



Victims' Rights Amendment Act 2014

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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 Amendment Act 2014.

2 Commencement

- (1) Section 30 comes into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force 6 months after the date on which it receives the Royal assent.

3 Principal Act amended

This Act 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 or email) and received by the victim or representative

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

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

“**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”.

- (2) Paragraph (b) of the definition of **offender** in section 4 is repealed and the following paragraph substituted: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

- (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):”.

- (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

“(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”.

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Section 9 is repealed and the following section substituted: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.

“(2) A member of court staff, a Police employee, or, if appropriate, a probation officer 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.”

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—

“(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:

“(e) the Ministry of Social Development:

“(f) the New Zealand Police
“services includes participation in restorative justice processes.”

8 Information about proceedings

(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.”

(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—

“(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

“(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) 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:

“(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 disclosing vic-**

tim's contact details in evidence or information provided to court".

- (2) Section 16 is amended by repealing subsection (1) and substituting the following subsection:
- “(1) This section applies to information (the **information**) that discloses, or that may lead to the disclosure of, a victim's contact details.”
- (3) Section 16 is amended by adding the following subsection:
- “(4) In this section, **contact details** means any 1 or more of the following:
- “(a) residential address:
 - “(b) postal address:
 - “(c) email address:
 - “(d) home telephone number:
 - “(e) business telephone number:
 - “(f) mobile telephone number:
 - “(g) fax number.”

11 New sections 17AA and 17AB inserted

The following sections are inserted above section 17:

“17AA Victim impact statement defined

- “(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—
 - “(A) under section 21AA, on request, to a judicial officer for the purpose of giving the accused a sentence indication:
 - “(B) under section 21 to the judicial officer sentencing the offender; and
 - “(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.

“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
- “(c) inform the offender about the impact of the offending from the victim’s perspective.”

12 New section 17 substituted

Section 17 is repealed and the following section substituted:

“17 Information to be ascertained from victim

- “(1) The prosecutor must make all reasonable efforts to ensure that information about the matters specified in subsection (2) is ascertained from the victim.
- “(2) The matters referred to in subsection (1) are—
 - “(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; and
 - “(d) any other matter consistent with the purpose of victim impact statements set out in section 17AB.
- “(3) 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 (2)(a) to (c) of this section to the victim includes a reference to the child or young person concerned.
- “(4) If a person is a victim in terms of paragraph (a)(iv) of the definition of **victim** in section 4 because a member of that person’s immediate family is incapable, then a reference in subsection (2)(a) to (c) of this section to the victim includes a reference to the incapable person concerned.”

13 Procedure before ascertaining information from victim

- (1) Section 18(a) is amended by repealing subparagraph (i) and substituting the following subparagraph:
 - “(i) that the information is being ascertained for a victim impact statement; and”.

- (2) Section 18(b) is amended by omitting “information ascertained” and substituting “victim impact statement”.

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”.
- (2) Section 19(3) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) that the victim gave the information knowing that it was to be included in a victim impact statement, and knowing that he or she was required to ensure that any information that he or she gave is true; and”.
- (3) Section 19(4) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) advised the victim that the information was to be included in a victim impact statement; and”.

15 New sections 21AA to 22B substituted

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

“21AA Victim impact statement may be used for purpose of sentence indication

- “(1) If requested by a court giving a sentence indication under section 61 of the Criminal Procedure Act 2011, the prosecutor must submit to a judicial officer any victim impact statement that has been prepared in relation to the offence.
- “(2) A victim impact statement must be submitted under subsection (1) in the form in which it was recorded under section 19 unless the judicial officer directs otherwise.
- “(3) For the purposes of subsection (1), it does not matter that the victim impact statement was prepared before this section came into force.

“21 Victim impact statement to be submitted to judicial officer

- “(1) If a victim impact statement has been prepared, the victim impact statement must be submitted by the prosecutor—
- “(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.
- “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—
 - “(a) the victim; or
 - “(b) the prosecutor; or
 - “(c) a person nominated by the victim, not being an accused or offender in relation to—
 - “(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:
 - “(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:
 - “(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.

“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 audio-tape, by playing that audiotape).

“22B Weight to be given to victim impact statement

In determining the weight to give to a victim impact statement, the judicial officer to whom the statement has been submitted must have regard to the following matters:

- “(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; 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:

“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—
 - “(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
- “(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,—
 - “(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 specified offence

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 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 ascertain any views the victim has about the accused, or, as the case requires, the offender, being released on bail; 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

“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.

“(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).

“(3) The Commissioner of Police must inform the victim that the victim has the right to ask to be given any notice under sec-

tions 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).

- “(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:
- “(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
 - “(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 a representative of the victim may be appointed under section 42:
- “(a) asking for, receiving, or understanding a notice under any of sections 34 to 39; and
 - “(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**

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—
 - “(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

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
- “(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 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

- “(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
 - “(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
 - “(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
 - “(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
- “(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
 - “(ii) given to the New Zealand Police, at the same time as making a request under subparagraph (i),—
 - “(A) the victim’s address; or
 - “(B) the name and address of the victim’s representative.”

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

- “(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:
 - “(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—
 - “(i) 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); or
 - “(ii) the offender has been sentenced to home detention:
 - “(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).

- “(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—
- “(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
 - “(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 in writing 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 in writing 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 or the victim’s representative 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.
- “(4) On receipt of a notification under subsection (1), a person (**Person A**) must—
- “(a) confirm receipt of the notification to the victim; and
 - “(b) forward the notification to any other person (**Person B**) to whom Person A has, under section 33, forwarded the victim’s name and address; and
 - “(c) if the notification has been forwarded under paragraph (b), inform the victim—
 - “(i) that this has been done; and
 - “(ii) of the name of Person B.
- “(5) On receipt of a notification under subsection (2), a person (**Person A**) must—
- “(a) confirm receipt of the notification to the victim or the victim’s representative, as the case may be; and
 - “(b) forward the notification to any other person (**Person B**) to whom Person A has, under section 33, forwarded the victim’s name and address; and
 - “(c) if the notification has been forwarded under paragraph (b), inform the victim or the victim’s representative from whom the notification was received—
 - “(i) that this has been done; and
 - “(ii) of the name of Person B.
- “(6) Person B who has been forwarded a notification under subsection (4)(a) or (5)(a) must confirm to the victim or the victim’s representative, as the case may be,—
- “(a) receipt of the notification from Person A; and
 - “(b) that any future change of address should be notified under subsection (1) or (2) to Person B.

“**33B Notification of withdrawal of request to be given notice**

- “(1) A victim may withdraw his or her request to be given notice under any of sections 34 to 38 by notifying in writing each of

the following persons from whom the victim or the victim's representative 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) On receipt of a notification under subsection (1), a person (**Person A**) must—
- “(a) confirm receipt of the notification to the victim; and
 - “(b) forward the notification to any other person (**Person B**) to whom Person A has, under section 33, forwarded—
 - “(i) the victim's name and address; or
 - “(ii) the name and address of the victim's representative; and
 - “(c) if the notification has been forwarded under paragraph (b), inform the victim—
 - “(i) that this has been done; and
 - “(ii) of the name of Person B.
- “(3) A person who receives a written notification under subsection (1) or (2) is, on and after 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.

“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—
- “(a) advise each of the following persons of that fact:
 - “(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.

- “(2) As soon as practicable after receiving a request under subsection (1)(b), a person must—
- “(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 specified in subsection (1B) by the Commissioner of Police.
- “(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 soon as practicable, be given notice of the matters specified 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—
 - “(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).
- “(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 imposed at any time that—
 - “(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
 - “(c) if any term or condition of release referred to in paragraph (b)(i) or (ii) is by order of the court or Registrar

varied, revoked, or substituted with any other term or condition, the detail of that order; and

- “(d) 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.”

19 New sections 35 and 35A substituted

Section 35 is repealed and the following sections are substituted:

“35 Notice of release or escape from prison detention, or of death, of 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—

“(i) impending temporary release from custody under section 62 of the Corrections Act 2004 (other than where the offender is to be accompanied throughout by 1 or more constables as a condition of the release):

“(ii) sentence of imprisonment being cancelled and substituted with a sentence of home detention under section 80K of the Sentencing Act 2002:

“(iii) 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):

“(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:

“(ii) death in prison:

“(c) notice, as soon as practicable, of the offender’s death if the offender dies while subject to any release conditions imposed by—

“(i) the court under section 93 of the Sentencing Act 2002:

- “(ii) the New Zealand Parole Board under section 18(2) or 29(1) of the Parole Act 2002:
- “(d) 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:
 - “(i) the date on which the offender has served the full term of the sentence imposed in respect of the offence:
 - “(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:
 - “(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.
- “(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
 - “(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 34A of the Corrections Act 2004; 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 offender’s death during home detention or while subject to any post-detention conditions imposed under section 80N or 80R of the Sentencing Act 2002; and
- “(c) notice, shortly beforehand, of the expiry date of any post-detention conditions imposed under section 80N or 80R of the Sentencing Act 2002.”

20 New sections 36 and 36A substituted

Section 36 is repealed and the following sections are substituted:

“36 Notice of convictions and sentences for breaching release or detention conditions

- “(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 standard release conditions or special conditions imposed by the New Zealand Parole Board:
 - “(b) 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,—
 - “(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:
 - “(c) 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:
 - “(d) the sentence imposed on the offender in respect of a conviction referred to in paragraphs (a), (b), and (c).
- “(2) Subsection (1) does not prevent the chief executive of the Department of Corrections giving a victim to whom this section applies notice of any other matters relating to the offender’s compliance with release or detention conditions.

“36A Notice of decisions on recall orders

- “(1) The New Zealand Parole Board must give a victim to whom this section applies notice, as soon as practicable, of—
- “(a) every decision to make an interim recall order, under section 62 of the Parole Act 2002, that results in the offender being detained in a prison pending the determination of an application for recall made under that Act in respect of the offender:
 - “(b) 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 prison:
 - “(c) 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 New Zealand Parole Board after a referral back to it on a review of that kind).
- “(2) The chief executive of the Department of Corrections must give a victim to whom this section applies notice, as soon as practicable, of 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 New Zealand Parole Board after a referral back to it on an appeal of that kind).”

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

- (1) Section 37(1) is amended by omitting “31” and substituting “32B”.
- (2) Section 37(2) is amended by repealing paragraph (b) and substituting the following paragraphs:
 - “(b) reasonable prior notice of the first unescorted leave of absence from the hospital or facility granted to the person or offender under a leave provision; and
 - “(ba) reasonable prior notice of the first unescorted overnight leave of absence granted to the person or offender under a leave provision; and”.
- (3) Section 37 is amended by adding the following subsections:
 - “(3) To avoid doubt, in subsection (2)(b),—
“**facility** includes the land on which the facility is situated
“**hospital** includes the land on which the hospital is situated.
 - “(4) In this section, **leave provision** means any of the following provisions:
 - “(a) section 31, 50, or 52 of the Mental Health (Compulsory Assessment and Treatment) Act 1992:
 - “(b) section 65, 66, or 67 of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.”

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:
 - “(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:
 - “(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 sections 32B to 33A; and

“(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**)”.

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.

(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.

“(3) Nothing in subsection (1) or (2) prevents notice from being given by any other means.”

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.”

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

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 referred to in subsection (1) are—

“(a) the Crown Law Office:

“(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.”

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 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.

“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.
- “(3) In preparing the code, the Secretary—
- “(a) must consult the government agencies that provide services to victims; and
 - “(b) may consult any persons or representatives of persons as the Secretary considers appropriate.

“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
- “(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*.
- “(2) The Secretary must—
- “(a) promote awareness of the code in a variety of communications media; and
 - “(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.”

31 Consequential amendment to Official Information Act 1982

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

32 Schedule amended

The Schedule is amended by adding the following item:

Victims' Rights Amendment Act 2011 (2011 No 95)

“Repeal sections 4 to 7.”

Legislative history

16 April 2014	Divided from Victims of Crime Reform Bill (Bill 319–2) as Bill 319–3A
27 May 2014	Third reading
6 June 2014	Royal assent

This Act is administered by the Ministry of Justice.
