

# **VICTIMS AND WITNESSES (SCOTLAND) ACT 2014**

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## **EXPLANATORY NOTES**

### **OVERVIEW OF THE ACT**

3. There are two main policy areas in the Act: reforms to the justice system relating to victims and witnesses and the establishment of a National Confidential Forum (“NCF” or “the Forum”) for persons aged 16 years or over who were placed in institutional forms of care as children.
4. The proposed reforms relating to victims and witnesses will improve the support available for such individuals. Key proposals include:
  - giving victims and witnesses a right to certain information about their case;
  - creating a duty on organisations within the justice system to set clear standards of service for victims and witnesses;
  - creating a presumption that certain categories of victim are vulnerable, and giving such victims the right to utilise certain special measures when giving evidence;
  - requiring the court to consider compensation to victims in relevant cases;
  - introducing a victim surcharge so that offenders contribute to the cost of supporting victims; and
  - introducing restitution orders, allowing the court to require that offenders who assault police officers pay to support the specialist non-NHS services which assist in the recovery of such individuals.
5. The establishment of the NCF will provide an opportunity for those aged 16 years or over who were placed in institutional care as children to recount their experiences of being in care in a confidential, non-judgemental and supportive setting.
6. The key proposals in the Act which relate to the NCF are as follows:
  - The functions of the NCF are set out - the main function being to offer those aged 16 years or over who were placed in institutional care the opportunity of acknowledgement of their experiences, in particular those of abuse;
  - The scope of the NCF is defined to enable all those aged 16 years or over who were placed in institutional care as children the opportunity to participate in hearings;
  - The testimony of persons who participate in the NCF is protected from disclosure and those persons will be protected from the threat of defamation as a result of testimony they give. Members of the NCF who will conduct hearings, receive testimony and offer acknowledgement, and its staff, will also be protected from the threat of action for defamation where they have acted in good faith in discharging the functions of the Forum;

*These notes relate to the Victims and Witnesses (Scotland) Act  
2014 (asp 1) which received Royal Assent on 17 January 2014*

- The arrangements by which the NCF is to be hosted by an existing public body, the Mental Welfare Commission for Scotland (“the Commission”), are set out, including the mechanisms to safeguard the respective operational autonomy of the Forum and Commission.