

Passed by both Houses



New South Wales

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

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney,*

*, 2024*



New South Wales

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

Act No \_\_\_\_\_, 2024

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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.

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

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

**2 Commencement**

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

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

### [1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—

*act of modern slavery*—see section 19A.

*act of violence*—see section 19.

*family victim*—see section 22.

*primary victim*—see section 20.

*road crime*—see section 19AB.

*secondary victim*—see section 21.

### [2] Section 3(2)

Omit the subsection.

### [3] Section 5 Meaning of “victim of crime”

Omit section 5(1). Insert instead—

- (1) For this Act, a *victim of crime* is a person who suffers harm as a direct result of an act committed, or apparently committed, by another person in the course of—
  - (a) a criminal offence, including a criminal offence involving a motor vehicle, or
  - (b) conduct of a kind referred to in the *Modern Slavery Act 2018*, section 5(1), definition of *modern slavery*, paragraph (b).

### [4] Section 17

Omit the section. Insert instead—

#### 17 Object of part

The object of this part is to establish a scheme to provide support for—

- (a) victims of acts of violence, and
- (b) victims of acts of modern slavery, and
- (c) family victims of road crime.

### [5] Section 18 Definitions

Insert in alphabetical order—

*road crime*—see section 19AB.

### [6] Section 19 Meaning of “act of violence”

Insert after section 19(3)—

- (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).

### [7] Section 19AB

Insert after section 19A—

#### 19AB Meaning of “road crime”

- (1) In this Act, a *road crime* means—

- (a) an act or series of acts, committed by a person in New South Wales, that—
    - (i) involved a motor vehicle, and
    - (ii) caused the death of another person, and
  - (b) an act in relation to which one of the following applies—
    - (i) charges have been laid against the alleged offender for an offence in relation to the act or series of acts,
    - (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,
    - (iii) circumstances prescribed by the regulations.
- (2) The regulations may prescribe circumstances in which an act or series of acts does not constitute a road crime.

**[8] Section 22 Meaning of “family victim”**

Insert after section 22(1)—

- (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.

**[9] Section 22(3)**

Insert “or a person who dies as a result of a road crime” after “primary victim”.

**[10] Section 22(3)(a) and (b)**

Insert “or person’s” after “victim’s” wherever occurring.

**[11] Section 22(3)(b)–(e)**

Insert “or person” after “victim” wherever occurring.

**[12] Section 23 Eligibility for support**

Insert after section 23(4)—

- (5) A family victim of a road crime is eligible for the support under the Scheme described in section 29A.

**[13] Section 25 Persons not eligible for support**

Insert at the end of section 25(2)—

**Note—** A person who is a family victim of a road crime is eligible for approved counselling services.

**[14] Section 25(3)**

Omit the subsection. Insert instead—

- (3) **Offenders** A person is not eligible to receive victims support—
    - (a) in relation to an act of violence if the act occurred while the person was engaged in behaviour constituting an offence, or
    - (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.
- (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

(the *victim*) who died as a result of the road crime, the person is eligible to receive victims support in relation to the victim.

**[15] Section 25(7)**

Omit “or act of modern slavery”.

Insert instead “, an act of modern slavery or a road crime”.

**[16] Section 29, heading**

Insert “of acts of violence” after “victims”.

**[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.

**[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.

**[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.

**[20] Section 31 Approved counselling services**

Insert “, or a family victim of a road crime,” after “slavery” in section 31(1)(b).

**[21] Section 32 Authorisation of payments for approved counselling services**

Insert “, or family victims of road crimes” after “slavery” in section 32(1).

**[22] Section 32(2)**

Insert “, or relatives of persons who died as a result of road crimes” after “slavery” in section 32(2).

**[23] Section 38 Applications for victims support**

Insert after section 38(1)(a)—

- (a1) a family victim of a road crime,

**[24] Section 43 Determination of applications**

Omit section 43(3)(a). Insert instead—

- (a) is one of the following persons—
  - (i) a primary victim, secondary victim or family victim of an act of violence or act of modern slavery,
  - (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,
  - (iii) a family victim of a road crime, and

**[25] Section 44 Reasons for not approving the giving of victims support or for reducing amount of financial support or recognition payment**

Insert “for a victim of an act of violence or an act of modern slavery—” before “any behaviour” in section 44(1)(a).

**[26] Section 44(1)(b)**

Insert after section 44(1)(a)—

- (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,

**[27] Section 44(1)(d)–(f)**

Omit “or act of modern slavery” wherever occurring.

Insert instead “, act of modern slavery or road crime”.

**[28] Section 44(6B)**

Insert after section 44(6A)—

- (6B) To avoid doubt, subsections (5)–(6A) do not apply in relation to an application by a family victim of a road crime.

**[29] Schedule 2 Savings, transitional and other provisions**

Insert after clause 28—

**Part 8 Provision consequent on enactment of Victims Rights and Support Amendment (Victims Support Counselling) Act 2024**

**29 Counselling for family members of persons killed in road crimes**

Section 22(1A), as inserted by the *Victims Rights and Support Amendment (Victims Support Counselling) Act 2024*, extends to the following persons—

- (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,

- (b) 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 more than 2 years before the commencement of that subsection if the Commissioner is satisfied there are exceptional circumstances.



## **Schedule 2      Amendment of Victims Rights and Support Regulation 2019**

**[1]    Clause 4 Definitions**

Omit the definition of *relevant family member*. Insert instead—

*relevant family member* means—

- (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
- (b) a person who is a relative of a person killed in a road crime but is not a family victim.

**[2]    Clause 6 Immediate access to counselling services**

Insert “, or a family victim of a road crime,” after “modern slavery” in clause 6(1).

**[3]    Clause 6(2)**

Insert “, or a family victim of a road crime” after “modern slavery”.