

# NORTHERN TERRITORY OF AUSTRALIA

## VICTIMS OF CRIME ASSISTANCE ACT 2006

As in force at 2 January 2024

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 2 January 2024

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## VICTIMS OF CRIME ASSISTANCE ACT 2006

**An Act to establish schemes to provide victims of violent acts with counselling and with financial assistance, and for related matters**

### **Part 1 Preliminary matters**

#### **1 Short title**

This Act may be cited as the *Victims of Crime Assistance Act 2006*.

#### **2 Commencement**

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

#### **3 Objects**

The objects of this Act are:

- (a) to assist the rehabilitation of victims of violent acts by implementing schemes to provide counselling and financial assistance for financial loss and compensable violent acts and compensable injuries; and
- (ab) to provide financial assistance for the cost of funerals of victims of violent acts; and
- (b) to enable the Territory to recover money from offenders who have committed violent acts resulting in payments of financial assistance to their victims and others; and
- (c) to establish a fund for the schemes implemented by this Act and to provide revenue for the fund by imposing a levy on certain people.

#### **4 Definitions**

In this Act:

**adult** means a person who is 18 or more years of age.

**applicant** means:

- (a) in relation to an application for an interim payment, award or increased award – the eligible victim by or for whom the application is made; or
- (b) in relation to an application for funeral expense assistance – the individual who makes the application.

**approved form** means a form approved under section 66.

**assessor**, of an application for an award or increased award, means the assessor for the financial assistance scheme who is deciding the application.

**assistance** means counselling or financial assistance.

**award**, see section 29A.

**child** means a person who is less than 18 years of age.

**compensable injury**, see section 7(2).

**compensable violent act**, see section 7(1).

**counselling** means counselling provided under the counselling scheme.

**counselling scheme** means the Victims Counselling Scheme established by section 20.

**Court** means the Local Court.

**CVSU** means the Crime Victims Services Unit established under the *Victims of Crime Rights and Services Act 2006*.

**debt amount**, for Part 5, Division 1, see section 55B(2).

**debt recovery notice**, for Part 5, Division 1, see section 55B(2).

**Director** means the person holding or occupying the office of Director of the CVSU under the *Victims of Crime Rights and Services Act 2006*.

**eligible victim**, for Part 4, means a primary victim, secondary victim or family victim of a violent act.

**family victim** has the meaning in section 13.

**financial assistance** means any of the following under the financial assistance scheme:

- (a) an interim payment;
- (b) an award, including an award increased under Part 4, Division 5;
- (c) funeral expense assistance.

**financial assistance scheme** means the Victims Financial Assistance Scheme established by section 23.

**Fund** means the Victims Assistance Fund established by section 60.

**funeral expense assistance**, see section 47A.

**guidelines** means guidelines issued under section 65.

**injury** has the meaning in section 6.

**interim payment**, see section 25B.

**medical expenses** includes expenses for any of the following:

- (a) medical, surgical, dental, ophthalmic, psychological or psychiatric treatment;
- (b) transportation by ambulance;
- (c) hospitalisation;
- (d) physiotherapy;
- (e) a medical report relating to an injury.

**offender**, in relation to a violent act, means a person who committed the act or is alleged to have committed the act.

**primary victim** has the meaning in section 9.

**related victim** has the meaning in section 15.

**secondary victim** has the meaning in section 11.

**standard amount**, for a compensable violent act or compensable injury, means the amount prescribed by regulation under section 7(3).

**violent act** has the meaning in section 5.

*Note for section 4*

*The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

## **5 Violent act**

(1) A **violent act** is:

- (a) a criminal act prescribed by regulation, or a series of such related criminal acts, whether committed by one or more persons, that occurs in the Territory; or
- (b) a criminal act, or a series of related criminal acts, whether committed by one or more persons, that:
  - (i) occurs in the Territory; and
  - (ii) directly results in the injury or death of one or more persons regardless of where the injury or death occurs.

(2) For this section, a criminal act is an act, omission or event done, made or caused by a person:

- (a) that constitutes a criminal offence; or
- (b) if the person is excused from criminal responsibility due to age, mental impairment or other legal incapacity or by some other lawful defence – that would otherwise constitute a criminal offence.

(3) A series of related criminal acts occurs if:

- (a) 2 or more criminal acts are committed against the same person; and
- (b) 2 or more of those acts:
  - (i) occur at approximately the same time; or
  - (ii) occur over a period of time and are committed by the same person or group of persons; or
  - (iii) share another common factor.

(4) A series of related criminal acts, whether committed by one or more persons, constitutes a single violent act.

- (5) A criminal act may be related to another criminal act even though charges for offences constituted by those criminal acts are tried or heard separately.
- (6) A criminal act for which financial assistance has been awarded is not related to another criminal act that occurs after the date on which the assessor gives notice of the award to the Director under section 44(1).
- (7) For this Act, a person who attempts to commit a criminal act is taken to have committed the criminal act.

## **6 Injury**

- (1) An injury is any of the following:
  - (a) a physical illness or injury;
  - (b) a recognisable psychological or psychiatric disorder;
  - (c) pregnancy;
  - (d) a combination of any injuries mentioned in paragraphs (a) to (c).
- (2) Subsection (1) does not include an injury resulting from the loss of or damage to property.

## **7 Compensable violent acts and injuries and standard amounts**

- (1) A compensable violent act is a violent act under section 5(1)(a).
- (2) A compensable injury is an injury prescribed by regulation.
- (3) The Regulations must prescribe a standard amount of financial assistance as the award for a compensable violent act and a compensable injury.
- (4) The standard amount may be a specified amount or an amount within a specified range.

## **8 Form of applications and lodgment at CVSU**

- (1) An application made to the Director under this Act must be in the approved form.
- (2) A person who makes an application to the Director, or is required to give a document to the Director or an assessor, must do so by lodging the application or document at an office of the CVSU or with a person acting for the CVSU.

- (3) The lodgment may be by one or a combination of the following methods:
  - (a) personal delivery;
  - (b) postal delivery;
  - (c) facsimile transmission;
  - (d) email.

## **Part 2                      Eligibility to apply for assistance**

### **Division 1                Categories of victims of violent acts and eligibility**

#### **9                      Primary victim**

- (1) A primary victim of a violent act is:
  - (a) if the violent act is a compensable violent act – a person against whom the violent act has been committed regardless of whether the person suffers an injury or dies as a direct result of the violent act; or
  - (b) otherwise – a person against whom the violent act has been committed and who suffers an injury or dies as a direct result of the violent act.
- (2) Also, a primary victim of a violent act is a person who suffers an injury or dies as a direct result of any of the following:
  - (a) trying to prevent another person from committing a violent act;
  - (b) trying to help or rescue another person against whom a violent act is being committed or has just been committed;
  - (c) trying to arrest another person who is committing or has just committed a violent act.

#### **10                      Primary victim's eligibility to apply for assistance**

- (1) A primary victim of a violent act is eligible to apply for counselling required because of the violent act.
- (2) A primary victim in circumstances of financial hardship is eligible to apply for an interim payment of financial assistance for the primary victim's financial loss.

- (3) A primary victim is eligible to apply for an award of financial assistance for the primary victim's financial loss.
- (4) A primary victim of a violent act is eligible to apply for an award for:
  - (a) if the violent act is a compensable violent act:
    - (i) the mere commission of the violent act; or
    - (ii) one or more compensable injuries suffered as a direct result of the violent act; or
  - (b) otherwise – one or more compensable injuries suffered as a direct result of the violent act.
- (5) For this section, a primary victim's financial loss is any of the following:
  - (a) loss of earnings suffered or reasonably likely to be suffered by the primary victim as a direct result of the violent act;
  - (b) expenses incurred by the primary victim due to loss of clothing and other personal effects as a direct result of the violent act;
  - (c) medical expenses reasonably incurred or reasonably likely to be incurred by the primary victim as a direct result of the violent act;
  - (d) in exceptional circumstances – other expenses reasonably incurred or reasonably likely to be incurred by the primary victim to assist the victim's recovery from the effects of the violent act.

*Examples for subsection (5)(d)*

- 1 *Relocation expenses.*
- 2 *Costs of securing the primary victim's place of residence or business.*

*Notes for section 10*

- 1 *Section 27(5) specifies the maximum interim payment.*
- 2 *Section 38 specifies the following:*
  - (a) *the maximum award;*
  - (b) *the maximum award for all financial loss;*
  - (c) *the minimum standard amount for compensable violent acts and injuries.*

## **11 Secondary victim**

- (1) A secondary victim of a violent act is a person who is present at the scene of the violent act and suffers an injury as a direct result of witnessing the violent act.
- (2) Also, a secondary victim of a violent act is one of the following persons who suffers an injury as a direct result of subsequently becoming aware of the violent act:
  - (a) a child or stepchild of the primary victim, or a child under the guardianship of the primary victim, when the violent act occurs;
  - (b) if the primary victim is a child – a parent, step-parent or guardian of the primary victim when the violent act occurs.
- (3) A person is not a secondary victim if the person committed the violent act.

## **12 Secondary victim's eligibility to apply for assistance**

- (1) A secondary victim of a violent act is eligible to apply for counselling required because of the violent act.
- (2) A secondary victim in circumstances of financial hardship is eligible to apply for an interim payment of financial assistance for the secondary victim's financial loss.
- (3) A secondary victim is eligible to apply for an award of financial assistance for the secondary victim's financial loss.
- (4) A secondary victim is eligible to apply for an award of financial assistance for one or more compensable injuries suffered as a direct result of witnessing or becoming aware of the violent act.
- (6) For this section, a secondary victim's financial loss is any of the following:
  - (a) loss of earnings suffered or likely to be suffered by the secondary victim as a direct result of witnessing or becoming aware of the violent act;
  - (b) medical expenses reasonably incurred or reasonably likely to be incurred by the secondary victim as a direct result of witnessing or becoming aware of the violent act;

- (c) in exceptional circumstances – other expenses reasonably incurred or reasonably likely to be incurred by the secondary victim to assist the victim's recovery from the effects of witnessing or becoming aware of the violent act.

*Examples for subsection (6)(c)*

- 1 *Relocation expenses.*
- 2 *Costs of securing the secondary victim's place of residence or business.*

*Notes for section 12*

- 1 *Section 27(5) specifies the maximum interim payment.*
- 2 *Section 39 specifies the following:*
  - (a) *the maximum award for all secondary victims of the same violent act;*
  - (b) *the maximum award for all the financial loss of each secondary victim of the same violent act;*
  - (c) *the minimum standard amount for compensable injuries.*

### **13 Family victim**

- (1) A family victim of a violent act is a person who, when the violent act occurs, is one of the following:
  - (a) the spouse or de facto partner of the primary victim of the violent act;
  - (b) a parent, step-parent or guardian of the primary victim of the violent act;
  - (c) a child or stepchild of the primary victim of the violent act or a child under the guardianship of the primary victim of the violent act;
  - (d) a person entirely or substantially dependent for financial support on the primary victim of the violent act.
- (2) In subsection (1)(c), a reference to a child of the primary victim includes a reference to a child of the primary victim born after the violent act occurs.
- (3) It is immaterial whether or not the family victim suffers an injury as a result of the violent act.
- (4) A person is not a family victim if the person committed the violent act.

### **14 Family victim's eligibility to apply for assistance**

- (1) A family victim of a violent act is eligible to apply for counselling required because of the violent act.

- (2) A family victim of a violent act directly resulting in the death of the primary victim is eligible to apply for an interim payment of financial assistance for the financial loss mentioned in subsection (3)(b) to (d) if the family victim is in circumstances of hardship.
- (3) A family victim of a violent act directly resulting in the death of the primary victim is eligible to apply for an award of financial assistance for any of the following financial loss:
  - (b) if the family victim was entirely or substantially dependent on the primary victim for financial support – loss of money that, but for the death of the primary victim, the family victim would have been reasonably likely to receive from the primary victim during the year immediately after the death;
  - (c) medical expenses reasonably incurred or reasonably likely to be incurred by the family victim for the primary victim as a direct result of the death;
  - (d) in exceptional circumstances – other expenses reasonably incurred or reasonably likely to be incurred by the family victim to assist the victim's recovery from the effects of the death of the primary victim.

*Examples for subsection (3)(d)*

- 1 *Relocation expenses.*
- 2 *Costs of securing the family victim's place of residence or business.*

*Notes for section 14*

- 1 *Section 27(5) specifies the maximum interim payment.*
- 2 *Section 40 specifies the following:*
  - (a) *the maximum award for all family victims of the same violent act;*
  - (b) *the maximum award for all the financial loss of each family victim of the same violent act.*

## **15 Related victim**

- (1) A related victim of a violent act is a person who, when the violent act occurs, is one of the following:
  - (a) a relative of the primary victim of the violent act;
  - (b) a person in an intimate personal relationship with the primary victim of the violent act.
- (2) A person is not a related victim of a violent act if the person:
  - (a) is a family victim of the violent act; or

(b) committed the violent act.

- (3) The Regulations may exclude persons from the category of related victim.

**16                      Related victim's eligibility to apply for counselling**

A related victim of a violent act is eligible to apply for counselling required because of the violent act.

**Division 2                      Miscellaneous matters**

**17                      Eligibility if injury suffered in motor accident**

- (1) A person who suffers an injury as a direct result of a violent act (the ***injured person***) is not eligible to apply as a primary victim for an interim payment or award for the same (or substantially the same) injury if the person:
- (a) is being paid, or has been paid, a benefit under the *Motor Accidents (Compensation) Act 1979* for the injury; or
  - (b) is entitled to a benefit under the *Motor Accidents (Compensation) Act 1979* for the injury, regardless of whether the injured person has made a claim for such a benefit.
- (2) Subsection (1) applies even if the nature of the damage or loss for which a benefit is payable to the injured person under the *Motor Accidents (Compensation) Act 1979* is different from the nature of the damage or loss for which the injured person would, apart from subsection (1), be eligible to apply for an interim payment or award.
- (3) A person who would, apart from subsection (1), be a secondary victim or family victim of the violent act against the injured person is not eligible for an interim payment or award in connection with the violent act.
- (4) Subsection (1) does not prevent:
- (a) the injured person from applying for counselling as a primary victim of the violent act; or
  - (b) any other person from applying for counselling as a secondary victim, family victim or related victim of the violent act.

## **18 Eligibility if injury suffered in course of employment**

- (1) A worker who suffers an injury as a direct result of a violent act is not eligible to apply as a primary victim for an interim payment or award for the same (or substantially the same) injury if the worker:
  - (a) is being paid, or has been paid, compensation under the *Return to Work Act 1986* for the injury; or
  - (b) is entitled to compensation under the *Return to Work Act 1986* for the injury, regardless of whether the worker has made a claim for such compensation.
- (2) Subsection (1) applies even if the nature of the damage or loss for which compensation is payable to the worker under the *Return to Work Act 1986* is different from the nature of the damage or loss for which the worker would, apart from subsection (1), be eligible to apply for an interim payment or award
- (3) A person who would, apart from subsection (1), be a secondary victim or family victim of the violent act against the worker is not eligible for an interim payment or award in connection with the violent act.
- (4) Subsection (1) does not prevent:
  - (a) the worker from applying for counselling as a primary victim of the violent act; or
  - (b) any other person from applying for counselling as a secondary victim, family victim or related victim of the violent act.
- (5) In this section:

**worker**, see the *Return to Work Act 1986*.

## **19 Effect of death on applications and entitlement to financial assistance**

- (1) Despite any law to the contrary, if a person who is eligible for or entitled to receive financial assistance dies, the person's eligibility for or entitlement to receive the assistance does not survive for the benefit of the person's estate.
- (2) Subsection (1) does not prevent any other person from applying for counselling or financial assistance as a secondary victim, family victim or related victim of a violent act.
- (3) If an applicant for financial assistance dies before the application is decided, the application lapses.

- (4) If a person is entitled to receive financial assistance but dies before the assistance is paid, the assistance is taken to never have been approved or awarded and the person's application for the assistance lapses.

## **Part 3                Victims Counselling Scheme**

### **20                Establishment of Victims Counselling Scheme**

The Victims Counselling Scheme is established.

### **21                Approval of counsellors and organisations**

- (1) The Director may approve persons to be counsellors under the counselling scheme.
- (2) The Director may approve organisations to provide counselling and related services under the counselling scheme.
- (3) If the Director has approved an organisation under subsection (2), the Director need not approve a person to be a counsellor if the person is employed by the organisation to provide counselling under the counselling scheme.

### **22                Application for counselling**

A primary victim, secondary victim, family victim or related victim may apply for counselling to a person or organisation approved under section 21.

## **Part 4                Victims Financial Assistance Scheme**

### **Division 1           Preliminary matters**

### **23                Establishment of Victims Financial Assistance Scheme**

The Victims Financial Assistance Scheme is established.

### **24                Assessors**

- (1) A person is an assessor for the financial assistance scheme while the person is, under section 8(4)(b) of the *Law Officers Act 1978*, authorised to act in the name of the Solicitor for the Northern Territory generally.
- (2) Subject to subsection (3), the Minister may appoint a person, including the Director, to be an assessor for the financial assistance scheme.

- (3) A person cannot be appointed under subsection (2) unless the person is a lawyer.
- (4) Assessors have the functions conferred on them under this or any other Act and the powers necessary or convenient for performing the functions of office.

## **25                      Applications generally**

- (1) An eligible victim may apply for an interim payment or award in only one of the categories of primary victim, secondary victim or family victim of a violent act.
- (2) An eligible victim must not apply for more than one award for the same violent act.
- (3) An eligible victim may apply for more than one interim payment for the same violent act if the total of the interim payments does not exceed the maximum amount mentioned in section 27(5).
- (4) An eligible victim may apply for an award and an interim payment for the same violent act.
- (5) An application for an interim payment, award or increased award may be made for an eligible victim by a person who has a genuine interest in the welfare of the eligible victim, including the parent or guardian of an eligible victim who is a child.

### **25A                    Withdrawal of application**

An applicant for financial assistance may, by notice to the Director, withdraw the application at any time before it is decided.

## **Division 2                Interim payments**

### **25B                    Meaning of *interim payment***

An *interim payment* is a payment of financial assistance made under this Division to an eligible victim for the victim's financial loss mentioned in section 10(5), 12(6) or 14(2).

## **26                      Application to Director for interim payment**

- (1) An eligible victim of a violent act may apply to the Director for an interim payment.
- (2) Subject to subsection (2A), there is no time limit for making an application under subsection (1).

- (2A) If an eligible victim has applied for an award, the victim cannot make an application under subsection (1) after the assessor decides the application for an award.
- (3) An application under subsection (1) must include the following information:
- (a) whether the applicant is applying as a primary victim, secondary victim or family victim;
  - (b) the reasons the interim payment is required;
  - (c) the amount of financial assistance sought;
  - (d) whether the applicant has also applied for an award of financial assistance or intends to do so;
  - (e) a brief description of the violent act, the name of the offender (if known) and the date on which the violent act occurred;
  - (f) if the applicant is a primary victim – the date on which the applicant made a statement about the violent act to a police officer or the reasons why no statement has been made;
  - (g) if the applicant is a secondary victim or family victim – the date on which the applicant made a statement to a police officer or, if the applicant did not make a statement, whether the primary victim has made a statement;
  - (h) if the applicant is a primary victim who is applying for financial assistance for a compensable injury or a secondary victim – a description of the injury resulting from the violent act;
  - (i) whether the applicant has made a claim for benefits or compensation under the *Motor Accidents (Compensation) Act 1979* or *Return to Work Act 1986* as a result of the injury or death and, if so, the outcome or current status of the claim;
  - (j) any other information required by regulation.
- (4) If the applicant is a primary victim of a compensable violent act who is not applying for financial assistance for a compensable injury, the application may include a description of injuries resulting from the violent act.

## **27 Decision about interim payment**

- (1) Subject to section 47J, as soon as practicable after receiving the application, the Director must decide whether to approve an interim payment or refuse to do so.

- (2) The Director must not approve the interim payment unless the Director is satisfied it is reasonably likely:
  - (a) the applicant has suffered or incurred, or will suffer or incur, the financial loss described in the application; and
  - (b) the financial loss results from the violent act described in the application; and
  - (c) the applicant is otherwise an eligible victim.
- (3) The Director may be satisfied about the matters mentioned in subsection (2) even if:
  - (a) no person has been charged with or found guilty of the violent act resulting in the applicant's financial loss; or
  - (b) a person has been charged with or found guilty of a different violent act than is described in the application.
- (4) If the Director approves the payment, the Director must also decide the amount to be paid and whether any of the amount is to be paid to a person other than the applicant.
- (5) The maximum amount of the payment is \$5 000.
- (6) The Director must give the applicant written notice of the decision including the following information:
  - (a) if the Director approves an interim payment:
    - (i) the amount to be paid and the reason for the payment; and
    - (ii) if any of the amount is to be paid to a person other than the applicant – the name of the person and any other relevant details about the payment and its use; and
    - (iii) the effect of the decision under section 28(1); and
    - (iv) the circumstances when a reduction or refund of the financial assistance may be made or required;
  - (b) if the Director refuses to approve an interim payment:
    - (i) the reason for the refusal; and
    - (ii) the effect of the decision under section 28.

**28            Effect of decision**

- (1) A decision under section 27 is final and is not subject to any review or appeal.
- (2) A decision refusing to approve an interim payment does not prevent an applicant who is an eligible victim from applying for an award of financial assistance.

**29            Payment**

As soon as practicable (but within 28 days) after the Director approves an interim payment, the Territory must pay the amount specified in the notice given to the applicant by the Director.

**Division 3            Applications for awards**

**29A          Meaning of *award***

An ***award*** is an award of financial assistance made under Division 4 to an eligible victim for any of the following:

- (a) the victim's financial loss mentioned in section 10(5), 12(6) or 14(2);
- (b) a compensable violent act or compensable injury.

**30            Application to Director for award**

An eligible victim of a violent act may apply to the Director for an award.

**31            No time limit for lodging application**

There is no time limit for making an application for an award.

**32            Form of application**

- (1) An application for an award must include the following information:
  - (a) whether the applicant is applying as a primary victim, secondary victim or family victim of a violent act;
  - (b) a brief description of the violent act, the name of the offender (if known) and the date on which the violent act occurred;
  - (c) if the applicant is a primary victim – the date on which the applicant made a statement about the violent act to a police officer or the reasons why no statement has been made;

- (d) if the applicant is a secondary victim or family victim – the date on which the applicant made a statement to a police officer or, if the applicant did not make a statement, whether the primary victim made a statement;
  - (e) if the applicant is a primary victim who is applying for financial assistance for a compensable injury or a secondary victim – a description of the injury resulting from the violent act;
  - (f) if the applicant is applying for financial assistance for one or more compensable injuries – the standard amount sought;
  - (g) if the applicant is applying for financial assistance for financial loss – the nature and amount of the loss;
  - (h) if financial assistance is sought for expenses incurred or reasonably likely to be incurred to assist the recovery from the effects of the violent act – a brief description of the applicant's exceptional circumstances;
  - (i) whether the applicant has applied for or received an interim payment;
  - (j) whether a civil or criminal proceeding has been commenced in relation to the violent act or the applicant's injury, death or financial loss and, if so, the nature and outcome of the proceeding;
  - (k) whether the applicant has made a claim for benefits or compensation under the *Motor Accidents (Compensation) Act 1979* or *Return to Work Act 1986* as a result of the injury or death and, if so, the outcome or current status of the claim;
  - (l) whether the applicant believes any other person may be a victim of the violent act;
  - (m) any other information required by regulation.
- (2) If the applicant is a primary victim of a compensable violent act who is not applying for financial assistance for a compensable injury, the application may include a description of injuries resulting from the violent act.
- (3) The application must be accompanied by the following documents:
- (a) a copy of the applicant's statement about the violent act made to a police officer, unless the applicant has given reasons why a statement has not been made;

- (b) all documents in the applicant's possession supporting the application, such as medical reports and invoices for expenses incurred;
- (c) any other documents required by the Director or by regulation.

### **33 Procedure after acceptance of application**

- (1) As soon as practicable after the Director accepts an application for an award, the Director must give the application to an assessor for a decision under Division 4.
- (2) The Director may give a copy of the application and a notice about the entitlement under subsection (3) to the following persons:
  - (a) an offender named in the application;
  - (b) any other person the Director considers to have an interest in the application.
- (3) As soon as practicable (but within 28 days) after receipt of a notice given under subsection (2), the person to whom the notice is directed may give the Director a written submission relating to the application.
- (4) The Director must give each submission to the assessor.

## **Division 4 Deciding applications for awards**

### **34 Deciding application and deferring decision**

- (1) Subject to section 47J, the assessor must decide an application for an award, in accordance with this Act, by awarding financial assistance or refusing to award financial assistance.
- (2) The assessor must decide the application as soon as practicable but if the Director gave a notice under section 33(2), not before the end of the period for giving submissions under section 33(3).
- (3) The assessor may defer the decision:
  - (a) until the assessor has obtained further information or reports considered necessary to make a proper decision; or
  - (b) if a civil or criminal proceeding has been commenced in relation to the violent act or the applicant's injury, death or financial loss – until the proceeding is determined; or

- (c) if the Territory is seeking to recover an amount of money from the applicant under Part 5 in relation to another application for financial assistance – until the proceeding for recovery of the amount is determined.

### **35 Examination of and report about applicant**

- (1) The assessor may, by written notice, require the applicant to undergo an examination by any of the following persons:
  - (a) a medical practitioner;
  - (b) a psychologist;
  - (c) a psychiatrist.
- (2) A person who examines the applicant must make a written report about the applicant's injury and give it to the assessor.
- (3) The expenses of the examination and report must be paid by the Territory to the person making the report.
- (4) The assessor may decide not to award financial assistance to the applicant if, without reasonable excuse, the applicant refuses or fails to undergo the examination.
- (5) This section applies to an application for financial assistance for a compensable violent act only if it is made for a compensable injury directly resulting from the violent act.

### **36 Obtaining information and documents**

- (1) The assessor may obtain information and make the inquiries the assessor considers necessary to make a proper decision.
- (2) The assessor may, by written notice, require the applicant to give the assessor further information or documents relevant to the application.
- (3) The assessor may decide not to award financial assistance to the applicant if, without reasonable excuse, the applicant refuses or fails to give the assessor the information or documents.
- (4) The assessor may, by written notice, require any other person to give the assessor the information or documents described in the notice within the time specified in the notice.

- (5) A person must not, without reasonable excuse, contravene the requirements of the notice.

Maximum penalty: If the offender is a natural person –  
20 penalty units.

If the offender is a body corporate –  
100 penalty units.

### **37 Award to eligible victim**

- (1) The assessor may make an award of financial assistance only if satisfied the applicant is an eligible victim of a violent act.
- (2) The assessor may be satisfied the applicant is an eligible victim even if:
- (a) no person has been charged with or found guilty of the violent act; or
  - (b) a person has been charged with or found guilty of a different violent act than the violent act described in the application.

### **38 Award to primary victim**

- (1) The maximum financial assistance that may be awarded to a primary victim of a violent act under this Division is \$40 000 less any amount paid as an interim payment, even if the victim's financial loss and the standard amount for the compensable violent act or the victim's compensable injuries exceed \$40 000.
- (2) The maximum financial assistance that may be awarded to a primary victim for financial loss described in section 10(5) is \$10 000, less any amount paid as an interim payment, even if the victim's financial loss exceeds \$10 000.
- (3) The assessor may award a primary victim financial assistance for one or more compensable injuries only if the total of the standard amount for the injury or injuries is at least \$7 500.

### **39 Award to secondary victims**

- (1) The maximum financial assistance that may be awarded to all the secondary victims of the same violent act under this Division is \$40 000 less any amounts paid as interim payments (the **maximum amount**), even if the victims' financial loss and the standard amounts for the victims' compensable injuries exceed the maximum amount.

- (2) The maximum financial assistance that may be awarded to each secondary victim for financial loss described in section 12(6) is \$10 000, less any amount paid as an interim payment, even if the victim's financial loss exceeds \$10 000.
- (3) The assessor may award a secondary victim financial assistance for one or more compensable injuries only if the total of the standard amount for the injury or injuries is at least \$7 500.
- (4) If the total financial assistance for all the secondary victims of the same violent act is assessed to be more than the maximum amount, the assessor must proportionately reduce each amount awarded.
- (5) However, subsections (6) and (7) apply if any of the secondary victims witnessed the death of the primary victim at the scene of the violent act and, at the time of the death, were:
  - (a) the parents or guardians of the primary victim, being a child; or
  - (b) the children of the primary victim; or
  - (c) children under the guardianship of the primary victim.
- (6) The assessor must award each of the secondary victims mentioned in subsection (5):
  - (a) the financial assistance as assessed; or
  - (b) if the total financial assistance for all of those secondary victims is assessed to be more than the maximum amount – financial assistance proportionately reduced.
- (7) If the maximum amount has not been awarded under subsection (6), the assessor must award any other secondary victims the remaining financial assistance proportionately reduced.

#### **40 Award to family victims**

- (1) The maximum financial assistance that may be awarded to all the family victims of the same violent act under this Division is \$40 000 less any amounts paid as interim payments (the **maximum amount**), even if the victims' financial loss exceeds the maximum amount.
- (2) The maximum financial assistance that may be awarded to each family victim for financial loss described in section 14(3) is \$10 000, less any amount paid as an interim payment, even if the victim's financial loss exceeds \$10 000.

- (4) If the total financial assistance for all the family victims of the same violent act is assessed to be more than the maximum amount, the assessor must, after awarding any financial assistance under subsection (3), proportionately reduce each amount awarded.
- (5) However, subsections (6) and (7) apply if any of the family victims were totally or substantially dependent on the primary victim.
- (6) The assessor must award each of the family victims mentioned in subsection (5):
  - (a) the financial assistance as assessed; or
  - (b) if the total financial assistance for all of those family victims is assessed to be more than the maximum amount – financial assistance proportionately reduced.
- (7) If the maximum amount has not been awarded under subsection (6), the assessor must award any other family victims the remaining financial assistance proportionately reduced.
- (8) The assessor may award financial assistance to the family victims of the same violent act only if the assessor is satisfied no other family victim of the violent act is likely to make an application for an award.
- (9) The assessor may be satisfied no other family victim of a violent act is likely to make an application for an award if:
  - (a) at least 3 months has elapsed since the latest application was made by a family victim of the violent act; and
  - (b) no other family victim of the violent act has made an application or notified the assessor that he or she intends to do so.

#### **41 When award may be reduced**

- (1) The assessor may reduce an award after taking any of the following matters into account:
  - (a) if the applicant is a primary victim or secondary victim of a violent act – any behaviour (including past criminal activity), condition, attitude or disposition of the victim that directly or indirectly contributed to the injury or financial loss;
  - (b) whether the applicant participated in the violent act, encouraged another person to commit the violent act or gave assistance to the offender;

- (c) whether the applicant failed to take reasonable steps to mitigate the extent of the injury or financial loss, such as seeking appropriate medical advice or treatment or obtaining counselling, as soon as practicable after the violent act occurred;
  - (d) whether the award is likely to benefit the offender because of a relationship or connection between the applicant and offender;
  - (e) any other matters the assessor is satisfied justify the reduction.
- (2) The reduction must be of an amount the assessor considers reasonable in the circumstances.

#### **42 When award must be reduced**

- (1) The assessor must reduce an award if the applicant has received a payment for the compensable violent act, injury, death or loss described in the application.
- (2) A payment mentioned in subsection (1) includes any of the following:
  - (a) an interim payment to which the applicant was not entitled;
  - (b) compensation or damages from the offender or any person for the offender;
  - (c) private medical insurance benefit;
  - (d) a benefit, compensation, damages or other award under an Act of the Territory, the Commonwealth, a State or another Territory;
  - (e) payment under an agreement or insurance policy.
- (3) The assessor must reduce the award by an amount equal to the payment the applicant has received.

#### **43 When financial assistance must not be awarded**

The assessor must not award financial assistance to the applicant if any of the following circumstances apply:

- (a) the assessor is satisfied the applicant is not entitled to an award;

- (b) the violent act was not reported to a police officer within a reasonable time after its occurrence, unless the assessor is satisfied circumstances prevented the report being made;
- (c) the violent act was not reported to a police officer before the date the assessor decides the application, unless the assessor is satisfied circumstances prevented the report being made;
- (d) the applicant failed, without reasonable excuse, to assist police officers in a material way in the investigation or prosecution of the violent act, including by failing to make a formal complaint or statement;
- (e) the assessor is satisfied the applicant made the application in collusion with the offender;
- (f) the injury or death occurred during the commission of an indictable offence by the applicant.

#### **44 Notice of decision**

- (1) As soon as practicable after deciding the application, the assessor must give the Director a notice, in the approved form, of the assessor's decision.
- (2) A notice awarding financial assistance must include the following information:
  - (a) the total financial assistance awarded;
  - (b) the amount of financial assistance awarded, as applicable, for the compensable violent act, each type of financial loss and each compensable injury (or all the compensable injuries) and the basis on which each amount is awarded;
  - (c) if the assessor has reduced an award – the amount by which the award has been reduced and the reason for the reduction;
  - (d) if the assessor has made an award to more than one secondary victim or family victim of the same violent act – details about the apportionment of financial assistance and the basis for each award;
  - (e) if the application was made for the eligible victim by a person mentioned in section 25(5) – details about the payment of financial assistance and requirements, directed to the person, about the use or management (including by the creation of a trust) of the financial assistance;

- (f) the fact that the applicant has a right to have the decision reviewed by NTCAT;
  - (g) any other information the assessor considers should be included or that is required by regulation.
- (3) A person must not, without reasonable excuse, contravene a requirement directed to the person under subsection (2)(e).

Maximum penalty: 100 penalty units.

- (4) A notice refusing to award financial assistance must include the following information:
  - (a) the reasons for the decision;
  - (b) if the assessor is satisfied the applicant received an interim payment to which the applicant was not entitled – the requirement for a refund and the information mentioned in section 47(1) and (2)(a) to (c);
  - (c) the fact that the applicant has a right to have the decision reviewed by NTCAT;
  - (d) any other information the assessor considers should be included or that is required by regulation.
- (5) The Director must give the notice to the applicant and may give a copy to the following persons:
  - (a) an offender named in the application;
  - (b) if the Director considers it appropriate – any person who gave the Director a submission under section 33(3) relating to the application.

## **Division 5            Payments, increases and refunds of awards or interim payments**

### **45            Payment of award**

Within 28 days after the Director gives notice under section 44(5) to an applicant awarded financial assistance, the Territory must pay the amount specified in the notice.

## **46 Increase of award**

- (1) An applicant paid financial assistance under section 45 may apply to the Director for an increased award:
  - (a) if the applicant was an adult at the date of payment – within 3 years after that date; or
  - (b) if the applicant was a child at the date of payment – within 3 years after the person becomes an adult.
- (2) The application must include the reason why the increase is sought, the amount of financial assistance sought and any other information required by regulation.
- (3) The application must be accompanied by documents in support of the application.
- (4) On receipt of the application from the Director, subject to section 47J, the assessor must decide the application in accordance with the relevant provisions of Division 4 and may decide to increase the award or refuse to do so.
- (5) The assessor may increase the award only if satisfied:
  - (a) the circumstances require it; and
  - (b) the relevant maximum amount of financial assistance mentioned in section 38, 39 or 40 has not already been awarded.
- (6) The assessor must give the Director a notice of the assessor's decision to increase the award or refuse to do so.
- (7) The notice must be in the approved form including the following information:
  - (a) the reasons for the decision;
  - (b) if the assessor has increased the award:
    - (i) the amount of financial assistance to be paid to the applicant; and
    - (ii) if the application was made by a person mentioned in section 25(5) – details about the payment of financial assistance and requirements, directed to the person, about the use or management (including by the creation of a trust) of the financial assistance;

- (c) the fact that the applicant has a right to have the decision reviewed by NTCAT.
- (8) A person must not, without reasonable excuse, contravene a requirement directed to the person under subsection (7)(b)(ii).  
  
Maximum penalty: 100 penalty units.
- (9) The Director must give the notice to the applicant and may give a copy to an offender named in the applicant's original application for an award.
- (10) Within 28 days after the Director gives a notice to an applicant awarded increased financial assistance, the Territory must pay the amount specified in the notice.

#### **47 Refund of award or interim payment**

- (1) An assessor may require a person to refund an amount to the Territory if satisfied the person has received:
  - (a) an award or interim payment to which the person was not entitled; or
  - (b) further payments of a type mentioned in section 42(2)(b) to (e) after being paid financial assistance under section 45 or 46.
- (2) The assessor must give the Director notice of the requirement, in the approved form, including the following information:
  - (a) the amount to be refunded;
  - (b) the reasons the refund is required;
  - (c) the time in which the person must refund the amount, which must be at least 28 days after receipt of the notice by the person;
  - (d) the fact that the applicant has a right to have the decision reviewed by NTCAT.
- (3) The Director must give the notice to the person required to refund the amount and may give a copy to an offender named in the person's original application for financial assistance.
- (4) The amount to be refunded is a debt owing to the Territory.

## **Division 5A              Funeral expense assistance**

### **47A              Meaning of *funeral expense assistance***

***Funeral expense assistance*** is a payment under this Division made to or for an individual who has incurred the costs of a funeral of a primary victim of a violent act.

### **47B              Eligibility and application for funeral expense assistance**

- (1) Subject to subsection (2), an individual who has incurred or is reasonably likely to incur the costs of a funeral of a primary victim of a violent act who died as a direct result of the act is eligible to apply for funeral expense assistance.
- (2) If the individual committed the violent act, the individual is not eligible to apply for funeral expense assistance.
- (3) An individual who is eligible to apply, may apply to the Director for funeral expense assistance.
- (4) An individual may apply under subsection (3) for more than one payment of funeral expense assistance in relation to a single primary victim's funeral if the total of the payments does not exceed the maximum amount mentioned in section 47D.

### **47C              Time limit for lodging application**

- (1) Subject to subsection (2), an application under section 47B must be made within 2 years after the death of the primary victim in relation to whose funeral the application is made.
- (2) The Director may accept an application under section 47B after the expiry of the period mentioned in subsection (1) if the Director considers the circumstances justify it.

### **47D              Amount of funeral expense assistance**

The maximum amount of funeral expense assistance payable in relation to a primary victim's funeral is the lesser of the following amounts:

- (a) the amount equal to the costs that the Director considers the applicant reasonably incurred, or will reasonably incur, for the funeral less any amounts that are paid by an organisation to or for the applicant in relation to the funeral including a payment made under an insurance policy;
- (b) \$15 000.

**47E              Deciding application**

- (1) Subject to section 47J and subsection (2), after considering an application under section 47B, the Director must:
  - (a) decide whether to approve the payment of funeral expense assistance or refuse to do so; and
  - (b) if the payment is approved – decide:
    - (i) the amount of assistance to be paid; and
    - (ii) whether any of the assistance is to be paid to a person other than the applicant.
- (2) The Director must not approve the payment of funeral expense assistance unless the Director is satisfied that:
  - (a) the applicant is entitled, under section 47B, to apply for funeral expense assistance; and
  - (b) the application was made within the time allowed under section 47C.
- (3) To avoid doubt, the Director may decide that funeral expense assistance is payable even if:
  - (a) no person has been charged with or found guilty of the violent act that caused the death of the primary victim; or
  - (b) a person has been charged with or found guilty of a different violent act than is described in the application.
- (4) The Director must give written notice of the decision to the applicant that includes the following information:
  - (a) the decision and the reasons for it;
  - (b) the fact that the applicant has a right to have the decision reviewed by NTCAT.

**47F              Payment of funeral expense assistance**

As soon as practicable, but no later than 28 days after the Director decides to pay funeral expense assistance, the Territory must pay the amount specified in the notice given to the applicant under section 47E(4) in accordance with the notice.

**47G              Refund of funeral expense assistance**

- (1) The Director may decide to require an individual to refund an amount of funeral expense assistance to the Territory if satisfied that:
  - (a) the individual has received funeral expense assistance to which the individual was not entitled; or
  - (b) an amount has been paid by an organisation to or for the individual in relation to the funeral for which the funeral expense assistance was paid, including a payment made under an insurance policy.
- (2) The Director must give written notice of the decision to the individual that includes the following information:
  - (a) the amount to be refunded;
  - (b) the reasons the refund is required;
  - (c) the time in which the individual must refund the amount, which must be at least 28 days after receipt of the notice by the individual;
  - (d) the fact that the individual has a right to have the decision reviewed by NTCAT.
- (3) The amount to be refunded is a debt owing to the Territory.

**Division 5B              Closure of financial assistance application if applicant uncontactable**

**47H              Notice of proposed closure of application**

- (1) If a CVSU officer is unable to contact an applicant for financial assistance after making reasonable attempts over a period of at least 3 months, a CVSU officer may send, to the last known address and email address (if applicable) of the applicant, a notice of proposed closure of the application.
- (2) The notice must state the following:
  - (a) a CVSU officer has been unable to contact the applicant for at least 3 months after making reasonable attempts to do so;
  - (b) the applicant's application will be closed, without further notice, unless the applicant provides updated contact details to a CVSU officer within 30 days after the date of the notice;

- (c) if the application is closed:
  - (i) it will be reopened if the applicant requests that it be reopened within 6 months of the date on which it was closed; or
  - (ii) the applicant may be able to make a new application.

(3) In this section:

**CVSU officer**, see section 4 of the *Victims of Crime Rights and Services Act 2006*.

#### **47J Closure of application**

- (1) Subsection (2) applies in relation to an application for financial assistance if the applicant:
  - (a) is sent a notice under section 47H(1); and
  - (b) fails to comply with the notice within the period specified in the notice.
- (2) On the expiry of the period specified in the notice, the assessor or the Director, as the case requires, is taken to have closed the application without deciding it.

#### **47K Reopening of closed application**

The Director must reopen an application that has been closed under section 47J if, within 6 months of the date of the closure, the applicant requests the Director to reopen it.

*Note for section 47K*

*The applicant may also be able to make a new application.*

### **Division 6 Review of decisions**

#### **48 Review by NTCAT**

- (1) NTCAT has jurisdiction to review a decision (a **reviewable decision**) specified in Schedule 1.
- (2) An **affected person**, for a reviewable decision, is a person specified in Schedule 1 for the reviewable decision.

- (3) An affected person for a reviewable decision may apply to NTCAT for review of the decision.

*Note for section 48*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to NTCAT for review and other relevant matters in relation to reviews.*

## **Division 7            Legal representation and costs**

### **54            Applications**

- (1) A person may be represented by a legal practitioner in making an application under Division 3, 5 or 5A.
- (2) However, the legal practitioner is not entitled to recover from the person any costs, except the legal practitioner's reasonable disbursements, incurred in representing the person.
- (3) For subsection (2), the legal practitioner's disbursements do not include counsel's fees.
- (4) The Territory is not liable to pay any costs incurred by a person or legal practitioner in making an application under Division 3, 5 or 5A.

### **55            Review**

- (2) The Regulations may prescribe the costs allowable to a legal practitioner for work done in a review proceeding.
- (3) The Regulations may provide for any other matter relevant to the costs of a review proceeding, including the following:
- (a) the Territory's liability for an applicant's costs;
  - (b) the way in which NTCAT may exercise a discretion in making an order for costs.

## **Part 5            Recovery of money from offenders**

### **Division 1            Debt recovery notice process**

#### **55A          Definitions**

In this Division:

***debt amount***, see section 55B(2).

***debt recovery notice***, see section 55B(2).

**55B            Director may seek to recover amount by giving debt recovery notice**

- (1) This section applies to the Director if:
  - (a) the Territory has paid financial assistance:
    - (i) to a victim of a violent act; or
    - (ii) to or for an individual who has incurred the costs of a funeral of a primary victim of a violent act; and
  - (b) one or more offenders are found guilty of an offence that resulted in the payment.
- (2) Subject to subsections (4) and (5), the Director may give a notice (a **debt recovery notice**) to the offender or offenders requiring payment of a specified amount (the **debt amount**).
- (3) The debt amount must be an amount that is equal to or less than the total amount of financial assistance paid by the Territory.
- (4) The debt recovery notice cannot be given to an offender more than 3 years after the last to occur of the following:
  - (a) the payment of the financial assistance;
  - (b) the offender being found guilty of an offence that resulted in the payment of the financial assistance.
- (5) The debt recovery notice cannot be given to an offender against whom the Territory has commenced a proceeding in the Court under section 56 for recovery of the financial assistance.

**55C            Content and service of debt recovery notice**

- (1) The debt recovery notice must specify the following:
  - (a) the name of each offender to whom the notice is directed;
  - (b) the amount of financial assistance paid by the Territory and the date or dates on which the assistance was paid;
  - (c) details of the violent act that constituted the offence committed by the offender or offenders that resulted in the financial assistance being paid;
  - (d) that the offender or offenders are required to pay the debt amount;

- (e) if the notice is directed to more than one offender – that each of the offenders is jointly and severally liable for payment of the debt amount;
  - (f) the date by which the offender or offenders must pay the debt amount, which must be at least 28 days after the date of the notice;
  - (g) that the offender may object to the notice by lodging a written objection with NTCAT;
  - (h) any other information prescribed by regulation or that the Director considers should be included.
- (2) A debt recovery notice is given to an offender if it is:
- (a) served on the offender in a way mentioned in section 25 of the *Interpretation Act 1978*; or
  - (b) given to the offender by means of electronic communication as defined in section 5 of the *Electronic Transactions (Northern Territory) Act 2000*.

#### **55D        Objection**

- (1) An offender who receives a debt recovery notice may object to the notice by making an application to NTCAT on one or both of the following grounds:
- (a) the victim contributed to the injury or death for which the financial assistance sought to be recovered was paid;
  - (b) the financial assistance paid was excessive in the circumstances.
- (2) The objection:
- (a) is a matter within NTCAT's original jurisdiction; and
  - (b) must be lodged with NTCAT:
    - (i) within 28 days after the date of the debt recovery notice; or
    - (ii) if NTCAT extends the period for lodgement under subsection (3) – within the extended period.
- (3) If an offender has a reasonable excuse for not being able to lodge an objection within 28 days after the date of the debt recovery notice, NTCAT may extend the period for lodgement.

- (4) The objection must specify fully and in detail the facts relied on by the offender.
- (5) The offender has the onus of proving the offender's case.
- (6) The Director is a party to a proceeding commenced under this section.

**55E        Decision on objection**

- (1) After considering an objection to a debt recovery notice, NTCAT may decide:
  - (a) to allow the objection in whole or in part or disallow the objection; and
  - (b) to confirm, vary or revoke the notice.
- (2) NTCAT must give the offender who lodged the objection written notice of the decision including the reasons for it.
- (3) An application for an internal review under section 140 of the *Northern Territory Civil and Administrative Tribunal Act 2014* cannot be made in relation to a decision of NTCAT on an objection.

**55F        Liability to pay debt**

- (1) An offender who receives a debt recovery notice must pay the debt amount by the date or within the period specified in the notice.
- (2) For subsection (1), if the debt recovery notice is directed to more than one offender, each of the offenders is jointly and severally liable to pay to the Territory the debt amount specified in the notice.
- (3) Despite subsections (1) and (2), if an offender objects to a debt recovery notice under section 55D:
  - (a) the requirement for the offender, and any other offender to whom the notice is directed, to pay the debt amount specified in the notice is suspended pending NTCAT's decision on the objection; and
  - (b) if NTCAT decides to confirm or vary the notice:
    - (i) the suspension of the requirement to pay the debt amount ceases on the date of the decision; and
    - (ii) the due date for payment of the debt amount is extended by the period of the suspension unless NTCAT orders otherwise.

- (4) Despite subsection (3)(b), if an offender lodges an appeal against NTCAT's decision under section 141 of the *Northern Territory Civil and Administrative Tribunal Act 2014*:
- (a) the requirement for the offender, and any other offender to whom the debt recovery notice (as confirmed or varied by NTCAT) is directed, to pay the debt amount specified in the notice is suspended pending a decision on the appeal; and
  - (b) if, on appeal, the Supreme Court or NTCAT decides to confirm or vary the notice:
    - (i) the suspension of the requirement to pay the debt amount ceases on the date of the decision; and
    - (ii) the due date for payment of the debt amount is extended by the period of the suspension unless the Supreme Court or NTCAT orders otherwise.

## **55G        Recovery of debt**

- (1) If a person who is required to pay an amount under section 55F fails to pay the amount, or pays only a part of the amount, by the due date, the Director may refer the outstanding amount to the Fines Recovery Unit.
- (2) Enforcement action for recovery of the outstanding amount may be taken by the Fines Recovery Unit under the *Fines and Penalties (Recovery) Act 2001* as if the outstanding amount were an outstanding fine imposed by a court.
- (3) In this section:

***Fines Recovery Unit***, see section 5 of the *Fines and Penalties (Recovery) Act 2001*.

## **Division 2        Court process**

### **56        Territory may recover from offender**

- (1) Subsection (2) applies to the Territory if it has paid financial assistance:
  - (a) to a victim of a violent act; or
  - (b) to or for an individual who has incurred the costs of a funeral of a primary victim of a violent act.

- (2) The Territory may commence a proceeding in the Court for recovery of an equal or lesser amount of money from an offender who:
  - (a) has been found guilty of an offence that resulted in the payment; or
  - (b) is alleged to have committed an offence that resulted in the payment but who has not been charged with or found guilty of the offence.
- (3) In the proceeding, the Territory must prove the following matters to the satisfaction of the Court:
  - (a) the Territory paid the amount sought to be recovered;
  - (b) the offender against whom the proceeding is brought:
    - (i) was found guilty of an offence that resulted in the payment; or
    - (ii) on the balance of probabilities, committed an offence that resulted in the payment.
- (4) The Court may reduce the amount sought to be recovered by the Territory if:
  - (a) the offender satisfies the Court the victim contributed to the injury or death for which the amount was paid; or
  - (b) the Court is satisfied the financial assistance paid was excessive in the circumstances.
- (5) If the Court is satisfied that all or some of the financial assistance should not have been paid, it may order that the Territory is not entitled to recover from the offender all or part of the amount paid by the Territory.

**57                      No appeal to Supreme Court**

A party to a proceeding under this Division is not entitled to appeal to the Supreme Court against any order of the Court.

**Division 3                      Miscellaneous matters**

**58                      Recovery by set-off**

- (1) Subsection (2) applies in relation to an amount that is payable under section 55F or that the Court, under section 56, orders that the Territory may recover from an offender.

- (2) The Territory is entitled to recover all or part of the amount by set-off if, under the financial assistance scheme, financial assistance is payable to the offender.

**59 Recovered money to be paid into Fund**

Any money recovered by the Territory under this Part must be paid into the Fund.

**Part 6 Victims Assistance Fund and levy**

**60 Victims Assistance Fund**

- (1) The Victims Assistance Fund is established.
- (2) The Fund consists of the following:
- (a) money appropriated for the Fund to the Agency primarily responsible for the administration of this Act;
  - (b) the total amount of the levy imposed under section 61;
  - (c) money recovered by the Territory under this Act;
  - (d) money paid into the Fund under any other Act.
- (3) The money of the Fund must be credited into a fund maintained within the Agency Operating Account within the meaning of the *Financial Management Act 1995*.

**61 Imposition of levy**

- (1) A levy is imposed to provide a source of revenue for the Fund.
- (2) Subject to any exceptions prescribed by regulation, a levy is imposed on a person:
- (a) who is found guilty of an offence but not imprisoned for the offence; or
  - (b) who expiates an offence by paying an amount specified in an infringement notice issued to the person; or
  - (c) against whom an enforcement order is made.

- (3) Subject to any other amount being prescribed by regulation, the levy imposed under subsection (2)(a):
- (a) on an adult:
    - (i) is \$200 for an offence following prosecution on indictment; or
    - (ii) is \$150 for any other offence; or
  - (b) on a child is \$50; or
  - (c) on a body corporate is \$1 000.
- (4) The amount of the levy imposed on a person under subsection (2)(a) must be specified in:
- (a) the formal record of the finding of guilt and sentence; and
  - (b) the notice of the finding of guilt or sentence given to the person.
- (6) Subject to any other amount being prescribed by regulation, the levy imposed under subsection (2)(b) or (c):
- (a) is \$40; and
  - (b) must be specified in the relevant infringement notice or enforcement order.
- (7) Despite any other law in force in the Territory, a person on whom a levy is imposed under subsection (2)(b) or (c) is not immune from prosecution for the relevant offence unless the amount specified in the infringement notice or enforcement order and the levy imposed by this section are paid.
- (8) If money is paid by a person on whom a levy is imposed under subsection (2)(b), the money must be initially appropriated towards meeting the person's liability for the levy.
- (9) A court must not reduce a levy payable by a person or exonerate a person found guilty of an offence from liability to pay a levy.
- (10) In this section:

**enforcement order** has the same meaning as in the *Fines and Penalties (Recovery) Act 2001*.

**infringement notice** has the same meaning as in section 9 of the *Fines and Penalties (Recovery) Act 2001*.

**offence** means any offence against a law in force in the Territory.

## **Part 7                      Miscellaneous matters**

### **62                      Preservation of civil claim for damages**

- (1) This Act does not affect the right of a person to claim or recover compensation or damages under any other law.
- (2) A court in which an action for damages under any other law is heard must not take into consideration that financial assistance has been or may be paid.

### **63                      Obstruction and providing false information**

A person must not:

- (a) hinder or obstruct a person exercising a power or performing a function under this Act; or
- (b) knowingly or recklessly provide false or misleading information to a person exercising a power or performing a function under this Act.

Maximum penalty:        If the offender is a natural person –  
100 penalty units or imprisonment for  
6 months.

                                    If the offender is a body corporate –  
500 penalty units.

### **64                      Inadmissibility of certain information in proceedings**

- (1) Despite any law to the contrary, an application for financial assistance and any other document prepared solely for the application and given to the Director or an assessor are not admissible as evidence in any civil or criminal proceeding.
- (2) In a proceeding, a person must not be required to produce a document mentioned in subsection (1).
- (3) This section does not apply in relation to the following proceedings:
  - (a) a proceeding for the review of a decision;
  - (b) a criminal proceeding in which the applicant for financial assistance is the defendant;
  - (c) a proceeding for an offence against this Act;

- (ca) a proceeding under Part 5, Division 2;
- (d) any other proceeding if the person to whom the document principally refers has consented to the use or production of the document.

## **65 Guidelines**

- (1) The Minister may issue guidelines, consistent with this Act and the Regulations, relating to the performance of functions by the Director and assessors.
- (2) The Director and assessors must have regard to the guidelines when performing their functions under this Act.

## **66 Approved forms**

The Director may approve forms for use under this Act.

## **67 Delegations**

The following persons may delegate to a person any of their powers under this Act:

- (a) the Minister;
- (b) the Director.

## **68 Protection from liability**

- (1) This section applies to a person who is or has been:
  - (a) the Director; or
  - (b) an assessor; or
  - (c) a person providing counselling or related services under the counselling scheme.
- (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.
- (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

**69 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:
  - (a) required or permitted to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The Regulations may deal with any of the following:
  - (a) any matters in connection with the counselling scheme, including the exercise of discretions by the Director;
  - (b) any matters in connection with the financial assistance scheme, including the exercise of discretions by the Director or an assessor;
  - (c) procedures relating to medical examinations and reports ordered by an assessor and the costs and payments for those examinations and reports;
  - (d) the assessment of financial loss, including the following:
    - (i) the method of calculating loss of earnings;
    - (ii) the special circumstances in which an assessor may award financial assistance to assist a victim of a violent act to recover from the effects of the violent act;
  - (e) awards for compensable violent acts and compensable injuries, including the following:
    - (i) different awards for different categories of a compensable violent act or compensable injury;
    - (ii) the assessment of a standard amount for more than one compensable injury directly resulting from the same violent act;
    - (iii) the reduction of a standard amount, including for the aggravation, acceleration, exacerbation or deterioration of an existing condition;
    - (iv) procedures to establish whether a person has a compensable injury or the degree of seriousness of a compensable injury;
    - (v) choices available to an applicant for an award;

- (f) increased awards of financial assistance;
- (g) requirements for refunds of financial assistance.

**70 Review after 3 years**

There is to be a review of the first 3 years of operation of this Act.

**Part 8 Repeals and transitional matters for Victims of Crime Assistance Act 2006**

**71 Definitions**

In this Part:

***commencement day*** means the day on which this Part comes into operation.

***repealed Act*** means the *Crimes (Victims Assistance) Act 1982* as in force immediately before the commencement day.

**72 Repeals**

The Acts specified in Schedule 2 are repealed.

**73 Repealed Act applies to application for assistance certificate**

The repealed Act continues to apply in relation to an application for an assistance certificate made before the commencement day.

**74 Application of Act to violent act**

This Act applies to an application for counselling or financial assistance even if the violent act to which the application relates occurred before the commencement day.

**75 Fund**

The Victims' Assistance Fund continues in force as the Fund.

## **Part 9 Transitional matters for amending legislation**

### **Division 1 Revenue and Other Legislation Amendment Act 2010**

#### **76 Application**

- (1) Section 61(6)(a) as amended by the amending Act applies only in relation to an offence committed on or after the commencement.
- (2) In this section:

***amending Act*** means *Revenue and Other Legislation Amendment Act 2010*.

***commencement*** means the commencement of Part 6 of the amending Act.

### **Division 2 Victims of Crime Assistance Amendment Act 2013**

#### **77 Application**

- (1) Section 61 as amended by the amending Act applies only in relation to an offence committed on or after the commencement.
- (2) In this section:

***amending Act*** means the *Victims of Crime Assistance Amendment Act 2013*.

***commencement*** means the commencement of the amending Act.

### **Division 3 Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) Act 2014**

#### **78 Definitions**

In this Division:

***commencement*** means the day on which Part 7 of the *Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) Act 2014* commences.

## **79 Review of decision notified before commencement**

- (1) This section applies if, before the commencement:
  - (a) the Director or an assessor had given an appeal notice to an applicant; and
  - (b) the appeal period for the decision had not expired.
- (2) This Act, as in force immediately before the commencement, continues to apply in relation to the following:
  - (a) the right of the applicant given the appeal notice to appeal to the Local Court within the appeal period for the decision; and
  - (b) the functions and powers of the Local Court in conducting and deciding a proceeding for the appeal regardless of whether the proceeding:
    - (i) was being conducted before the commencement; or
    - (ii) is started after the commencement by a person mentioned in paragraph (a);
  - (c) the right to legal representation;
  - (d) the provisions relating to costs and disbursements;
  - (e) a decision by an assessor following a referral to the assessor by the Local Court.

- (3) In this section:

***appeal notice*** means a notice of a decision mentioned in section 48 as in force immediately before the commencement.

***appeal period*** means the period during which a person given an appeal notice has a right to appeal to the Local Court.

## **80 Review of Director's or assessor's decision made after commencement**

- (1) The new legislation applies in relation to a review of a decision of the Director or an assessor if:
  - (a) an application for the decision was made before commencement; and
  - (b) the decision was made after commencement.

(2) In this section:

***new legislation*** means:

- (a) this Act and the Regulations as in force after the commencement; and
- (b) the *Northern Territory Civil and Administrative Tribunal Act 2014*.

## **Division 4 Victims of Crime Assistance Amendment Act 2023**

### **81 Definitions**

In this Division:

***amending Act*** means the *Victims of Crime Assistance Amendment Act 2023*.

***commencement*** means commencement of Part 2 of the amending Act.

### **82 References to interim payments**

A reference to an interim payment is taken to include a reference to an immediate payment as defined in section 4 immediately before the commencement.

### **83 Application of amendments to Part 4**

Part 4, as amended by the amending Act, applies in relation to an application for financial assistance that was made, but had not been decided, before the commencement.

### **84 Application of funeral expense assistance provisions**

To avoid doubt, an application for funeral expense assistance may be made in relation to costs incurred before the commencement, unless an application for financial assistance has been made and decided before the commencement in relation to the same costs.

### **85 Application of debt recovery procedures**

To avoid doubt, a debt recovery notice may be given under section 55B:

- (a) in relation to financial assistance that was paid to a victim of a violent act before the commencement; or

- (b) to an offender who, before the commencement, was found guilty of an offence that resulted in the payment of the financial assistance specified in the notice.

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**Schedule 1      Reviewable decisions**

section 48

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| <b>Item</b> | <b>Reviewable decision</b>                                                                                                 | <b>Affected person</b>                   |
|-------------|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| 1           | A decision of an assessor under section 34 on an application for an award                                                  | The applicant                            |
| 2           | A decision of an assessor under section 46(4) on an application for an increased award                                     | The applicant                            |
| 3           | A decision of an assessor under section 47(1) to require a person to refund an amount                                      | The person required to refund the amount |
| 4           | A decision of the Director under section 47E on an application for funeral expense assistance                              | The applicant                            |
| 5           | A decision of the Director under section 47G(1) to require an individual to refund an amount of funeral expense assistance | The individual                           |

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## Schedule 2 Repealed Acts

section 72

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|                                                       |                    |
|-------------------------------------------------------|--------------------|
| <i>Crimes Compensation Act 1982</i>                   | Act No. 46 of 1982 |
| <i>Crimes Compensation Amendment Act 1989</i>         | Act No. 83 of 1989 |
| <i>Crimes (Victims Assistance) Amendment Act 1999</i> | Act No. 13 of 1999 |
| <i>Crimes (Victims Assistance) Amendment Act 2002</i> | Act No. 57 of 2002 |

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## ENDNOTES

**1****KEY**

Key to abbreviations

amd = amended  
 app = appendix  
 bl = by-law  
 ch = Chapter  
 cl = clause  
 div = Division  
 exp = expires/expired  
 f = forms  
 Gaz = Gazette  
 hdg = heading  
 ins = inserted  
 lt = long title  
 nc = not commenced

od = order  
 om = omitted  
 pt = Part  
 r = regulation/rule  
 rem = remainder  
 renum = renumbered  
 rep = repealed  
 s = section  
 sch = Schedule  
 sdiv = Subdivision  
 SL = Subordinate Legislation  
 sub = substituted

**2****LIST OF LEGISLATION*****Victims of Crime Assistance Act 2006 (Act No. 15, 2006)***

Assent date 18 May 2006  
 Commenced 1 May 2007 (Gaz G17, 26 April 2007, p 7)

***Justice Legislation Amendment Act 2007 (Act No. 5, 2007)***

Assent date 24 April 2007  
 Commenced s 37 (exc amd of Criminal Code and *Legal Profession Act 2006*): 1 May 2007 (s 2(1), s 2 *Victims of Crime Assistance Act 2006* (Act No. 15, 2006) and Gaz G17, 26 April 2007, p 7); rem: 24 April 2007

***Law Reform (Work Health) Amendment Act 2007 (Act No. 30, 2007)***

Assent date 12 December 2007  
 Commenced 1 July 2008 (Gaz S29, 25 June 2008)

***Justice Legislation Amendment Act (No. 2) 2007 (Act No. 32, 2007)***

Assent date 12 December 2007  
 Commenced 8 January 2008 (Gaz S2, 8 January 2008)

***Justice Legislation Amendment (Penalties) Act 2010 (Act No. 12, 2010)***

Assent date 20 May 2010  
 Commenced 1 July 2010 (Gaz G, June 2010, p )

***Revenue and Other Legislation Amendment Act 2010 (Act No. 21, 2010)***

Assent date 30 June 2010  
 Commenced pt 2 and pt 4, divs 1 and 2: 4 May 2010; rem: 1 July 2010 (s 2)

***Statute Law Revision Act 2010 (Act No. 29, 2010)***

Assent date 9 September 2010  
 Commenced 13 October 2010 (Gaz G41, 13 October 2010, p 2)

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***Victims of Crime Assistance Amendment Act 2013 (Act No. 6, 2013)***

Assent date 14 March 2013  
Commenced 1 July 2013 (*Gaz* G19, 8 May 2013, p 2)

***Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) Act 2014 (Act No. 34, 2014)***

Assent date 13 November 2014  
Commenced 1 January 2015 (*Gaz* G51, 24 December 2014, p 7)

***Workers Rehabilitation and Compensation Legislation Amendment Act 2015 (Act No. 9, 2015)***

Assent date 23 April 2015  
Commenced ss 3, 4, 5, 24, 25 and pt 4: 22 May 2015; rem: 1 July 2015 (*Gaz* S50, 22 May 2015)

***Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)***

Assent date 6 April 2016  
Commenced 1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

***Statute Law Revision Act 2017 (Act No. 4, 2017)***

Assent date 10 March 2017  
Commenced 12 April 2017 (*Gaz* G15, 12 April 2017, p 3)

***Victims of Crime Assistance Amendment Act 2023 (Act No. 30, 2023)***

Assent date 4 December 2023  
Commenced 2 January 2024 (*Gaz* G21, December 2023, p 1)

### 3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 4, 17, 18, 26, 32, 60, 61, 71 and 80.

### 4 LIST OF AMENDMENTS

|       |                                                                                |
|-------|--------------------------------------------------------------------------------|
| lt    | amd No. 5, 2007 s 25                                                           |
| s 3   | amd No. 5, 2007, s 36; No. 30, 2023, s 4                                       |
| s 4   | amd No. 5, 2007 s 26; No. 29, 2010, s 7; No. 34, 2014, s 17; No. 30, 2023, s 5 |
| s 5   | amd No. 5, 2007 ss 27 and 36; No. 30, 2023, s 20                               |
| s 7   | sub No. 5, 2007 s 28                                                           |
| s 9   | amd No. 5, 2007 s 29                                                           |
| s 10  | amd No. 5, 2007 ss 30 and 36; No. 30, 2023, s 20                               |
| s 12  | amd No. 30, 2023, s 20                                                         |
| s 14  | amd No. 30, 2023, s 6                                                          |
| s 17  | amd No. 30, 2023, s 20                                                         |
| s 18  | amd No. 30, 2007, s 59; No. 9, 2015, s 31; No. 30, 2023, s 20                  |
| s 19  | sub No. 30, 2023, s 7                                                          |
| s 24  | amd No. 30, 2023, s 8                                                          |
| s 25  | amd No. 30, 2023, s 20                                                         |
| s 25A | ins No. 30, 2023, s 9                                                          |

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|              |                                                                                         |
|--------------|-----------------------------------------------------------------------------------------|
| pt 4         |                                                                                         |
| div 2 hdg    | sub No. 30, 2023, s 9                                                                   |
| s 25B        | ins No. 30, 2023, s 9                                                                   |
| s 26         | amd No. 5, 2007 ss 31 and 36; No. 30, 2007, s 59; No. 9, 2015, s 31; No. 30, 2023, s 10 |
| s 27         | amd No. 5, 2007, s 36; No. 30, 2023, s 20                                               |
| ss 28 – 29   | amd No. 30, 2023, s 20                                                                  |
| pt 4         |                                                                                         |
| div 3 hdg    | amd No. 30, 2023, s 20                                                                  |
| s 29A        | ins No. 30, 2023, s 11                                                                  |
| s 30         | amd No. 30, 2023, s 20                                                                  |
| s 31         | amd No. 5, 2007 s 32; No. 34, 2014, s 18<br>sub No. 30, 2023, s 12                      |
| s 32         | amd No. 5, 2007 s 33; No. 30, 2007, s 59; No. 9, 2015, s 31; No. 30, 2023, s 20         |
| pt 4         |                                                                                         |
| div 4 hdg    | amd No. 30, 2023, s 20                                                                  |
| s 33         | amd No. 5, 2007, s 36; No. 30, 2023, s 20                                               |
| s 34         | amd No. 5, 2007, s 36                                                                   |
| s 35         | amd No. 5, 2007 ss 34 and 36                                                            |
| s 36         | amd No. 12, 2010, s 3                                                                   |
| s 37         | sub No. 5, 2007, s 35<br>amd No. 30, 2023, s 20                                         |
| s 38         | amd No. 5, 2007, s 36; No. 30, 2023, s 20                                               |
| ss 39 – 40   | amd No. 30, 2023, s 20                                                                  |
| s 42         | amd No. 5, 2007, s 36; No. 30, 2023, s 20                                               |
| s 43         | amd No. 8, 2016, s 45                                                                   |
| s 44         | amd No. 5, 2007, s 36; No. 12, 2010, s 3; No. 34, 2014, s 19; No. 30, 2023, s 20        |
| pt 4         |                                                                                         |
| div 5 hdg    | amd No. 30, 2023, s 20                                                                  |
| s 45         | amd No. 30, 2023, s 20                                                                  |
| s 46         | amd No. 5, 2007, s 36; No. 12, 2010, s 3; No. 34, 2014, s 20; No. 30, 2023, s 20        |
| s 47         | amd No. 5, 2007, s 36; No. 34, 2014, s 21; No. 30, 2023, s 20                           |
| pt 4         |                                                                                         |
| div 5A hdg   | ins No. 30, 2023, s 13                                                                  |
| ss 47A – 47G | ins No. 30, 2023, s 13                                                                  |
| pt 4         |                                                                                         |
| div 5B hdg   | ins No. 30, 2023, s 13                                                                  |
| ss 47H – 47K | ins No. 30, 2023, s 13                                                                  |
| pt 4         |                                                                                         |
| div 6 hdg    | amd No. 34, 2014, s 22<br>sub No. 30, 2023, s 13                                        |
| s 48         | amd No. 34, 2014, s 23; No. 4, 2017, s 34<br>sub No. 30, 2023, s 13                     |
| ss 49 – 53   | rep No. 34, 2014, s 24                                                                  |
| s 54         | amd No. 5, 2007, s 36; No. 30, 2023, s 14                                               |
| s 55         | amd No. 34, 2014, s 25; No. 30, 2023, s 20                                              |
| pt 5         |                                                                                         |
| div 1 hdg    | ins No. 30, 2023, s 15                                                                  |
| ss 55A – 55G | ins No. 30, 2023, s 15                                                                  |
| pt 5         |                                                                                         |
| div 2 hdg    | ins No. 30, 2023, s 15                                                                  |
| s 56         | amd No. 30, 2023, s 16                                                                  |
| s 57         | sub No. 30, 2023, s 17                                                                  |
| pt 5         |                                                                                         |
| div 3 hdg    | ins No. 30, 2023, s 17                                                                  |

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| s 58       | sub No. 30, 2023, s 17                                                          |
| s 61       | amd No. 5, 2007, s 36; No. 32, 2007, s 29; No. 21, 2010, s 35; No. 6, 2013, s 4 |
| s 63       | amd No. 12, 2010, s 3                                                           |
| s 64       | amd No. 34, 2014, s 26; No. 30, 2023, s 18                                      |
| s 69       | amd No. 5, 2007, s 36                                                           |
| s 72       | amd No. 30, 2023, s 20                                                          |
| pt 9 hdg   | ins No. 21, 2010, s 36<br>sub No. 6, 2013, s 5                                  |
| pt 9       |                                                                                 |
| div 1 hdg  | ins No. 6, 2013, s 5                                                            |
| s 76       | ins No. 21, 2010, s 36                                                          |
| pt 9       |                                                                                 |
| div 2 hdg  | ins No. 6, 2013, s 6                                                            |
| s 77       | ins No. 6, 2013, s 6                                                            |
| pt 9       |                                                                                 |
| div 3 hdg  | ins No. 34, 2014, s 27                                                          |
| ss 78 – 80 | ins No. 34, 2014, s 27                                                          |
| pt 9       |                                                                                 |
| div 4 hdg  | ins No. 30, 2023, s 19                                                          |
| ss 81 – 85 | ins No. 30, 2023, s 19                                                          |
| sch 1      | ins No. 30, 2023, s 19                                                          |
| sch hdg    | amd No. 30, 2023, s 20                                                          |