Changes to Legislation: as of 17 April 2024, there are changes to this Act which have not been implemented by the Revised Acts editorial team, see highlighted entries **here**. Note that some amendments may not be in force until commenced by a commencement order or other provision.

Number 28 *of* 2017

CRIMINAL JUSTICE (VICTIMS OF CRIME) ACT 2017

REVISED

Updated to 30 November 2023

This Revised Act is an administrative consolidation of the *Criminal Justice (Victims of Crime) Act 2017*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Domestic, Sexual and Gender-Based Violence Agency Act 2023* (31/2023), enacted 28 November 2023, and all statutory instruments up to and including the *Criminal Justice (Victims of Crime) Act 2017 (Commencement) Order 2023* (S.I. No. 588 of 2023), made 30 November 2023, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 28 *of* 2017

CRIMINAL JUSTICE (VICTIMS OF CRIME) ACT 2017

REVISED

Updated to 30 November 2023

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Number 28 *of* 2017

CRIMINAL JUSTICE (VICTIMS OF CRIME) ACT 2017

REVISED

Updated to 30 November 2023

An Act to give effect to provisions of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 20121 OJ No. L315, 14. 11. 2012, p.57 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA; for that purpose to amend the Criminal Justice Act 1951, the Criminal Procedure Act 1967, the Criminal Law (Rape) Act 1981, the Criminal Evidence Act 1992, the Criminal Justice Act 1993, the Bail Act 1997, the Courts Service Act 1998, the Children Act 2001, the Criminal Justice (Female Genital Mutilation) Act 2012 and the Criminal Law (Sexual Offences) Act 2017; and to provide for related matters.

[5*th November*, 2017]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Criminal Justice (Victims of Crime) Act 2017.

(2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions; and, in particular, *paragraph (b)(ii)* and *paragraph (d)* of *section 30* may be brought into operation on different days for different courts and for different circuits and different district court districts.

Interpretation

2. (1) In this Act—

"Act of 1960" means the Criminal Justice Act 1960;

"Act of 1993" means the Criminal Justice Act 1993;

"Act of 2001" means the Children Act 2001;

"Act of 2005" means the Garda Síochána Act 2005;

"Act of 2006" means the Criminal Law (Insanity) Act 2006;

"Act of 2010" means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

"assessment" has the meaning assigned to it by *section 15*;

"child", other than in the definition of family member, means a person under the age of 18 years;

"children detention school" has the same meaning as it has in section 3 of the Act of 2001;

"civil partner" means a person in a civil partnership or legal relationship to which section 3 of the Act of 2010 applies;

"clinical director" has the meaning assigned to it in section 1 of the Act of 2006;

"cohabitant" means a cohabitant within the meaning of section 172(1) of the Act of 2010;

"complaint", other than in *section 7(1)(l)*, means a statement made by a person orally or in writing, including by electronic means, to a member of the Garda Síochána or an officer of the Ombudsman Commission alleging that the person, or another person, has been the victim of an offence;

"designated centre" shall be construed in accordance with section 3 of the Act of 2006;

"director of a children detention school" means a person who has been appointed under section 180 of the Act of 2001 and who is responsible for the immediate control and supervision of a children detention school;

"enactment" has the same meaning as it has in the Interpretation Act 2005;

"family member", in relation to a victim, means—

(a) a spouse, civil partner or cohabitant of the victim,

(b) a child or step-child of the victim,

(c) a parent or grandparent of the victim,

(d) a brother, sister, half brother or half sister of the victim,

(e) a grandchild of the victim,

(f) an aunt, uncle, nephew or niece of the victim, and

(g) any other person—

(i) who is or, where the victim is deceased, was dependent on the victim, or

(ii) who a court, a member of the Garda Síochána, an officer of the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, a director of a children detention school or a clinical director of a designated centre, as the case may be, considers has or, where the victim is deceased, had a sufficiently close connection with the victim as to warrant his or her being treated as a family member;

"Irish Prison Service" means the prison service of the Department of Justice and Equality, which is charged with the management of prisons within the meaning of section 2 of the Prisons Act 2007;

"member of staff of a children detention school" means—

(a) a person who is appointed as a member of staff of a children detention school under section 181 of the Act of 2001, and

(b) a person who became such a member of staff pursuant to section 182 of that Act;

"member of the Garda Síochána" has the same meaning as it has in section 3 of the Act of 2005;

"Minister" means the Minister for Justice and Equality;

"officer of the Ombudsman Commission" means—

(a) a person who is appointed, or becomes an officer of the Ombudsman Commission, under section 71 of the Act of 2005, and

(b) a person who is engaged by the Ombudsman Commission pursuant to an arrangement under section 74 of that Act;

"officer of the Director of Public Prosecutions" means a person who is appointed to be an officer or servant of the Director of Public Prosecutions under section 2(11) of the Prosecution of Offences Act 1974;

"Ombudsman Commission" means the Garda Síochána Ombudsman Commission established under section 64 of the Act of 2005;

"protection measure" means a measure which is intended to safeguard the safety and welfare of a victim by limiting or preventing contact with, or repeat victimisation, retaliation or intimidation of, the victim by an alleged offender or any other person on his or her behalf and includes:

(a) advice regarding the personal safety of the victim;

(b) advice regarding the protection of the property of the victim;

F1**[**(c) advice regarding safety orders, barring orders, interim barring orders, emergency barring orders and protection orders within the meaning of the Domestic Violence Act 2018;**]**

(d) advice regarding orders made under section 10 of the Non-Fatal Offences Against the Person Act 1997, section 101 of the Criminal Justice Act 2006 and section 26 or 26A of the Criminal Justice Act 2007;

(e) an application to remand the alleged offender in custody; and

(f) an application that any admission of an alleged offender to bail be subject to conditions;

"restorative justice scheme" means any scheme administered for the time being under which, with the consent of each of them, a victim and an offender or alleged offender engage with each other to resolve, with the assistance of an impartial third party, matters arising from the offence or alleged offence;

"secondary victimisation" means victimisation that occurs indirectly through the response of institutions and individuals to the victim;

"special measure" means a measure referred to in *section 17* or *19*;

"specific protection need" means a particular need of a victim which is identified by an assessment;

"victim" means a natural person who has suffered harm, including physical, mental or emotional harm or economic loss, which was directly caused by an offence.

(2) Subject to *section 3*, a reference to a victim in this Act shall, where the death of a victim is caused directly by an offence, be construed as a reference to a family member provided that the family member concerned has not been charged with, or is not under investigation for, an offence in connection with the death of the victim.

(3) Where the age of a victim is uncertain but there is reason to believe that the victim is a child, he or she shall be presumed to be a child for the purposes of this Act, unless the contrary is proved.

(4) For convenience of expression, where, in this Act, a reference is made to "Garda Síochána" (and the context is the whole or part of that police force) a construction employing the singular form is used.

Nomination of family members

3. Where the death of a victim is caused directly by an offence and more than one family member of the victim seeks to avail himself or herself of a right under this Act in respect of the offence, the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, the director of a children detention school or the clinical director of a designated centre, as the case may be, may—

(a) request that the family members concerned nominate a family member to avail himself or herself of the right, or

(b) where the family members are unable to reach agreement in respect of a nomination under *paragraph (a)*, nominate one or more family members for the purposes of availing of the right concerned, having regard to the degree of relationship between the family members and the victim.

Application of Act

4. (1) The provisions of this Act shall not apply to a decision referred to in *section 8(2)(c)*, *(d)*, *(e)* or *(f)* which is made before the commencement of the provisions concerned.

(2) The application of this Act is not dependent on the commission of an offence having to be established (nor is it dependent on establishing whether the person concerned suffered any harm caused by an offence).

Expenses

5. The expenses incurred by—

(a) the Minister,

(b) the Garda Síochána,

(c) the Director of Public Prosecutions,

(d) the Courts Service,

(e) the Minister for Children and Youth Affairs, and

(f) the Minister for Health,

in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Repeal of provisions of Criminal Law (Sexual Offences) Act 2017

6. The following provisions of the Criminal Law (Sexual Offences) Act 2017 are repealed:

(a) section 36, save in so far as it inserts section 14C in the Criminal Evidence Act 1992;

(b) section 38.

PART 2

Right to Information

Information on first contact

7. (1) Subject to *subsection (2)*, where a victim first contacts or is contacted by the Garda Síochána or the Ombudsman Commission in relation to an alleged offence, the Garda Síochána or the Ombudsman Commission, as the case may be, shall offer the victim information relating to the following:

(a) services providing support for victims including, where relevant, appropriate specialist services (which may include psychological support services) and services providing alternative accommodation;

(b) the procedure for making a complaint in relation to an offence;

(c) where any enquiries by a victim relating to a complaint which he or she has made may be addressed;

(d) the circumstances in which a victim may be entitled to assistance in the form of interpretation and translation;

(e) the role of the victim in the criminal justice process;

(f) any particular measures, procedures or arrangements which are available to victims who are resident in a Member State other than the Member State where the alleged offence was committed;

(g) any particular measures, procedures or arrangements which are available to a victim who is a child;

(h) how and under what conditions a victim may obtain protection including by way of protection measures;

(i) any scheme relating to compensation for injuries suffered as a result of a crime;

(j) the power of a court to make a compensation order under section 6 of the Act of 1993;

(k) a victim's right to give evidence or make submissions under section 5 of the Act of 1993;

(l) the procedures for making a complaint to the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Courts Service, the Irish Prison Service, the director of a children detention

school or the clinical director of a designated centre, as the case may be, in respect of any alleged breach of rights or obligations arising under this Act;

(m) restorative justice schemes, where available;

(n) the types of cases in which legal advice and legal aid may be available to a victim;

(o) any entitlement to expenses arising from the participation of a victim in any proceedings relating to an offence.

(2) The extent and detail of information offered to a victim under *subsection (1)* shall be determined by the Garda Síochána or the Ombudsman Commission, as the case may be, by reference to the type or nature of the alleged offence and any specific needs and personal circumstances of the victim which are identified.

(3) Where a victim requests any information which is offered to him or her under *subsection (1)*—

(a) he or she may specify in his or her request whether the information is to be provided orally or in writing, including by electronic means, and

(b) he or she shall be provided with such information—

(i) as soon as practicable, and

(ii) in so far as is practicable, in the manner specified in his or her request.

(4) Subject to *subsection (5)*, a victim may be accompanied by a person or persons of his or her choice, including his or her legal representative, when contacting the Garda Síochána or the Ombudsman Commission for the first time in respect of an alleged offence.

(5) Where a member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, reasonably believes that the presence of a person referred to in *subsection (4)*, including a legal representative, would be contrary to the best interests of the victim or would prejudice any investigation or criminal proceedings regarding the alleged offence, the member of the Garda Síochána or officer of the Ombudsman Commission, as the case may be, may require that the person absent himself or herself prior to the member or officer concerned engaging further with the victim.

(6) Where a member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, decides to exclude a person from accompanying a victim pursuant to *subsection (5)*, the member or officer, as the case may be, shall inform the victim that *subsection (4)* continues to apply and he or she may be accompanied by another person under that subsection and may make such arrangements as are necessary to be so accompanied.

(7) A record shall be kept by the Garda Síochána and the Ombudsman Commission of any decision to exclude a person under *subsection (5)* and such record shall include the reasons for that decision.

(8) A member of the Garda Síochána or an officer of the Ombudsman Commission who engages with a victim under this section shall ensure that matters in respect of any information offered to and requested by a victim are recorded in accordance with any procedure specified by the Garda Síochána or the Ombudsman Commission, as the case may be.

(9) A member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, may, where a victim consents, arrange for the victim to be referred to an appropriate, and where relevant specialist, service which provides support for victims.

Information regarding investigations and criminal proceedings

8. (1) Where the Garda Síochána or the Ombudsman Commission is investigating an alleged offence, a member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, shall, where a victim of the alleged offence is identified—

(a) inform the victim of his or her right to—

(i) make a request under *subsection (2)*, and

(ii) amend a request referred to in *subparagraph (i)* at any time (in this section referred to as an "amended request"),

and

(b) inform the victim of the relevant procedures for making a request or an amended request under this section.

(2) A victim of an alleged offence may, during the course, or at the conclusion, of an investigation of the alleged offence or following any subsequent criminal proceedings relating to the offence concerned, request the following information from the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, the director of a children detention school or the clinical director of a designated centre, as the case may be:

(a) information relating to any significant developments in the investigation of the alleged offence, including:

(i) the arrest of a person;

(ii) the charging of a person;

(iii) the release on bail of a person and, where a person has entered into a recognisance admitting him or her to bail, any conditions of such recognisance which relate to the victim;

(iv) the remand in custody of a person who has been charged;

(b) a copy of any statement or submission made by the victim—

(i) during the course of the investigation, or

(ii) under section 5 of the Act of 1993;

(c) information regarding a decision not to proceed with, or to discontinue, the investigation and a summary of the reasons for the decision;

(d) information regarding—

(i) a decision not to prosecute a person for the alleged offence and a summary of the reasons for the decision,

(ii) the victim's right to request a review of a decision referred to in *subparagraph (i)* and the procedure for requesting the review;

(e) information regarding a decision to discontinue the prosecution of a person for the alleged offence and a summary of the reasons for the decision;

(f) information regarding a decision to deal with a person otherwise than by trial of the person in respect of the alleged offence and a summary of the reasons for the decision;

(g) where a person is charged in respect of the alleged offence, information regarding—

(i) the nature of the offence with which he or she is charged, and

(ii) the date and place of his or her trial;

(h) where a person is convicted in respect of the alleged offence, information regarding—

(i) the date of sentencing, where applicable, and

(ii) the date and place of any appeal by him or her or the prosecution, as the case may be, arising from the trial;

(i) information regarding any determination made under section 4 of the Act of 2006 in respect of a person;

(j) information regarding a final judgment in any trial of a person in respect of the alleged offence (and, as the case may be, any further judgment on appeal), including:

(i) where such trial is not a trial by jury, a summary of the reasons given for the judgment;

(ii) where the person is convicted of the offence, the sentence imposed on the person, if any;

(iii) any orders made by the court related to, or ancillary to, the judgment;

(k) where a person is arrested and is detained in custody by the Garda Síochána, information regarding any release or escape of the person from custody;

(l) where a person has been remanded in custody, information regarding any release or escape of the person from custody while on remand;

(m) where a person is convicted of an offence and a sentence of imprisonment is imposed on him or her, information regarding—

(i) the year and month in which the person is expected to be released from prison,

(ii) any temporary release of the person under section 2 or 3 of the Act of 1960 and any conditions attached to such release which relate to the victim,

F2**[**(iia) any conditional release of the person under section 2A of the Act of 1960 and any conditions attached to such release which relate to the victim,**]**

(iii) any transfer of the person while in custody to or from a prison, designated centre, court, hospital or any other place,

F2**[**(iiia) without prejudice to *subparagraph (iii)*—

(I) any application to the Minister under section 4 of the Transfer of Sentenced Persons Act 1995 to transfer the person out of the State in order to serve the sentence or the balance thereof in another Convention state (within the meaning of that Act) and any transfer of the person out of the State in accordance with that Act, or

(II) any application within the meaning of Part 2 of the Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023 and any transfer of the person to an executing state (within the meaning of that Act) in accordance with that Part,**]**

(iv) any escape by the person from custody and any measures which are put in place for the victim's protection as a result of such escape,

F3**[**(iva) any application for parole by the person,

(ivb) any release of the person on parole and any conditions attaching to such release which relate to the victim, and**]**

(v) the death of the person concerned while F4**[**in custody, on temporary release from prison under section 2 F5**[**or 3, or on conditional release under section 2A,**]** of the Act of 1960 or on parole**]**;

(n) where, pursuant to section 4(3)(b), 4(5)(c)(i), 4(6)(a), 5(2) or 5(3) of the Act of 2006, a person is committed to a designated centre by a court, other than a court martial, information regarding—

(i) the year and month in which the person is expected to be discharged from the designated centre and whether or not his or her discharge will be subject to conditions,

(ii) any temporary release of the person under section 14 of that Act,

(iii) any transfer of the person to or from a designated centre, prison, court, hospital or any other place,

(iv) any conditions attached to a discharge referred to in *subparagraph (i)* or a release referred to in *subparagraph (ii)*, which relate to the victim,

(v) the revocation of any conditional discharge of the person under section 13B of that Act,

(vi) any escape by the person from a designated centre, prison, court, hospital or any other place and any measures which are put in place for the victim's protection as a result of such escape, and

(vii) the death of the person concerned during a period of committal to, temporary release or conditional discharge from, the designated centre;

(o) where a person, who is a child, has been ordered to be detained in a children detention school, information regarding—

(i) the year and month in which the person is expected to be released from the children detention school,

(ii) the transfer of the person from a children detention school to another children detention school or to a prison, court, hospital or any other place,

(iii) any temporary leave granted to the person under section 205 of the Act of 2001,

(iv) any placing out in the community of the person under section 207 of the Act of 2001,

(v) any release of the person under section 209 of the Act of 2001,

(vi) any early discharge of the person under section 210 of the Act of 2001,

(vii) any escape of the person from a children detention school or any other place while in custody, and

(viii) the death of the person concerned during the period of his or her detention.

(3) A victim may submit an amended request in relation to information referred to in *subsection (2)* to the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, the director of a children detention school or the clinical director of a designated centre, as the case may be.

(4) Subject to *section 11*, where the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, the director of a children detention school or the clinical director of a designated centre receives a request or an amended request for information referred to in *subsection (2)*, the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, the director of a children detention school or the clinical director of a designated centre, as the case may be, shall—

(a) make a record of the information requested, and

(b) provide the information, or arrange for the information concerned to be provided, to the victim as soon as practicable.

(5) Subject to *section 23*, the Garda Síochána, the Ombudsman Commission or the Director of Public Prosecutions, as the case may be, shall—

(a) where a request or an amended request referred to in *subsection (4)* relates to information referred to in *paragraph (g) (ii)* or *paragraph (j)* of *subsection (2)*, and

(b) a victim requests, or it appears to the Garda Síochána, the Ombudsman Commission or the Director of Public Prosecutions, as the case may be, that the victim requires assistance to understand or be understood,

arrange for a translation of the information concerned to be provided, as soon as practicable and free of charge, to the victim either orally or in writing, including by electronic means.

(6) Subject to *subsection (7)* and *section 11*, the following may be transferred between the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, a children detention school or a designated centre, as the case may be:

(a) details of any request or amended request received from a victim;

(b) information which is the subject of a request or an amended request.

(7) Details of a request or an amended request and information which is the subject of the request or the amended request may only be transferred between the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, a children detention school or a designated centre, as the case may be, for the purposes of providing

information which is the subject of the request concerned to the victim and shall not be used for any other purpose.

(8) *Subsections (6)* and *(7)* are without prejudice to any power or duty which the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, the director of a children detention school or the clinical director of a designated centre may have to provide information to each other under any other enactment or rule of law.

F3**[**(9) In this section, "application for parole" and "parole" have the meanings they have in the Parole Act 2019.**]**

Decisions regarding prosecution of offences

9. Where, pursuant to *section 8 (2) (d)*, a victim of an alleged offence receives information from the Garda Síochána or the Director of Public Prosecutions, as the case may be, regarding a decision not to prosecute a person for an alleged offence, he or she shall be informed by the Garda Síochána or the Director of Public Prosecutions, as the case may be, of—

(a) his or her right to request a review of the decision, and

(b) the procedure for requesting the review concerned.

Review of decisions in relation to prosecutions

10. (1) Where a victim is informed of a decision referred to in *section 9*, he or she may, within 28 days after receiving the information, submit a request to the Garda Síochána or the Director of Public Prosecutions, as the case may be, for a review of the decision concerned.

(2) The period referred to in *subsection (1)* may be extended where the Garda Síochána or the Director of Public Prosecutions, as the case may be, is satisfied that circumstances exist that warrant the extension.

(3) A request for a review under this section shall be made in such form and shall contain such information as the Garda Síochána or the Director of Public Prosecutions, as the case may be, may specify.

(4) Where the Garda Síochána receives a request for a review under this section, it shall arrange for the review to be carried out by a member of the Garda Síochána who is independent of the decision which is the subject of the review.

(5) Where the Director of Public Prosecutions receives a request for a review under this section, the Director of Public Prosecutions shall carry out the review or arrange for the review to be carried out.

(6) The Garda Síochána or the Director of Public Prosecutions, as the case may be, shall notify the victim, or arrange for the victim to be notified, in writing of the outcome of the review as soon as practicable.

(7) A written notification referred to in *subsection (6)* may be provided to a victim by electronic means.

Limitation on provision of information

11. (1) Nothing in this Act shall be construed as requiring the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, the director of a children detention school or a clinical director of a designated centre to disclose any information the disclosure of which could—

(a) interfere with the investigation of an alleged offence,

(b) prejudice ongoing or future criminal proceedings in respect of an alleged offence,

(c) endanger the personal safety of any person, or

(d) endanger the security of the State.

(2) A decision not to provide information to a victim which has been requested by the victim under *section 8*, shall be made by—

(a) a member of the Garda Síochána not below the rank of superintendent,

(b) an officer of the Ombudsman Commission authorised for that purpose,

(c) an officer of the Director of Public Prosecutions authorised for that purpose,

(d) an officer of the Irish Prison Service authorised for that purpose,

(e) a member of staff of the children detention school in which a person is detained who has been authorised for that purpose by the director of the children detention school concerned, or

(f) the clinical director of the designated centre to which an alleged offender has been committed under the Act of 2006,

as the case may be.

(3) Where information is not provided to a victim pursuant to *subsection (1)*, a record of the reasons for not providing the information shall be kept by the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, the director of the children detention school or the clinical director of the designated centre concerned, as the case may be.

PART 3

Protection of Victims During Investigations and Criminal Proceedings

Complaints

12. (1) Subject to *subsection (2)*, a victim may be accompanied by a person or persons of his or her choice, including his or her legal representative, when making a complaint.

(2) Where a member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, reasonably believes that the presence of a person referred to in *subsection (1)*, including a victim's legal representative, would be contrary to the best interests of the victim or would prejudice any investigation or criminal proceedings regarding an alleged offence, the member or officer, as the case may be, may require that the person concerned absent himself or herself prior to the member or officer engaging further with the victim in respect of the complaint concerned.

(3) Where a member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, decides to exclude a person from accompanying a victim pursuant to *subsection (2)*, the member or officer, as the case may be, shall inform the victim that *subsection (1)* continues to apply and he or she may be accompanied by another person under that

subsection and may make such arrangements as are necessary to be so accompanied.

(4) A record shall be kept by the Garda Síochána and the Ombudsman Commission of any decision to exclude a person from accompanying a victim pursuant to *subsection (2)* and such record shall include the reasons for that decision.

(5) The member of the Garda Síochána or the officer of the Ombudsman Commission to whom a complaint is made shall arrange for the victim to be provided with a written acknowledgement of his or her complaint.

(6) A written acknowledgement referred to in *subsection (5)* shall include the basic elements of any alleged offence and information on where enquiries by a victim relating to the complaint may be addressed.

(7) Where a victim does not understand the language in which the acknowledgement of a complaint is written, the victim may request a translation of the written acknowledgement in a language that he or she understands.

(8) A translation referred to in *subsection (7)*—

(a) shall be provided by the Garda Síochána or the Ombudsman Commission, as the case may be, as soon as practicable and free of charge to the victim, and

(b) may be provided orally or in writing, including by electronic means.

Offence occurring outside State

13. Where a victim makes a complaint to a member of the Garda Síochána in relation to an offence which is alleged to have occurred in a Member State other than the State, the member concerned shall, unless the State has jurisdiction in respect of the alleged offence and proposes to exercise that jurisdiction, arrange for the details of the complaint to be transmitted as soon as practicable to the competent authority in the Member State in which the offence is alleged to have been committed.

Conduct of interviews and medical examinations

14. (1) A member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, in charge of investigating an alleged offence shall, in addition to any special measures relating to interviews under *section 17* which he or she may be directed to implement in respect of a victim pursuant to *section 15(8)(b)*, ensure that—

(a) where a victim of an alleged offence which is the subject of a complaint is a resident of a Member State other than the State, the victim may make a statement immediately after the complaint is made or at such other time as may be agreed with the victim,

(b) any interviews of a victim that may be required in respect of a complaint are carried out as soon as practicable after the complaint is made, and

(c) interviews of the victim are carried out only where necessary for the purpose of investigating the alleged offence.

(2) Subject to *subsection (3)*, a victim may be accompanied by a person or persons of his or her choice, including his or her legal representative, during an interview with the Garda Síochána or the Ombudsman Commission, as the case may be.

(3) Where a member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, reasonably believes that the presence at an interview of a person referred to in *subsection (2)*, including a victim's legal representative, would be contrary to the best interests of the victim or would prejudice any investigation or criminal proceedings regarding an alleged offence, the member or officer, as the case may be, may require that the person concerned absent himself or herself prior to the member or officer engaging further with the victim for the purpose of the interview concerned.

(4) Where a member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, decides to exclude a person from accompanying a victim pursuant to *subsection (3)*, the member or officer, as the case may be, shall inform the victim that *subsection (2)* continues to apply and he or she may be accompanied by another person under that subsection and may make such arrangements as are necessary to be so accompanied.

(5) A record shall be kept by the Garda Síochána and the Ombudsman Commission of any decision to exclude a person from an interview pursuant to *subsection (3)* and such record shall include the reasons for that decision.

(6) A member of the Garda Síochána or an officer of the Ombudsman Commission in charge of the investigation of an alleged offence shall ensure that any medical examinations of a victim that are arranged by the Garda Síochána or the Ombudsman Commission, as the case may be, are limited to those which are strictly necessary for the purpose of the investigation concerned.

Assessment of victim

15. (1) The Garda Síochána or the Ombudsman Commission, as the case may be, shall, when investigating an alleged offence, carry out an assessment of a victim (in this Act referred to as an "assessment") for the purpose of—

(a) identifying the protection needs, if any, of the victim,

(b) ascertaining whether and to what extent the victim might benefit from protection measures, and

(c) ascertaining whether and to what extent the victim might, due to his or her particular vulnerability to secondary and repeat victimisation, intimidation and retaliation, benefit from—

(i) special measures during the course of an investigation of the alleged offence, and

(ii) special measures during the course of any criminal proceedings relating to the alleged offence.

(2) A member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, shall, when carrying out an assessment, have regard to the following matters:

(a) the type and nature of the alleged offence;

(b) the circumstances of the commission of the alleged offence;

(c) whether the victim has suffered considerable harm due to the severity of the alleged offence;

(d) the personal characteristics of the victim, including his or her age, gender, gender identity or expression, ethnicity, race, religion, sexual

orientation, health, disability, communications difficulties, relationship to, or dependence on, the alleged offender and any previous experience of crime;

(e) whether the alleged offence appears to have been committed with a bias or discriminatory motive, which may be related to the personal characteristics of the victim, including such characteristics as are referred to in *paragraph (d)*;

(f) the particular vulnerability of victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence or exploitation and victims with disabilities.

(3) The extent of an assessment may be adapted having regard to the severity of an alleged offence and any apparent harm suffered by a victim.

(4) Where, having considered the matters referred to in *subsection (2)*, a member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, assesses that a victim has specific protection needs and that in order to protect the victim from any secondary or repeat victimisation, intimidation or retaliation—

(a) the victim would benefit from protection measures,

(b) the victim would benefit from any special measure,

the member or officer, as the case may be, carrying out the assessment shall—

(i) consult with the victim in relation to that assessment, and

(ii) take into account the views of the victim in relation to any protection measures or special measures identified further to the assessment concerned.

(5) A member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, shall report the results of an assessment referred to in *subsection (4)* to a member of the Garda Síochána not below the rank of superintendent or an officer of the Ombudsman Commission authorised for that purpose by the Ombudsman Commission, as the case may be.

(6) Subject to *subsection (7)*, a report under *subsection (5)* shall not be required where, further to an assessment of a victim under this section, no specific protection needs are identified in respect of the victim.

(7) For the purposes of an assessment, where a victim is a child—

(a) the child shall be presumed to have protection needs, and

(b) a member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, shall, when carrying out an assessment, have regard to the following matters when determining whether and to what extent the child might benefit from protection measures or special measures:

(i) the best interests of the child;

(ii) any views and concerns raised by the child taking into account his or her age and level of maturity;

(iii) any views and concerns raised by a parent or guardian of the child or any other person duly authorised to act on his or her behalf provided that such parent, guardian or other person has not been

charged with, or is not under investigation for, an alleged offence relating to the child.

(8) The member of the Garda Síochána or the officer of the Ombudsman Commission to whom a report under *subsection (5)* is submitted shall—

(a) notify the member of the Garda Síochána or the officer of the Ombudsman Commission, as the case may be, in charge of the investigation of the alleged offence concerned of the content of the report, and

(b) direct the member of the Garda Síochána or the officer of the Ombudsman Commission in charge of the investigation of the alleged offence—

(i) to implement or arrange for the implementation of all or part of any protection measures (other than any protection measure which consists of advice which has been provided to the victim by another member of the Garda Síochána or another officer of the Ombudsman Commission, as the case may be) and special measures that are identified in the report during the course of the investigation of the alleged offence, and

(ii) to provide a copy of the report and the direction—

(I) in the case of an investigation of the alleged offence by the Garda Síochána—

(A) to the member of the Garda Síochána who is responsible for instituting and conducting a prosecution of the alleged offence in the name of the Director of Public Prosecutions, or

(B) to the Director of Public Prosecutions,

as the case may be, and

(II) in the case of an investigation of the alleged offence by the Ombudsman Commission, to the Director of Public Prosecutions.

(9) A record shall be kept by the Garda Síochána and the Ombudsman Commission of any assessments or reports made, or directions or notifications given, under this section.

Application of protection measures and special measures during investigations

16. (1) A member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, in charge of an investigation of an alleged offence shall—

(a) subject to *subsection (2)*, comply with a direction under *section 15(8)(b)*, and

(b) provide information to the victim on any protection measures and special measures specified in the direction to be implemented during the course of the investigation.

(2) Where a member of the Garda Síochána or an officer of the Ombudsman Commission in charge of the investigation of an alleged offence receives a direction under *section 15(8)(b)* and is unable, due to considerations of a legal, practical or operational nature, to comply with the direction or any part of it, he or she shall, as soon as practicable, notify the member of the Garda Síochána or the officer of the Ombudsman Commission, as the case may be, who gave the direction of that fact and the reasons why the direction or any part of it cannot be complied with.

(3) A notification referred to in *subsection (2)* shall be in writing.

(4) Where during the course of an investigation of an alleged offence, the member of the Garda Síochána or the officer of the Ombudsman Commission in charge of the investigation becomes aware that any of the matters referred to in *section 15 (2)* in respect of the victim of the alleged offence have changed significantly, the member or officer concerned shall arrange for a further assessment under *section 15* to be carried out in respect of the victim in order to determine—

(a) where no specific protection needs were previously identified in respect of the victim during the course of an assessment, whether the needs of the victim are such that he or she might benefit from particular protection measures or special measures during the course of the investigation of, or any criminal proceedings relating to, the alleged offence, or

(b) where specific protection needs were previously identified in respect of the victim during the course of an assessment—

(i) whether any protection measure or special measure identified during the course of the assessment is no longer required, and

(ii) whether the needs of the victim are such that he or she might benefit from further protection measures or special measures during the course of the investigation of, or any criminal proceedings relating to, the alleged offence.

(5) *Section 15* shall apply with necessary modifications to an assessment referred to in *subsection (4)*.

(6) An officer of the Ombudsman Commission in charge of an investigation of an alleged offence may—

(a) where a report under *section 15 (5)* provides that a victim would benefit from a protection measure during the course of the investigation, and

(b) where the Ombudsman Commission is unable, due to considerations of a legal, practical or operational nature, to implement the protection measure,

request that the protection measure concerned be implemented by the Garda Síochána.

(7) Where the Garda Síochána receives a request under *subsection (6)* from the Ombudsman Commission, the Garda Síochána shall—

(a) subject to *subsection (8)*, implement the protection measure which is the subject of the request, and

(b) as soon as practicable, notify the Ombudsman Commission of the steps that are being, or will be, taken to implement the protection measure which is the subject of the request.

(8) Where the Garda Síochána receives a request under *subsection (6)* and is unable, due to legal, operational or practical constraints, to implement the protection measure concerned or any part of it, the Garda Síochána shall, as soon as practicable, notify the Ombudsman Commission in writing of that fact and the reasons why the protection measure concerned or any part of it cannot be implemented.

(9) A record shall be kept by the Garda Síochána and the Ombudsman Commission of—

(a) any information provided to a victim under *subsection (1)(b)*, and

(b) any requests made, or notifications given, under this section.

Special measures during investigations

17. (1) The special measures which may be implemented in respect of a victim during the course of an investigation of an alleged offence include the following:

(a) that any interview with the victim—

(i) be carried out in premises designed or adapted for that purpose,

(ii) be carried out by or through persons who have been trained for that purpose, and

(iii) where there is more than one interview, be carried out, where possible, by the same member or members of the Garda Síochána or the same officer or officers of the Ombudsman Commission, as the case may be;

(b) where the alleged offence involves sexual violence, gender-based violence or violence in a close relationship, that the victim be informed of his or her right to request that interviews are carried out by a person of the same sex as him or her.

(2) A special measure which is the subject of a direction under *section 15(8)(b)* shall be made available to a victim unless—

(a) legal, operational or practical constraints render it impossible to do so,

(b) during the course of an investigation of an alleged offence by the Garda Síochána or the Ombudsman Commission, as the case may be, there is an urgent need to interview the victim and there are reasonable grounds for believing that a failure to do so may result in harm to the victim or another person,

(c) the application of a special measure would be prejudicial to a criminal investigation or criminal proceedings, or

(d) the application of the special measure would be otherwise contrary to the administration of justice.

Appropriate persons

18. (1) Where—

(a) a victim is a child, and

(b) a parent, guardian or any other person duly authorised to act on the victim's behalf—

(i) has been charged with, or is under investigation for, an offence in connection with the victim,

(ii) is, for any other reason, precluded from accompanying the victim,

(iii) is unavailable or cannot be contacted,

(iv) indicates that he or she does not wish to accompany the victim, or

(v) cannot be identified,

the Garda Síochána or the Ombudsman Commission, as the case may be, shall arrange for the victim to be accompanied by an appropriate person when attending any interviews and court proceedings at which the victim is required to be present.

(2) A member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, shall, in determining who is to be the appropriate person to accompany a child to an interview or court proceedings pursuant to *subsection (1)*, have regard to any views expressed by the child taking into account his or her age and level of maturity.

(3) Where an appropriate person is appointed to accompany a victim, he or she shall be entitled to remain in court during the whole of any hearing.

(4) In this section, "appropriate person" means—

(a) a relative of the child, or

(b) any other person,

who is 18 years or over.

Special measures during criminal proceedings

19. (1) Where a victim of an alleged offence has been assessed under *section 15* and the Garda Síochána or the Ombudsman Commission have identified specific protection needs in relation to the victim, the Garda Síochána or the Director of Public Prosecutions, as the case may be, shall, in determining whether to make an application to the court for a special measure specified in *subsection (2)* during the course of any criminal proceedings related to the alleged offence, have regard to the specific protection needs identified under *section 15* in relation to the victim concerned.

(2) The special measures referred to in *subsection (1)* are—

(a) the exclusion of the public, any portion of the public or any particular person or persons from the court during such criminal proceedings pursuant to *section 20*,

(b) directions under *section 21* regarding the questioning of the victim in respect of his or her private life,

(c) measures under Part III of the Criminal Evidence Act 1992 enabling the victim to give evidence through a live television link or an intermediary or enabling a screen or other similar device to be used in the giving of evidence.

Power to exclude public

20. (1) In any proceedings relating to an offence, where a court is satisfied—

(a) that the nature or circumstances of the case are such that there is a need to protect a victim of the offence from secondary and repeat victimisation, intimidation or retaliation, and

(b) it would not be contrary to the interests of justice in the case,

the court may, on the application of the prosecution, exclude from the court during such proceedings—

(i) the public or any portion of the public, or

(ii) any particular person or persons,

except officers of the court and *bona fide* representatives of the Press.

(2) *Subsection (1)* is without prejudice to—

(a) the right of—

(i) a parent, relative or friend of the victim,

(ii) a support worker of the victim's choice,

(iii) where the accused person is under the age of 18 years, a parent, relative or friend of the accused person, or

(iv) an appropriate person under *section 18*,

to remain in court, and

(b) the power of a court to exclude the public or any person from the court under any other enactment or rule of law.

(3) In this section, "support worker" means a volunteer of, or an individual employed under a contract of service or under a contract for services by, an organisation which provides support to victims of crime.

Questioning in respect of private life of victim

21. In any proceedings relating to an offence, where a court is satisfied that—

(a) the nature or circumstances of the case are such that there is a need to protect a victim of the offence from secondary and repeat victimisation, intimidation or retaliation, and

(b) it would not be contrary to the interests of justice in the case,

the court may give such directions as it considers just and proper regarding any evidence adduced or sought to be adduced and any question asked in cross-examination at the trial, which relates to the private life of a victim and is unrelated to the offence.

Communication, interpretation and translation

22. (1) The Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Courts Service, the Irish Prison Service, the director of a children detention school and the clinical director of a designated centre, as the case may be, shall, when dealing with a victim ensure that any oral or written communications with the victim are in simple and accessible language and take into account the personal characteristics of the victim including any disability, which may affect the ability of the victim to understand them or be understood.

(2) Subject to *section 23*, where a complaint is being made, or before or during an interview with a victim in relation to the investigation of an alleged offence—

(a) the victim requests, or

(b) it appears to a member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, that a victim requires,

assistance by way of interpretation, the member or officer concerned shall arrange for interpretation to be provided to the victim.

(3) Subject to *section 23*, where, before or during the course of any proceedings in respect of an offence in which a victim of the alleged offence is a witness or is giving evidence under section 5(3) of the Act of 1993—

(a) the victim requests,

(b) it appears to a member of the Garda Síochána or the Director of Public Prosecutions, as the case may be, that the victim requires, or

(c) a court directs that the victim be given,

assistance to understand the proceedings, or to be understood, by way of—

(i) interpretation during any examination or cross-examination of the victim as a witness or when giving evidence under section 5(3) of the Act of 1993, or

(ii) translation of any information which would ordinarily be provided to a witness during the course of a trial or to a person giving evidence under section 5(3) of the Act of 1993,

the Garda Síochána, the Director of Public Prosecutions or the Courts Service, as the case may be, shall make such arrangements regarding interpretation and translation as are considered appropriate in the circumstances or as directed by the court, as the case may be.

(4) Subject to *section 23*, assistance by way of interpretation and translation referred to in *subsections (2)* and *(3)* shall be provided to a victim as soon as practicable.

(5) Assistance by way of interpretation referred to in *subsections (2)* and *(3)* may be provided to a victim in person or by such other means of communication as may be determined by the Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions or the court, as the case may be.

(6) Assistance by way of translation referred to in *subsection (3)* may be provided to a victim orally or in writing, including by electronic means.

Refusal of request for interpretation or translation

23. (1) A request by a victim for assistance by way of interpretation or translation referred to in *section 22(2)(a)* or *(3)(a)* or for a translation of information referred to in *section 8(5)* may be refused—

(a) where it appears to the Garda Síochána, the Ombudsman Commission or the Director of Public Prosecutions, as the case may be, that, during the course of an investigation of an alleged offence or any criminal proceedings relating to that offence, the victim does not require such assistance in order to understand them or to be understood, or

(b) where it relates to information of a kind referred to in *section 11(1)*.

(2) Where the Garda Síochána, the Ombudsman Commission or the Director of Public Prosecutions, as the case may be, refuses a request for assistance by way of interpretation or translation under *section 22(2)(a)* or *(3)(a)* or for a translation of information referred to in *section 8(5)*—

(a) the decision and the reasons for it shall be recorded, and

(b) the victim shall be notified in writing of the decision and provided with a summary of the reasons for that decision as soon as practicable.

(3) A notification referred to in *subsection (2)(b)* may be provided to the victim by electronic means.

Review of decision to refuse request for interpretation or translation

24. (1) Where a victim receives a notification under *section 23(2)(b)* from the Garda Síochána, the Ombudsman Commission or the Director of Public Prosecutions, he or she may, within 7 days after the receipt of the notification, submit a request to the Garda Síochána, the Ombudsman Commission or the Director of Public Prosecutions, as the case may be, for a review of the decision which is the subject of the notification.

(2) The period referred to in *subsection (1)* may be extended where the Garda Síochána, the Ombudsman Commission or the Director of Public Prosecutions, as the case may be, is satisfied that circumstances exist that warrant the extension.

(3) A request for a review under this section shall be made in such form and shall contain such information as the Garda Síochána, the Ombudsman Commission or the Director of Public Prosecutions, as the case may be, may specify.

(4) Where the Garda Síochána receives a request for a review referred to in *subsection (1)*, it shall arrange for the review to be carried out by a member of the Garda Síochána who is independent of the decision which is the subject of the review.

(5) Where the Ombudsman Commission receives a request for a review referred to in *subsection (1)*, it shall arrange for the review to be carried out by an officer of the Ombudsman Commission who is independent of the decision which is the subject of the review.

(6) Where the Director of Public Prosecutions receives a request for a review referred to in *subsection (1)*, the Director of Public Prosecutions shall arrange for the review to be carried out.

(7) Where the Garda Síochána, the Ombudsman Commission or the Director of Public Prosecutions, as the case may be, carries out a review under this section—

(a) a record of the outcome of the review shall be made, and

(b) the victim shall be notified in writing of the outcome of that review as soon as practicable.

(8) A notification referred to in *subsection (7)(b)* may be provided to the victim by electronic means.

Effect of refusal of interpretation and translation

25. A refusal by the Garda Síochána, the Ombudsman Commission or the Director of Public Prosecutions of a request from a victim of an alleged offence for assistance by way of interpretation or translation under *section 22(2)(a)* or *(3)(a)* shall not operate to prevent, or provide a basis for delaying, the commencement or continuation of any criminal proceedings in respect of the alleged offence.

Restorative justice

26. (1) In respect of any offence or alleged offence, a body or other person shall administer a restorative justice scheme (in this section referred to as a "scheme") only if the requirements of this section are complied with.

(2) The offender or alleged offender shall—

(a) acknowledge the basic facts of the offence committed or offence alleged to have been committed, as the case may be, against the victim, and

(b) give his or her free and informed consent to participating in the scheme.

(3) The victim shall—

(a) receive full and unbiased information about—

(i) the scheme and the potential outcomes of participating in the scheme,

(ii) the procedures for supervising and implementing any agreement that may be reached between the parties in the context of the scheme, and

(iii) his or her right to withdraw at any time his or her consent to participating in the scheme,

and

(b) having received such information, give his or her free and informed consent to participating in the scheme.

(4) Where a scheme is administered—

(a) any agreement between the parties reached in the context of the scheme shall only be so reached on the basis of the free and informed consent of each of the parties,

(b) an agreement reached in the manner referred to in *paragraph (a)* may, with the consent of both parties, be taken into account by a court in any criminal proceedings relating to the offence or alleged offence which is the subject of the parties' participation in the scheme, and

(c) any discussions between the parties which form part of their participation in the scheme and which are not conducted in public shall not be disclosed, save with the agreement of the parties or as required by law.

(5) The body or person which or who administers a scheme shall—

(a) prior to the commencement of the parties' participation in the scheme inform them of each of the matters referred to in *subsection (4)*,

(b) be satisfied that the victim's participation in the scheme is in the interests of the victim, and

(c) in administering the scheme, have regard to the need to safeguard the victim from secondary and repeat victimisation, intimidation or retaliation.

(6) Nothing in this section shall affect the operation of Parts 4 and 8 of the Act of 2001.

PART 4

Amendments

Amendment of section 20 of Criminal Justice Act 1951

27. Section 20 of the Criminal Justice Act 1951 is amended—

(a) in subsection (4), by the substitution of "of that person or a support worker chosen by a person referred to in paragraph (b)" for "of that person", and

(b) by the insertion of the following subsection after subsection (6):

"(7) In this section, 'support worker' means a volunteer of, or an individual employed under a contract of service or under a contract for services by, an organisation which provides support to victims of crime.".

Amendment of section 4I of Criminal Procedure Act 1967

28. Section 4I of the Criminal Procedure Act 1967 is amended—

(a) by the substitution of the following subsection for subsection (3):

"(3) Subsection (2) is without prejudice to the right of—

(a) a parent, relative or friend of the accused or of an injured party, or

(b) a support worker chosen by an injured party,

to remain in court in any case to which section 20(4) of the Criminal Justice Act 1951, section 6 of the Criminal Law (Rape) Act 1981, section 8 of the Criminal Justice (Female Genital Mutilation) Act 2012 or *section 20* of the *Criminal Justice (Victims of Crime) Act 2017* applies.",

and

(b) by the insertion of the following subsection after subsection (3):

"(4) In this section, 'support worker' means a volunteer of, or an individual employed under a contract of service or under a contract for services by, an organisation which provides support to victims of crime.".

Amendment of section 6 of Criminal Law (Rape) Act 1981

29. Section 6 of the Criminal Law (Rape) Act 1981 is amended—

(a) by the substitution of the following subsection for subsection (3):

"(3) Subsections (1) and (2) are without prejudice to the right of—

(a) a parent, relative or friend of the complainant or, where the accused is not of full age, of the accused, or

(b) a support worker chosen by the complainant,

to remain in court.",

and

(b) by the insertion of the following subsection after subsection (4):

"(5) In this section, 'support worker' means a volunteer of, or an individual employed under a contract of service or under a contract for services by, an organisation which provides support to victims of crime.".

Amendment of Criminal Evidence Act 1992

30. The Criminal Evidence Act 1992 is amended—

(a) by the substitution of the following section for section 12:

"**Interpretation and application - Part III**

12. (1) In this Part—

'family member', in relation to a victim, means—

(a) a spouse, civil partner or cohabitant of the victim,

(b) a child or step-child of the victim,

(c) a parent or grandparent of the victim,

(d) a brother, sister, half brother or half sister of the victim,

(e) a grandchild of the victim,

(f) an aunt, uncle, nephew or niece of the victim, and

(g) any other person—

(i) who is or, where the victim is deceased, was dependent on the victim, or

(ii) who a court considers has or, where the victim is deceased, had a sufficiently close connection with the victim as to warrant his or her being treated as a family member;

'relevant offence' means—

(a) a sexual offence;

(b) an offence involving violence or the threat of violence to a person;

(c) an offence under section 3, 4, 5 or 6 of the Child Trafficking and Pornography Act 1998;

(d) an offence under section 2, 4 or 7 of the Criminal Law (Human Trafficking) Act 2008;

(e) an offence consisting of attempting or conspiring to commit, or of aiding or abetting, counselling, procuring or inciting the commission of, an offence mentioned in paragraph (a), (b), (c) or (d);

'victim' means—

(a) a natural person, other than an accused, who has suffered harm, including physical, mental or emotional harm, or economic loss, which was directly caused by an offence, and

(b) where the death of a person referred to in paragraph (a) is caused directly by the offence, a family member, provided that the family member concerned has not been charged with, or is not under investigation for, an offence in connection with the death of the person.

(2) The application of this Part is not dependent on the commission of an offence having to be established (nor is it dependent on

establishing whether the person concerned suffered any harm caused by an offence).",

(b) in section 13—

(i) in subsection (1), by the substitution of "a relevant offence" for "an offence to which this Part applies",

(ii) by the insertion of the following subsection after subsection (1):

"(1A) In any proceedings (including proceedings under section 4E or 4F of the Criminal Procedure Act 1967) relating to an offence, other than a relevant offence, a court may, subject to section 14AA, grant leave for a victim of the offence to give evidence, whether from within or outside the State, through a live television link.",

and

(iii) in subsection (2), by the insertion of "or (1A)" after "subsection (1)",

(c) in section 14—

(i) in subsection (1)(a), by the substitution of "a relevant offence" for "an offence to which this Part applies",

(ii) by the insertion of the following subsection after subsection (1):

"(1A) Subject to section 14AA, where—

(a) a person is accused of an offence, other than a relevant offence, and

(b) a victim of the offence who is under 18 years of age, is giving, or is to give, evidence through a live television link,

the court may, on the application of the prosecution or the accused, if satisfied that the interests of justice require that any questions to be put to the victim be put through an intermediary, direct that any such questions be so put.",

and

(iii) in subsection (3), by the insertion of "or (1A)" after "subsection (1)",

(d) by the insertion of the following section after section 14:

"**Placement of screen etc. for giving of evidence**

14A. (1) Where a person who is under 18 years of age is to give evidence other than through a live television link in respect of a relevant offence, the court may, on the application of the prosecution or the accused, direct that a screen or other similar device be positioned, in an appropriate place, so as to prevent the witness from seeing the accused when giving evidence, unless the court is satisfied that in all the circumstances of the case such a direction would be contrary to the interests of justice.

(2) Subject to section 14AA, where—

(a) a person who is a victim of an offence, other than a relevant offence, is under 18 years of age and the person is to give evidence, other than through a live television link, in respect of the offence, or

(b) a person who is a victim of any offence has attained the age of 18 years and the person is to give evidence, other than through a live television link, in respect of such an offence,

the court may, on the application of the prosecution or the accused, if satisfied that the interests of justice so require, direct that a screen or other similar device be positioned, in an appropriate place, so as to prevent the victim from seeing the accused when giving evidence.

(3) A witness giving evidence under subsection (1) or (2) shall be capable of seeing and hearing and being seen and heard by—

(a) the judge and jury (if any),

(b) legal representatives acting in the proceedings,

(c) any interpreter, intermediary appointed under section 14 or any other person appointed to assist the witness,

and shall be capable of being heard by the accused.",

(e) by the insertion of the following section after section 14A:

"**Matters to be taken into account under sections 13, 14 and 14A regarding victims**

14AA. The court, in deciding—

(a) whether to grant leave under section 13(1A) for a victim to give evidence through a live television link,

(b) whether, under section 14(1A), the interests of justice require that it direct that questions be put to the victim through an intermediary, or

(c) whether, under section 14A(2), the interests of justice require that it direct that a screen or other similar device be positioned, in an appropriate place, so as to prevent the victim from seeing the accused when giving evidence,

shall have regard to the need to protect the victim from secondary and repeat victimisation, intimidation or retaliation, taking into account—

(i) the nature and circumstances of the case, and

(ii) the personal characteristics of the victim.",

(f) by the insertion of the following section after section 14AA:

"**Wigs and gowns**

14B. Where a person who is under 18 years of age—

(a) is giving evidence in respect of a relevant offence, or

(b) is giving evidence in respect of any other offence of which he or she is a victim,

neither the judge nor the barrister or solicitor concerned in the examination of the witness shall wear a wig or gown.",

(g) in paragraph (a) of section 14C(1), by the substitution of "a relevant offence" for "an offence to which this Part applies",

(h) in section 15(1)—

(i) in paragraph (a), by the deletion of "who is charged with an offence to which this Part applies",

(ii) in paragraph (b)—

(I) by the deletion of "the person in respect of whom the offence is alleged to have been committed, or" and

(II) by the substitution of "section 16(1)(b)" for "section 16(1)(b)(ii)",

(i) in section 16(1)—

(i) in paragraph (a), by the substitution of "a relevant offence" for "an offence to which this Part applies", and

(ii) in paragraph (b), by the substitution of the following subparagraph for subparagraph (i):

"(i) by a person who is under 18 years of age in relation to an offence of which he or she is a victim, or",

(j) in section 17—

(i) by the deletion of "to which this Part applies", and

(ii) by the substitution of "through a live television link or by means of a videorecording or that a screen or other similar device be used in the giving of evidence" for "through a live television link or by means of a videorecording",

(k) by the substitution of the following section for section 18:

"**Identification evidence**

18. Where a person (in this section referred to as 'the witness')—

(a) gives evidence in respect of a relevant offence, or

(b) gives evidence in respect of any other offence of which he or she is a victim,

through a live television link pursuant to section 13(1) or (1A) or using a screen or other similar device pursuant to section 14A, then—

(i) in case evidence is given that the accused was known to the witness before the date on which the offence is alleged to have been committed, the witness shall not be required to identify the accused at the trial of the offence, unless the court in the interests of justice directs otherwise, and

(ii) in any other case, evidence by a person other than the witness that the witness identified the accused at an identification parade as being the offender shall be admissible as evidence that the accused was so identified.",

(l) in section 19—

(i) by the substitution of "sections 14, 14B, 15 and 16" for "sections 13(1)(a), 14(1)(b), 15(1)(b) and 16(1)(a) and (b)(ii)",

(ii) by the deletion of "and the reference in section 16(1)(b)(i) to a person under 14 years of age", and

(iii) by the substitution of "a mental disorder, within the meaning of section 5 of the Criminal Justice Act 1993," for "mental handicap",

(m) in section 19A(13), by the substitution of "subsection (11)" for "subsection (12)", and

(n) in section 29, by the substitution of "section 13(1) and (1A)" for "section 13(1)".

Amendment of section 5 of Criminal Justice Act 1993

31. The Act of 1993 is amended in section 5—

(a) by the substitution of the following for subsection (1):

"(1) This section applies to an offence where a natural person in respect of whom the offence has been committed, has suffered harm, including physical, mental or emotional harm, or economic loss, which was directly caused by that offence.",

and

(b) in subsection (6)—

(i) by the substitution of the following definition for the definition of "family member":

" 'family member', in relation to a person in respect of whom an offence is committed, means—

(a) a spouse, civil partner or cohabitant of the person,

(b) a child or step-child of the person,

(c) a parent or grandparent of the person,

(d) a brother, sister, half brother or half sister of the person,

(e) a grandchild of the person,

(f) an aunt, uncle, nephew or niece of the person, and

(g) any other person—

(i) who is or, where the person is deceased, was dependent on the person, or

(ii) who a court considers has or, where the person is deceased, had a sufficiently close connection with that person as to warrant his or her being treated as a family member;",

and

(ii) by the insertion of the following definitions:

" 'Act of 2010' means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

'civil partner' means a person in a civil partnership or legal relationship to which section 3 of the Act of 2010 applies;

'cohabitant' means a cohabitant within the meaning of section 172(1) of the Act of 2010;".

Amendment of section 4 of Bail Act 1997

32. Section 4 of the Bail Act 1997 is amended—

(a) by the insertion of the following subsection after subsection (2):

"(2A) Subsection (2) is without prejudice to the right of—

(a) a parent, relative or friend of a person in respect of whom the offence is alleged to have been committed (in this subsection referred to as 'the relevant person'), or

(b) a support worker chosen by the relevant person,

to remain in court, where the relevant person gives evidence pursuant to section 9A, for the duration of such evidence.".

(b) in subsection (5), by the insertion of the following definition:

" 'support worker' means a volunteer of, or an individual employed under a contract of service or under a contract for services by, an organisation which provides support to victims of crime.".

Amendment of Courts Service Act 1998

33. The Courts Service Act 1998 is amended—

(a) in section 2 by the insertion of the following definition:

" 'victim' has the same meaning as it has in *section 2* of the *Criminal Justice (Victims of Crime) Act 2017*;",

and

(b) by the insertion of the following section after section 5:

"**Victims of crime**

5A. In carrying out its functions under paragraphs (d) and (e) of section 5, the Service shall ensure that—

(a) in so far as is practicable, provision is made during the course of criminal proceedings which are conducted in a court building referred to in section 5(d) for the separation of an offender or an alleged offender and his or her parents, relatives and friends from a victim and his or her parents, relatives and friends such that contact between the parties may be avoided except where necessary for the purposes of the criminal proceedings concerned, and

(b) a separate waiting area for victims who are involved in criminal proceedings is provided in any building which—

(i) is built after the commencement of this section, and

(ii) at the time that it is built, is intended to be used as a court building.".

Amendment of Children Act 2001

34. (1) The Act of 2001 is amended—

(a) in section 3(1), by the insertion of the following definition:

" 'secondary victimisation' has the same meaning as it has in the *Criminal Justice (Victims of Crime) Act 2017*;",

(b) in section 26—

(i) by the insertion of the following subsection after subsection (1):

"(1A) Where the Director invites a victim to be present at the administration of a formal caution pursuant to subsection (1), he or she shall ensure that the victim—

(a) is provided with full and unbiased information about the process of administering a formal caution and the potential outcomes of the process under this Act, and

(b) is informed that he or she may withdraw at any time his or her consent to being so present.",

and

(ii) by the insertion of the following subsection after subsection (2):

"(2A) The member of the Garda Síochána administering the formal caution shall, where a victim is present at the administration of the caution, have regard to the need to safeguard the victim from secondary and repeat victimisation, intimidation or retaliation while the victim is so present.",

(c) by the insertion of the following section after section 32:

"**Attendance at conference by victim**

32A. (1) Where the facilitator invites a victim to be present at a conference pursuant to section 32(4), he or she shall ensure that the victim—

(a) is provided with full and unbiased information about—

(i) the process relating to a conference,

(ii) the potential outcomes of the process under this Act, and

(iii) the procedures for monitoring the implementation of, and compliance with, an action plan,

and

(b) is informed that he or she may withdraw at any time his or her consent to being so present.

(2) The facilitator shall, where a victim is present at a conference, have regard to the need to safeguard the victim from secondary and repeat victimisation, intimidation or retaliation while the victim is so present.",

and

(d) in section 85, by the substitution of "32, 32A," for "32,".

Amendment of section 8 of Criminal Justice (Female Genital Mutilation) Act 2012

35. Section 8 of the Criminal Justice (Female Genital Mutilation) Act 2012 is amended—

(a) by the substitution of the following subsection for subsection (2):

"(2) Subsection (1) is without prejudice to the right of—

(a) a parent, relative or friend of the girl or woman in respect of whom the offence is alleged to have been committed or, where the accused person is not of full age, of the accused person, or

(b) a support worker chosen by the girl or woman referred to in paragraph (a),

to remain in court.",

and

(b) by the insertion of the following subsection after subsection (3):

"(4) In this section, 'support worker' means a volunteer of, or an individual employed under a contract of service or under a contract for services by, an organisation which provides support to victims of crime.".

PART 5

General

Statistics

36. (1) The Garda Síochána, the Ombudsman Commission and the Courts Service shall—

(a) compile and store statistical information relating to the operation of this Act, and

(b) provide that statistical information to the Minister,

in such manner and at such intervals as may be specified by the Minister.

(2) The director of a children detention school shall—

(a) compile and store statistical information relating to the operation of this Act, and

(b) provide that statistical information to the Minister for Children and Youth Affairs,

in such manner and at such intervals as may be specified by the Minister for Children and Youth Affairs.

(3) The clinical director of a designated centre shall—

(a) compile and store statistical information relating to the operation of this Act, and

(b) provide that statistical information to the Minister for Health,

in such manner and at such intervals as may be specified by the Minister for Health.

(4) *Subsections (1)*, *(2)* and *(3)* are without prejudice to any obligations that the Garda Síochána, the Ombudsman Commission, the Courts Service, the director of a children detention school and the clinical director of a designated centre may have to compile, store and provide statistical

information to the Central Statistics Office, the Minister, the Minister for Children and Youth Affairs or the Minister for Health under any other enactment.

Non-compliance with Act

37. (1) A failure by an individual to observe any provision of this Act shall not of itself—

(a) render him or her liable to any criminal or civil proceedings,

(b) prevent any criminal or civil proceedings relating to an offence from being instituted or prosecuted, or

(c) affect the lawfulness of—

(i) the custody of a person in relation to an offence, or

(ii) the admissibility of any evidence in a trial of a person for an offence.

(2) For the purposes of *subsection (1)*, "criminal or civil proceedings" does not include disciplinary proceedings.

Number 28 *of* 2017

CRIMINAL JUSTICE (VICTIMS OF CRIME) ACT 2017

REVISED

Updated to 30 November 2023

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.