



ANALYSIS

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1999, No. 1

An Act to make better provision for the treatment of victims of criminal offences

(11 February 1999)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by authority of the same, as follows:

1. Short Title and commencement – (1) This Act may be cited as the Victims of Offences Act 1999.

(2) This Act shall come into force on the day that it is assented to by the Queen's Representative.

2. Interpretation – In this Act, unless the context otherwise requires –

“Court” means the High Court of the Cook Islands;

“Judge” means a Judge of the High Court of the Cook Islands;

“Justice” means a Justice of the Peace for the Cook Islands appointed under the provisions of the Constitution of the Cook Islands;

“Minister” means the Minister of Justice;

“Secretary” means the Secretary of Justice;

“temporary release” means the temporary release of an offender from penal custody for the purposes set out in sections 18, 19, 22 and 23 of the Prisons Act 1967;

“victim” means a person who, through or by means of a criminal offence (whether or not any person is convicted of that offence), suffers physical or emotional harm, or loss of or damage to property; and, where an offence results in death, the term includes the members of the immediate family of the deceased.

3. Act to bind the Crown - This Act shall bind the Crown.
4. Treatment of victims – Members of the Police, prosecutors, judicial officers, counsel, and other persons dealing with victims should treat them with courtesy, compassion, and respect for their personal dignity and privacy.
5. Early information for victims - (1) Members of the Police, officers of the Court, and health and social services personnel, should inform victims at the earliest practicable opportunity of the services and remedies available to victims.
(2) Victims should also be told of available protection against unlawful intimidation.
6. Information about proceedings – The prosecuting authority or officers of the Court, as the case may require, should make available to a victim, information about the progress of the investigation of the offence, the charges laid or the reasons for not laying charges, the role of the victim as a witness in the prosecution of the offence, the date and place of the hearing of the proceedings, and the outcome of the proceedings, including any proceedings on appeal.
7. Return of property – The Police and the Court should return the property of a person (other than the defendant) that is held for evidentiary purposes as promptly as possible so as to minimise inconvenience to that person.
8. Victim impact statements – (1) Appropriate administrative arrangements should be made to ensure that a sentencing Judge is informed about any physical or emotional harm, or any loss of or damage to property, suffered by the victim through or by means of the offence, and any other effects of the offence on the victim.
(2) Any such information should be conveyed to the Judge either by the prosecutor orally or by means of a written statement about the victim.
(3) Without limiting subsection (1) or subsection (2) of this section, a sentencing Judge may direct the prosecutor to provide him or her with the information referred to in subsection (1) of this section in relation to any victim.
9. Residential address of victim – A victim’s residential address should not be disclosed in Court unless to exclude it would be contrary to the interests of justice.

10. Victim's views on bail in certain cases – On an application for bail in respect of a charge of rape or other sexual offence, or other serious assault or injury, the prosecutor should convey to the Judge or Justice, any fears held by the victim about the release on bail of the alleged offender.

11. Notification of release or escape of offender in certain cases – (1) The victim of an offence of rape or other sexual offence, or other serious assault or injury should be given the opportunity to request notification from the Secretary, of the offender's release or temporary release, or escape, from penal custody.

(2) Where in any such case the victim makes a request under subsection (1) of this section, and the Secretary has been supplied with the victim's current address and telephone number, the Secretary should promptly give such notification to the victim.

(3) Where in any such case the victim is –

- (a) intellectually handicapped; or
- (b) suffers from any mental illness; or
- (c) a child –

the victim's parents, guardians, or caregivers, should be given the opportunity to request the notification referred to in subsection (1) of this section and the Secretary should promptly give such notification upon receipt of, such request and the current address and telephone number of the victim's parents, guardians, or caregivers.

12. Victims notification register - (1) The Secretary shall keep a current register of the names and addresses of victims or persons who have made requests for notification under sections 11(1) and 11(3) of this Act.

(2) The information in the register shall be kept confidential and shall not be released or provided to any person.

(3) Any person who releases or provides any information contained in the register to any other person, commits an offence and shall be liable on conviction to a term of imprisonment not exceeding three months, or to a fine not exceeding \$500, or both.

13. Establishment of Victims Task Force – (1) There is established a task force to be called the Victims Task Force.

(2) The Victims Task Force shall comprise the following:

- (a) the Secretary or the Secretary's nominee, as Chairperson of the Task Force; and
- (b) the Commissioner of Police or the Commissioner's nominee; and
- (c) not more than four other persons who shall be appointed from time to time, by the Minister.

14. Functions of Victims Task Force – The functions of the Victims Task Force shall be -

- (a) as a matter of priority, to work with Judges, Justices, Registrars, prosecutors, Government departments, and community organisations involved with victims in order to develop guidelines to promote the principles set out in sections 3 to 11 of this Act;
- (b) to assess the adequacy of existing services available to victims and to identify any shortcomings;
- (c) to co-ordinate and promote the distribution of comprehensive information about the services and facilities available to victims;
- (d) to consider whether further measures are needed to assist victims;
- (e) to consider any other matter relating to victims referred to it by the Minister;
- (f) to make recommendations to the Minister as it sees fit, on matters relating to victims.

15. Expiry – Sections 13 and 14 of this Act shall expire with the close of the 30th day of June 2001 and on the close of that day the Victims Task Force shall cease to exist.

This Act is administered by the Ministry of Justice.