA s 89 (3)

### Legislation repealed

s 102 om LA s 89 (3)

### Legislation amended—sch 3

s 103 om LA s 89 (3)

### Transitional

pt 20 hdg [exp 1 July 2021 \(s 205\)](#)

### Definitions—pt 20

s 200 [exp 1 July 2021 \(s 205\)](#)  
 def ***assisted person*** [exp 1 July 2021 \(s 205\)](#)  
 def ***commencement day*** [exp 1 July 2021 \(s 205\)](#)  
 def ***final award*** [exp 1 July 2021 \(s 205\)](#)  
 def ***liability*** [exp 1 July 2021 \(s 205\)](#)  
 def ***penalty*** [exp 1 July 2021 \(s 205\)](#)  
 def ***privilege*** [exp 1 July 2021 \(s 205\)](#)  
 def ***related crime*** [exp 1 July 2021 \(s 205\)](#)  
 def ***repealed Act*** [exp 1 July 2021 \(s 205\)](#)  
 def ***right*** [exp 1 July 2021 \(s 205\)](#)

### Application for financial assistance commenced but not finalised under repealed Act, and later action

s 201 [exp 1 July 2021 \(s 205\)](#)

## Endnotes

4 Amendment history

---

**Application for financial assistance not commenced under repealed Act may be made within 12 months after commencement day, and later action**

s 202 [exp 1 July 2021 \(s 205\)](#)

**Application for financial assistance under repealed Act not made within 12 months after commencement day may be made under this Act**

s 203 [exp 1 July 2021 \(s 205\)](#)

**Transitional regulations**

s 204 [exp 1 July 2021 \(s 205\)](#)

**Expiry—pt 20**

s 205 [exp 1 July 2021 \(s 205\)](#)

**Offences—act of violence**

sch 1 am [A2016-42](#) amdts 3.97-3.100

**Consequential amendments**

sch 3 om LA s 89 (3)

**Dictionary**

dict am [A2016-37](#) amdt 1.43; [A2016-42](#) amdt 3.101  
def **Aboriginal or Torres Strait Islander person** ins [A2016-42](#) amdt 3.102  
def **Domestic Violence Act** om [A2016-42](#) amdt 3.103  
def **Family Violence Act** ins [A2016-42](#) amdt 3.104  
def **intimate partner** ins [A2016-42](#) amdt 3.104  
def **relative** ins [A2016-42](#) amdt 3.104  
def **relevant person** sub [A2016-42](#) amdt 3.105  
def **relevant relationship** om [A2016-42](#) amdt 3.106



## 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
R1 1 July 2016	1 July 2016– 30 Apr 2017	<a href="#">A2016-37</a>	new Act and amendments by <a href="#">A2016-37</a>

© Australian Capital Territory 2017