



New South Wales

Victims Rights and Support Amendment (Victims Support Counselling) Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Victims Rights and Support Act 2013 (the Act)* to allow a family member of a person killed in a road crime to access approved counselling under the Victims Support Scheme.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 **Amendment of Victims Rights and Support Act 2013 No 37**

Schedule 1[1] inserts definitions for certain words and expressions for the Act.

Schedule 1[2] omits a redundant provision.

Schedule 1[3] updates the definition of *victim of crime* to make it clear that a victim of crime includes a person who suffers harm as a direct result of a criminal offence involving a motor vehicle.

Schedule 1[4] provides that 1 of the objects of the Victims Support Scheme under the Act, Part 4 (the *Scheme*) is to provide support for family victims of road crimes.

Schedule 1[6] clarifies that, in relation to receiving support under the Scheme, a road crime is not an act of violence unless the road crime was an intentional killing of the primary victim and a person has been charged with murder for the death of the primary victim.

Schedule 1[7] inserts a definition for *road crime*. **Schedule 1[5]** makes a consequential amendment.

Schedule 1[8] inserts a definition for a *family victim* of a road crime. **Schedule 1[9]–[11], [16] and [17]** make consequential amendments.

Schedule 1[12] and [18] provide that a family victim of a road crime is eligible for certain counselling services under the Scheme. **Schedule 1[13]** makes a consequential amendment.

Schedule 1[14] provides that a family victim of a road crime who is a member of the immediate family of the alleged offender is not eligible for support under the Scheme unless they are also an immediate family member of a victim who died as a result of the road crime.

Schedule 1[15] provides that the regulations may prescribe persons or classes of persons who are not eligible to receive victims support in relation to a road crime.

Schedule 1[19] provides for the support a victim may receive under the Scheme if they are a victim of 2 or more of the following acts—

- (a) an act of violence,
- (b) an act of modern slavery,
- (c) a road crime.

However, a victim is eligible for each type of support under the Scheme only once in relation to the act.

Schedule 1[20] provides that the Commissioner of Victims Rights (the *Commissioner*) may, for a family victim of a road crime who resides outside Australia, approve a professional counsellor of the victim's choice to provide counselling services.

Schedule 1[21] and [22] provide that the regulations may make provision for the authorisation of payments for approved counselling services for family victims of road crimes and relatives of persons who died as a result of road crimes.

Schedule 1[23] provides that a family victim of a road crime may make an application for victims support. **Schedule 1[24]** provides that the Commissioner must not approve the giving of victims support unless the Commissioner is satisfied the person is a family victim of a road crime.

Schedule 1[26] and [27] set out the factors the Commissioner must consider when determining whether or not to give support, and the amount of financial support to be given, for a family victim of a road crime. **Schedule 1[25] and [28]** make consequential amendments.

Schedule 1[29] contains a transitional provision consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Victims Rights and Support Regulation 2019

Schedule 2[1] provides that a relevant family member includes a person who is a relative of a person killed in a road crime but is not a family victim.

Schedule 2[2] and [3] provide that the Commissioner may consider a person a family victim of a road crime for the purposes of authorising payments for approved counselling services for that person in certain circumstances.



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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Victims Rights and Support Amendment (Victims Support Counselling) Bill 2024

No. _____, 2024

A Bill for

An Act to amend the *Victims Rights and Support Act 2013* in relation to the eligibility of family victims of road crimes for approved counselling services; and for related purposes.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—

1

1 Name of Act

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This Act is the *Victims Rights and Support Amendment (Victims Support Counselling) Act 2024*.

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2 Commencement

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This Act commences on a day or days to be appointed by proclamation.

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Schedule 1	Amendment of Victims Rights and Support Act 2013 No 37	1
		2
[1] Section 3 Definitions		3
	Insert in alphabetical order in section 3(1)—	4
	<i>act of modern slavery</i> —see section 19A.	5
	<i>act of violence</i> —see section 19.	6
	<i>family victim</i> —see section 22.	7
	<i>primary victim</i> —see section 20.	8
	<i>road crime</i> —see section 19AB.	9
	<i>secondary victim</i> —see section 21.	10
[2] Section 3(2)		11
	Omit the subsection.	12
[3] Section 5 Meaning of “victim of crime”		13
	Omit section 5(1). Insert instead—	14
	(1) For this Act, a <i>victim of crime</i> is a person who suffers harm as a direct result of an act committed, or apparently committed, by another person in the course of—	15
	(a) a criminal offence, including a criminal offence involving a motor vehicle, or	16
	(b) conduct of a kind referred to in the <i>Modern Slavery Act 2018</i> , section 5(1), definition of <i>modern slavery</i> , paragraph (b).	17
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		19
		20
		21
[4] Section 17		22
	Omit the section. Insert instead—	23
	17 Object of part	24
	The object of this part is to establish a scheme to provide support for—	25
	(a) victims of acts of violence, and	26
	(b) victims of acts of modern slavery, and	27
	(c) family victims of road crime.	28
[5] Section 18 Definitions		29
	Insert in alphabetical order—	30
	<i>road crime</i> —see section 19AB.	31
[6] Section 19 Meaning of “act of violence”		32
	Insert after section 19(3)—	33
	(3A) To avoid doubt, a road crime is not an act of violence except in the circumstances provided for in section 25(2A) and (2B).	34
		35
[7] Section 19AB		36
	Insert after section 19A—	37
	19AB Meaning of “road crime”	38
	(1) In this Act, a <i>road crime</i> means—	39

(a)	an act or series of acts, committed by a person in New South Wales, that—	1
(i)	involved a motor vehicle, and	2
(ii)	caused the death of another person, and	3
(b)	an act in relation to which one of the following applies—	4
(i)	charges have been laid against the alleged offender for an offence in relation to the act or series of acts,	5
(ii)	charges cannot be laid because the alleged offender has died or cannot be identified but, on the balance of probabilities, an offence has apparently occurred,	6
(iii)	circumstances prescribed by the regulations.	7
(2)	The regulations may prescribe circumstances in which an act or series of acts does not constitute a road crime.	8
[8]	Section 22 Meaning of “family victim”	9
	Insert after section 22(1)—	10
(1A)	A family victim of a road crime is a person who is, at the time the road crime is committed, a member of the immediate family of a person who has died as a result of the road crime.	11
[9]	Section 22(3)	12
	Insert “or a person who dies as a result of a road crime” after “primary victim”.	13
[10]	Section 22(3)(a) and (b)	14
	Insert “or person’s” after “victim’s” wherever occurring.	15
[11]	Section 22(3)(b)–(e)	16
	Insert “or person” after “victim” wherever occurring.	17
[12]	Section 23 Eligibility for support	18
	Insert after section 23(4)—	19
(5)	A family victim of a road crime is eligible for the support under the Scheme described in section 29A.	20
[13]	Section 25 Persons not eligible for support	21
	Insert at the end of section 25(2)—	22
	Note— A person who is a family victim of a road crime is eligible for approved counselling services.	23
[14]	Section 25(3)	24
	Omit the subsection. Insert instead—	25
(3)	Offenders A person is not eligible to receive victims support—	26
(a)	in relation to an act of violence if the act occurred while the person was engaged in behaviour constituting an offence, or	27
(b)	if the person is a family victim of a road crime because the person is a member of the immediate family of the alleged offender.	28
(3A)	However, if a person is a family victim of a road crime because the person is a member of the immediate family of the alleged offender and another person	29

	(the <i>victim</i>) who died as a result of the road crime, the person is eligible to receive victims support in relation to the victim.	1 2
[15]	Section 25(7) Omit “or act of modern slavery”. Insert instead “, an act of modern slavery or a road crime”.	3 4 5
[16]	Section 29, heading Insert “of acts of violence” after “victims”.	6 7
[17]	Section 29(1) Insert at the end of section 29(1)— Note— A person who is a family victim of a road crime is not eligible for support under the Scheme under this section but is eligible for support under section 29A.	8 9 10 11
[18]	Section 29A Insert after section 29— 29A Composition of support—family victims of road crimes The support under the Scheme for which a family victim of a road crime is eligible is approved counselling services.	12 13 14 15 16
[19]	Section 30A Omit the section. Insert instead— 30A Victims support where act is combination of act of violence, act of modern slavery or road crime (1) This section applies if an act is 2 or more of the following— (a) an act of violence, (b) an act of modern slavery, (c) a road crime. (2) A victim is eligible for each type of support under the Scheme only once in relation to the act. Examples— If an act is both an act of violence and an act of modern slavery, the victim is eligible for financial assistance only once in relation to the act. If an act is a road crime for which a family victim receives approved counselling services and the act is later classified as an act of violence in accordance with section 25(2A), the family victim would not be eligible for further approved counselling services but would be eligible for other forms of support under section 29.	17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34
[20]	Section 31 Approved counselling services Insert “, or a family victim of a road crime,” after “slavery” in section 31(1)(b).	35 36
[21]	Section 32 Authorisation of payments for approved counselling services Insert “, or family victims of road crimes” after “slavery” in section 32(1).	37 38
[22]	Section 32(2) Insert “, or relatives of persons who died as a result of road crimes” after “slavery” in section 32(2).	39 40 41

[23] Section 38 Applications for victims support	1
Insert after section 38(1)(a)—	2
(a1) a family victim of a road crime,	3
[24] Section 43 Determination of applications	4
Omit section 43(3)(a). Insert instead—	5
(a) is one of the following persons—	6
(i) a primary victim, secondary victim or family victim of an act of violence or act of modern slavery,	7
(ii) a parent, step-parent or guardian who is caring for a child who is a primary victim of an act of violence or act of modern slavery,	9
(iii) a family victim of a road crime, and	11
[25] Section 44 Reasons for not approving the giving of victims support or for reducing amount of financial support or recognition payment	12
Insert “for a victim of an act of violence or an act of modern slavery—” before “any behaviour” in section 44(1)(a).	13
[26] Section 44(1)(b)	16
Insert after section 44(1)(a)—	17
(b) for a family victim of a road crime—any behaviour, including past criminal activity, attitude or disposition of the person who died as a result of the road crime that directly or indirectly contributed to the person’s death,	18
	19
	20
	21
[27] Section 44(1)(d)–(f)	22
Omit “or act of modern slavery” wherever occurring.	23
Insert instead “, act of modern slavery or road crime”.	24
[28] Section 44(6B)	25
Insert after section 44(6A)—	26
(6B) To avoid doubt, subsections (5)–(6A) do not apply in relation to an application by a family victim of a road crime.	27
	28
[29] Schedule 2 Savings, transitional and other provisions	29
Insert after clause 28—	30
 Part 8 Provision consequent on enactment of Victims Rights and Support Amendment (Victims Support Counselling) Act 2024	31
	32
	33
29 Counselling for family members of persons killed in road crimes	34
Section 22(1A), as inserted by the <i>Victims Rights and Support Amendment (Victims Support Counselling) Act 2024</i> , extends to the following persons—	35
(a) a person who is a member of the immediate family of a person who has died as a result of a road crime that occurred within the 2 years before the commencement of that subsection,	37
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|-----|---|---|
| (b) | a person who is a member of the immediate family of a person who has | 1 |
| | died as a result of a road crime that occurred more than 2 years before | 2 |
| | the commencement of that subsection if the Commissioner is satisfied | 3 |
| | there are exceptional circumstances. | 4 |

Schedule 2	Amendment of Victims Rights and Support Regulation 2019	1
		2
[1] Clause 4 Definitions		3
	Omit the definition of <i>relevant family member</i> . Insert instead—	4
	<i>relevant family member</i> means—	5
	(a) a person who is a relative of a primary victim who has died as a result of an act of violence but who is not a family victim, or	6
		7
	(b) a person who is a relative of a person killed in a road crime but is not a family victim.	8
		9
[2] Clause 6 Immediate access to counselling services		10
	Insert “, or a family victim of a road crime,” after “modern slavery” in clause 6(1).	11
[3] Clause 6(2)		12
	Insert “, or a family victim of a road crime” after “modern slavery”.	13