



Victims' Rights Act 2002

Public Act 2002 No 39
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Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Victims' Rights Act 2002.

Part 1
Preliminary provisions

2 Commencement

This Act comes into force 2 months after the date on which it receives the Royal assent.

3 Purpose of Act

The purpose of this Act is to improve provisions for the treatment and rights of victims of offences.

4 Interpretation

In this Act, unless the context otherwise requires,—

accused or **person accused of the offence**, in relation to a victim, means a person charged (whether as a principal or party or accessory after the fact or otherwise) with the commission of the offence that affected the victim

child means a boy or girl under the age of 14 years

hospital has the same meaning as in section 2(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992

immediate family, in relation to a victim,—

(a) means a member of the victim's family, whanau, or other culturally recognised family group, who is in a close relationship with the victim at the time of the offence; and

(b) for the avoidance of doubt, includes persons whose relationship to the victim at that time is close through a relationship that is, or 1 or more relationships that are, that of spouse or de facto partner (whether the partner and victim are of the same sex or different sexes), child or step-child, brother or step-brother, sister or step-sister, parent or step-parent, and grandparent

incapable, in relation to a person,—

(a) means that the person—

- (i) lacks, wholly or partly, the capacity to understand the nature, and to foresee the consequences, of decisions in respect of matters relating to his or her personal care and welfare; or
- (ii) has the capacity to understand the nature, and to foresee the consequences, of decisions in respect of matters relating to his or her personal care and welfare, but wholly lacks the capacity to communicate decisions in respect of matters of that kind; and
- (b) includes the person being in a state of continuing unconsciousness

judicial officer means a Judge, or other person who holds a judicial office (for example, a Justice of the Peace or Community Magistrate), exercising jurisdiction in criminal cases and, in relation to proceedings in court, means the judicial officer presiding over the proceedings

lawyer means a barrister or solicitor, as those terms are defined in section 2 of the Law Practitioners Act 1982

offence, in relation to a victim,—

- (a) means an offence against an enactment—
 - (i) committed against the victim (or committed against a child or young person of whom the victim is a parent or legal guardian); or
 - (ii) through which, or by means of which, the victim (or a child or young person of whom the victim is a parent or legal guardian) suffered physical injury or emotional harm, or loss of, or damage to, property; or
 - (iii) that resulted in the death of a member of the victim's immediate family, or in a member of the victim's immediate family being incapable; and
- (b) includes an alleged offence (whether or not a person is convicted of the offence) committed against the victim (or committed against a child or young person of whom the victim is a parent or legal guardian), or that has affected the victim (or a child or young person of whom the victim is a parent or legal guardian) in any of the ways referred to in paragraph (a)(ii) or (iii)

offender, in relation to a victim,—

- (a) means a person convicted of the crime or offence that affected the victim; and
- (b) in sections 17 to 27 (which relate to victim impact statements), includes a person found guilty of, or who pleads guilty to, that crime or offence

support person, in relation to a victim, means—

- (a) a spouse of the victim, or de facto partner of the victim (whether the partner and victim are of the same sex or different sexes):
- (b) a parent or another close relative or a legal guardian of the victim:
- (c) a Social Worker (as defined in section 2(1) of the Children, Young Persons, and Their Families Act 1989) if—
 - (i) the victim is a child or young person who is in the custody or under the guardianship or in the care of the chief executive or another person under that Act; or
 - (ii) the victim is an unmarried child placed under the guardianship of the Court by an order under section 10B(1)(a) of the Guardianship Act 1968, and the Social Worker is appointed the agent of the Court by an order under section 10B(1)(b) or section 10D(1)(c)(ii) of that Act:
- (d) a welfare guardian of the victim, or manager of the property of the victim, appointed under the Protection of Personal and Property Rights Act 1988:
- (e) an attorney appointed by the victim under a power of attorney described in section 95 of the Protection of Personal and Property Rights Act 1988 if—
 - (i) the matter is one relating to the personal care and welfare of the victim in relation to which the attorney is authorised to act under the power of attorney; and
 - (ii) the occasion for the attorney to act has arisen under section 98(3) of that Act

victim—

- (a) means—
 - (i) a person against whom an offence is committed by another person; and
 - (ii) a person who, through, or by means of, an offence committed by another person, suffers

- physical injury, or loss of, or damage to, property; and
- (iii) a parent or legal guardian of a child, or of a young person, who falls within subparagraph (i) or subparagraph (ii), unless that parent or guardian is charged with the commission of, or convicted or found guilty of, or pleads guilty to, the offence concerned; and
 - (iv) a member of the immediate family of a person who, as a result of an offence committed by another person, dies or is incapable, unless that member is charged with the commission of, or convicted or found guilty of, or pleads guilty to, the offence concerned; and
- (b) for the purposes only of sections 7 and 8, includes—
- (i) a person who, through, or by means of, an offence committed by another person, suffers any form of emotional harm; and
 - (ii) a parent or legal guardian of a child, or of a young person, who falls within subparagraph (i), unless that parent or guardian is charged with the commission of, or convicted or found guilty of, or pleads guilty to, the offence concerned; and
- (c) despite paragraphs (a) and (b), if an offence is committed by a person, does not include another person charged (whether as a principal or party or accessory after the fact or otherwise) with the commission of, or convicted or found guilty of, or who pleads guilty to,—
- (i) that offence; or
 - (ii) an offence relating to the same incident or series of incidents as that crime or offence

young person means a boy or girl of or over the age of 14 years but under 17 years; but does not include a person who is or has been married.

Compare: 1987 No 173 s 2

5 Directions about members of immediate family

- (1) This section applies when an offence committed by a person results in the death of another person (**person A**) or in that other person being incapable.

- (2) On an application for the purpose by or on behalf of a person who is not a member of person A's immediate family for the purposes of this Act, a judicial officer may give a direction that the person must be treated as if he or she were a member of person A's immediate family for the purposes of this Act.
- (3) On an application for the purpose by a prosecutor, and in the circumstances stated in subsection (4), a judicial officer may—
 - (a) give a direction that a person who is a member of person A's immediate family for the purposes of this Act must be treated as if the person were not a member of person A's immediate family for the purposes of this Act; or
 - (b) revoke a direction, given under subsection (2), that required a person to be treated as a member of person A's immediate family for the purposes of this Act.
- (4) The circumstances are that the judicial officer is satisfied—
 - (a) that 1 or more members of person A's immediate family, being members of that kind closer to person A than the person, consider it improper that the person be treated as a member of person A's immediate family for the purposes of this Act; or
 - (b) that the interests of justice require that the person not be treated as a member of person A's immediate family for the purposes of this Act.
- (5) A person who is the subject of a direction given and not later revoked under this section must be treated in accordance with the direction.

6 Act binds the Crown

This Act binds the Crown.

Part 2

Provisions relating to treatment and rights of victims generally

Principles guiding treatment of victims

7 Treatment

Any person who deals with a victim (for example, a judicial officer, lawyer, member of court staff, member of the police, or other official) should—

- (a) treat the victim with courtesy and compassion; and
- (b) respect the victim's dignity and privacy.

Compare: 1987 No 173 s 3

8 Access to services

A victim or member of a victim's family who has welfare, health, counselling, medical, or legal needs arising from the offence should have access to services that are responsive to those needs.

Compare: 1987 No 173 s 4

9 Meetings to resolve issues relating to offence

- (1) If a suitable person is available to arrange and facilitate a meeting between a victim and an offender to resolve issues relating to the offence, a judicial officer, lawyer for an offender, member of court staff, probation officer, or prosecutor should, if he or she is satisfied of the matters stated in subsection (2), encourage the holding of a meeting of that kind.
- (2) The matters are—
 - (a) that the victim and offender agree to the holding of a meeting of that kind; and
 - (b) that the resources required for a meeting of that kind to be arranged, facilitated, and held, are available; and
 - (c) that the holding of a meeting of that kind is otherwise practicable, and is in all the circumstances appropriate.

10 Enforceability of principles

Sections 7 to 9, and the principles in them guiding the treatment of victims, do not confer on any person any legal right that is enforceable, for example, in a court of law.

Compare: 1993 No 28 s 11(2)

Information to be given to victims

11 Information about programmes, remedies, and services

- (1) A victim must, as soon as practicable after the victim comes into contact with an agency, be given information by the personnel of the agency about programmes, remedies, or services available to the victim through the agency.
- (2) In this section, **agency** means—

- (a) the Accident Compensation Corporation:
 - (b) the Department of Child, Youth and Family Services:
 - (c) the Department for Courts:
 - (d) the Department of Work and Income:
 - (e) a DHB (as defined in section 6(1) of the New Zealand Public Health and Disability Act 2000):
 - (f) the New Zealand Police.
- (3) Nothing in this section prevents information of a kind that, under this section, must be given to a victim of an offence, from also being given to any other person (for example, to a person who was disadvantaged by the offence).

12 Information about proceedings

- (1) A victim must, as soon as practicable, be given information by investigating authorities or, as the case requires, by members of court staff, or the prosecutor, about the following matters:
- (a) the progress of the investigation of the offence:
 - (b) the charges laid or reasons for not laying charges, and all changes to the charges laid:
 - (c) the victim's role as a witness in the prosecution of the offence:
 - (d) the date and place of each event listed in subsection (2):
 - (e) every final disposition of all proceedings (at first instance or on appeal (if any)) relating to the offence, for example—
 - (i) any convictions or pleas of guilty entered, and sentences imposed, in relation to the offence; or
 - (ii) any acquittal or deemed acquittal or finding that the charge was not proved; but not
 - (iii) whether the accused or offender is granted bail.
- (2) The events referred to in subsection (1)(d) are—
- (a) the first appearance in court, in connection with the offence, of the person accused of the offence:
 - (b) any preliminary hearing relating to the offence:
 - (c) any defended hearing, or trial, relating to the offence:
 - (d) any hearings set down for sentencing for the offence:
 - (e) any hearings of appeals (if any) against conviction of the offence, or against the sentence imposed, or to be imposed, for the offence, or both.
- (3) Nothing in this section prevents information of a kind that, under this section, must be given to a victim of an offence,

from also being given to any other person (for example, to a person who was disadvantaged by the offence).

- (4) In this section, **investigating authorities** means persons or bodies investigating the offence in the performance or exercise of their official functions, powers, or duties; but does not include a person exercising or performing functions, powers, or duties of a probation officer under the Criminal Justice Act 1985 or any other enactment.

Compare: 1987 No 173 s 6

13 Limits on duties to give information under sections 11 and 12

- (1) Nothing in section 11 or section 12 requires any person to give information if good reason for withholding the information would exist under any of sections 6, 7, and 9 of the Official Information Act 1982, if a request for that information were made under that Act.
- (2) An example of a case where good reason of that kind for withholding information would exist is where the giving of the information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial.
- (3) Nothing in section 11 or section 12 affects any enactment, rule of law, or order or direction of a court that prohibits or restricts the making available of information of a kind referred to in section 11 or section 12 (for example, one forbidding the publication, in a report or account of proceedings in respect of an offence, of the name of, or of any particulars likely to identify, a participant in the proceedings).

14 Information may be given to victim's support person

Information required to be given under section 11 or section 12 may be given to a support person of a victim if the victim—

- (a) cannot receive it; or
(b) is not, or may not be, capable alone of understanding it.

*Privacy of victims***15 Victim's rights under Privacy Act 1993**

- (1) No person may interfere with the privacy of a victim contrary to the Privacy Act 1993.
- (2) This section is not limited by section 7, and does not limit or affect, or give any person any rights separate from, or additional to, the Privacy Act 1993.

16 Restriction on giving victim's precise address in evidence or information provided to court

- (1) This section applies to information (the **information**) that identifies, or that may lead to the identification of, the address of the place where the victim lives (for example, his or her postal address, email address, fax number, or phone number).
- (2) The information may be given in evidence or in information provided to a court only with the leave of the judicial officer.
- (3) The judicial officer must not grant leave unless satisfied—
 - (a) that the information is directly relevant to the facts in issue in the proceedings; and
 - (b) that the evidential value of the information (if any) outweighs any prejudice to the victim's interests, or any harm to the victim, that is likely to be caused by the giving of the information.

Compare: 1987 No 173 s 9

*Victim impact statements***17 Victim impact statements in sentencing of offender**

- (1) The prosecutor must make all reasonable efforts to ensure that information is ascertained from the victim, for submission under section 21 to the judicial officer sentencing the offender, about the following matters:
 - (a) any physical injury or emotional harm suffered by the victim through, or by means of, the offence; and
 - (b) any loss of, or damage to, property suffered by the victim through, or by means of, the offence; and
 - (c) any other effects of the offence on the victim.

- (2) When a person is a victim because of paragraph (a)(iii) of the definition of that term in section 4, then a reference in subsection (1)(a) to (c) of this section to “the victim” includes a reference to the child or young person concerned.

Compare: 1987 No 173 s 8(1)

18 Procedure before ascertaining information from victim

The prosecutor must make all reasonable efforts to ensure, before information is ascertained from a victim under section 17,—

- (a) that the victim is informed—
- (i) that the information is being ascertained for submission to the judicial officer sentencing the offender; and
 - (ii) that the victim must ensure that any information that he or she gives is true; and
 - (iii) that the information must be recorded, and may be verified in the way stated in section 19(3) or (4); and
- (b) that the victim is informed about who may properly see or make or keep copies of the information ascertained, and about the orders, directions, and conditions, relating to disclosure and distribution of it, that may be made under sections 24(3)(b), 25, and 27; and
- (c) that any views the victim has on whether the prosecutor should apply for orders, directions, or conditions of that kind, are ascertained.

19 Form and verification of information ascertained

- (1) Information ascertained from a victim under section 17 must be put into writing or recorded in another way (for example, on audiotape or videotape), unless the victim objects to it being submitted to the judicial officer sentencing the offender.
- (2) Information recorded under subsection (1) may be verified—
- (a) in the way stated in subsection (3), if practicable; or
 - (b) if it is not practicable to verify it in the way stated in subsection (3), in the way stated in subsection (4).
- (3) The information may be verified by being submitted to the victim for signature or other approval, and signed or otherwise approved by the victim, after the prosecutor, or some other

person on behalf of the prosecutor, has added to it statements—

- (a) that the victim gave the information knowing that it was for submission to the judicial officer sentencing the offender, and knowing that he or she was required to ensure that any information that he or she gave is true; and
 - (b) that the information is true to the best of the victim's knowledge and belief.
- (4) The information may also be verified by being signed or otherwise approved by the prosecutor, or some other person on behalf of the prosecutor, after the prosecutor or other person has added to it statements that he or she—
- (a) advised the victim that it was for submission to the judicial officer sentencing the offender, and that the victim was required to ensure that any information that he or she gave is true; and
 - (b) read it or replayed it or submitted it in another way to the victim, and is satisfied that the victim approves of it.

20 Statements by others disadvantaged by offence

- (1) The prosecutor may, if he or she considers it appropriate to do so, decide to treat as a victim, for the purposes of sections 17 to 19 and sections 21 to 27, a person—
- (a) who was disadvantaged by an offence; and
 - (b) from whom information on the effects of the offence has been, or could be, ascertained by or on behalf of the prosecutor; and
 - (c) who is not a victim of the offence, a person accused of the offence, or the offender.
- (2) If the prosecutor decides under subsection (1) to treat a person as a victim of an offence, the person must be treated for the purposes of sections 17 to 19 and sections 21 to 27 as if he or she were a victim of the offence.

21 Information ascertained to be submitted to judicial officer

- (1) Information recorded under section 19(1) must be submitted to the judicial officer sentencing the offender. However, if the information was ascertained from a person treated as a victim,

under section 20, it may be submitted only with the leave of the judicial officer.

- (2) The information must be submitted by the prosecutor and in the form in which it was recorded under section 19(1), unless—
 - (a) the judicial officer, on a request made by the prosecutor for the purpose, permits all or part of it to be submitted instead by the prosecutor reading it, replaying it, or submitting it in another way;
 - (b) a request is made by, or on behalf of, the victim, that all or part of it be submitted instead by the victim, or by 1 person named by the victim, reading all or part of it, and the judicial officer does not direct otherwise.
- (3) In determining the weight (if any) to give to the information, the judicial officer must have regard to whether or not it was verified in the way stated in section 19(3) or (4).

Compare: 1987 No 173 s 8(2), (4)

22 **Victim impact statement defined**

In sections 23 to 27, **victim impact statement**—

- (a) means information prepared for submission to, or submitted to, a judicial officer, under sections 17 to 21; and
- (b) includes any recording, summary, transcript, or other copy of information of that kind.

23 **Offender not to be given statement to keep**

- (1) A prosecutor, or lawyer for an offender, who has a copy of a victim impact statement relating to an offender, must show the statement to the offender if asked to do so by the offender, unless the prosecutor or lawyer—
 - (a) intends to apply for an order under section 25 in respect of part of the statement; or
 - (b) knows that an application of that kind is to be made, or has been made but has not yet been determined.
- (2) However, no person (other than the victim concerned, or a person acting under the authority of the victim concerned) may give an offender a victim impact statement to keep.
- (3) Nothing in this section permits a person to show part of a victim impact statement to an offender or a lawyer representing an offender contrary to an order made under section 25.

- (4) Despite anything in the Privacy Act 1993, no offender may have access to a victim impact statement relating to the offender under that Act.

24 Return of statements at end of proceedings

- (1) Every person who receives or makes a copy or copies of a victim impact statement during proceedings must return the copy or copies to a member of court staff as soon as practicable after the end of the proceedings.
- (2) In subsection (1), **end of the proceedings**, in relation to an offence,—
- (a) means the date of disposal of all appeals (if any) against conviction of the offence, or a sentence imposed for the offence, or both, lodged by the date when the time for lodging those appeals expires; and
 - (b) if there are no rights of appeal of that kind, the date on which proceedings relating to the offence are otherwise finally determined.
- (3) Subsection (1) does not apply to—
- (a) the victim concerned, a member of court staff, member of the police, probation officer, or prosecutor; and
 - (b) any other person (other than the offender) if the judicial officer, in his or her discretion and on an application for the purpose, orders that the other person need not return the copy or copies of the statement.

25 Judicial officer may withhold part of statement from offender to protect victim's physical safety or security

A judicial officer may, on his or her own initiative or on an application for the purpose, order that an offender and every lawyer (if any) representing the offender not be given or shown any part of a victim impact statement if, in the judicial officer's opinion, withholding the part is necessary to protect the physical safety or security of the victim concerned.

26 Judicial officer not to take into account withheld part

A judicial officer must not take into account in sentencing the offender a part of a victim impact statement withheld under an order made under section 25.

27 Directions or conditions on other disclosure or other distribution of statements

- (1) The judicial officer may, on his or her own initiative or on an application for the purpose by the prosecutor, give directions, or impose conditions, that—
 - (a) relate to the disclosure and distribution of a victim impact statement; and
 - (b) may be necessary to protect the victim's physical safety or security, emotional welfare, and privacy; and
 - (c) are not inconsistent with section 23(1) or (2) or with any order made under section 24(3)(b) or section 25.
- (2) Under subsection (1), the judicial officer may—
 - (a) give directions or impose conditions about the copying of the statement, including the number of copies that may be made:
 - (b) give directions to, or impose conditions on, the people to whom the statement may be disclosed or distributed:
 - (c) direct that all or any part of the statement not be disclosed or distributed, either generally or to a specified person:
 - (d) impose conditions on the disclosure or distribution of all or any part of the statement:
 - (e) direct that all or any part of the statement not be published, either generally or by a specified person:
 - (f) impose conditions on the publication of all or any part of the statement:
 - (g) give directions, and impose conditions, about any other matters to do with the disclosure and distribution of the statement that the judicial officer considers necessary or appropriate in the circumstances.
- (3) No direction given, or condition imposed, under subsection (1) may be in the same terms or have the same effect as an order made under section 24(3)(b) or section 25.

Victim's views on application for order prohibiting permanently publication of name of accused or offender

28 Victim's views on application for order prohibiting permanently publication of name of accused or offender

- (1) This section applies to a victim if the person accused of the offence or, as the case requires, the offender applies to a court

under section 140 of the Criminal Justice Act 1985 for an order or further order—

- (a) prohibiting the publication of his or her name, address, or occupation, or of any particulars likely to lead to his or her identification; and
 - (b) having effect permanently.
- (2) If this section applies to a victim, the prosecutor—
- (a) must make all reasonable efforts to ensure that any views the victim has on the application are ascertained; and
 - (b) must inform the Court of any views ascertained under paragraph (a).

Part 3

Provisions relating to rights of victims of certain offences

Sections 30 to 48 apply only to victims of certain offences

29 Application of sections 30 to 48

Sections 30 to 48 apply to a victim only if the offence is—

- (a) one of sexual violation or other serious assault; or
- (b) one that resulted in serious injury to a person, in the death of a person, or in a person being incapable; or
- (c) one of another kind, and that has led to the victim having ongoing fears on reasonable grounds—
 - (i) for his or her physical safety or security; or
 - (ii) for the physical safety or security of 1 or more members of his or her immediate family.

Victim's views about release on bail of accused or offender

30 Victim's views about release on bail of accused or offender

If a person accused of the offence or, as the case requires, the offender, applies to a court for release on bail, the prosecutor must determine whether or not this section applies to a victim in accordance with section 29 and, if it does,—

- (a) must make all reasonable efforts to ensure that any views the victim has about the release on bail of the person accused of the offence or, as the case requires, the offender, are ascertained; and

- (b) must inform the Court of any views ascertained under paragraph (a).

Compare: 1987 No 173 s 10

Sections 32 to 38 and 47 apply only to victim who asked for notice and gave his or her current address

31 Application of sections 32 to 38 and 47

Sections 32 to 38 and 47 apply to a victim to whom this section applies only if the victim has—

- (a) asked the New Zealand Police to ensure that he or she—
 - (i) is given notice under sections 34 to 38; and
 - (ii) is given or supplied with notice or advice of matters or decisions or directions, and copies of orders and conditions, to be given or supplied to victims under sections 41, 43, 45, 50, and 58 (and any other relevant provisions) of the Parole Act 2002; and
- (b) given his or her current address (for example, a postal address, email address, fax number, or telephone number) to the New Zealand Police, at the same time as requesting the notice or advice and copies under paragraph (a); and
- (c) advised the people who would give or supply the notice or advice and copies of any changes to that address, before the time at which the notice or advice is, or the copies are, to be given or supplied.

Duties of police in relation to notice under sections 34 to 39

32 Police to give information about right to ask for notice and appointment of representative

- (1) As soon as practicable after a victim comes into contact with the New Zealand Police, the Commissioner of Police must determine whether or not this section applies to the victim in accordance with section 29 and, if it does,—
 - (a) must make all reasonable efforts to inform the victim that he or she has the right to ask to be given notice under sections 34 to 38 and that, if he or she asks to be given notice of that kind and gives the New Zealand Police his or her current address, then he or she may also be given notice under section 39; and

- (b) must, in the circumstances stated in subsection (2), make all reasonable efforts to inform a support person of the victim that a representative of the victim may be appointed under section 42.
- (2) The circumstances referred to in subsection (1)(b) are that the Commissioner knows, or ought reasonably to know, that the victim is not, or may not be, capable alone of—
 - (a) asking for, receiving, or understanding, notice under any of sections 34 to 39; and
 - (b) appointing a representative under section 40.
- (3) Subsection (1)(b) does not limit subsection (1)(a).

Victim's address to be forwarded in certain cases

33 Victim's address to be forwarded in certain cases

- (1) If a victim to whom this section applies has asked for notice or advice and copies under section 31(a), and has given the New Zealand Police his or her current address under section 31(b) and (c), the Commissioner of Police must forward a copy of that address—
 - (a) to the chief executive of the Department of Corrections, if the person accused of the offence or, as the case requires, the offender is or becomes liable to be detained in a penal institution in connection with the offence, and the Commissioner has not already forwarded a copy of the address under paragraph (b); and
 - (b) to the Director-General of Health, if the person accused of the offence or, as the case requires, the offender is or becomes liable to be detained in a hospital in connection with the offence, his or her liability to detention is of a kind referred to in section 37(1)(a) or (b), and the Commissioner has not already forwarded a copy of the address under paragraph (a).
- (2) The chief executive of the Department of Corrections must forward the current address of a victim to whom this section applies to the Director-General of Health if—
 - (a) that address has been given or forwarded to the chief executive under section 31(c) or subsection (1)(a) or subsection (3); and
 - (b) the offender, having been liable to be detained in a penal institution in connection with the offence, becomes liable to be detained in a hospital following an

- application under section 45(2) of the Mental Health (Compulsory Assessment and Treatment) Act 1992, or under an arrangement under section 46 of that Act.
- (3) The Director-General of Health must forward the current address of a victim to whom this section applies to the chief executive of the Department of Corrections if—
- (a) that address has been given or forwarded to the Director-General under section 31(c) or subsection (1)(b) or subsection (2); and
 - (b) the person accused of the offence or, as the case requires, the offender, having been liable to be detained in a hospital in connection with the offence, is removed to a penal institution under section 47 of the Mental Health (Compulsory Assessment and Treatment) Act 1992.
- (4) An address required to be forwarded under this section must be forwarded as soon as practicable after the requirement arises.

*Notice of certain matters to be given to victims
of certain offences*

34 Notice of release on bail of accused or offender

- (1) The Commissioner of Police must give a victim to whom this section applies notice, as soon as practicable, of—
- (a) every release on bail (if any) of the person accused of the offence or, as the case requires, the offender; and
 - (b) any terms or conditions of a release of that kind—
 - (i) that relate to the safety and security of the victim, or of 1 or more members of his or her immediate family, or of both; or
 - (ii) that require the accused or offender not to associate with, or not to contact, the victim, or 1 or more members of his or her immediate family, or both.
- (2) In this section, **release on bail** includes a release on bail—
- (a) until the hearing of proceedings;
 - (b) during an adjournment of proceedings;
 - (c) until sentencing;
 - (d) until determination of an appeal against conviction or sentence.

- (3) However, nothing in this section requires or permits the Commissioner to give notice of a matter contrary to an order made under section 19 of the Bail Act 2000 prohibiting publication of matters relating to a bail hearing.

35 Notice of temporary release from, or escape or absconding from, or death in, prison detention or home detention, of accused or offender

- (1) The chief executive of the Department of Corrections must give a victim to whom this section applies—
- (a) reasonable prior notice of the offender's impending—
 - (i) temporary release from the legal custody of the Superintendent of a penal institution, under section 21 of the Penal Institutions Act 1954 (other than a release of that kind throughout which the offender is to be accompanied by a member or members of the police); or
 - (ii) part-time release from custody of that kind, to engage in employment, under section 21A of that Act; and
 - (b) reasonable prior notice of the offender's impending release from prison detention or home detention if the offender does not have a parole eligibility date under section 20 of the Parole Act 2002; and
 - (c) notice, as soon as practicable, of—
 - (i) every escape from prison detention by the person accused of the offence or the offender; and
 - (ii) every instance of the offender, being on home detention in a residence, leaving that residence other than in accordance with his or her detention conditions; and
 - (d) notice, as soon as practicable, of the death in prison detention or home detention of the person accused of the offence or the offender.
- (2) However, notice under subsection (1)(c)(i) or (ii) need not be given if, before it has been practicable to give the notice, the accused or offender returns or is returned to the place of prison detention or to the residence in which he or she is on home detention.
- (3) In this section, **prison detention**—

- (a) means detention in a penal institution (or in a police station or other place of confinement in accordance with section 13 or section 26 of the Penal Institutions Act 1954); and
- (b) includes, if a child or young person is serving a sentence of imprisonment, detention of the child or young person under that sentence in a residence of the kind referred to in section 142A(1) of the Criminal Justice Act 1985; but
- (c) does not include detention of a child or young person in police custody, or in the custody of the chief executive, an Iwi Social Service, or a Cultural Social Service, and pending hearing, under section 238(1)(d) or (e) of the Children, Young Persons, and Their Families Act 1989; and
- (d) does not include detention of a kind referred to in section 37(1)(a) or (b) of this Act.

Compare: 1987 No 173 s 11

36 Notice of convictions for breaching release or detention conditions and of decisions on recall orders

- (1) The chief executive of the Department of Corrections must give a victim to whom this section applies notice, as soon as practicable, of—
 - (a) every conviction of the offender for an offence against section 71(1) of the Parole Act 2002 of breaching, without reasonable excuse, any release conditions or detention conditions imposed on the offender by the New Zealand Parole Board; and
 - (b) every decision to make an interim recall order, under section 62 of the Parole Act 2002, resulting in the offender being detained in a penal institution pending the determination of an application for recall made under that Act in respect of the offender; and
 - (c) every decision to make or to refuse to make a final recall order, under section 66 of the Parole Act 2002, recalling the offender to continue serving his or her sentence in a penal institution; and
 - (d) every decision to quash an interim recall order or a final recall order, being a decision made on a review under section 67 of the Parole Act 2002 (or made by the Board after a referral back to it on a review of that kind); and

- (e) every decision to quash a final recall order, being a decision made on an appeal under section 68 of the Parole Act 2002 (or made by the Board after a referral back to it on an appeal of that kind).
- (2) Nothing in subsection (1) prevents notice being given of other matters relating to the offender's compliance with release or detention conditions imposed on the offender.

37 Notice of discharge, leave of absence, or escape or death of accused or offender who is compulsorily detained in hospital

- (1) Without limiting sections 29 and 31, this section applies to a victim only if the person accused of the offence or, as the case requires, the offender, is liable to be detained in a hospital in connection with the offence and, when his or her liability of that kind began, he or she was liable to be detained in a hospital—
 - (a) as a special patient as defined in section 2(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
 - (b) under an order made under section 115(2)(a) or section 118(1) of the Criminal Justice Act 1985.
- (2) The Director-General of Health must give a victim to whom this section applies—
 - (a) reasonable prior notice of an impending discharge of the person or offender; and
 - (b) reasonable prior notice of the first unescorted leave of absence granted to the person or offender—
 - (i) by the responsible clinician under section 31 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or (as the case requires)
 - (ii) by the Minister of Health under section 50 of that Act; or
 - (iii) by the Director of Mental Health under section 52 of that Act; and
 - (c) notice, as soon as practicable, of every escape by the person or offender; and
 - (d) notice, as soon as practicable, of the death (whether within or outside a hospital) of the person or offender.

Compare: 1987 No 173 s 11A

38 Exception to section 37 once certain offenders no longer liable to detention for sentence imposed for offence

- (1) This section applies if an offender referred to in section 37—
- (a) was, when his or her liability to detention in a hospital began, liable to be detained following an application under section 45(2) of the Mental Health (Compulsory Assessment and Treatment) Act 1992, or under an arrangement under section 46 of that Act; and
 - (b) becomes, under section 48 of that Act, no longer liable to detention for the sentence imposed for the offence.
- (2) If this section applies, the Director-General of Health must, instead of complying with section 37(2), give the victim notice, as soon as practicable, that the offender is no longer liable to detention for the sentence imposed for the offence.

39 Notice of proposal to consider making deportation order and of hearing of appeal against deportation order

- (1) If the Minister of Immigration proposes to consider making a deportation order under section 91 or section 92 of the Immigration Act 1987 in respect of an offender whose liability to deportation arises out of a conviction for a particular offence,—
- (a) the chief executive of the Department of Labour must advise each specified person (as defined in subsection (2)) that the Minister proposes to consider making an order of that kind; and
 - (b) that chief executive must ask each specified person to give the current address of a victim of the offence to that chief executive if that address—
 - (i) has been given or forwarded to the specified person under section 31 or section 33; and
 - (ii) has not been forwarded by the specified person under section 33; and
 - (c) each specified person must, as soon as practicable after receiving a request under paragraph (b), consider, respond to, and if possible comply with, that request.
- (2) For the purposes of subsection (1), each of the following persons is a specified person:
- (a) the Commissioner of Police;
 - (b) the chief executive of the Department of Corrections;
 - (c) the Director-General of Health.

- (3) If a victim's address is given to the chief executive of the Department of Labour under subsection (1),—
- (a) that chief executive must, if practicable, give the victim notice that the Minister proposes to consider making a deportation order in respect of the offender under section 91 or section 92 of the Immigration Act 1987; and
 - (b) if an order of that kind is made and the offender concerned appeals against the order under section 104 of that Act, that chief executive must give the victim's address to the Deportation Review Tribunal referred to in section 103 of that Act, and that Tribunal must give the victim prior notice of the hearing of the appeal.
- (4) Failure to comply with subsection (1) or subsection (3) does not invalidate an order of the kind referred to in subsection (3)(a) or a decision on an appeal of the kind referred to in subsection (3)(b).

Representatives for notice

40 Representatives for notice

A victim to whom this section applies may, for any reason he or she thinks fit, appoint any other person (in sections 41 to 45 called the **representative**) to receive on the victim's behalf, and ensure that the victim is given and understands, any notice to be given to the victim under any of sections 34 to 39 (in sections 41 to 45 called the **information**).

41 Effect of appointment of representative

If a representative of a victim is appointed, then, unless the appointment is terminated under section 44,—

- (a) the references to the victim's current address in sections 31(b) and (c), 33, 39, and 46 must be read as references to the representative's current address; and
- (b) the information to which the appointment relates must be given to the representative, rather than to the victim; and
- (c) the representative must make all reasonable efforts to receive on the victim's behalf, and ensure that the victim is given and understands, the information to which the appointment relates.

42 Victim's support person may be or appoint representative

A victim's support person (**person A**) may appoint himself or herself, or another support person of the victim, as representative of the victim, on behalf of the victim, if—

- (a) the victim is not, or may not be, capable alone of appointing a representative; and
- (b) no representative of the victim has been appointed (whether in reliance on this section or not); and
- (c) person A has discussed the appointment proposed with the victim and with each other support person of the victim who person A knows, or ought reasonably to know, is another support person of the victim.

43 Method of appointment of representative

The appointment of a representative must be by a written notice that—

- (a) identifies the information to which the appointment relates; and
- (b) if the representative is appointed for a limited period only, states that period and when it starts; and
- (c) includes the representative's consent to the appointment; and
- (d) is given to the representative, and to the people who are to give the victim, through the representative, the information to which the appointment relates.

44 Termination of appointment

The appointment of a representative may be terminated by notice in writing given—

- (a) by the victim to both the representative and the people who were to give the victim, through the representative, the information to which the appointment relates; or
- (b) by the representative to the victim, and to the people who were to give the victim, through the representative, the information to which the appointment relates.

45 When notices take effect

A notice appointing, or terminating the appointment of, a representative, takes effect—

- (a) as soon as it has been given to everyone to whom it is required to be given under section 43(d) or section 44(a) or (b); or
- (b) if it has been given to each of those people, on any later date stated in it as the date on which it takes effect.

Compliance with requirements to give notice

46 Ways in which notice required may be given

- (1) It is sufficient compliance with a requirement to give notice to a victim under any of sections 34 to 39 if the notice is given within the time required by the relevant section and by any 1 or more of the following means:
 - (a) by telephoning the victim at a telephone number he or she gave as part of his or her current address; or
 - (b) by posting it, or delivering it by courier or otherwise, to the victim at a postal address (for example, one of a house or office, letterbox, rural delivery box, document exchange box, or private box at a postal outlet) he or she gave as part of his or her current address; or
 - (c) by sending it by fax machine to a fax number given by the victim as part of his or her current address; or
 - (d) by sending it by email to the victim at the email address he or she gave as part of his or her current address.
- (2) Nothing in subsection (1) prevents notice from being given by a means not stated in that subsection.

Participation in process under Parole Act 2002

47 Victim may participate in process for offender's release from prison or release to or from home detention

A victim to whom this section applies may participate in the process for making decisions about the offender's release from prison or release to or from home detention, under sections 43(5), 46(1), 47(1) to (3), and 49(4) (and any other relevant provisions) of the Parole Act 2002.

Submissions on deportation of offender

48 Victim may make submissions on making of deportation order or offender's appeal against deportation order

A victim to whom this section applies may make submissions to the Minister of Immigration and to the Deportation Review

Tribunal, in accordance with sections 93A and 105A of the Immigration Act 1987.

Part 4

Miscellaneous provisions

Complaints and other ways in which rights may be enforced

49 Complaints

- (1) This section applies if a victim or person considers—
 - (a) that he or she is entitled to be accorded a right under any of sections 11 to 21, 28 to 48, and 51 (in this section and section 50 called the **specified provisions**); and
 - (b) that he or she has not been accorded the right.
- (2) The victim or person may complain to—
 - (a) the person who, under the relevant specified provisions, appears to be required to accord the victim or person the right:
 - (b) an Ombudsman, in accordance with the Ombudsmen Act 1975, if the person who, under the relevant specified provisions, appears to be required to accord the victim or person the right, may be the subject of a complaint under that Act:
 - (c) the Police Complaints Authority, in accordance with the Police Complaints Authority Act 1988, if the person who, under the relevant specified provisions, appears to be required to accord the victim or person the right, is a member of the police:
 - (d) the Privacy Commissioner, in accordance with the Privacy Act 1993, if the matter involves, or may involve, an action that is, or appears to be, an interference with the privacy of the victim or person.

50 Other ways in which rights may be enforced

- (1) Except as provided in subsection (2), neither section 49 nor this section limits the ways in which rights conferred by the specified provisions (as defined in section 49(1)(a)) may be enforced.
- (2) No person (for example, the Crown in right of New Zealand) may be required (for example, by any court, tribunal, or other

body) to pay any money (whether by way of damages, compensation, or otherwise) to any other person just because of a breach of any of the specified provisions.

- (3) An example of the operation of subsection (2) is that the Human Rights Review Tribunal (as defined in section 2(1) of the Privacy Act 1993) may require the payment of money in respect of conduct that is, or may be, a breach of any of the specified provisions, if that conduct also constitutes an interference with the privacy of an individual.

Return of property held as evidence

51 Return of property held as evidence

Law enforcement agencies that hold property of a person (other than an offender) for evidentiary purposes must, to the extent that it is possible to do so, return it to the person as soon as practicable after they no longer need to hold it for those purposes.

Compare: 1987 No 173 s 7

Director-General of Health may delegate duties under Act

52 Director-General of Health may delegate duties

- (1) The Director-General of Health may delegate any of his or her duties under sections 33(3), and 37 to 39 to any person who—
- (a) holds the office of Director or Deputy Director of Mental Health, pursuant to section 91 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
 - (b) is a Director of Area Mental Health Services appointed under section 92 of that Act.
- (2) The delegation—
- (a) must be in writing and signed by the Director-General;
 - (b) must specify the duties delegated, and the person or persons to whom they are delegated (the **delegates**);
 - (c) does not prevent the Director-General from performing the duties delegated, or affect his or her responsibility for actions of the delegates;
 - (d) is revocable at will by written notice to the delegates;
 - (e) may be made subject to any terms and conditions stated in it the Director-General thinks fit:

- (f) may permit some or all of the delegates to delegate further the duties delegated, subject to any terms and conditions stated in it the Director-General thinks fit.
- (3) A delegate—
- (a) may perform the duties delegated in the same manner and with the same effect as if they had been conferred or imposed on the delegate directly by this Act; but
 - (b) must perform them (and may further delegate them to the extent that the delegation permits) only in accordance with any terms and conditions stated in the delegation.

Amendments

53 Amendments

The Acts specified in the Schedule are amended in the manner indicated in that schedule.

Repeal

54 Victims of Offences Act 1987 repealed

The Victims of Offences Act 1987 (1987 No 173) is repealed.

s 53

Schedule Enactments amended

Bail Act 2000 (2000 No 38)

Repeal section 8(3) and substitute:

- “(3) When considering an application for bail, any views of a victim of an offence of a kind referred to in section 29 of the Victims' Rights Act 2002, or of a parent or legal guardian of a victim of that kind, conveyed in accordance with section 30 of that Act, must be taken into account.”

Criminal Justice Act 1985 (1985 No 120)

Insert before section 139(1):

- “(1AA) The purpose of this section is to protect persons upon or with whom an offence referred to in subsection (1) or subsection (2) has been, or is alleged to have been, committed.”

Insert after section 139(1):

- “(1A) However, the court must make an order referred to in subsection (1)(b), permitting any person to publish the name of a person upon or with whom any offence referred to in subsection (1) has been or is alleged to have been committed, or any name or particulars likely to lead to the identification of that person, if—

“(a) that person—

- “(i) is aged 16 years or older (whether or not he or she was aged 16 years or older when the offence was, or is alleged to have been, committed); and

“(ii) applies to the court for such an order; and

- “(b) the court is satisfied that that person understands the nature and effect of his or her decision to apply to the court for such an order.”

Insert after section 139(2):

- “(2A) However, a court must order that any person may publish the name of a person convicted of an offence against section 130 or section 131 of the Crimes Act 1961, or any name or particulars likely to lead to the person's identification, if—

“(a) the victim (or, if there were 2 or more victims of the offence, each victim) of the offence—

- “(i) is aged 16 years or older (whether or not he or she was aged 16 years or older when the offence was, or is alleged to have been, committed); and

“(ii) applies to the court for such an order; and

Criminal Justice Act 1985 (1985 No 120)—continued

- “(b) the court is satisfied that the victim (or, as the case requires, each victim) of the offence understands the nature and effect of his or her decision to apply to the court for such an order; and
- “(c) no order or further order has been made under section 140 prohibiting the publication of the name, address, or occupation, of the person convicted of the offence, or of any particulars likely to lead to that person’s identification.

“(2B) An order made under subsection (2A) in respect of the name of a person, or of any name or particulars likely to lead to the identification of a person, ceases to have effect if—

- “(a) the person applies to a court for an order or further order under section 140 prohibiting the publication of his or her name, address, or occupation, or of any particulars likely to lead to his or her identification; and
- “(b) the court makes the order or further order under section 140.”

Insert after section 140(4):

“(4A) When determining whether to make any such order or further order in respect of a person accused or convicted of an offence and having effect permanently, a court must take into account any views of a victim of the offence, or of a parent or legal guardian of a victim of the offence, conveyed in accordance with section 28 of the Victims’ Rights Act 2002.”

Immigration Act 1987 (1987 No 74)

Omit from section 91(1) the expression “and 112 of this Act” and substitute the expression “, 93A, and 112”.

Omit from section 92(2) the expression “and 112 of this Act” and substitute the expression “, 93A, and 112”.

Insert after section 93:

“93A Right of victims to make submissions on making of deportation order

“(1) In determining whether to make a deportation order under section 91 or section 92, the Minister must have regard to any written submissions made by a victim of an offence or offences of which the person who would be the subject of the order has been convicted and from which his or her liability to deportation arises.

Immigration Act 1987 (1987 No 74)—continued

- “(2) The Minister must, on a request for the purpose, make available to a solicitor or counsel who is acting for a person who would be the subject of the order (if any) a copy of all written submissions made by the victim.
- “(3) The Minister, or a solicitor or counsel acting for the person, must, on a request for the purpose, show the person a copy of all written submissions made by the victim. However, the person is not entitled to keep a copy of any of those submissions.
- “(4) Despite subsections (2) and (3), the Minister may withhold from the person and every solicitor or counsel acting for the person (if any) any part of the victim’s written submissions if, in the Minister’s opinion, that withholding of the part is necessary to protect the physical safety or security of the victim concerned.
- “(5) Despite subsection (1), the Minister must not have regard to any part of the victim’s submissions that is withheld under subsection (4).
- “(6) In this section, **victim** means a victim of an offence of a kind referred to in section 29 of the Victims’ Rights Act 2002.”

Insert after section 105(1):

- “(1A) Without limiting subsection (2), in deciding whether it would be unjust or unduly harsh to deport the appellant from New Zealand, and whether it would not be contrary to the public interest to allow the appellant to remain in New Zealand, the Tribunal must have regard to any submissions of a victim, in accordance with section 105A.”

Insert after section 105:

“105A Right of victims to make submissions on appeal

- “(1) In determining an appeal under section 104, the Tribunal must have regard to—
- “(a) any written submissions made to it by a victim of an offence or offences of which the appellant has been convicted and from which the deportation order arose; and
- “(b) any relevant written submissions made by a victim to the Minister under section 93A.
- “(2) In addition to, or instead of, making written submissions under this section, the victim may, with leave of the Tribunal,

Immigration Act 1987 (1987 No 74)—continued

make oral submissions to the Tribunal on the appeal at the hearing of it.

- “(3) The Tribunal must make available to a solicitor or counsel acting for the appellant, on a request for the purpose, a copy of all written submissions made by the victim under section 93A or this section.
- “(4) The Tribunal, or a solicitor or counsel acting for the appellant, must, on a request for the purpose, show the appellant a copy of all written submissions made by the victim under section 93A or this section. However, the appellant is not entitled to keep a copy of any of those submissions.
- “(5) Despite subsections (3) and (4), the Tribunal may withhold from the appellant and every solicitor or counsel acting for the appellant (if any) either or both of the following if, in the Tribunal’s opinion, that withholding is necessary to protect the physical safety or security of the victim concerned:
- “(a) any part of the victim’s written submissions under section 93A, whether or not that part was withheld by the Minister under section 93A(4):
- “(b) any part of the victim’s written submissions under this section.
- “(6) Despite subsection (1), the Tribunal must not have regard to any part of the victim’s submissions that is withheld under subsection (5).
- “(7) In this section, **victim** means a victim of an offence of a kind referred to in section 29 of the Victims’ Rights Act 2002.”

Repeal clause 5(1) of the Third Schedule and substitute:

- “(1) As soon as the Tribunal considers the appeal ready for hearing, it must—
- “(a) fix a time and place for the hearing of the appeal; and
- “(b) notify the appellant and the Minister of the time and place fixed; and
- “(c) comply with section 39(3)(b) of the Victims’ Rights Act 2002 (which relates to the Tribunal giving certain victims prior notice of the hearing).”

Official Information Act 1982 (1982 No 156)

Add to the definition of **official information** in section 2(1):

Official Information Act 1982 (1982 No 156)—continued

- “(k) does not include information contained in a victim impact statement (as defined in section 22 of the Victims' Rights Act 2002)”.

Parole Act 2002 (2002 No 10)

Omit from the definition of **victim** in section 4(1) the words “has made a request under section 11(1) of the Victims of Offences Act 1987” and substitute the words “has asked for notice or advice and copies, and has given his or her current address, under section 31 of the Victims' Rights Act 2002”.

Insert in section 7(2)(d), after the word “victims”, the words “(as defined in section 4 of the Victims' Rights Act 2002)”.

Omit from section 7(2)(d) the words “victims' submissions” and substitute the words “submissions by victims (as so defined)”.

Insert in section 13(2)(a), after the word “victim”, the words “(as defined in section 4 of the Victims' Rights Act 2002)”.

Omit from section 13(2)(a) the words “(within the meaning of section 2 of the Victims of Offences Act 1987)”.

Insert in section 13(2)(b), after the words “a victim”, the words “(as so defined)”.

Insert in section 13(8), after the word “victim”, the words “(as defined in section 4 of the Victims' Rights Act 2002)”.

Insert, after section 43:

“43A Consultation and disclosure necessary to provide reports

To avoid doubt, if a person providing a report referred to in section 43 considers that it is or may be necessary to do so in order to provide the report, he or she—

- “(a) may consult with any other person (for example, with any victim (as defined in section 4 of the Victims' Rights Act 2002)) who is or may be able to provide information relevant to the matters that the report must address (**relevant information**); and
- “(b) may, so far as it is or may be necessary to do so in order to ascertain from the other person relevant information, disclose to the other person information—
- “(i) about why the report must be provided; and
- “(ii) about the nature and purpose of the report.”

Parole Act 2002 (2002 No 10)—continued

Insert, after section 50:

“50A Submissions from, and interviews with, certain victims

“(1) This section applies to a person who—

“(a) is not a victim as defined in section 4(1) of this Act; but

“(b) is a victim as defined in section 4 of the Victims' Rights Act 2002.

“(2) To avoid doubt, the person—

“(a) may, by writing to the Board, make submissions on, or give information relevant to, the substantive matter to be decided at a hearing referred to in section 42; and

“(b) if the hearing is an unattended hearing, may, with the leave of the Board, have an interview before the hearing with 1 member of the panel allocated to conduct the hearing, in accordance with section 47(1) to (3); and

“(c) if the hearing is an attended hearing, may, with the leave of the Board, appear and make oral submissions to the Board, in accordance with section 49(4).

“(3) If the person seeks information from the Board in order to take a step in subsection (2)(a) or (b) or (c), the Board may—

“(a) advise the person of the relevant hearing date; and

“(b) give the person any other information that is reasonably necessary to enable the person to take the step.

“(4) Neither the Board nor any other person has any liability for any act done in pursuance, or intended pursuance, of the Board's functions under this section or section 50B, unless the act was done in bad faith.

“50B Decisions to be notified to certain victims

“(1) The following persons must, after the hearing concerned, be advised of the matters in section 50(1)(a) to (c):

“(a) a person who, by writing to the Board, makes submissions or gives relevant information as referred to in section 50A(2)(a):

“(b) a person who is interviewed as referred to in section 50A(2)(b):

“(c) a person who appears and makes oral submissions as referred to in section 50A(2)(c).

“(2) Advice under subsection (1) may include only those release or detention conditions that are of personal relevance to the

Parole Act 2002 (2002 No 10)—continued

person or his or her family, or that address the person's submissions."

Omit from section 109(2)(d) the words "section 2 of the Victims of Offences Act 1987" and substitute the words "section 4 of the Victims' Rights Act 2002".

Add to section 111(3)(d) the words "(as defined in section 4 of the Victims' Rights Act 2002)".

Privacy Act 1993 (1993 No 28)

Omit from the Fifth Schedule the words "Victims of Offences Act 1987" in both places where they appear and substitute in each case the words "Victims' Rights Act 2002".

Sentencing Act 2002 (2002 No 9)

Omit from paragraph (b) of the definition of **incapable** in section 4(1) the words "a person who is" and substitute the words "the person being".

Repeal paragraph (a) of the definition of **victim** in section 4(1) and substitute:

"(a) means—

"(i) a person against whom an offence is committed by another person; and

"(ii) a person who, through, or by means of, an offence committed by another person, suffers physical injury, or loss of, or damage to, property; and

"(iii) a parent or legal guardian of a child, or of a young person, who falls within subparagraph (i) or subparagraph (ii), unless that parent or guardian is charged with the commission of, or convicted or found guilty of, or pleads guilty to, the offence concerned; and

"(iv) a member of the immediate family of a person who, as a result of an offence committed by another person, dies or is incapable, unless that member is charged with the commission of, or convicted or found guilty of, or pleads guilty to, the offence concerned; and".

Legislative history

5 October 1999	Introduction, first and second reading and referral to Justice and Law Reform Committee (Bill 331-1)
23 August 1999	Reported from Justice and Law Reform Committee (Bill 331-2)
8 October 2002	Consideration of report, committee of the whole House
15 October 2002	Third reading
17 October 2002	Royal assent

This Act is administered in the Ministry of Justice.
