

Serial 109
Victims of Crime Assistance Amendment Bill 2023
Mr Paech

A Bill for an Act to amend the *Victims of Crime Assistance Act 2006* and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

VICTIMS OF CRIME ASSISTANCE AMENDMENT ACT 2023

Act No. [] of 2023

Table of provisions

Part 1	Preliminary matters	
1	Short title	1
2	Commencement	1
Part 2	Amendment of Victims of Crime Assistance Act 2006	
3	Act amended	1
4	Section 3 amended (Objects)	2
5	Section 4 amended (Definitions).....	2
6	Section 14 amended (Family victim's eligibility to apply for assistance)	3
7	Section 19 replaced	4
	19 Effect of death on applications and entitlement to financial assistance	
8	Section 24 amended (Assessors).....	4
9	Part 4, Division 2 heading replaced and sections 25A and 25B inserted.....	5
	25A Withdrawal of application	
	Division 2 Interim payments	
	25B Meaning of <i>interim payment</i>	
10	Section 26 amended (Application to Director for immediate payment).....	5
11	Section 29A inserted	6
	29A Meaning of <i>award</i>	
12	Section 31 replaced	6
	31 No time limit for lodging application	
13	Part 4, Division 6 replaced	7
	Division 5A Funeral expense assistance	
	47A Meaning of <i>funeral expense assistance</i>	
	47B Eligibility and application for funeral expense assistance	
	47C Time limit for lodging application	
	47D Amount of funeral expense assistance	
	47E Deciding application	
	47F Payment of funeral expense assistance	

	47G	Refund of funeral expense assistance	
	Division 5B	Closure of financial assistance application if applicant uncontactable	
	47H	Notice of proposed closure of application	
	47J	Closure of application	
	47K	Reopening of closed application	
	Division 6	Review of decisions	
	48	Review by NTCAT	
14		Section 54 amended (Applications).....	11
15		Part 5, Division 1 and Part 5, Division 2 heading inserted.....	11
	Division 1	Debt recovery notice process	
	55A	Definitions	
	55B	Director may seek to recover amount by giving debt recovery notice	
	55C	Content and service of debt recovery notice	
	55D	Objection	
	55E	Decision on objection	
	55F	Liability to pay debt	
	55G	Recovery of debt	
	Division 2	Court process	
16		Section 56 amended (Territory may recover from offender).....	15
17		Sections 57 and 58 replaced.....	16
	57	No appeal to Supreme Court	
	Division 3	Miscellaneous matters	
	58	Recovery by set-off	
18		Section 64 amended (Inadmissibility of certain information in proceedings).....	17
19		Part 9, Division 4 and Schedule 1 inserted.....	17
	Division 4	Victims of Crime Assistance Amendment Act 2023	
	81	Definitions	
	82	References to interim payments	
	83	Application of amendments to Part 4	
	84	Application of funeral expense assistance provisions	
	85	Application of debt recovery procedures	
	Schedule 1	Reviewable decisions	
20		Act further amended.....	18
	Part 3	Consequential amendment of Personal Injuries (Liabilities And Damages) Act 2003	
21		Section 32G amended (Public entity defendant may withhold damages for specified payments).....	19
	Part 4	Repeal of Act	
22		Repeal of Act.....	19

Schedule	Act further amended
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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2023

An Act to amend the *Victims of Crime Assistance Act 2006* and for related purposes

[Assented to [] 2023]
[Introduced [] 2023]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Victims of Crime Assistance Amendment Act 2023*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 16 October 2025, it commences on that day.

Part 2 Amendment of Victims of Crime Assistance Act 2006

3 Act amended

This Part amends the *Victims of Crime Assistance Act 2006*.

4 Section 3 amended (Objects)

- (1) After section 3(a)
- (ab) to provide financial assistance for the cost of funerals of victims of violent acts; and
- (2) Section 3(b)
- omit*
- all words after "offenders"
- insert*
- who have committed violent acts resulting in payments of financial assistance to their victims and others; and

5 Section 4 amended (Definitions)

- (1) Section 4, definitions ***applicant***, ***assessor***, ***award***, ***immediate payment*** and ***Tribunal***

omit

- (2) Section 4

insert

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.

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

award, see section 29A.

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

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

funeral expense assistance, see section 47A.

interim payment, see section 25B.

- (3) Section 4, definition ***financial assistance***, paragraphs (a) to (c)
omit, insert
- (a) an interim payment;
 - (b) an award, including an award increased under Part 4, Division 5;
 - (c) funeral expense assistance.
- (4) Section 4, at the end
insert
- Note for section 4*
The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

6 Section 14 amended (Family victim's eligibility to apply for assistance)

- (1) Section 14(2)
omit
all words after "for an"
insert
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.
- (2) Section 14(3)(a)
omit
- (3) Section 14, note 1
omit
immediate
insert
interim

7 Section 19 replaced

Section 19

repeal, insert

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.

8 Section 24 amended (Assessors)

Section 24(1) to (3)

omit, insert

- (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.

9 Part 4, Division 2 heading replaced and sections 25A and 25B inserted

Part 4, Division 2, heading

omit, insert

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).

10 Section 26 amended (Application to Director for immediate payment)

(1) Section 26, heading

omit

immediate

insert

interim

(2) Section 26(1)

omit

immediate payment of financial assistance.

insert

interim payment.

(3) Section 26(2)

omit, insert

(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.

(4) Section 26(3)

omit

The application

insert

An application under subsection (1)

(5) Section 26(3)(b)

omit

immediate

insert

interim

11 Section 29A inserted

Before section 30, in Part 4, Division 3

insert

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.

12 Section 31 replaced

Section 31

repeal, insert

31 No time limit for lodging application

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

13 Part 4, Division 6 replaced

Part 4, Division 6

repeal, insert

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.

14 Section 54 amended (Applications)

Section 54(1) and (4)

omit

3 or 5.

insert

3, 5 or 5A.

15 Part 5, Division 1 and Part 5, Division 2 heading inserted

Before section 56, in Part 5

insert

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

16 Section 56 amended (Territory may recover from offender)

- (1) Section 56(1) and (2)
- omit, insert*
- (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.
- (2) Section 56(4)(b)
 - omit*
 - awarded to the victim
 - insert*
 - paid
- (3) Section 56(5)
 - omit*
 - awarded
 - insert*
 - paid

17 Sections 57 and 58 replaced

Sections 57 and 58

repeal, insert

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.

18 Section 64 amended (Inadmissibility of certain information in proceedings)

After section 64(3)(c)

insert

(ca) a proceeding under Part 5, Division 2;

19 Part 9, Division 4 and Schedule 1 inserted

After section 80

insert

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.

Schedule 1 Reviewable decisions

section 48

Item	Reviewable decision	Affected person
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

20 Act further amended

The Schedule has effect.

**Part 3 Consequential amendment of Personal Injuries
(Liabilities And Damages) Act 2003**

**21 Section 32G amended (Public entity defendant may withhold
damages for specified payments)**

Section 32G(1)(a) and (2)(a)

omit, insert

- (a) an amount the offender is required to pay under section 55F of the *Victims of Crime Assistance Act 2006* or an order made under section 56 of that Act;

Part 4 Repeal of Act

22 Repeal of Act

This Act is repealed on the day after it commences.

Schedule Act further amended

section 20

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 5(1)	violent act	violent act
section 10(2)	immediate	interim
section 10, note 1	<i>immediate</i>	<i>interim</i>
section 12(2)	immediate	interim
section 12(5)	whole subsection	
section 12, note 1	<i>immediate</i>	<i>interim</i>
sections 17(1) to (3) and 18(1) to (3)	financial assistance	an interim payment or award
section 25, heading	for financial assistance	
section 25(1)	financial assistance	an interim payment or award
	all words after "violent"	act.
section 25(3) and (4)	immediate <i>(all references)</i>	interim
section 25(5)	financial assistance (including by an increased award)	an interim payment, award or increased award
section 27, heading	immediate	interim
section 27(1)	As	Subject to section 47J, as
sections 27(1), (2), (6)(a) and (b), 28(2) and 29	immediate	interim
section 29	financial assistance as	amount

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Part 4, Division 3 heading	of financial assistance	
section 30	award of financial assistance.	award.
section 32(1)(i)	immediate payment of financial assistance;	interim payment;
Part 4, Division 4 heading	of financial assistance	
section 34(1)	The assessor must decide an application,	Subject to section 47J, the assessor must decide an application for an award,
section 37(1)	for	of
section 38(1)	is \$40 000,	under this Division is \$40 000 less any amount paid as an interim payment,
section 38(2)	immediate	interim
section 39(1)	is \$40 000	under this Division is \$40 000 less any amounts paid as interim payments
section 39(2)	immediate	interim
section 40(1)	is \$40 000	under this Division is \$40 000 less any amounts paid as interim payments
section 40(2)	immediate	interim
section 40(3)	whole subsection	
section 42(2)(a)	immediate	interim

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 44(2)(f) and (4)(c)	the Tribunal	NTCAT
section 44(4)(b)	immediate	interim
Part 4, Division 5, heading	financial assistance	awards or interim payments
section 45, heading	financial assistance	award
section 45	financial assistance as	amount
section 46, heading	financial assistance	award
section 46(4), after "Director,"		subject to section 47J,
section 46(7)(c)	the Tribunal	NTCAT
section 46(10)	financial assistance as	amount
section 47, heading	financial assistance	award or interim payment
section 47(1)(a)	immediate	interim
sections 47(2)(d) and 55(3)(b)	the Tribunal	NTCAT
section 72	the Schedule	Schedule 2
Schedule, heading, after " Schedule "		2