



New South Wales

Mental Health (Forensic Provisions) Amendment (Victims) Bill 2018

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.
This Bill is cognate with the *Crimes Legislation Amendment Bill 2018*.

Overview of Bill

The object of this Bill is to amend the *Mental Health (Forensic Provisions) Act 1990* (the *Principal Act*) and other legislation as follows:

- (a) to enable a court to obtain a report by a psychiatrist about an accused person before determining what orders to make about the accused person following a verdict about the accused person at a special hearing or a verdict of not guilty by reason of mental illness,
- (b) to provide that periods of unlawful absences by forensic patients from mental health or other facilities are not to be included when determining whether a limiting term has expired,
- (c) to enable the Mental Health Review Tribunal (the *Tribunal*) to make an order for the temporary detention of a person who has been apprehended after breaching a condition of release or leave,
- (d) to provide for submissions to be made by a victim of a forensic patient to the Tribunal when the release of or a grant of leave to the patient is being considered,
- (e) to establish a Victims Register of victims of certain forensic patients,
- (f) to provide for information to be given to registered victims,
- (g) to extend the maximum period for an interim order extending a person's status as a forensic patient,
- (h) to prevent the destruction of forensic material taken from a suspect if the person is found not guilty by reason of mental illness or a limited finding of guilt has been made at a special hearing following a finding that the person is unfit to be tried for an offence,

- (i) to provide for victim impact statements and submissions by designated carers and principal care providers in proceedings where an accused person is found not guilty by reason of mental illness or a verdict has been reached at a special hearing following a finding that an accused person is unfit to be tried for an offence,
- (j) to prevent disclosure under access to government information legislation of certain information relating to functions of the Commissioner of Victims Rights,
- (k) to set out matters comprising the Charter of rights of victims of forensic patients,
- (l) to make other minor amendments and to enact provisions of a savings nature consequent on the enactment of the proposed Act.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act (other than provisions relating to the rights of victims) on the date of assent to the proposed Act. Provisions relating to the rights of victims will commence on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Mental Health (Forensic Provisions) Act 1990 No 10

Victims of forensic patients

Schedule 1 [1] inserts definitions of *Commissioner of Victims Rights, registered victim, victim* and *Victims Register*.

Schedule 1 [4] inserts a new object relating to the protection of the safety of victims and acknowledging the harm done to victims into the Part of the Principal Act dealing with forensic patients and correctional patients.

Schedule 1 [8] entitles a victim of a forensic patient to make a submission to the Tribunal when the Tribunal is considering the release of or a grant of leave to the patient. The Tribunal must agree to a request not to disclose the submission to the patient unless the Tribunal considers that it is not in the interests of justice to agree to the request. The amendment also requires the Tribunal to have regard to the Charter of Victims Rights when conducting a review of a forensic patient.

Schedule 1 [10] makes it clear that a victim of a forensic patient may apply for an order varying a non association condition or a place restriction condition that applies to the patient in a submission made in a hearing related to leave or release.

Schedule 1 [12] enables the Commissioner of Victims Rights and the President of the Tribunal to enter into arrangements to exchange information for the purposes of the Victims Register and notifying victims of information about forensic patients and Tribunal proceedings.

Schedule 1 [14] inserts proposed Part 5A relating to the Victims Register. The proposed Part establishes a Victims Register which is to be kept by the Commissioner of Victims Rights and is to contain the names of victims of forensic patients who have requested to be registered. Regulations may be made as to the verification of the identity of persons who wish to be registered as victims and other matters, including the use and disclosure of information in the Victims Register. The proposed Part also requires the Commissioner of Victims Rights to notify registered victims of applications by forensic patients for the grant of leave and of other matters relating to forensic patients. The Register will be limited to victims of forensic patients who have been found not guilty by reason of mental illness or who are unfit to be tried for an offence and who are subject to a limiting term following a limited finding of guilt at a special hearing.

Schedule 1 [17] provides that the existing register of victims of forensic patients that is kept by the Tribunal is to form part of the Victims Register under the Principal Act.

Other amendments

Schedule 1 [2] enables a court, after a verdict is reached at a special hearing for an accused person who has been found unfit to be tried for an offence and at the court's discretion, to obtain a report by a psychiatrist as to the condition of the accused person and whether the person's release is likely to seriously endanger the safety of the person or any member of the public. Other reports may be tendered to the court. The reports may be considered by the court in determining what orders to make about the accused person.

Schedule 1 [3] enables a court, after an accused person is found not guilty of an offence by reason of mental illness and at the court's discretion, to obtain a report by a psychiatrist as to the condition of the accused person and whether the person's release is likely to seriously endanger the safety of the person or any member of the public. Other reports may be tendered to the court. The reports may be considered by the court in determining what orders to make about the accused person.

Schedule 1 [5] provides that, if an order is issued by the Tribunal for the apprehension of a forensic patient because the patient contravenes an order for release or a grant of leave, any period after the order is made and before the patient is apprehended is not to be counted in determining whether or not the period of a limiting term has expired. A limiting term is imposed when a person who has been found unfit to be tried for an offence is found, after a special hearing, on the limited evidence available, to have committed an offence.

Schedule 1 [6] enables the apprehension of any forensic patient who has been granted conditional release or leave of absence and whose condition has deteriorated so that the patient is at risk of causing himself or herself or a member of the public serious harm.

Schedule 1 [7] enables the Tribunal, when reviewing the case of a forensic patient who has been apprehended following an issue with an order for release or a grant of leave, to order the patient's temporary detention, care or treatment in a mental health facility, correctional centre or other place, and in the manner, specified in the order.

Schedule 1 [9] enables the Tribunal to impose monitoring requirements, including electronic monitoring, on an order for release of or a grant of leave to a forensic patient.

Schedule 1 [11] enables the Secretary of the Department of Family and Community Services to enter into arrangements to exchange information about forensic patients and correctional patients with the Commissioner of Corrective Services, the Secretary of the Department of Justice and the Secretary of the Ministry of Health.

Schedule 1 [13] enables the exchange of information relating to forensic and correctional patients between various government agencies despite any provisions of the *Health Records and Information Privacy Act 2002* or the *Privacy and Personal Information Protection Act 1998*.

Schedule 1 [15] changes the maximum period for an interim extension order by the Supreme Court that extends a person's status as a forensic patient from 28 days to 3 months.

Schedule 1 [16] enables the Minister for Health, the Minister for Mental Health or the Attorney General to require a person, or a court or tribunal, to supply information about the behaviour, or physical or mental condition, of a person who is the subject of an order extending the person's status as a forensic patient.

Schedule 2 Amendment of Crimes (Forensic Procedures) Act 2000 No 59

Schedule 2 provides for exceptions to the requirement that forensic material taken from a person who is a suspect be destroyed if no conviction is recorded or the person is acquitted of the relevant offence. The exceptions are if a person is found not guilty of an offence by reason of mental illness or the person has been found unfit to be tried for an offence and is then found, after a special hearing, on the limited evidence available, to have committed an offence.

Schedule 3 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92

Schedule 3 [1] enables a submission to be made to a court by a victim of an accused person after the accused person is found not guilty of an offence by reason of mental illness or has been found unfit to be tried for an offence and is then found, following a special hearing on the limited evidence available, to have committed an offence or an alternative offence. The court is not to take a submission into account when determining a limiting term for the person. A court may also seek a submission by a designated carer or principal care provider of the accused person if such a verdict or findings are made.

Schedule 3 [2] requires a court to refuse to disclose a submission made by a victim of any such person at the request of the victim unless the court considers that it is not in the interests of justice to agree to the request. However, a submission may be disclosed to the legal representative of the person on condition of non-disclosure to the person. A victim's submission is to be given by the court to the Tribunal if an accused person becomes a forensic patient under the *Mental Health (Forensic Provisions) Act 1990*.

Schedule 4 Amendment of Government Information (Public Access) Act 2009 No 52

Schedule 4 prevents information about functions relating to dealing with confidential information concerning victims contained in the Victims Register from being disclosed or the subject of an access application to a government agency.

Schedule 5 Amendment of Mental Health Act 2007 No 8

Schedule 5 enables regulations to be made relating to the notification of designated carers and principal care providers of patients of proceedings before the Tribunal.

Schedule 6 Amendment of Victims Rights and Support Act 2013 No 37

Schedule 6 [2] inserts a definition of *forensic patient*.

Schedule 6 [3] confers on the victims of forensic patients the same rights as apply to other victims under the Charter of Victims Rights. It also confers the additional right to be informed in a timely manner of matters before the Tribunal or the release of or grant of leave to a forensic patient and other rights relating to compassionate treatment and to be listened to respectfully. **Schedule 6 [1]** makes a consequential amendment.

Schedule 6 [4] adds the exercise of functions relating to the administration of matters relating to forensic patients and victims of forensic patients to the matters to which a person exercising functions for the State must have regard to the Charter of Victims Rights (to the extent that it is relevant and practicable to do so).

Schedule 6 [5] confers on the Commissioner of Victims Rights the function of managing the Victims Register established by the proposed Act.



New South Wales

Mental Health (Forensic Provisions) Amendment (Victims) Bill 2018

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New South Wales

Mental Health (Forensic Provisions) Amendment (Victims) Bill 2018

No. , 2018

A Bill for

An Act to amend the *Mental Health (Forensic Provisions) Act 1990* and other legislation with respect to the rights of victims of forensic patients and proceedings relating to forensic patients; to amend the *Crimes (Forensic Procedures) Act 2000* with respect to the retention of forensic material relating to forensic patients; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Mental Health (Forensic Provisions) Amendment (Victims) Act 2018*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) The following provisions of this Act commence on a day or days to be appointed by proclamation:
 - (a) Schedule 1 [1], to the extent that it inserts the definitions of *Commissioner of Victims Rights, registered victim* and *Victims Register*,
 - (b) Schedule 1 [8]–[10] and [14] (except to the extent it inserts the heading to Part 5A and section 76L),
 - (c) Schedules 3 and 4.

Schedule 1	Amendment of Mental Health (Forensic Provisions) Act 1990 No 10	1
		2
[1] Section 3 Definitions		3
	Insert in alphabetical order in section 3 (1):	4
	<i>Commissioner of Victims Rights</i> has the same meaning as in the <i>Victims Rights and Support Act 2013</i> .	5
	<i>registered victim</i> means a victim registered on the Victims Register.	6
	<i>victim</i> of a forensic patient means:	7
	(a) a primary victim of an act of violence (within the meaning of the <i>Victims Rights and Support Act 2013</i>) committed by a forensic patient, and	8
	(b) a family victim (within the meaning of section 22 of that Act) of an act of violence committed by a forensic patient.	9
	<i>Victims Register</i> means the Victims Register established under Part 5A.	10
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		13
[2] Section 26A		14
	Insert after section 26:	15
26A Reports about accused person		16
	(1) The Court may, following a verdict being reached at a special hearing and on its own motion, request a report by an expert, who is not currently involved in treating the accused person, as to:	17
	(a) the condition of the accused person, and	18
	(b) whether the release of the accused person is likely to seriously endanger the safety of the accused person or any member of the public.	19
	(2) The Court may consider the report, and any other report of an expert that is tendered to the Court for the purposes of this section, before determining what orders to make about the accused person.	20
	(3) In this section, <i>expert</i> means a forensic psychiatrist or other person of a class prescribed by the regulations.	21
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[3] Section 38A		28
	Insert after section 38:	29
38A Reports about accused person		30
	(1) The Court may, following a special verdict of not guilty by reason of mental illness at the trial of a person for an offence, request a report by an expert, who is not currently involved in treating the person, as to:	31
	(a) the condition of the person, and	32
	(b) whether the release of the person is likely to seriously endanger the safety of the person or any member of the public.	33
	(2) The Court may consider the report, and any other report of an expert that is tendered to the Court for the purposes of this section, before determining what orders to make about the person.	34
	(3) In this section, <i>expert</i> means a forensic psychiatrist or other person of a class prescribed by the regulations.	35
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[4] Section 40 Objects	1
Insert after section 40 (e):	2
(f) to protect the safety of victims of forensic patients and to acknowledge the harm done to victims.	3 4
[5] Section 52A	5
Insert after section 52:	6
52A Effect of unlawful absence on limiting term	7
(1) For the purposes of calculating whether a limiting term has expired, any period during which the person on whom the term was imposed was unlawfully absent from a mental health facility or other place in which the person was detained under this Act is not to be counted as part of the limiting term.	8 9 10 11
(2) In this section, a person is <i>unlawfully absent from a mental health facility or other place</i> during any period commencing when an order is made for the apprehension of the person under section 68 (1) and ending when the person is apprehended and detained under the order.	12 13 14 15
(3) On being notified of the apprehension and detention of a forensic patient on whom a limiting term has been imposed and who is the subject of an order under section 68 (1), the Tribunal must give the forensic patient a written notice setting out the effect of this section and the new expiration date of the limiting term.	16 17 18 19 20
[6] Section 68 Breach of orders for release	21
Omit “under this Part” from section 68 (1) (d).	22
[7] Section 68 (2)	23
Omit the subsection. Insert instead:	24
(2) The Tribunal must review the case of a person apprehended under this section and may:	25 26
(a) order the person’s temporary detention, care or treatment in a mental health facility, correctional centre or other place, and in the manner, specified in the order, or	27 28 29
(b) confirm the person’s release or leave, either unconditionally or subject to conditions, or	30 31
(c) revoke the conditional release order and order the person’s detention, care or treatment in a mental health facility, correctional centre or other place, and in the manner, specified in the order.	32 33 34
Note. The Tribunal may also make a community treatment order under Division 5.	35
[8] Sections 74A and 74B	36
Insert after section 74:	37
74A Victims may make submissions to Tribunal on review of and release of, or grant of leave to, forensic patients	38 39
(1) A victim of a forensic patient may make a submission to the Tribunal if the Tribunal is considering the release of or the grant of leave of absence to the forensic patient.	40 41 42
(2) A submission may include an application under section 76 (2).	43

(3)	The victim may request the Tribunal not to disclose the whole or part of a submission made by the victim to the forensic patient.	1 2
(4)	The Tribunal is to agree to a request of a victim not to disclose the whole or part of a submission unless it considers that it is not in the interests of justice to agree to the request.	3 4 5
	Note. Among other things that may be considered by the Tribunal is the question of procedural fairness to the forensic patient.	6 7
(5)	The regulations may make provision for or with respect to submissions by victims relating to the release of or grant of leave of absence to forensic patients.	8 9 10
(6)	Without limiting subsection (5), the regulations may make provision for or with respect to the following:	11 12
	(a) the matters about which a victim may make submissions,	13
	(b) the representation of victims by nominated support persons at hearings conducted for the purpose of a review,	14 15
	(c) the form of submissions by victims,	16
	(d) the disclosure of victims' submissions to the forensic patient or other persons, including the circumstances in which the Tribunal may determine that, having regard to the interests of justice, non-disclosure is reasonable in the circumstances of the case.	17 18 19 20
74B	Rights of victims	21
	In conducting a review under this Act, the Tribunal is to have regard to the rights of victims in accordance with the Charter of Victims Rights set out in the <i>Victims Rights and Support Act 2013</i> .	22 23 24
[9]	Section 75 Conditions that may be imposed by Tribunal on release or leave of absence	25 26
	Insert after section 75 (1) (k):	27
	(l) requirements for the purposes of monitoring (including by electronic means) compliance with the conditions of release or leave.	28 29
[10]	Section 76 Tribunal may amend or impose conditions on release or leave orders on application of victims	30 31
	Insert "(in a submission made under section 74A or otherwise)" after "may apply" in section 76 (2).	32 33
[11]	Section 76J Exchange of information	34
	Insert ", the Secretary of the Department of Family and Community Services" after "Corrective Services" in section 76J (1).	35 36
[12]	Section 76J (4)–(4B)	37
	Omit section 76J (4). Insert instead:	38
	(4) The Commissioner of Victims Rights and the President of the Tribunal may enter into arrangements with each other to exchange information held by the Department of Justice, the Commissioner or the Tribunal for the purposes of the Victims Register and notifications under Part 5A.	39 40 41 42
	(4A) If an arrangement under subsection (4) applies to them, the Department of Justice, the Commissioner and the Tribunal are authorised:	43 44
	(a) to request and receive information held by any of them, and	45

(b)	to disclose information to any of them,	1
	and without the consent of any person concerned, but only to the extent that	2
	the information is reasonably necessary for the purposes of the Victims	3
	Register and notifications under Part 5A.	4
(4B)	This section does not limit the operation of any Act under which the	5
	Department or associated agency concerned, or the Commissioner of Victims	6
	Rights or the Tribunal, is authorised or required to disclose information to	7
	another person or body.	8
[13]	Section 76J (5A)	9
	Insert after section 76J (5):	10
(5A)	The provision of information under this section does not constitute a	11
	contravention of the <i>Health Records and Information Privacy Act 2002</i> or the	12
	<i>Privacy and Personal Information Protection Act 1998</i> .	13
[14]	Part 5A	14
	Insert after Part 5:	15
	Part 5A Victims Register	16
76L	Victims Register	17
(1)	There is to be a Victims Register.	18
(2)	The following matters are to be included in the Victims Register:	19
(a)	the names of victims of forensic patients who have requested that they	20
	be given notice of the review by the Tribunal of those patients,	21
(b)	any other matter prescribed by the regulations.	22
(3)	The Victims Register may only include the name of a victim of a forensic	23
	patient if:	24
(a)	the forensic patient has been found not guilty by reason of mental illness	25
	of an offence (whether or not following a special hearing), or	26
(b)	a limiting term has been imposed on the forensic patient following a	27
	verdict in a special hearing.	28
(4)	The Victims Register is to be kept by the Commissioner of Victims Rights and	29
	is to be in the form determined by the Commissioner.	30
(5)	The regulations may make provision for or with respect to the following	31
	matters:	32
(a)	applications to register as a victim,	33
(b)	the verification by the Commissioner of the identity of persons applying	34
	to register as victims, and the circumstances under which they became	35
	victims,	36
(c)	the use and disclosure of information contained in the Victims Register,	37
(d)	notifications to victims by the Tribunal or the Commissioner,	38
(e)	the operation and administration of the Victims Register.	39
76M	Notification to victims of reviews and other matters	40
(1)	The Commissioner of Victims Rights must give notice to any registered victim	41
	of a forensic patient if:	42

(a)	the forensic patient is due for a mandatory review by the Tribunal, or	1
(b)	an application is made by or for the forensic patient for a review by the Tribunal, or an application is made by or for the forensic patient to the Tribunal, in relation to release or leave of absence, or	2 3 4
(c)	the Tribunal makes or varies an order for the release (including the conditional release) of, or granting leave of absence to, the forensic patient or refuses to make any such order, or	5 6 7
(d)	the forensic patient ceases to be a forensic patient, or	8
(e)	the forensic patient is the subject of an order for apprehension made under section 68 or a request for apprehension under section 70, or	9 10
(f)	the forensic patient appeals against a decision of the Tribunal, or	11
(g)	notice is required to be given of a specified matter by regulations made for the purposes of this paragraph.	12 13
(2)	The notice is to be given subject to and in accordance with the regulations.	14
(3)	Without limiting subsection (2), the notice must contain the following information:	15 16
(a)	the matter being notified,	17
(b)	that the victim may make a submission to the Tribunal in any review proceedings involving the release of or a grant of leave to the forensic patient,	18 19 20
(c)	the form that a submission may take,	21
(d)	the period within which a submission must be made.	22
(4)	The Commissioner is not required to give notice of a matter under this section if:	23 24
(a)	the matter required to be notified to the victim is included in any other requirement to give notice to the victim under this Act, or	25 26
(b)	the victim has notified the Commissioner that the victim does not require notice of the matter.	27 28
(5)	A failure by the Commissioner to comply with this section does not affect the validity of any decision or order made by the Tribunal.	29 30
[15]	Schedule 1 Extension of status as forensic patient	31
	Omit “28 days” from clause 11 (1). Insert instead “3 months”.	32
[16]	Schedule 1, clause 17 (1) and (3)	33
	Insert “or extension order” after “limiting term” wherever occurring.	34
[17]	Schedule 3 Savings and transitional provisions	35
	Insert at the end of the Schedule, with appropriate Part and clause numbering:	36
Part	Mental Health (Forensic Provisions) Amendment (Victims) Act 2018	37 38
	Existing victims register	39
(1)	The information contained in the register of victims of forensic patients kept by the Tribunal immediately before the commencement of section 76L, as inserted by the <i>Mental Health (Forensic Provisions) Amendment (Victims) Act</i>	40 41 42

- 2018, (the *former register*) is taken to form part of the Victims Register for the purposes of this Act. 1
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- (2) The Commissioner of Victims Rights may add to, correct or remove any information included in the Victims Register by this clause. 3
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- (3) A victim whose name was contained in the former register is taken, for all purposes, to be a victim registered in the Victims Register under this Act and accordingly is to be treated as a registered victim for the purposes of this Act. 5
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- (4) This clause applies whether or not the person is a victim within the meaning of this Act. 8
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**Schedule 2 Amendment of Crimes (Forensic Procedures) Act
2000 No 59**

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Section 88 Destruction of forensic material after 12 months

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Insert after section 88 (8):

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(9) For the purposes of subsection (4), a person is not a suspect who has been acquitted of an offence to which the forensic material relates if:

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(a) a special verdict of not guilty of the offence on the ground of mental illness has been returned, or

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(b) the person has been found, following a special hearing under the *Mental Health (Forensic Provisions) Act 1990*, on the limited evidence available, to have committed the offence charged or an available alternative offence.

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Schedule 3	Amendment of Crimes (Sentencing Procedure)	1
	Act 1999 No 92	2
[1] Sections 28A and 28B		3
Insert after section 28:		4
28A	Victim impact statements where verdict of not guilty by reason of mental illness or limited finding of guilt	5
		6
(1)	A court may receive a victim impact statement after:	7
(a)	a verdict that an accused person is not guilty by reason of mental illness (whether or not following a special hearing) under the <i>Mental Health (Forensic Provisions) Act 1990</i> , or	8
(b)	a verdict following a special hearing under that Act, that, on the limited evidence available, an accused person committed an offence.	9
(2)	A court must acknowledge receipt of the victim impact statement.	10
(3)	A court may consider a victim impact statement when it considers what conditions are to be imposed on the release of the accused person.	11
(4)	A court is not to consider a victim impact statement when determining the limiting term to be imposed on an accused person.	12
(5)	A court must not consider a victim impact statement under this section unless it has been given by or on behalf of the victim to whom it relates or by or on behalf of the prosecutor.	13
(6)	Section 28 does not apply to a victim impact statement received by a court under this section.	14
(7)	For the purposes of the definitions of <i>family victim</i> and <i>primary victim</i> in this Division, an offence is taken to have been committed by an accused person referred to in subsection (1).	15
28B	Submissions by designated carers and principal care providers	16
		17
(1)	A court may seek a submission by the designated carer or principal care provider of an accused person after a verdict of not guilty by reason of mental illness (whether or not following a special hearing) under the <i>Mental Health (Forensic Provisions) Act 1990</i> or a verdict following a special hearing under that Act, that, on the limited evidence available, the accused person committed an offence.	18
(2)	The regulations may make provision for or with respect to submissions under this section.	19
(3)	In this section, <i>designated carer</i> and <i>principal care provider</i> have the same meaning as they have in the <i>Mental Health Act 2007</i> .	20
[2] Section 30B		21
Insert after section 30A:		22
30B	Victim impact statements in mental health and cognitive impairment forensic proceedings	23
		24
(1)	A victim may request that a court not disclose the whole or part of a victim impact statement received by the court under section 28A to the accused person or that the statement not be read out to the court.	25

- (2) The court is to agree to a request of a victim not to disclose the whole or part of a victim impact statement to the accused person or that a statement not be read out to the court unless the court considers that it is not in the interests of justice to agree to the request. 1
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Note. Among other things that may be considered by the court is the question of procedural fairness to the forensic patient. 5
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- (3) This section does not prevent the court from disclosing the whole or part of a victim impact statement to an Australian legal practitioner representing the accused person, on the condition that the statement is not to be disclosed to any other person, if the court is satisfied that it is in the interests of justice to do so. 7
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- (4) The court is required to give a copy of the victim impact statement to the Mental Health Review Tribunal constituted under the *Mental Health Act 2007*, in accordance with the regulations, as soon as practicable after the court makes a decision that results in the accused person becoming a forensic patient within the meaning of that Act. 11
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- (5) The regulations may make provision for or with respect to the requirements and procedures for victim impact statements in proceedings under the *Mental Health (Forensic Provisions) Act 1990*. 16
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Schedule 4 Amendment of Government Information (Public Access) Act 2009 No 52 1
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Schedule 2 Excluded information of particular agencies 3

Insert “and functions relating to dealing with confidential information concerning victims contained in the Victims Register established under the *Mental Health (Forensic Provisions) Act 1990*” after “*Victims Rights and Support Act 2013*” in clause 4. 4
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Schedule 5	Amendment of Mental Health Act 2007 No 8	1
	Section 160 Tribunal procedure generally	2
	Insert “, designated carers, principal care providers” after “family members” in section 160 (2) (d).	3
		4

Schedule 6	Amendment of Victims Rights and Support Act 2013 No 37	1
		2
[1] Section 3 Definitions		3
	Insert “and, in relation to a victim of a forensic patient, means the Charter set out in section 6A” after “section 6” in the definition of <i>Charter of Victims Rights</i> in section 3 (1).	4 5
[2] Section 3 (1)		6
	Insert in alphabetical order:	7
	<i>forensic patient</i> has the same meaning as in the <i>Mental Health (Forensic Provisions) Act 1990</i> .	8 9
[3] Section 6A		10
	Insert after section 6:	11
6A Additional matters for Charter of victims rights of forensic patients		12
	The following comprises the Charter of rights of victims of crime who are victims of forensic patients:	13 14
	6A.1 General matters	15
	Each right referred to in section 6.	16
	6A.2 Treatment of victim	17
	A victim will be treated with respect and compassion, having regard to the fact that proceedings may touch on painful or tragic events in the victim’s life and cause the victim to experience further grief and distress.	18 19 20 21
	A victim making a submission before the Mental Health Review Tribunal should be listened to respectfully and in a way that is cognisant of the effects of the victim’s experience and the benefit of expressing views about its impact.	22 23 24 25
	6A.3 Information about reviews of and other proceedings relating to forensic patients	26
	A victim will be informed in a timely manner of any matter before the Mental Health Review Tribunal, or the release of or granting of leave to a forensic patient or any other matter, that the victim is required to be informed of under the <i>Mental Health (Forensic Provisions) Act 1990</i> .	27 28 29 30 31
[4] Section 7 Implementation of Charter		32
	Insert after section 7 (3) (d):	33
	(e) the administration of matters relating to forensic patients and victims of forensic patients.	34 35

[5] Section 10 Functions of Commissioner

Insert after section 10 (1) (h):

- (h1) to manage the Victims Register established under Part 5A of the *Mental Health (Forensic Provisions) Act 1990*.

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