

Victims of Crime Reform Bill

Government Bill

Explanatory note

General policy statement

This Bill is introduced under Standing Order 259(a), which provides that an omnibus bill to amend more than 1 Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. This Bill contains a number of amendments to legislation to implement the Government's reform package for victims of crime. The reforms represent a further stage in a comprehensive work programme to improve the status of victims of crime.

Despite the existing rights provided in the Victims' Rights Act 2002, information from a range of sources indicates that victims of crime find it difficult to understand criminal justice processes and their role in these processes. A number of victims would like a greater role in criminal justice processes and to be better informed about the cases involving them, both in the adult courts and the Youth Courts. A lack of visible complaints processes and oversight of victims' rights has limited the accountability of agencies that have statutory duties under the Act.

The policy objectives of the Bill are to—

- strengthen the existing general provisions in legislation for victims of crime; and
- expand the rights of victims of serious offences; and

- give victims more opportunity to be involved in criminal justice processes; and
- ensure victims are better informed about their rights; and
- increase the accountability and responsiveness of government agencies providing services to victims; and
- ensure victims' rights in the adult criminal jurisdiction are applied in the youth justice jurisdiction.

The Bill amends the Victims' Rights Act 2002, the Children, Young Persons, and Their Families Act 1989, the Parole Act 2002, and the Sentencing Act 2002.

Victims' Rights Act 2002

Part 1 of the Bill will amend the Victims' Rights Act 2002 (the **Act**) to strengthen and extend the application of general rights for victims, and to increase the rights of victims of serious offences.

Accountability and delivery of services to victims of crime

The Bill will require the Secretary for Justice to develop a code for victims in consultation with core justice sector agencies and other government agencies that provide services to victims. The purpose of the code is to outline victims' rights and services, complaints processes, and duties of agencies. The Ministry of Justice will be required to present a code to the Minister of Justice for approval, and notify approval in the *Gazette*.

The Bill will require agencies to deal with complaints from victims promptly and fairly. Agencies will be required to record specific information on the services the agency provides to victims, and the complaints received and how they were resolved. Agencies will be required to report to Parliament with this information in their annual reports.

General enhancements

The Bill will extend the coverage of the general principles of the treatment of victims and access to services to victims of domestic violence and any children residing with them. Amendments will explicitly include relevant officials in the provisions guiding the treatment of victims and requirements for giving information about services.

Those requirements will include informing victims about restorative justice processes. The Bill will require officials to assist a victim to access restorative justice if the victim seeks a meeting with the offender and the necessary resources are available.

The Bill will require officials to provide victims with more information regarding the progress of the case. Officials will be required to inform victims about the possibility of the court making an order prohibiting the publication of any particulars of the victim and the steps the victim may take in relation to the making of that order. Officials will also be required to inform the victim of the outcomes of a Royal prerogative of mercy when the offender is granted a free pardon or the case is referred back to the court. The Bill will ensure that information is able to be given to a support person on behalf of the victim if the victim chooses. The definition of support person will be widened to allow anyone the victim nominates other than the accused or offender.

Victim impact statements

The Bill will widen the scope of what victims may include in their victim impact statement. The purpose of victim impact statements will be inserted in the Act.

Victims of serious offences under *new section 29* of the Act will have the right to read out all or part of their statement themselves or have someone else read out the statement, unless this is considered inappropriate because of the number of persons requesting to read out statements, the age and maturity of the offender, the content of the statement, or a concern about serious disruption to the proceedings or the safety of any person. The judge will be able to place a reasonable time limit on the reading of a victim impact statement and, in deciding the weight to be given to the statement, will be required to take into account whether the statement was verified and, if so, the date of verification. This aims to ensure the content of the statement is up to date before sentencing.

Victim notification

The Bill will widen the eligibility for notice to victims by explicitly including all victims of sexual offences. The Bill will make clear that the address to which notifications are to be sent may be changed by

a victim or by a victim's representative. The Bill also provides for a victim to withdraw his or her request to receive notifications.

The Bill will widen the scope of victim notifications. Victims will be notified of any convictions for breaching home detention conditions, and if offenders have their sentence of home detention substituted. Victims will be notified when short-term prisoners are convicted of breaching their release conditions.

Efficiencies in providing notice to victims will be introduced so that the Parole Board assumes responsibility for notifying victims of final decisions on whether to recall to prison an offender on parole.

The Bill will ensure that all victims of serious offences who have their views on bail submitted are able to be notified of the outcome of the bail hearing and any conditions that relate to the victim or their immediate family. Responsibility for notifying victims will be split between the New Zealand Police and the Ministry of Justice. Both the Ministry and Police will also be required to inform victims of their eligibility to ask for notice. To facilitate this, the Bill will require Police to forward victims' details to the Ministry of Justice.

Children, Young Persons, and Their Families Act 1989

Part 2 of the Bill will amend the Children, Young Persons, and Their Families Act 1989 to implement the Government's intention that victims' rights in the adult criminal jurisdiction are also applied in the youth justice jurisdiction.

The Bill provides that a victim's representative attending a family group conference may be accompanied by a reasonable number of support persons. The Bill also clarifies that any person entitled to attend a family group conference can attend a subsequent or re-convened conference regardless of whether the person attended an earlier conference.

The Bill will widen the definition of a victim in the Children, Young Persons, and Their Families Act 1989 to be consistent with the Victims' Rights Act 2002.

The Bill will give a victim or a victim's representative the right to attend Youth Court proceedings. A Youth Court Judge may permit support persons for the victim or the victim's representative to be present during the hearing of Youth Court proceedings but can exclude those persons from the court at any time.

Prosecutors will be required to make reasonable efforts to ascertain a victim's views on the custody of a child or young person pending a hearing, where that victim is a victim of a serious offence. The outcome of the court's decision must be notified to victims.

The Bill clarifies what provisions in the Victims' Rights Act 2002 will apply to the youth justice provisions in the Children, Young Persons, and Their Families Act 1989. The provisions about victim impact statements will apply, allowing a victim to submit a statement to the Youth Court when the court is considering an order under section 283 of the Children, Young Persons, and Their Families Act 1989. Victims of serious offences will have the right to read their statement to the court. The general provisions about the treatment and rights of victims, and complaints processes will also apply.

Parole Act 2002

Part 3 of the Bill will amend the Parole Act 2002 to allow a victim to make a single request to the Department of Corrections to provide him or her with information on the offender to assist the victim in making a submission to a parole hearing. The victim will automatically receive further information for each subsequent hearing if the offender is not paroled.

Sentencing Act 2002

Part 4 of the Bill will amend the Sentencing Act 2002 to increase victims' access to restorative justice by establishing a formalised process for court-referred restorative justice in the pre-sentence setting. Judges will be required to refer eligible cases for an investigation of restorative justice when informed by the Registrar that an appropriate service is available.

The Bill will also clarify that court reparation orders can include costs consequential on injury that are not covered by entitlements under the Accident Compensation Act 2001.

Regulatory impact statement

The Ministry of Justice produced a regulatory impact statement on 28 January 2011 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://www.justice.govt.nz/policy/regulatory-impact-statements>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause. It is intended that the Bill be divided into the following 4 separate Bills at committee of the whole House stage—

- a Victims' Rights Amendment Bill; and
- a Children, Young Persons, and Their Families Amendment Bill; and
- a Parole Amendment Bill; and
- a Sentencing Amendment Bill.

Clause 2 is the commencement clause and provides that the Bill comes into force 3 months after the date on which it receives the Royal assent. The delayed commencement of the Bill is necessary in order to afford sufficient time to update computer systems and to implement new procedures and case management processes.

Part 1

Amendments to Victims' Rights Act 2002

Clause 3 provides that *Part 1* amends the Victims' Rights Act 2002.

Clause 4 amends section 4, which is the interpretation provision, to—

- insert a definition of address (which is used in predominantly *new sections 31 to 33C*):
- insert a definition of domestic violence (which is used in the definition of victim, as amended):
- insert a definition of representative (which is used in *new sections 31 to 33C* and sections 40 to 46):
- insert a definition of Secretary (which is used in *new sections 32, 32A, 33C, 34, 51B, 51D, and 51E*):
- insert definitions of specified offence and victim of a specified offence (which are used in *new sections 29 to 32 and 32B*):

- amend the definition of offender for the purpose of *new section 9* and to update a cross-reference:
- extend the definition of support person to include any person (other than the accused or offender) whom the victim nominates in writing:
- extend the definition of victim, for the purposes of sections 7 and 8, to include a person who has experienced domestic violence, and any child or young person residing with that person.

Clause 5 amends section 7 to expressly refer to probation officers and members of the New Zealand Parole Board as persons who deal with victims, and who therefore must treat a victim with courtesy and compassion and respect a victim's dignity and privacy.

Clause 6 substitutes a *new section 9*. *New section 9* applies if a victim requests to meet with the offender to resolve issues relating to the offence. A member of court staff, Police employee, or probation officer, must, if satisfied that the necessary resourcing is available, refer the request to a suitable person who is available to arrange and facilitate a restorative justice meeting.

Clause 7 amends section 11 to—

- update the list of agencies that provide information to victims (first, by removing a reference to the Department of Child, Youth and Family Services, which has been subsumed within the Ministry of Social Development, and secondly, by including a reference to the Department of Corrections):
- ensure that information given to victims about available services must include information about restorative justice processes.

Clause 8 amends section 12 to—

- require that a victim be informed if there is a possibility of the court making an order suppressing identifying information about him or her, and the steps the victim may take in relation to the making of any such order:
- clarify that a victim must be informed about the outcome of the prosecution as well as any proceedings on appeal:
- provide for victims to be informed about the outcome of any Royal prerogative of mercy application.

Clause 9 amends section 14 so that a victim is able to nominate a support person to receive information on his or her behalf.

Clause 10 amends section 16 so that the information to which this section applies is information that identifies, or leads to the identification of, the place where the victim lives.

Clause 11 inserts *new sections 17AA and 17AB*. The definition of victim impact statement is moved from section 22 to *new section 17AA*, which also provides that information ascertained from a victim may include photographs, drawings, or other visual representations. *New section 17AB* sets out the purpose of a victim impact statement.

Clause 12 substitutes a *new section 17*, which is substantially the same as existing section 17.

Clauses 13 and 14 amend sections 18 and 19 respectively, to substitute references to a victim impact statement (which is defined in *new section 17AA*, as inserted by *clause 11*).

Clause 15 replaces sections 21 and 22 with four new provisions.

New section 21 sets out how a victim impact statement must be submitted. The prosecutor must submit a victim impact statement to the judicial officer sentencing the offender in the form in which it was recorded under section 19.

New section 22 provides that a victim impact statement may be read to the court if, upon request, the judicial officer sentencing the offender agrees. The statement may be read by the prosecutor or the victim, or by a person nominated by the victim. A judicial officer must agree to a request made by a victim of a specified offence unless the judicial officer considers it inappropriate for any of the specified reasons, including a concern that reading the statement would cause a risk of serious disruption to the proceedings, or to the safety of any person. In granting a request to read a statement, the judicial officer may impose a time limit for the reading.

New section 22A provides that a victim impact statement may be presented to the court in any manner other than by reading it (for example, by playing an audiotape) if, upon the request of the prosecutor, the judicial officer sentencing the offender agrees.

New section 22B provides that in determining the weight to be given to a victim impact statement, the matters that the judicial officer must have regard to include whether the statement was verified and, if so, the date of verification.

Clause 16 replaces sections 29 to 32 and the headings above those sections with *new headings and sections 29 to 32B*.

New section 29 defines a specified offence.

New section 29A requires the Commissioner of Police to determine whether the offence that affected the victim is a specified offence.

New section 30 is substantially the same as existing section 30 but refers to a victim of a specified offence.

New section 31 is substantially the same as the existing section 32 but sets out more clearly the duty of the Commissioner of Police to inform a victim of a specified offence of certain matters, in particular that he or she may appoint a representative to receive notices on his or her behalf.

New section 32 requires the Commissioner of Police to inform the Secretary of the name and address of each victim of a specified offence, and the name and address of the victim's representative (if any).

New section 32A then requires the Secretary to inform a victim of a specified offence of certain matters. Those matters are that—

- the victim has a right to appoint a representative; and
- the victim, or his or her representative, has the right to request notice of the matters specified in sections 34 to 38; and
- the victim, or his or her representative, must give to the New Zealand Police his or her address when requesting notice of the matters specified in sections 34 to 38.

New section 32B is substantially the same as the existing section 31. It applies sections 34 to 38 and *new section 47* to a victim who has exercised his or her right to receive notice under sections 34 to 38 and in respect of whom the New Zealand Police have been given an address. However, it also applies section 34 to a victim whose views have been ascertained (under *new section 30*) about the accused or offender being released on bail, if the victim, or his or her representative, has—

- asked that the victim be given notice of the accused or offender being released on bail, and any terms or conditions; and
- given the New Zealand Police details of the address of the victim, or his or her representative.

Clause 17 replaces sections 33 and 33A with *new sections 33 to 33C*.

New section 33 is substantially the same as existing section 33 but has a clearer format and updated cross-references.

New section 33A enables victims to give notice of any change to their address. Any change to a representative's address may be notified either by the victim or the representative.

New section 33B enables a victim to withdraw his or her request to be given notice under sections 34 to 38 by giving the relevant persons written notification.

New section 33C is substantially the same as existing section 33A but has a clearer format and updated cross-references.

Clause 18 amends section 34 by substituting *new subsections (1) to (1B)*. The effect of the new subsections is to—

- require the Commissioner of Police to inform a victim to whom sections 30 to 48 apply if the accused or offender is released on bail, and of any terms and conditions of release; and
- provide for this information to also be given by either the Commissioner of Police or the Secretary to a victim whose views about an application for bail have been ascertained under *new section 30*.

Clause 19 replaces section 35 with *new sections 35 and 35A*.

New section 35 makes a number of changes to existing section 35. In particular, it requires the chief executive of the Department of Corrections to give a victim to whom sections 30 to 48 apply notice of—

- an offender's sentence of imprisonment being substituted with a sentence of home detention; and
- an offender's sentence end date for the offence.

Obsolete references to release on home detention have also been omitted.

New section 35A is a parallel provision to existing section 35 and requires the chief executive of the Department of Corrections to give to a victim to whom sections 30 to 48 apply certain notifications relating to an offender's sentence of home detention.

Clause 20 amends section 36(1) to—

- remove a reference to detention conditions, as home detention is no longer a release option;
- require the chief executive of the Department of Corrections to give a victim of a specified offence notice of the offender being convicted for breaching any conditions of a sentence of

home detention, or any conditions imposed on release from a term of imprisonment of less than 24 months:

- require the New Zealand Parole Board, rather than the Department of Corrections, to notify a victim of a decision to make or refuse to make a final recall order, recalling the offender to continue serving his or her sentence in prison.

Clause 21 amends section 37(1) to change a cross-reference consequential on the repeal and substitution of section 31.

Clause 22 amends section 39(2) to include reference to a victim's representative and to update cross-references consequential on the repeal and substitution of sections 31 and 33.

Clause 23 amends section 40 because a definition of representative is inserted in section 4 (by *clause 4*).

Clause 24 amends section 41 to repeal paragraph (a) as specific reference to a representative's address has been made in *new sections 31 to 33A, 33C, 39(2)(b), and 46(2)*.

Clause 25 amends section 46 to expressly provide the means by which information may be given to a representative.

Clause 26 substitutes a *new section 47*, which is a technical amendment to update cross-references.

Clause 27 amends section 49 to add a *new subsection (3)* that requires any person receiving a complaint to deal with it promptly and fairly.

Clause 28 inserts *new section 50A*, which requires government departments dealing with victims to include in subsequent annual reports details about the services they provide to victims and information about the complaints received under section 49.

Clause 29 amends section 51 to provide that the requirement for a law enforcement agency to return property as soon as practicable does not apply if the owner of the property does not want it returned.

Clause 30 inserts a new heading and *new sections 51A to 51E*, which are about a code for victims.

New section 51A is the interpretation section.

New section 51B requires the Secretary to prepare a code for victims for the purpose of providing information to victims about their statutory rights, the services available to them, and the duties and responsibilities of government agencies. In preparing the code, the Secretary must undertake consultation.

New section 51C requires the code to be approved and signed by the Minister of Justice. The code has no effect until this is done.

New section 51D requires the Secretary to publish in the *Gazette* notice of the Minister's approval of the code. The Secretary must also promote awareness of the code and make copies of the code available to the public.

New section 51E provides for amendment of the code.

Clause 31 amends the Official Information Act 1982. The definition of official information in section 2(1) is updated to refer to *new section 17AA* of the Victims' Rights Act 2002 (inserted by *clause 11*).

Part 2

Amendments to Children, Young Persons, and Their Families Act 1989

Clause 32 provides that *Part 2* amends the Children, Young Persons, and Their Families Act 1989.

Clause 33 amends section 2, which is the interpretation provision, to substitute a new definition of victim that refers to the meaning in *new section 2A*.

Clause 34 inserts *new section 2A*, which defines victim more broadly than at present so that the definition is aligned with the definition of victim in the Victims' Rights Act 2002.

Clause 35 amends section 238 to include a requirement that the prosecutor make reasonable efforts to ascertain and convey to a Youth Court the views of victims of specified offences before an order is made releasing, or detaining in custody, a child or young person. A specified offence is an offence of a kind specified in *new section 29* of the Victims' Rights Act 2002. All victims of specified offences must subsequently be informed by the Commissioner of Police of the order made and, if applicable, any conditions of bail imposed.

Clause 36 makes two amendments to section 251 (which specifies who is entitled to attend a youth justice family group conference). First, a *new subsection (1A)* is inserted to provide that a person entitled to attend a family group conference is not prevented from attending any subsequent meetings of the conference or any reconvened conference by reason of non-attendance at one or more meetings at the conference. Second, a *new subsection (2)* is substituted,

which applies if a youth justice family group conference is attended by a victim of the offence or alleged offence in person or by a representative. *New section 251(2)* ensures that support persons may accompany the victim, or the victim's representative.

Clause 37 amends the heading to section 321 to also refer to the Victims' Rights Act 2002. Section 321 applies provisions of specified Acts to Youth Courts.

Clause 38 amends section 329 to include in the list of persons who are entitled to be present during the hearing of any Youth Court proceedings the victim of the offence (or his or her representative) and, if permitted by the Judge, support persons for the victim or the victim's representative.

Clause 39 amends Schedule 1 by inserting *new clause 3A* to apply certain provisions of the Victims' Rights Act 2002 to proceedings in Youth Courts.

Part 3

Amendments to Parole Act 2002

Clause 40 provides that *Part 3* amends the Parole Act 2002.

Clause 41 amends section 4 to update the definition of victim to refer to *new section 32B* of the Victims' Rights Act 2002 (substituted by *clause 16*).

Clause 42 amends section 44, which sets out the information that must, upon request, be made available to a victim about an offender who is being considered for release on parole. *New subsection (2)* is added, the effect of which is to remove the need for a victim to make an information request for each parole hearing. A single request for information by a victim is sufficient.

Part 4

Amendments to Sentencing Act 2002

Clause 43 provides that *Part 4* amends the Sentencing Act 2002.

Clause 44 inserts *new section 24A*, which requires a District Court, in certain cases, to adjourn the proceedings at any time before sentencing to enable inquiries to be made to determine whether a restorative

justice process is appropriate in the circumstances of the case and, if it is, to enable that process to occur. These cases are where—

- the offender has pleaded guilty; and
- there is at least one victim of the offence; and
- no restorative justice process has previously occurred in relation to the offending; and
- the Registrar has informed the court that a restorative justice process can be accessed.

Clause 45 makes two technical amendments to section 25 consequential on *new section 24A* (see *clause 44*).

Clause 46 amends section 32 to clarify that the court may not order reparation for consequential loss or damage if compensation has been, or is to be, paid under the Accident Compensation Act 2001. However, a court would be able to impose a sentence of reparation for consequential loss or damage to meet any statutory shortfall in compensation. The effect of this amendment is to overturn the Supreme Court decision in *Davies v New Zealand Police* SC 83/2007 [2009] NZSC 47, which ruled that reparation orders cannot be made in respect of any consequential loss or damage where the victim has an entitlement under the Accident Compensation Act 2001, even if the amount payable under that Act does not meet the full extent of the loss.

Clauses 47 to 50 make amendments to sections 33, 106, 108, and 110 consequential on the amendment to section 32. Section 33 deals with the content of reparation reports, and sections 106, 108, and 110 deal with reparation orders made when a person is—

- discharged without conviction (section 106):
 - convicted and discharged (section 108):
 - called up for sentence (section 110).
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Hon Simon Power

Victims of Crime Reform Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Victims of Crime Reform Act **2011**.
- 2 Commencement**
This Act comes into force 3 months after the date on which it receives the Royal assent.

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- Part 1**
- Amendments to Victims' Rights Act 2002**
- 3 Principal Act amended**
This **Part** amends the Victims' Rights Act 2002.

4 Interpretation

- (1) Section 4 is amended by inserting the following definitions in their appropriate alphabetical order:

“**address**, in relation to a victim or representative, means the address to which notices may be sent by post or electronic means (including by fax, email, or text messaging) and received by the victim or representative 5

“**domestic violence** has the meaning given in section 3 of the Domestic Violence Act 1995

“**representative** means a person appointed under section 40 10

“**Secretary** means the Secretary for Justice

“**specified offence** has the meaning given in **section 29**

“**victim of a specified offence** means a victim of an offence that the Commissioner of Police determines, under **section 29A**, is a specified offence”. 15

- (2) Paragraph (b) of the definition of **offender** in section 4 is repealed and the following paragraph substituted:

“(b) in **section 9** (which relates to meetings requested by victims) and **sections 17AA to 27** (which relate to victim impact statements), includes a person found guilty of, or who pleads guilty to, that crime or offence”. 20

- (3) The definition of **support person** in section 4 is amended by inserting the following paragraph after paragraph (b):

“(ba) a person whom the victim nominates by notice in writing as his or her support person (not being a person accused of the offence, or the offender):”. 25

- (4) Paragraph (b) of the definition of **victim** in section 4 is amended by adding the following subparagraphs:

“(iii) a person who has experienced domestic violence; and 30

“(iv) a child or young person residing with a person who falls within **subparagraph (iii)**; and”.

5 Treatment

Section 7 is amended by omitting “or other official” and substituting “probation officer, or member of the New Zealand Parole Board”. 35

- 6 New section 9 substituted**
- Section 9 is repealed and the following section substituted:
- “9 Restorative justice meetings to resolve issues relating to offence**
- “(1) This section applies if a victim requests to meet with the offender to resolve issues relating to the offence. 5
- “(2) A member of court staff, Police employee, or probation officer (if appropriate) must, if satisfied that the necessary resources are available, refer the request to a suitable person who is available to arrange and facilitate a restorative justice meeting.” 10
- 7 Information about programmes, remedies, and services**
- Section 11 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) In this section,—
- “agency means— 15
- “(a) the Accident Compensation Corporation:
- “(b) a DHB (as defined in section 6(1) of the New Zealand Public Health and Disability Act 2000):
- “(c) the Department of Corrections:
- “(d) the Ministry of Justice: 20
- “(e) the Ministry of Social Development:
- “(f) the New Zealand Police
- “services includes participation in restorative justice processes.”
- 8 Information about proceedings** 25
- (1) Section 12(1) is amended by inserting the following paragraph after paragraph (c):
- “(ca) the possibility (if any) of the court making an order prohibiting the publication of identifying information about the victim, and the steps that the victim may take in relation to the making of that order:” 30
- (2) Section 12(1) is amended by repealing paragraph (e) and substituting the following paragraph:
- “(e) the outcome of the prosecution of the offence (and of any proceedings on appeal), for example— 35

- “(i) any plea of guilty or conviction entered, and sentence imposed or substituted; or
“(ii) any finding that an accused is unfit to stand trial; or
“(iii) any finding that the charge was not proved; or 5
“(iv) any acquittal or deemed acquittal; or
“(v) any grant of free pardon.”
- (3) Section 12(2) is amended by adding the following paragraph:
“(f) any hearing of a question of conviction or sentence referred by the Governor-General under section 406(a) 10
of the Crimes Act 1961 and any hearing of an appeal against the determination of that question.”
- 9 Information may be given to victim’s support person**
Section 14 is amended by adding “; or” and also by adding the following paragraph: 15
“(c) has, in writing, nominated that support person to receive it and given a current address for that support person.”
- 10 Restriction on giving victim’s precise address in evidence or information provided to court**
- (1) Section 16 is amended by omitting the heading and substituting the following heading: “**Restriction on giving information identifying place where victim lives**”. 20
- (2) Section 16 is amended by repealing subsection (1) and substituting the following subsection:
“(1) This section applies to information that identifies, or that may 25
lead to the identification of, the place where the victim lives (the **information**).”
- 11 New sections 17AA and 17AB inserted**
The following sections are inserted above section 17:
“**17AA Victim impact statement defined** 30
“(1) In **sections 17AB** to 27, **victim impact statement**—
“(a) means information that—
“(i) is ascertained under **section 17** from—
“(A) a victim; or

- “(B) a person who, under section 20, is treated as a victim; and
- “(ii) is to be, or has been, submitted under **section 21** to the judicial officer sentencing the offender; and 5
- “(b) includes any recording, summary, transcript, or other copy of that information.
- “(2) In this section, **information** may include any photographs, drawings, or other visual representations provided by the victim. 10
- “17AB Purpose of victim impact statements**
- The purpose of a victim impact statement is to—
- “(a) enable the victim to provide information to the court about the effects of the offending; and
- “(b) assist the court in understanding the victim’s views about the offending; and 15
- “(c) inform the offender about the impact of the offending from the victim’s perspective.”
- 12 New section 17 substituted** 20
- Section 17 is repealed and the following section substituted:
- “17 Information to be ascertained from victim**
- “(1) When preparing a victim impact statement, the prosecutor must make all reasonable efforts to ascertain from the victim information about the following matters:
- “(a) any physical injury or emotional harm suffered by the victim through, or by means of, the offence; and 25
- “(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; and
- “(d) any other matter consistent with the purpose of victim impact statements set out in **section 17AB**. 30
- “(2) If a person is a victim in terms of paragraph (a)(iii) of the definition of **victim** 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.” 35

13 Procedure before ascertaining information from victim

- (1) Section 18(a)(i) is amended by omitting “submission to the judicial officer sentencing the offender” and substituting “a victim impact statement”.
- (2) Section 18(b) is amended by omitting “information ascertained” and substituting “victim impact statement”. 5

14 Form and verification of information ascertained

- (1) Section 19(1) is amended by omitting “submitted to the judicial officer sentencing the offender” and substituting “included in the victim impact statement”. 10
- (2) Section 19 is amended by omitting “for submission to the judicial officer sentencing the offender” in each place where it appears and substituting in each case “to be included in a victim impact statement”.

15 New sections 21 to 22B substituted 15

Sections 21 and 22 are repealed and the following sections substituted:

“21 Victim impact statement to be submitted to judicial officer

- “(1) A victim impact statement must be submitted by the prosecutor— 20
 - “(a) to the judicial officer sentencing the offender; and
 - “(b) in the form in which it was recorded under section 19 unless the judicial officer directs otherwise.
- “(2) Despite **subsection (1)**, a victim impact statement containing information ascertained from a person treated as a victim under section 20 may only be submitted with the leave of the judicial officer. 25

“22 Victim impact statement may be read to court

- “ (1) A victim may make a request to the judicial officer sentencing the offender to have all or any part of a victim impact statement submitted under **section 21** read to the court by— 30
 - “(a) the victim; or
 - “(b) the prosecutor; or
 - “(c) a person nominated by the victim, not being an accused or offender in relation to— 35

- “(i) the offence; or
 - “(ii) another offence arising from the same incident or series of incidents as the offence.
- “(2) A judicial officer—
- “(a) must agree to a request made under **subsection (1)** by a victim of a specified offence unless the judicial officer considers it inappropriate to do so because of—
 - “(i) the number of requests made under **subsection (1)**:
 - “(ii) the age and maturity of the offender: 10
 - “(iii) the content of the victim impact statement being inconsistent with the purpose of victim impact statements set out in **section 17AB**:
 - “(iv) concern about the risk of serious disruption to the proceedings or a risk to the safety of any person: 15
 - “(b) may agree to a request made under **subsection (1)** by a victim of an offence of any other kind.
- “(3) The reading of all or any part of a victim impact statement to the court may be subject to any time limit that the judicial officer considers appropriate. 20

“**22A Victim impact statement may be presented to court in some other manner**

The judicial officer sentencing the offender may, at the request of the prosecutor, agree that all or any part of a victim impact statement submitted under **section 21** be presented to the court in any manner other than by reading it (for example, if the information ascertained from a victim is recorded on an audiotape, by playing that audiotape). 25

“**22B Weight to be given to victim impact statement**

In determining the weight to give to a victim impact statement, the judicial officer sentencing the offender must have regard to the following matters: 30

- “(a) whether the statement is verified in the way stated in section 19(3) or (4); and
- “(b) if the statement is verified, the date of the verification; 35
and

“(c) any other matters that the judicial officer considers may properly be taken into account.”

16 New headings and sections 29 to 32B substituted

Sections 29 to 32 and the headings above those sections are repealed and the following headings and sections substituted: 5

“Sections 30 to 48 apply only to victims of specified offences

“29 Specified offence defined

In this Act, a **specified offence** is—

“(a) an offence of a sexual nature specified in— 10

“(i) Part 7 of the Crimes Act 1961, excluding the offences in sections 143 and 144; or

“(ii) sections 216H to 216J of the Crimes Act 1961; or

“(b) an offence of serious assault that does not come within **paragraph (a)**; or 15

“(c) an offence that has resulted in serious injury to a person, in the death of a person, or in a person becoming incapable; or

“(d) an offence of another kind, and that has led to the victim having ongoing fears, on reasonable grounds,— 20

“(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.

“29A Commissioner of Police to determine whether offence affecting victim is a specified offence 25

As soon as practicable after a victim comes into contact with the New Zealand Police, the Commissioner of Police must determine whether the offence that affected the victim is a specified offence.

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

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

“(1) This section applies if—

“(a) the victim is the victim of a specified offence; and

- “(b) the person accused of the offence or, as the case requires, the offender, applies to a court for release on bail.
- “(2) If this section applies, the prosecutor must—
- “(a) make all reasonable efforts to ensure that any views the victim has about the accused or, as the case requires, the offender, being released on bail are ascertained; and
- “(b) inform the court of any views ascertained under **paragraph (a)**.
- “Duties in relation to informing victims about receiving notices under sections 34 to 39”* 10
- “31 Police to give victims of specified offences information about right to ask for notice and to appoint representative”**
- “(1) This section applies in respect of a victim of a specified offence. 15
- “(2) The Commissioner of Police must, as soon as practicable,—
- “(a) inform the victim of the matters required by **subsections (3) to (5)**; and
- “(b) inform a support person of the victim of the matters required by **subsection (6)**. 20
- “(3) The Commissioner of Police must inform the victim that the victim has the right to ask to be given any notice under sections 34 to 38 and that, if he or she asks to be given such notices, then the victim must at the same time give to the New Zealand Police his or her address in accordance with **section 32B(1)(c)(i)**. 25
- “(4) The Commissioner of Police must inform the victim that if the victim asks to be given any notice under sections 34 to 38 and gives the New Zealand Police his or her address, then the victim may also be given notice under the following provisions: 30
- “(a) section 39:
- “(b) section 20 of the Prisoners’ and Victims’ Claims Act 2005.
- “(5) The Commissioner of Police must inform the victim that—
- “(a) the victim may appoint a representative under section 40 to request and receive on his or her behalf any notice given under sections 34 to 39; and 35

- “(b) if the victim appoints a representative, the victim or his or her representative must give to the New Zealand Police the name and address of the representative in accordance with **section 32B(1)(c)(ii)**.
- “(6) If the Commissioner of Police knows, or ought reasonably to know, that the victim is not, or may not be, capable alone of doing any of the following, the Commissioner must inform a support person of the victim that the victim may appoint a representative under section 40: 5
- “(a) asking for, receiving, or understanding a notice under any of sections 34 to 39; and 10
- “(b) appointing a representative under section 40.
- “(7) **Subsection (6)** does not limit **subsections (3) to (5)**.
- “**32 Police to give Secretary information about victims of specified offences** 15
- As soon as practicable after determining that the offence that affected the victim is a specified offence, the Commissioner of Police must give to the Secretary the following information:
- “(a) the name of— 20
- “(i) the victim; and
- “(ii) the victim’s representative (if any); and
- “(b) the address of—
- “(i) the victim; or
- “(ii) the victim’s representative.
- “**32A Secretary to give victim information about right to appoint representative and to request notices** 25
- As soon as practicable after receiving a notice under **section 32** in respect of a victim, the Secretary must inform the victim that—
- “(a) the victim may appoint a representative under section 40; and 30
- “(b) the victim, or his or her representative, has the right to request to be given any notice under sections 34 to 38; and
- “(c) the victim, or his or her representative, at the same time as exercising the right in **paragraph (b)**, must give 35

to the New Zealand Police an address under **section 32B(1)(c)(i) or (ii)**.

“Sections 34 to 38 and 47 apply only to certain victims who request notice and give address

- “32B Application of sections 34 to 38 and 47** 5
- “(1) Sections 34 to 38 and 47 apply to a victim only if—**
- “(a) the victim is a victim of a specified offence; and**
- “(b) the victim, or the victim’s representative, has requested the New Zealand Police to ensure that the victim—**
- “(i) is given notice under sections 34 to 38; and** 10
- “(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** 15
- “(c) at the same time as the victim, or the victim’s representative, makes a request under paragraph (b), the New Zealand Police is given—**
- “(i) the victim’s address; or** 20
- “(ii) the name and address of the victim’s representative.**
- “(2) Section 34 also applies to a victim (to whom subsection (1)(a) applies but not subsection (1)(b) and (c)), if—**
- “(a) the victim’s views have been ascertained under section 30 about the release on bail of the person accused of the offence or the offender; and** 25
- “(b) the victim, or the victim’s representative, has—**
- “(i) requested the New Zealand Police to ensure that the victim is given notice under section 34; and** 30
- “(ii) given to the New Zealand Police, at the same time as making a request under paragraph (i),—**
- “(A) the victim’s address; or**
- “(B) the name and address of the victim’s representative.”** 35

17 New sections 33 to 33C substituted

Sections 33 and 33A are repealed and the following sections substituted:

“33 Address of victim or victim’s representative to be forwarded in certain cases

5

“(1) If a victim or the victim’s representative has made a request under **section 32B(1)(b)** and complied with **section 32B(1)(c)**, the Commissioner of Police must forward to the persons specified in **subsection (2)** the following information:

10

“(a) the victim’s name and address; or

“(b) the victim’s name and the name and address of the victim’s representative.

“(2) The persons referred to in **subsection (1)** are—

“(a) 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 prison in connection with the offence and the Commissioner has not already forwarded a copy of the address under **paragraph (b)**:

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20

“(b) 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 or facility 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)**.

25

“(3) The chief executive of the Department of Corrections must forward to the Director-General of Health the information that the chief executive of the Department of Corrections has received under **subsection (1)** if the offender, having been liable to be detained in a prison in connection with the offence, becomes liable to be detained—

30

“(a) 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; or

35

- “(b) in a facility following an application under section 29(1) of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.
- “(4) The Director-General of Health must forward to the chief executive of the Department of Corrections the information that the Director-General of Health has received under **subsection (1)** if the person accused of the offence or, as the case requires, the offender, having been liable to be detained in a hospital or facility in connection with the offence, is removed to a prison under section 47(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or section 71 of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.
- “(5) An address required to be forwarded under this section must be forwarded as soon as practicable after the requirement arises.
- “**33A Notification of change of address of victim or representative**
- “(1) A victim may change his or her address given under **section 32B(1)(c)(i) or (2)(b)(ii)(A)** by notifying the persons specified in **subsection (3)** of that change.
- “(2) A victim or the victim’s representative may change the representative’s address given under **section 32B(1)(c)(ii) or (2)(b)(ii)(B)** by notifying the persons specified in **subsection (3)** of that change.
- “(3) The persons referred to in **subsections (1) and (2)** are any of the following persons who would be likely to give the victim a notice under any of sections 34 to 38:
- “(a) the Commissioner of Police:
- “(b) the chief executive of the Department of Corrections:
- “(c) the Director-General of Health.
- “**33B Notification of withdrawal of request to be given notice**
- “(1) A victim may withdraw his or her request to be given notice under sections 34 to 38 by notifying in writing each of the following persons from whom the victim would be likely to receive notice under those sections:
- “(a) the Commissioner of Police:

- “(b) the chief executive of the Department of Corrections:
“(c) the Director-General of Health.
- “(2) A person who receives a written notification under **subsection (1)** from a victim is, from the date of receipt of that notification, no longer required to give to that victim, or the victim’s representative, any notice under sections 34 to 38. 5
- “**33C Secretary must request victim’s address for notice under Prisoners’ and Victims’ Claims Act 2005**
- “(1) If the Secretary is required by section 20 of the Prisoners’ and Victims’ Claims Act 2005 to give a written notice notifying the payment of money into the victims’ claims trust bank account to be held in trust for an accused or an offender, the Secretary must— 10
- “(a) advise each of the following persons of that fact: 15
- “(i) the Commissioner of Police:
- “(ii) the chief executive of the Department of Corrections:
- “(iii) the Director-General of Health; and
- “(b) request each of those persons to supply the full name and address of any victim of the offence, or the victim’s representative, in respect of whom the person has received an address under any of **sections 32B to 33A**. 20
- “(2) As soon as practicable after receiving a request under **subsection (1)(b)**, a person must— 25
- “(a) respond to that request; and
- “(b) if possible, supply that information.”
- 18 Notice of release on bail of accused or offender**
- Section 34 is amended by repealing subsection (1) and substituting the following subsections:
- “(1) In the case of a victim to whom this section applies by **section 32B(1)**, the victim or his or her representative must, as soon as practicable, be given notice of the matters set out in **section (1B)** by the Commissioner of Police. 30
- “(1A) In the case of a victim to whom this section applies by **section 32B(2)**, the victim or his or her representative must, as 35

- soon as practicable, be given notice of the matters set out in **subsection (1B)** by—
- “(a) the Commissioner of Police, if the application for release on bail was opposed by the prosecutor; or
 - “(b) the Secretary, if— 5
 - “(i) the application for release on bail was not opposed by the prosecutor; and
 - “(ii) in respect of the victim or his or her representative, the Secretary has received an address under **section 32(b)**. 10
- “(1B) The matters referred to in **subsections (1) and (1A)** are—
- “(a) whether the person accused of the offence or, as the case requires, the offender, has been released on bail; and
 - “(b) if the person accused of the offence or, as the case requires, the offender, has been released on bail, any terms or conditions of release that— 15
 - “(i) relate to the safety and security of the victim, or of 1 or more members of the victim’s immediate family, or of both; or
 - “(ii) require the accused or offender not to associate with, or not to contact, the victim, or 1 or more members of the victim’s immediate family, or both; and 20
 - “(c) if an application for release on bail has been made and the hearing of that application has been adjourned, the date to which the hearing has been adjourned.” 25
- 19 New sections 35 and 35A substituted**
- Section 35 is repealed and the following sections are substituted:
- “35 Notice of release or escape from, or death in, prison detention of accused or offender 30**
- “(1) The chief executive of the Department of Corrections must give a victim to whom this section applies—
- “(a) reasonable prior notice of— 35
 - “(i) the offender’s impending temporary release from custody under section 62 of the Corrections Act 2004 (other than where the offender is to be ac-

- companied throughout by 1 or more constables as a condition of the release):
- “(ii) the offender’s sentence of imprisonment being cancelled and substituted with a sentence of home detention under section 80K of the Sentencing Act 2002: 5
 - “(iii) the offender’s impending release from prison detention if the offender does not have a parole eligibility date under section 20 of the Parole Act 2002 (because the offender has cumulative sentences of imprisonment of not more than 24 months): 10
- “(b) notice, as soon as practicable, of the accused or offender’s—
- “(i) escape from prison detention, unless the accused or offender sooner returns, or is returned to, the place of prison detention: 15
 - “(ii) death in prison: 15
- “(c) notice, shortly beforehand, of the offender’s sentence end date for the offence, being the date that is the later of the following applicable dates: 20
- “(i) the date on which the offender has served the full term of the sentence imposed in respect of the offence: 20
 - “(ii) the expiry date of any release conditions imposed by the court under section 93 of the Sentencing Act 2002 when sentencing the offender for the offence: 25
 - “(iii) the expiry date of any release conditions imposed on the offender by the New Zealand Parole Board under section 18(2) of the Parole Act 2002 that apply after the offender has served the full term of the sentence imposed in respect of the offence. 30
- “(2) In this section, **prison detention**—
- “(a) means detention in a prison (or in a Police station or other place of confinement, in accordance with section 35 of the Corrections Act 2004); and 35
 - “(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—

“(i) 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

“(ii) detention of a kind referred to in section 37(1)(a) or (b) of this Act.

“35A Notice of cessation of, or absconding from, or death during, home detention of offender

The chief executive of the Department of Corrections must give a victim to whom this section applies—

“(a) reasonable prior notice of the offender ceasing to be subject to a sentence of home detention (including where the sentence of home detention is cancelled and substituted with another sentence under section 80F(4) of the Sentencing Act 2002); and

“(b) notice, as soon as practicable, of—

“(i) every instance of the offender, being on home detention, leaving the home detention residence other than in accordance with his or her detention conditions, unless the offender sooner returns, or is returned to, the home detention residence:

“(ii) the death, during home detention, of the offender.”

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

(1) Section 36(1) is amended by repealing paragraph (a) and substituting the following paragraphs:

“(a) every conviction of the offender for an offence against section 71(1) of the Parole Act 2002 of breaching, without reasonable excuse, any standard release conditions

- or special conditions imposed by the New Zealand Parole Board:
- “(ab) every conviction of the offender for an offence against section 80S(a) or 80U(1) of the Sentencing Act 2002 of breaching, without reasonable excuse,— 5
- “(i) any standard or special detention conditions of a sentence of home detention:
- “(ii) any standard or special post-detention conditions of a sentence of home detention:
- “(ac) every conviction of the offender for an offence against section 96(1) of the Sentencing Act 2002 of breaching, without reasonable excuse, any standard or special conditions imposed by the court that apply on release from a term of imprisonment of 24 months or less:” 10
- (2) Section 36(1)(c) is repealed. 15
- (3) Section 36 is amended by inserting the following subsection after subsection (1):
- “(1A) The New Zealand Parole Board must give a victim to whom this section applies notice, as soon as practicable, of 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 prison.” 20
- 21 Notice of discharge, leave of absence, or escape or death of accused or offender who is compulsorily detained in hospital or facility** 25
- Section 37(1) is amended by omitting “31” and substituting “**32B**”.
- 22 Notice of proposal to cancel or suspend liability for deportation**
- (1) Section 39(2) is amended by repealing paragraph (b) and substituting the following paragraph: 30
- “(b) request the specified person to provide to the chief executive the address of the victim of the offence, or of the victim’s representative.”
- (2) Section 39 is amended by repealing subsection (3) and substituting the following subsection: 35

- “(3) A specified person must, as soon as practicable after receiving a request under **subsection (2)(b)**, comply with that request if—
- “(a) that address has been given or forwarded to the specified person under **section 32B to 33A**; and 5
 - “(b) the specified person has not forwarded that address under **section 33** to any other specified person.”
- 23 Representative for notice**
Section 40 is amended by omitting “(in sections 41 to 45 called the **representative**)”. 10
- 24 Effect of appointment of representative**
Section 41(a) is repealed.
- 25 Ways in which notice required may be given**
- (1) Section 46(1) is amended by omitting “current” in each place where it appears. 15
 - (2) Section 46 is amended by repealing subsection (2) and substituting the following subsections:
 - “(2) If, as required by section 41(b), information is to be given to the representative of a victim, it is sufficient compliance with that requirement to give the information by any of the means set out in subsection (1)(a) to (d) and all references in those paragraphs to the victim are to be read as references to the representative. 20
 - “(3) Nothing in subsection (1) **or (2)** prevents notice from being given by any other means.” 25
- 26 New section 47 substituted**
Section 47 is repealed and the following section substituted:
- “47 Victim may participate in process for offender’s release from prison**
A victim to whom this section applies may participate in the process for making decisions about the offender’s release from prison under sections 43(3), 43(5), and 49(4) (and any other relevant provisions) of the Parole Act 2002.” 30

27 Complaints

Section 49 is amended by adding the following subsection:

- “(3) Any person who receives a complaint under subsection (2)(a) must deal with the complaint promptly and fairly.”

28 New section 50A inserted

5

The following section is inserted after section 50:

“50A Information about complaints to be included in annual report

- “(1) Without limiting section 43 of the Public Finance Act 1989, each agency specified in **subsection (2)** must include in its annual report for each financial year that commences after the commencement of this section—

“(a) a summary of the services provided by that agency to victims (as defined in this Act):

“(b) statistical information about—

“(i) the number and type of complaints received by that agency under section 49 of this Act; and

“(ii) the disposition of those complaints.

- “(2) The agencies are—

“(a) the Crown Law Office: 20

“(b) the Department of Corrections:

“(c) the Department of Labour:

“(d) the Ministry of Justice:

“(e) the Ministry of Social Development:

“(f) the New Zealand Police.” 25

29 Return of property held as evidence

Section 51 is amended by adding the following subsection as subsection (2):

- “(2) Subsection (1) does not apply to a law enforcement agency if the person advises that agency that he or she does not want the property returned.” 30

30 New heading and sections 51A to 51E inserted

The following heading and sections are inserted after section 51:

*“Code for victims***“51A Interpretation**

In **sections 51B to 51E**,—

“**code** means the code for victims

“**Minister** means the Minister of Justice.

5

“51B Secretary to prepare code

“(1) As soon as practicable after the commencement of this section, the Secretary must prepare a code.

“(2) The purpose of the code is to make available to victims information that is consistent with this Act and any other Act about—

“(a) the rights of victims; and

“(b) the services available to victims from government agencies and other organisations; and

“(c) the duties and responsibilities of government agencies when dealing with victims.

15

“(3) In preparing the code, the Secretary—

“(a) must consult with the government agencies that provide services to victims; and

“(b) may consult with any persons or representatives of persons as the Secretary considers appropriate.

20

“51C Code to be approved by Minister

A code prepared under **section 51B** does not have any effect for the purposes of this Act until—

“(a) it has been submitted to the Minister; and

25

“(b) the Minister, after being satisfied that appropriate consultation has been carried out under **section 51B(3)**, has approved and signed the code.

“51D Publication of code

“(1) As soon as practicable after the code has been approved by the Minister, the Secretary must notify the approval of the code in the *Gazette*.

30

“(2) The Secretary must—

“(a) promote awareness of the code in a variety of communications media; and

35

“(b) make copies of the code accessible to members of the public (whether electronically or otherwise).”

“51E Amendment to code

The Secretary may at any time amend the code in the manner provided in **sections 51B to 51D**, except that consultation need not be undertaken on matters involving minor corrections or updating, or otherwise of a minor or technical nature.” 5

31 Consequential amendment to Official Information Act 1982

- (1) This section amends the Official Information Act 1982. 10
 (2) Paragraph (k) of the definition of **official information** in section 2(1) is amended by omitting “section 22” and substituting “**section 17AA**”.

Part 2

Amendments to Children, Young Persons, and Their Families Act 1989 15

32 Principal Act amended

This **Part** amends the Children, Young Persons, and Their Families Act 1989.

33 Interpretation 20

Section 2(1) is amended by repealing the definition of **victim** and substituting the following definition:
 “**victim** has the meaning given in **section 2A**”.

34 New section 2A inserted

The following section is inserted after section 2: 25

“2A Meaning of victim

“(1) In this Act, **victim** means—

“(a) a person against whom an offence is committed by a child or young person:

“(b) a person who, through, or by means of, an offence committed by a child or young person, suffers physical injury or loss of, or damage to, property: 30

- “(c) a parent or guardian of a child or young person who is a victim within the meaning of **paragraph (a) or (b)**, unless that parent or guardian—
- “(i) is a child or young person against whom a charge in respect of the offence has been proved before a Youth Court; or 5
- “(ii) is also charged with the commission of the offence concerned:
- “(d) a member of the immediate family of a person who, as a result of an offence committed by a child or young person, dies or is incapable, unless that member— 10
- “(i) is a child or young person against whom a charge in respect of the offence has been proved before a Youth Court; or
- “(ii) is also charged with the commission of the offence concerned. 15
- “(2) If an offence is committed by a child or young person then, despite **subsection (1)**, **victim** does not include—
- “(a) any other person against whom (whether as a principal or party or accessory after the fact or otherwise)— 20
- “(i) that offence is proved before a Youth Court; or
- “(ii) an offence relating to the same incident or series of incidents as that offence is proved before a Youth Court; or
- “(b) any other person who (whether as principal or party or accessory after the fact or otherwise)— 25
- “(i) is charged with the commission of, or convicted or found guilty of, that offence; or
- “(ii) is charged with the commission of, or convicted or found guilty of, an offence relating to the same incident or series of incidents as that offence. 30
- “(3) For the purposes of the definition of **victim** in **subsection (1)**,—
- “(a) **offence** includes an alleged offence; and
- “(b) the terms **immediate family** and **incapable** have the meanings given in section 4 of the Victims’ Rights Act 2002.” 35

35 Custody of child or young person pending hearing

Section 238 is amended by repealing subsection (2) and substituting the following subsections:

- “(2) If a child or young person appears before the Youth Court charged with the commission of an offence that the Commissioner of Police determines under **section 29A** of the Victims’ Rights Act 2002 to be a specified offence, then,—
- “(a) before the court makes an order under subsection (1), the prosecutor must—
- “(i) make all reasonable efforts to ascertain the views (if any) each victim has about which of the types of order that may be made under subsection (1) is the most appropriate to be made by the court; and
- “(ii) inform the court of those views; and
- “(b) after the court has made an order under subsection (1), the Commissioner of Police must inform each victim (whether or not the victim’s views have been ascertained under **paragraph (a)**) of—
- “(i) the order made by the court; and
- “(ii) in the case of any order made under subsection (1)(b), any conditions of bail imposed by the court that—
- “(A) relate to the safety and security of the victim or 1 or more members of the victim’s immediate family, or of both; or
- “(B) require the child or young person not to associate with, or not to contact, the victim or 1 or more members of the victim’s immediate family, or both.
- “(3) Nothing in **subsection (2)** prevents the court from making an order under subsection (1), even though the court has not been informed of the views of any victim.
- “(4) The court must not refuse bail to a child or young person merely because the court considers that the child or young person is in need of care or protection (as defined in section 14).
- “(5) In this section,—
- “**immediate family** has the meaning given in section 4 of the Victims’ Rights Act 2002

“**specified offence** has the meaning given in **section 29** of the Victims’ Rights Act 2002.”

36 Persons entitled to attend family group conference

(1) Section 251 is amended by inserting the following subsection after subsection (1): 5

“(1A) A person referred to in subsection (1) who does not, for any reason, attend any meeting of a family group conference is not solely by reason of that non-attendance precluded from attending any subsequent meeting of that family group conference, or any meeting of the family group conference reconvened under section 270.” 10

(2) Section 251 is amended by repealing subsection (2) and substituting the following subsection:

“(2) If, under subsection (1)(f), a victim of an offence or alleged offence attends a family group conference in person or, as the case may be, by a representative, that victim or representative may be accompanied by any reasonable number of persons (being members of the victim’s or representative’s family, whanau, or family group, or any other persons) who attend the conference for the purpose only of providing support to that victim or representative.” 15 20

37 Application of District Courts Act 1947, Summary Proceedings Act 1957, Bail Act 2000, and Criminal Disclosure Act 2008

The heading to section 321 is amended by inserting “**Victims’ Rights Act 2002,**” after “**Bail Act 2000,**”. 25

38 Persons entitled to be present at hearing

(1) Section 329(1) is amended by inserting the following paragraphs after paragraph (j):

“(ja) a victim of the offence or alleged offence, or his or her representative: 30

“(jb) any 1 or more persons whom the Judge permits to be present as support persons for the victim of the offence or alleged offence, or the victim’s representative.”

(2) Section 329 is amended by repealing subsection (2) and substituting the following subsection:

“(2) If, during the hearing, the Judge requests a person of the kind described in **paragraph (jb)** or (k) to leave the courtroom, that person must do so.”

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39 Schedule 1 amended

Schedule 1 is amended by inserting the following clause after clause 3:

“3A The Victims’ Rights Act 2002, as follows:

“(a) sections 7, 8, and 10: 10

“(b) section 11 (except the definition of **services in subsection (2)** does not apply):

“(c) section 12 (except **subsections (1)(ca)** and (3) do not apply):

“(d) section 13 (except that despite subsection (3), section 12 overrides section 438 of this Act): 15

“(e) sections 14 to 16A:

“(f) **sections 17AA** to 27 if the Youth Court is to make an order under section 283 of this Act (other than where the Court is to discharge an information under section 282 of this Act), so far as they are applicable and with the following modifications: 20

“(i) references to an offender are to be read as references to a child or young person against whom a charge in respect of the offence is proved before a Youth Court: 25

“(ii) references to a conviction are to be read as references to a finding of a Youth Court that a charge against a young person is proved:

“(iii) the reference in section 17(2) to paragraph (a)(iii) of the definition of victim in section 4 is to be read as a reference to **paragraph (c)** of the definition of victim in **section 2A** of this Act: 30

“(g) section 37 if, in addition to the requirements of subsection (1) of that section,— 35

“(i) the victim is the victim of a specified offence; and

- “(ii) the victim has requested the Commissioner of Police to ensure that he or she is given notice under section 37; and
- “(iii) the Commissioner of Police has referred that request to the Director-General of Health and provided the Director-General of Health with the victim’s address: 5
- “(h) section 38 if, in addition to the requirements of subsection (1) of that section,—
- “(i) the victim is the victim of a specified offence; and 10
- “(ii) the victim has requested the Commissioner of Police to ensure that he or she is given notice under section 38; and
- “(iii) the Commissioner of Police has referred that request to the Director-General of Health and provided the Director-General of Health with the victim’s address: 15
- “(i) the provisions of Part 4, so far as they are applicable, except that the reference to offender in section 51(1) includes a child or young person against whom a charge in respect of the offence has been proved before a Youth Court.” 20

Part 3

Amendments to Parole Act 2002

- 40 Principal Act amended** 25
This **Part** amends the Parole Act 2002.
- 41 Interpretation**
The definition of **victim** in section 4(1) is amended by omitting “current address, under section 31” and substituting “address, under **section 32B**”. 30
- 42 Information for victims**
Section 44 is amended by adding the following subsection as subsection (2):
- “(2) The Department of Corrections must prepare and send to the victim the information specified in subsection (1) before— 35

- “(a) the parole hearing; and
- “(b) each subsequent parole hearing, if at the earlier parole hearing the Board does not direct that the offender be released on parole.”

Part 4

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Amendments to Sentencing Act 2002

43 Principal Act amended

This **Part** amends the Sentencing Act 2002.

44 New section 24A inserted

The following section is inserted before section 25:

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“24A Adjournment for restorative justice process in certain cases

“(1) This section applies if—

- “(a) an offender appears before a District Court at any time before sentencing; and
- “(b) the offender has pleaded guilty to the offence; and
- “(c) there are 1 or more victims of the offence; and
- “(d) no restorative justice process has previously occurred in relation to the offending; and
- “(e) the Registrar has informed the court that an appropriate restorative justice process can be accessed.

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“(2) The court must adjourn the proceedings to—

- “(a) enable inquiries to be made by a suitable person to determine whether a restorative justice process is appropriate in the circumstances of the case; and
- “(b) enable a restorative justice process to occur if the inquiries made under **paragraph (a)** reveal that a restorative justice process is appropriate in the circumstances of the case.”

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45 Power of adjournment for inquiries as to suitable punishment

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(1) Section 25(1)(b) is amended by omitting “occur” and substituting “occur, or to be completed”.

(2) Section 25(2) is amended by omitting “section 10(4)” and substituting “section 10(4) or **24A**”.

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46 Sentence of reparation

Section 32 is amended by repealing subsection (5) and substituting the following subsection:

- “(5) Despite subsections (1) and (3), the court must not order the making of reparation in respect of any consequential loss or damage described in subsection (1)(c) for which compensation has been, or is to be, paid under the Accident Compensation Act 2001.” 5

47 Court may order reparation report

Section 33(1)(c) is amended by repealing subparagraph (ii) and substituting the following subparagraph: 10

- “(ii) the amount or extent of compensation paid or payable under the Accident Compensation Act 2001 to the person who suffered the loss or damage in respect of that loss or damage.” 15

48 Discharge without conviction

Section 106 is amended by repealing subsection (5) and substituting the following subsection:

- “(5) Despite subsection (3)(b), the court must not order the payment of compensation in respect of any consequential loss or damage described in subsection (3)(b)(iii) for which compensation has been, or is to be, paid under the Accident Compensation Act 2001.” 20

49 Conviction and discharge

Section 108 is amended by repealing subsection (4) and substituting the following subsection: 25

- “(4) Despite subsection (2)(b), the court must not order the payment of compensation in respect of any consequential loss or damage described in subsection (2)(b)(iii) for which compensation has been, or is to be, paid under the Accident Compensation Act 2001.” 30

50 Order to come up for sentence if called upon

Section 110 is amended by repealing subsection (5) and substituting the following subsection:

“(5) Despite subsection (3)(b), the court must not order the payment of compensation in respect of any consequential loss or damage described in subsection (3)(b)(iii) for which compensation has been, or is to be, paid under the Accident Compensation Act 2001.”

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