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**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

TENTH ASSEMBLY

VICTIMS OF CRIME (FINANCIAL ASSISTANCE) AMENDMENT BILL 2024

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004, s 37*)**

**Presented by
TARA CHEYNE MLA
MINISTER FOR HUMAN RIGHTS
APRIL 2024**

Victims of Crime (Financial Assistance) Amendment Bill 2024

This Explanatory Statement relates to the Victims of Crime (Financial Assistance) Amendment Bill 2024 (the Bill) as presented to the Legislative Assembly. It has been prepared to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

The Bill is not a Significant Bill. Significant Bills are Bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

The Statement is to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

OVERVIEW OF THE BILL

The Bill will amend the *Victims of Crime (Financial Assistance) Act 2016* (the Act) to:

- implement a number of recommendations from the Projects Assisting Victims' Experiences and Recovery (PAVER) Review which was tabled in the Legislative Assembly on 21 June 2021;
- ensure victims of historical acts of violence are eligible for financial assistance under the Act;
- expand the financial assistance scheme to ensure victims of intimate image abuse offences are eligible for financial assistance; and
- reduce red tape and administrative burden on both Victim Support ACT (VSACT) and victims of crime.

Implementing recommendations from the PAVER Review

The Bill removes the requirement for individuals whose family member or intimate partner has died as a result of an offence to provide evidence of a 'genuine' relationship with the primary victim (PAVER Review recommendation 4). Currently, when making an application for financial assistance, a family member or intimate partner of a person who has died as a result of an offence is required to provide a range of evidence, including evidence of a 'genuine' relationship with the primary victim. The PAVER Review recommended removing this requirement, noting that seeking evidence and assessing a genuine personal relationship is sensitive and that eligibility of related or family victims should be made on the status of the relationship without requiring proof of the quality or nature of those relationships. The requirement to establish the person is a family member or is the intimate partner of the primary victim will be retained.

The Bill removes circumstances of aggravation from the Act. Currently, section 46(2)(c) of the Act provides that an application for a recognition payment must include information identifying:

- i. the act of violence (type of offence);
- ii. whether aggravating circumstances apply; and
- iii. whether the act caused in a very serious injury that is likely to be permanent.

Consistent with this, Table 8 of the Victims of Crime (Financial Assistance) Regulation 2016 (the Regulation) contains 56 recognition payments differentiated according to the offence, number of aggravating circumstances, and whether the offence caused a very serious injury that is likely to be permanent. The PAVER review identified these payment categories and sub-categories as an unnecessarily complex barrier to victims trying to access payments, which also substantially increased application processing times. Recommendation 10(e) of the PAVER review recommended that these payments be simplified to streamline the provision of payments and make them more accessible to victims. Removing the differential rates of payment for each category would mean that assessors are no longer required to assess for circumstances of aggravation, resulting in faster decision making and significantly reducing wait times for applicants. The amendment to remove circumstances of aggravation will have a delayed commencement of 1 July 2025. Any application that is lodged prior to 1 July 2025 but is not assessed until after 1 July 2025 will be assessed according to the eligibility that applied at the time in which the application was lodged.

The Bill also protects a victims' application and supporting application material held by VSACT from being subpoenaed and used in unrelated court proceedings (PAVER Review recommendation 10(f)). Supporting documentation is often highly sensitive personal information produced by third party entities (such as medical practitioners, counselling notes etc) to support the application and corroborate information contained in the application. Although there are some protections for counselling communication to be protected contained with the *Evidence (Miscellaneous Provisions) Act 1991*, this is limited to certain proceedings and offence types, and currently, a third party can seek to access and use a victim's application and supporting application material for financial assistance in unrelated court proceedings, including in a custody dispute. This amendment will reassure victims that detailed personal information can be submitted as part of the application process without fear that this information could be used to the victim's detriment. The application and other documents will still be accessible in certain circumstances, including for the purposes of an appeal or review of a decision regarding financial assistance.

Expanding the financial assistance scheme to ensure victims of intimate image abuse offences are eligible for financial assistance

The Bill expands the financial assistance scheme to ensure victims of intimate image abuse offences are eligible for financial assistance. Currently, a victim of an intimate image abuse offence as set out in Part 3A of the *Crimes Act 1900* (the Crimes Act) is not eligible for financial assistance. However, a victim of similar conduct, such as the child exploitation material and intimate observation offences, is eligible for financial assistance. The amendments will ensure victims of intimate image abuse offences are also eligible for financial assistance.

Ensuring victims of certain offences committed before the commencement of the Act can apply for financial assistance under the Act

A victim of crime can only apply for financial assistance under the Act if the offence occurred after the commencement of the Act. Transitional arrangements were put in place to ensure victims of offences that occurred before the commencement of that Act could continue to apply for financial assistance under the repealed *Victims of Crime (Financial Assistance) Act 1983* (the repealed Financial Assistance Act). Those transitional arrangements have now expired. The amendments will ensure victims of certain types of serious offences that were eligible under the repealed Financial Assistance Act, are eligible for financial assistance under this Act. This amendment will have a delayed commencement of 1 July 2025. Any application that is lodged prior to 1 July 2025 but is not assessed until after 1 July 2025 will be assessed according to the eligibility that applied at the time in which the application was lodged.

Other provisions

The Bill removes the requirement for the Commissioner or delegate to provide ineligible applicants with a second notice confirming ineligibility for financial assistance in certain circumstances. Currently, the Commissioner or delegate is required to provide a second notice of ineligibility whether or not the applicant has disputed or challenged the initial notice. Consequently, receiving a second notice of ineligibility can add to the ineligible applicant's experience of trauma. The amendments will remove the requirement on the Commissioner or delegate to provide a second notice where the applicant has not responded to the initial notice.

CONSULTATION ON THE PROPOSED APPROACH

The ACT Government commissioned the Australian National University (ANU) to conduct the PAVER review in July 2020. The amendments proposed in the Bill will implement recommendations 4, 10(e) and 10(f) of the PAVER Review, and make other improvements identified by the Commissioner and VSACT. Many stakeholders

were interviewed as part of the PAVER review including over 300 victims of crime, staff of VSACT and a number of external stakeholders.

The Justice and Community Safety Directorate (JACS) has had ongoing consultation with key stakeholders throughout the development of these reforms. Stakeholders consulted include: ACT Bar Association, ACT Human Rights Commission, The Office of the Coordinator General for Domestic Family and Sexual Violence, ACT Law Society, ACT Victims Advisory Board, ACT Policing, Victims of Crime Commissioner and VSACT.

CLIMATE IMPACT

This Bill will not impact climate change.

CONSISTENCY WITH HUMAN RIGHTS

Rights engaged

Broadly, the Bill engages and supports the following rights under the *Human Rights Act 2004* (HRA):

- Section 8 – Right to recognition and equality before the law (*promoted*)
- Section 11 – Protection of the family and children (*promoted*)
- Section 27 – Cultural Rights of Aboriginal and Torres Strait Islander People (*promoted*)
- Section 12 – Right to privacy (*promoted*)
- Section 21 – Rights to a fair trial and fair hearing (*engaged and potentially limited*)

Rights Promoted

Section 8 – Right to recognition and equality before the law

Under section 8 of the HRA, everyone is entitled to enjoy their rights without discrimination of any kind, everyone is equal before the law and is entitled to the equal protection of the law without discrimination. The Bill promotes the right to recognition and equality before the law by improving access to the financial assistance scheme to include victims of intimate image abuse offences and ensuring victims of historical acts of violence are eligible for financial assistance under the Act. The Bill will also create greater equity between historical offence applicants and applicants who experienced crime from 2016 when the Act commenced.

Section 11 – Protection of the family and children

Section 11 of the HR Act provides that the family is the natural and basic group unit of society and is entitled to be protected by society. Section 11(2) provides that every child has the right to the protection needed by the child because of being a child, without distinction or discrimination of any kind. The Bill protects family and children by improving the experiences and types of offences victims of crime can seek financial assistance for, as well as ensures victims of historical acts of violence

are eligible for financial assistance under the Act. The financial assistance scheme helps victims of crime to recover from acts of violence, acknowledges the harmful effects of acts of violence and contributes to their safety and security. Requiring a family member to provide evidence of a 'genuine' personal relationship during a time of grief is inappropriate and undermines the beneficial intent of the scheme, and the protection of family and child relationships. The Bill removes the requirement for individuals whose family member or intimate partner died as a result of an offence to provide evidence of a 'genuine' personal relationship with the victim who has died as a result of an offence.

Section 27 - Cultural Rights of Aboriginal and Torres Strait Islander peoples

Section 27 of the HRA states Aboriginal and Torres Strait Islander peoples hold distinct cultural rights and must not be denied the right to maintain, control, protect and develop their kinship ties. The Act already defines a 'family member' as being in accordance with the primary victim's Aboriginal community or Torres Strait Islander community.

Removing the requirement of evidence of a genuine relationship ensures that the administration of the scheme is delivered in a culturally appropriate way that acknowledges the importance of kinship ties, without requiring 'evidence' during a significant period of grief for a related victim.

Section 12 – Right to privacy

Under section 12 of the HRA, everyone has the right not to have their privacy interfered with unlawfully or arbitrarily. The right to privacy includes communication and informational privacy such as the protection of personal, confidential information. The Bill promotes the right to privacy as it protects a victim's privacy by ensuring personal information contained in their application for financial assistance is not used in unrelated legal proceedings by third parties.

Rights potentially limited

Section 21 – Rights to a fair trial and fair hearing

1. Nature of the right and the limitation (s28(a) and (c))

Under section 21 of the HRA Act the right to fair trial and fair hearing applies to the determination of criminal charges or the determination of rights or obligations recognised by law. The right to a fair hearing is concerned with procedural fairness.

The Bill engages the right to a fair hearing by providing that application material, or evidence of its contents, is not admissible in evidence in certain court proceedings. No one may be compelled to produce a document that is application material or to disclose or give evidence of the contents of application material. This may affect the procedural fairness afforded to parties in a court proceeding or their ability to present their case before a judicial officer. In relation to the scope of the engagement of the right, the provision in question is concerned with the specific protection of application material not being used for unrelated purposes.

2. Legitimate purpose (s28(b))

The legitimate purpose of this potential limitation is to protect the privacy of vulnerable victims of crime as well as sensitive information and other documents they may provide in relation to the application held by VSACT from being accessed by third parties for unrelated purposes. It also prevents a third party from going on a fishing expedition when filing subpoenas for documents which could be oppressive and lack a legitimate forensic purpose.

3. Rational connection between the limitation and the purpose (s28(d))

There is a rational connection between the purpose of the limitation in protecting victims of crime and maintaining confidentiality of applications with the potential limitation on the right..

Currently, a third party, such as counsel for the defence, can request access and use a victim's application for financial assistance for unrelated purposes, including during a custody dispute or criminal proceedings for the offence that resulted in the harm to the applicant/victim of crime.

An application for financial assistance often contains highly sensitive information, including information about the victim's emotional state as a result of the offence that the other party could use during the custody dispute.

The amendment in the Bill will reassure victims that they can provide detailed personal information as part of the application process without fear that the information could be used to the victim's detriment. This will also help maintain the integrity and confidentiality of the applications.

4. Proportionality (s28 (e))

The approach chosen in the Bill to protect application materials being accessed for unrelated purposes is proportionate to achieving the objective of protecting the privacy of victims of crime and their sensitive information in their applications while also maintaining the integrity and confidentiality of the application itself.

The right of a victim under section 14F of the *Victims of Crime Act 1994* states a justice agency must not disclose personal information about a victim or a family of the victim unless the information is disclosed in the course of a proceeding before a court or tribunal, under a territory law or with the victim's consent.

Applications for financial assistance can contain information collated from a variety of sources. This could include information relating to alleged acts of violence and which organisations a victim is receiving support from. Victims often provide information and consent to the Commissioner to request and obtain highly sensitive personal information from entities such as the Domestic Violence Crisis Service, medical professionals, the hospital, and counsellors.

Allowing third parties the ability to subpoena one agency in order to access sensitive documents from a variety of sources can be oppressive and can impact on the victim and their willingness to access therapeutic supports and undermines the beneficial nature of the scheme, a victim feeling safe to apply for financial assistance and continue to access therapeutic support.

As noted by the PAVER Review, this amendment is similar with New South Wales (NSW) which protects victims' information in subsequent legal proceedings (whether criminal or civil) by prohibiting access to, and admission of, all documents held by the NSW Commissioner of Victims Rights in legal proceedings other than proceedings against the applicant (*Victims' Rights and Support Act 2013*, section 113).

The amendment allows the application material or evidence of its content to be accessible in certain circumstances where there is a legitimate purpose. This includes the purposes of an appeal or review of a decision regarding financial assistance, where an applicant requests access to their own application under the *Freedom of Information Act 2016* or where it is necessary to serve on an applicant a copy of every relevant document or part of a document in VSACT's possession or control to the review of the decision by the tribunal as currently required by rule 130 of the ACT Civil and Administrative Tribunal Procedures Rules 2020.

The impact of any limitation on rights circumscribed in its scope by the fact that VSACT will only hold copies of sensitive material relating to the financial assistance application itself and the information originates from third party agencies.

The amendment will not restrict an applicant's ability to subpoena information from the originating third party agency. The amendment simply prevents the ability of an alleged offender or third parties to circumvent that process by seeking to obtain access to a victim's highly sensitive and personal information from the financial assistance application and supporting materials held by VSACT.

Any limitations on rights are reasonable and proportionate in accordance with section 28 of the HRA.

VICTIMS OF CRIME (FINANCIAL ASSISTANCE) AMENDMENT BILL 2024

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Victims of Crime (Financial Assistance) Amendment Bill 2024**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA
Attorney-General

CLAUSE NOTES

Clause 1 Name of Act

This clause provides that the name of the Act is the *Victims of Crime (Financial Assistance) Amendment Act 2024*.

Clause 2 Commencement

This clause provides for the Act (Other than those provisions specified in subsection (2)) will commence on the day after its notification day. The provisions listed in subsection (2) will have a delayed commencement of 1 July 2025.

Clause 3 Legislation amended

This clause identifies that the Act will amend the *Victims of Crimes (Financial Assistance) Act 2016* (the Act).

Clause 4 Meaning of act of violence

Section 7 (1) (c)

This clause omits section 7 (1) (c). It will be replaced by new section 98 (clause 15).

Clause 5 Meaning of *circumstances of aggravation for an offence*

Section 8

This clause omits section 8.

Section 8 of the Act currently lists ‘circumstances of aggravation’ relevant to the offences for which a primary victim can receive a recognition payment. The Regulation currently provides that, where an offence involves one or more aggravating circumstance, the victim is entitled to a higher payment.

The PAVER Review recommended simplifying the categories in the Regulation by removing the circumstances of aggravation (recommendation 10(e)). Consistent with this, this clause omits section 8 from the Act.

The recognition payments specified in the Regulation, including the different amounts payable where there are one or more aggravating circumstances, will continue to apply until the Regulation is amended to allow time to amend the Regulation to remove references to circumstances of aggravation.

Clause 6 Meaning of *class B related victim*

Section 14, definition of *class B related victim*,

Paragraph (b), except note

This clause substitutes section 14(b).

The Act currently provides that a ‘class B related victim’, as defined by section 14 of the Act, includes a close family member of the primary victim who has a ‘genuine personal relationship’ with the primary victim. A class B related victim is eligible for a recognition payment in relation to the death of a primary victim.

Seeking evidence of a genuine personal relationship from a family member during a time of grief could undermine the beneficial intent of the financial assistance scheme. The PAVER Review recommended removing the requirement for a family member to provide evidence of a ‘genuine personal relationship’ with the primary victim (recommendation 4) noting that eligibility should be determined according to the status of a person’s relationship with the primary victim rather than the quality or nature of that relationship.

Consistent with that recommendation, this clause removes the requirement for a close family member to provide evidence of a genuine personal relationship, reducing the evidential burden on close family members applying for financial assistance.

Clause 7 Meaning of *class C related victim*

Section 15 (2), definition of *family member*

This clause substitutes section 15(2). This amendment makes two changes to the definition of ‘family member’. The first change relates to the requirement to demonstrate a genuine personal relationship with the primary victim. The second relates to how family members of a primary victim who is an Aboriginal or Torres Strait Islander person is described.

Currently, section 15(2)(a) of the Act provides that a ‘class C related victim’, as defined by section 15 of the Act, includes a family member of the primary victim who has a ‘genuine personal relationship’ with the primary victim. A class C related victim is eligible for a recognition payment in relation to the death of a primary victim.

As noted above, the PAVER Review recommended removing the requirement for a family member to provide evidence of a ‘genuine personal relationship’ with the primary victim (recommendation 4).

Consistent with that recommendation, this clause removes the requirement in current section 15(2)(a) for a family member to provide evidence of a genuine personal relationship, reducing the evidential burden on family members applying for financial assistance.

New section 15(2)(a) does not change the family members who are eligible to apply for financial assistance. New section 15(2)(a) sets out the same list of family members that were previously listed in section 15(2)(a)(i) of the Act.

Currently, section 15(2)(b)(ii) of the Act acknowledges that the notion of family membership can differ for Aboriginal and Torres Strait Islander communities, and ensures a person regarded as a brother, sister, stepbrother, stepsister, half-brother or half-sister of a primary victim who is an

Aboriginal person or Torres Strait Islander person by the primary victim’s community, is treated as a family member for the purposes of the Act.

New section 15(2)(b), which replaces section 15(2)(b)(ii), retains that important provision. However, new section 15(2)(b) has been amended to include the words ‘the traditional and customs of’ to be consistent with other ACT legislation, including the definition of ‘family’ in the *Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022*.

The definition of family member is also relevant to the meaning of ‘victim’ in the *Victims of Crime Act 1994* and the *Victims of Crime Regulation 2000*.

Clause 8 Recognition payment for primary victim

Section 28 (2) (b)

This clause omits section 28(b)(i) to (iii) and substitutes it with new section 28(b).

Section 28(2)(ii) of the Act currently provides for Regulations to prescribe if aggravating circumstances apply to an offence in which a victim was harmed. Section 28(2)(iii) of the Act provides for the making of Regulations prescribing if a victim sustained a very serious injury that is likely to be permanent as a result of an offence in which a victim was harmed. The recognition payments specified in the Regulation are currently higher depending on the number of aggravating circumstances present, or if the victim sustains a very serious injury that is likely to be permanent.

As noted above, the PAVER Review recommended simplifying the categories in the Regulation (recommendation 10(e)). Consistent with this, this clause removes the provisions authorising the Regulations to prescribe if aggravating circumstances apply to an offence or if a victim sustained a very serious injury that is likely to be permanent.

The current recognition payments set out in the Regulation, which include aggravating circumstances and the reference to serious/permanent injury, will continue to apply until the Regulation is amended. Accordingly, commencement of this amendment is delayed until 1 July 2025 (see clause 2) to allow time to amend the Regulation to remove references to circumstances of aggravation. Any application that is lodged prior to 1 July 2025 but is not assessed until after 1 July 2025 will be assessed according to the eligibility that was in force at the time the application was lodged.

Clause 9 Deciding matters relevant to application for financial assistance generally

Section 43, example 2

This clause omits example 2 as currently listed under section 43 of the Act.

Section 43 provides that the Commissioner must be satisfied of relevant matters on the balance of probabilities when deciding an application for financial assistance. Eight examples of matters that may be relevant to an application for financial assistance are listed below section 43. Example 2 is ‘whether a circumstance of aggravation applies to an offence’.

The removal of aggravating circumstances (outlined above) means example 2 is no longer relevant. Accordingly, this amendment removes example 2.

As noted above, the current recognition payments set out in the Regulation, which include aggravating circumstances, will continue to apply until the Regulation is amended. Accordingly, commencement of this amendment is delayed until 1 July 2025 to allow time to amend the Regulation to remove references to circumstances of aggravation.

Clause 10 Deciding whether applications involve related acts of violence

Section 44 (7)

This clause omits section 44(7).

Section 44 of the Act provides information relevant to determining requests for financial assistance where a victim submits two or more separate applications for financial assistance.

Section 44(7) currently provides information about deciding requests for recognition payments that may include a circumstance of aggravation.

The removal of aggravating circumstances (outlined above) means section 44(7) is no longer relevant. Accordingly, this amendment removes section 44(7).

Clause 11 Circumstances in which the financial assistance must not be given

Section 45 (3) (b)

This clause omits section 45(3)(b) and substitutes it with new section 45(3)(b).

Section 45 of the Act sets out the process for notifying an applicant that he or she is not eligible for financial assistance. Section 45(2) requires the Commissioner to send an applicant assessed as ineligible for financial assistance a provisional notice advising of the disqualifying circumstance and providing 14 days for the applicant to provide information about why a disqualifying circumstance does not apply. Section 45(3) currently requires the Commissioner to send a final notice, including in circumstances where the applicant has not provided a response to the provisional notice.

This amendment removes the requirement in section 45(3) for the Commissioner to send a second notification to an applicant advising that they are not eligible for support where the applicant has not responded to the first notification. This is designed to avoid imposing additional trauma on ineligible applicants that can result from receiving two notices advising of ineligibility.

The amendment does not change the process where an applicant provides a response to the provisional notice. In those cases, the Commissioner is required to consider the information provided by the applicant, make a decision, and write to the applicant advising of that decision in accordance with the provisions of the Act.

Clause 12 Deciding amount of financial assistance

Section 46 (2) (c) (ii)

This clause omits section 46(2)(c)(ii).

Section 46(2)(c) sets out the process for deciding an application for a recognition payment.

Section 46(2)(c)(ii) currently provides information relevant to deciding requests for recognition payments that may include any circumstances of aggravation or a very serious/permanent injury.

The removal of aggravating circumstances (outlined above) means section 46(2)(c)(ii) is no longer relevant. Accordingly, this amendment removes section 46(2)(c)(ii).

Clause 13 Secrecy

Section 89 (4), new note

This clause inserts a new note, 'See also s 95 A (Application material not admissible in court)' in section 89(4).

Clause 14 New section 95A

Application material not admissible in certain court proceedings

This clause inserts new section 95A in part 10.

The PAVER Review recommended a victim's application and supporting documentation should be protected and not admissible in other legal proceedings (recommendation 10(f)).

New section 95A provides application material, or evidence of its contents, is not admissible in certain court proceedings. No one may be compelled to produce application material or to disclose, or give evidence of, the contents of application material in relation to a court proceeding.

This amendment is similar to s 113 of the NSW *Victims Rights and Support Act 2013* where the victims' application and any documents supporting the application is not admissible as evidence in subsequent legal proceedings.

New Section 95A (3) provides exceptions to the admissibility in certain court proceedings if the proceeding is under or in relation to the *Victims of Crime (Financial Assistance) 2016*, or for offences that involve dishonesty which the application is a fact in issue. This is to capture instances where applicants are seeking a review of the decision for financial assistance, or in circumstances where there is dishonest conduct, including but not limited to, fraudulent applications for financial assistance, where criminal charges are laid in relation to the alleged fraudulent application and the application is the fact in issue.

Clause 15 New section 98

Applications for financial assistance in relation to criminal injuries before commencement of this Act

This clause inserts new section 98.

New section 98 sets out eligibility for applications for financial assistance for acts of violence that occurred before the commencement of the *Victims of Crime (Financial Assistance) Act 2016*. This section ensures that if a victim was eligible to apply under the repealed *Crime (Financial Assistance) Act 1983* (Repealed 1983 Act), or under the 2016 Financial Assistance Act in accordance with the expired section 203, that they are now eligible to apply under the 2016 Financial Assistance Act from the date of commencement.

New Section 98 (3) makes it clear that it does not apply if a person has already received financial assistance for a criminal injury either under the Repealed 1983 Act, or under the current Financial Assistance Act in accordance with expired section 203.

Due to a delayed commencement of 1 July 2025, Section 98 (4) explicitly extinguishes any right to make an application for financial assistance under the expired transitional provisions under section 203 from 1 July 2025, when section 98 commences.

Section 98 (5) makes clear that any application that is lodged prior to 1 July 2025 but is not assessed until after 1 July 2025 will be assessed according to the eligibility that was in force at the time the application was lodged.

Clause 16 General offences

Schedule 1, division 1.2.1, new item 2A

This clause inserts a new item into the table of General offences in Division 1.2.1 of Schedule 1 of the Act.

Schedule 1 of the Act lists the offences for which victims can seek financial assistance. Currently, intimate abuse image offences are not listed as offences for which a victim of crime is eligible for financial assistance. Offences of a similar nature are already included in Schedule 1 of the Act, and it is appropriate that victims of these harmful offences are eligible for financial assistance to help their recovery.

This clause adds intimate image abuse offences in Part 3A of the Crimes Act to the offences listed in Division 1.2.1 of Schedule 1 of the Act. This ensures victims of this harmful conduct are eligible for financial assistance.

Intimate image abuse was inserted into the *Crimes Act 1900* and notified on 29 August 2017, as such, victims who experienced intimate image abuse on or after 30 August 2017 will be eligible for financial assistance from the day after notification of this Bill.

Clause 17 Dictionary, definition of *circumstance of aggravation*

This clause omits the definition of circumstances of aggravation as it is no longer applicable to the Act. As outlined above, the PAVER Review recommended simplifying the categories in the Regulation (recommendation 10(e)). Consistent with this, the removal of provisions authorising the Regulations to prescribe if aggravating circumstances apply to an offence that a dictionary definition is no longer required.

Clause 18 Dictionary, definition of *very serious injury*

This clause omits the definition of very serious injury as it is no longer applicable to the Act. As outlined above, the PAVER Review recommended simplifying the categories in the Regulation (recommendation 10(e)). Consistent with this, the removal of provisions authorising the Regulations to prescribe if a victim sustained a very serious injury that is likely to be permanent means that a dictionary definition is no longer required.