



New South Wales

# **Criminal Procedure Amendment (Victim Impact Statements) Regulation 1997**

under the

**Criminal Procedure Act 1986**

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Criminal Procedure Act 1986*.

J. W. Shaw

Attorney General

## **Explanatory note**

The object of this Regulation is to specify the requirements for victim impact statements in criminal proceedings in the Supreme Court or the District court.

Provisions for victim impact statements in those proceedings were inserted into the *Criminal Procedure Act 1986* by Schedule 2 to the *Victims Rights Act 1996*. The provisions enable those statements to be tendered to the court after a person has been convicted of an offence and before the court determines the punishment for the offence.

This Regulation is made under the *Criminal Procedure Act 1986*, including section 23E (Formal requirements for victim impact statements).

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## **Criminal Procedure Amendment (Victim Impact Statements) Regulation 1997**

### **1 Name of Regulation**

This Regulation is the *Criminal Procedure Amendment (Victim Impact Statements) Regulation 1997*.

### **2 Commencement**

This Regulation commences on 2 April 1997.

### **3 Amendment of Criminal Procedure Regulation 1995**

The *Criminal Procedure Regulation 1995* is amended as set out in Schedule 1.

### **4 Notes**

The explanatory note does not form part of this Regulation.

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## Schedule 1 Amendments

(Clause 3)

### [ 1 ] Part 3A

Insert after Part 3:

#### Part 3A Victim impact statements

##### 11A Definitions—Part 3A

- (1) In this Part:

*victim impact statement* means a victim impact statement under Part 6A of the Act.

*victim's representative* means the family member or other representative acting on behalf of a primary victim under section 23E (2) of the Act because the primary victim is incapable of providing information for or objecting to a victim impact statement.

- (2) Words and expressions used in this Part have the same meanings as they have in Part 6A of the Act.

##### 11B Purpose of Part 3A

The purpose of this Part is to prescribe, in accordance with section 23E of the Act, requirements with which victim impact statements in the Supreme Court or District Court must comply.

##### 11C Persons who may prepare statements

- (1) A victim impact statement may be prepared by any qualified person designated by:
- (a) the victim or victims to whom the statement relates, or any such victim's representative, or
  - (b) the prosecutor in the proceedings to which the statement relates.

- (2) The statement may also be prepared by the victim or any of the victims to whom it relates, or any such victim's representative.
- (3) In this clause, ***qualified person*** means a counsellor who is authorised to provide approved counselling services for the purposes of section 21 of the *Victims Compensation Act 1996* or any other person who is qualified by training, study or experience to provide the particulars required for inclusion in a victim impact statement.

#### 11D Identifying and other particulars

- (1) A victim impact statement must identify the victim or victims to whom it relates.
- (2) The statement must include the full name of the person who prepared the statement and be signed and dated by that person.
- (3) If the person who prepared the statement is not the victim or victims to whom it relates (or any such victim's representative):
  - (a) the statement must indicate that the victim or victims do not object to the statement being given to the court, and
  - (b) the victim or victims (or any such victim's representative) must sign the statement to verify that they do not object.
- (4) If the victim or any of the victims to whom the statement relates is a family victim, the statement must identify the primary victim and state the nature and (unless a relative by blood or marriage) the duration of that victim's relationship to the primary victim.
- (5) If a victim's representative acts on behalf of a primary victim for the purposes of providing information for the statement, the statement must indicate the name of that person and the nature and (unless a relative by blood or marriage) the duration of that person's relationship to the primary victim.

**11E Offensive, threatening, intimidating or harassing matter**

A victim impact statement must not contain anything that is offensive, threatening, intimidating or harassing.

**11F Legibility of statement**

- (1) A victim impact statement must be legible.
- (2) The statement may be either typed or hand-written.

**11G Size of statement**

A victim impact statement must:

- (a) be on A4 size paper, and
- (b) except with the leave of the court, be no longer than 20 pages in length (including medical reports or other annexures).

**11H Form of statement**

A victim impact statement may (but need not) be in Form 3 or Form 4, whichever is appropriate.

**11I Number of statements**

Only one victim impact statement may be given in respect of each victim.

**11J Tendering of statement by prosecutor**

A victim impact statement may be tendered to the court only by the prosecutor in the proceedings before the court.

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Schedule 1 Amendments

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**[2] Schedule 1**

Insert at the end of Schedule 1:

**Form 3**

(Clause 11H)

**Victim Impact Statement—Primary Victim(s)**

- (1) Name of victim(s):  
Name of offender:  
Charges to which this statement relates:  
Sentencing court:  
Sentencing date:
- (2) Details of personal harm suffered as a direct result of the offence(s)  
Physical bodily harm  
Mental illness or nervous shock
- (3) Attached to this statement are the following medical or other specialist reports:
- (4) *(To be completed where this statement is prepared by a victim's representative (s. 23E(2))*  
Nature of relationship to primary victim:  
Duration of relationship to primary victim (unless a relative by blood or marriage):  
Nature of primary victim's incapacity:
- (5) *(To be completed where this statement has been prepared by the victim himself or herself, or by the victim's representative)*  
This statement is true to the best of my knowledge and belief\*  
or,  
where the person preparing the statement is less than twelve years old, I have not told any lies in this statement.\*  
Signed (victim or victim's representative).....  
Dated.. .....  
*( \* Delete whichever is inapplicable)*

- (6) *(To be completed where this statement has been prepared by Q qualified person on behalf of the victim(s))*

This statement is true to the best of my knowledge and belief.

Signed (deponent) .....

Dated .....

I do not object to this statement being given to the court.

Signed (victim or victim's representative) .....

Dated .....

#### Form 4

(Clause 11H)

#### Victim Impact Statement—Family Victim(s)

- (1) Name of family victim(s):  
 Name of primary victim(s):  
 Name of offender:  
 Charges to which this statement relates:  
 Sentencing court:  
 Sentencing date:
- (2) Details of impact of the death of the primary victim on the family victim(s), being the member (s) of the immediate family of the primary victim(s)
- (3) Attached to this statement are the following medical or other specialist reports:
- (4) *(To be completed where this statement has been prepared by the family victim himself or herself)*  
 This statement is true to the best of my knowledge and belief\*  
 or,  
 where the family victim is less than twelve years old, I have not told any lies in this statement.\*  
 Signed (victim(s)) .....

Dated .....

(\* Delete whichever is inapplicable)

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- (5)    *(To be completed where this statement has been prepared  
by a qualified person on behalf of the*

This statement is true to the best of my knowledge and  
belief.

Signed (deponent) .....

Dated.. .....

I do not object to this statement being given to the court.

Signed (victim(s)) .....

Dated .....