

TRANSPOSITION TABLE ON DIRECTIVE 2012/29/EU

The EU Directive 2012/29/EU (the Directive) of October 2012 on *establishing minimum standards on the rights, support and protection of victims of crime* is transposed in Scotland by certain provisions of the following enactments:

- The Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”);
- The Criminal Justice (Scotland) Act 2003 (“the 2003 Act”);
- The Serious Organised Crime and Police Act 2005 (“the 2005 Act”);
- The Criminal Justice and Licensing (Scotland) Act 2010 (“the 2010 Act”);
- The Victims and Witnesses (Scotland) Act 2014 (“the 2014 Act”); and
- The Victims’ Rights (Scotland) Regulations 2015 (“the Regulations”) which amend the 2014 Act.

The EU adopted the Directive to establish common rules aimed at protecting and assisting victims of crime to ensure minimum standards for victims’ rights in all Member States. The Directive considerably strengthens the rights of victims and their family members to information, support and protection and strengthens victims’ procedural rights in criminal proceedings. In particular it will help ensure all victims of crime, regardless of where they live in the EU:

- receive appropriate protection and support;
- can participate in criminal proceedings, in accordance with national law; and
- are recognised and treated in a respectful, sensitive and professional manner.

The Regulations amend the 2014 Act to ensure that victims’ rights and the obligations of competent authorities (“CAs”) are fully enshrined in Scots law. The Regulations do this by adding a number of victim-specific general principles to supplement the existing general principles in section 1 of the 2014 Act and by creating a number of additional rights for victims and obligations on CAs. The Regulations also oblige Scottish Ministers to create a new Victims’ Code for Scotland setting out victims’ rights.

The CAs are the chief constable of the Police Service of Scotland, the Lord Advocate, the Scottish Courts and Tribunals Service, the Scottish Ministers (covering the Scottish Prison Service) and the Parole Board for Scotland.

Accordingly the Regulations transpose into domestic law the provisions of the Directive as outlined in the table below.

Directive Article	Objective(s) of Article	Transposition in Scotland
1	<p>Objectives</p> <p>1. The purpose of this Directive is to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.</p> <p>Member States shall ensure that victims are recognised and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner, in all contacts with victim support or restorative justice services or a competent authority, operating within the context of criminal proceedings. The rights set out in this Directive shall apply to victims in a non-discriminatory manner, including with respect to their residence status.</p> <p>2. Member States shall ensure that in the application of this Directive, where the victim is a child, the child's best interests shall be a primary consideration and shall be assessed on an individual basis. A child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns shall prevail. The child and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child.</p>	<ul style="list-style-type: none"> Article 1 is implemented by sections 1 and 1A of the 2014 Act (http://www.legislation.gov.uk/asp/2014/1/contents) which set out certain overarching principles which relevant criminal justice organisations must have regard to when interacting with victims of crime. In addition, the 2014 Act creates specific rights to information, support and protection (see sections 3C, 3D, 6, 9D and 9E of the 2014 Act). Provisions creating information, support and protection for victims are also found in the other legislation referred to in page 1 of this note.
2	<p>Definitions</p> <p>1. For the purposes of this Directive:</p> <p>(a) 'victim' means</p> <p>(i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;</p> <p>(ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death;</p> <p>(b) 'family members' means the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim.</p> <p>(c) 'child' means any person below 18 years of age;</p>	<ul style="list-style-type: none"> There is no overarching statutory definition of "victim" in Scottish legislation, however this term is used throughout the 2014 Act and in the other legislation referred to in page 1 of this note. The term "victim" is easily understood and an overarching definition was considered both unnecessary and undesirable. In particular, it was considered important to avoid inadvertently narrowing the term and excluding individuals who would otherwise be considered to be victims of crime. Where the term "victim" is used in the 2014 Act, the individual sections of the Act provide context so as to

	<p>(d) 'restorative justice' means any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party.</p> <p>2 Member States may establish procedures:</p> <p>(a) to limit the number of family members who may benefit from the rights set out in this Directive taking into account the individual circumstances of each case; and</p> <p>(b) in relation to paragraph (1)(a)(ii), to determine which family members have priority in relation to the exercise of the rights set out in this Directive.</p>	<p>ensure that the intention behind the individual section is clear.</p> <ul style="list-style-type: none"> • For example, the Act refers to persons who are or appear to be victims so as to capture victims before and after conviction of the offender and avoid any prejudice to the presumption of innocence. • Where appropriate, in the 2014 Act "child" is defined as any person under 18 years of age. For example section 1A of the 2014 Act (further general principles applicable to victims). • In addition, the 2014 Act has amended the 1995 Act by amending the definition of a child witness to a person under 18. This will capture those victims who are required to give evidence and to enable them to utilise the provisions in relation to special measures when giving evidence. • Family members are defined in the 2014 Act and in other legislation where necessary. For example sections 9D and 9E of the 2014 Act provide a number of protections for the family members of victims. In addition, the family members of victims who have died as a result of the offence are classed as victims by operation of section 29B of the 2014 Act.
<p>3</p>	<p>Right to understand and to be understood</p> <ol style="list-style-type: none"> 1. Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings, including where information is provided by that authority. 2. Member States shall ensure that communications with victims are given in simple and accessible language, orally or in writing. Such communications 	<ul style="list-style-type: none"> • Section 3E of the 2014 Act implements Article 3 by obliging a CA to take measures to assist victims to communicate with the CA. • Section 3B of the 2014 Act also implements Article 3(1) by obliging the Scottish Ministers to produce a Victims' Code for Scotland setting out victims' rights. This will assist victims to understand their rights when interacting

	<p>shall take into account the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood.</p> <p>3. Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, Member States shall allow victims to be accompanied by a person of their choice in the first contact with a competent authority where, due to the impact of the crime, the victim requires assistance to understand or to be understood.</p>	<p>with CAs.</p>
<p>4</p>	<p>Right to receive information from first contact with a competent authority</p> <p>1. Member States shall ensure that victims are offered the following information, without unnecessary delay, from their first contact with a competent authority in order to enable them to access the rights set out in this Directive:</p> <p>(a) the type of support they can obtain and from whom, including, where relevant, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation;</p> <p>(b) the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures;</p> <p>(c) how and under what conditions they can obtain protection, including protection measures;</p> <p>(d) how and under what conditions they can access legal advice, legal aid or any other sort of advice;</p> <p>(e) how and under what conditions they can access compensation;</p> <p>(f) how and under what conditions they are entitled to interpretation and translation;</p> <p>(g) if they are resident in a Member State other than that where the criminal offence was committed, any special measures, procedures or arrangements, which are available to protect their interests in the Member State where the first contact with the competent authority is made;</p> <p>(h) the available procedures for making complaints where their rights are not respected by the competent authority operating within the context of criminal proceedings;</p> <p>(i) the contact details for communications about their case;</p> <p>(j) the available restorative justice services.</p> <p>(k) how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed.</p>	<ul style="list-style-type: none"> • Section 3B of the 2014 Act obliges the Scottish Ministers to produce a Victims' Code for Scotland which will include details of each of the heads of information listed in Article 4(1). • Section 3C of the 2014 Act places an obligation on the Police Service of Scotland to tell victims about the Code and a further obligation on all CAs to provide a copy of the Code (or direct the victim to where the Code can be obtained) on request.

	<p>2. The extent or detail of information referred to in paragraph 1 may vary depending on the specific needs and personal circumstances of the victim and the type or nature of the crime. Additional details may also be provided at later stages depending on the needs of the victim and the relevance, at each stage of proceedings, of such details.</p>	
<p>5</p>	<p>Right of victims when making a complaint</p> <ol style="list-style-type: none"> 1. Member States shall ensure that victims receive written acknowledgement of their formal complaint made by them to the competent authority of the Member State, stating the basic elements of the criminal offence concerned. 2. Member States shall ensure that victims who wish to make a complaint with regard to a criminal offence and who do not understand or speak the language of the competent authority be enabled to make the complaint in a language that they understand or by receiving the necessary linguistic assistance. 3. Member States shall ensure that victims who do not understand or speak the language of the competent authority, receive translation, free of charge, of the written acknowledgement of their complaint provided for in paragraph 1, if they so request, in a language that they understand. 	<ul style="list-style-type: none"> • Article 5(1) is implemented by section 3G of the 2014 Act. • Article 5(2) and (3) is implemented by section 3F of the 2014 Act..
<p>6</p>	<p>Right to receive information about their case</p> <ol style="list-style-type: none"> 1. Member States shall ensure that victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by the victim and that, upon request, they receive such information: <ol style="list-style-type: none"> (a) any decision not to proceed with or to end an investigation or not to prosecute the offender; (b) the time and place of the trial and the nature of the charges against the offender. 2. Member States shall ensure that, in accordance with their role in the relevant criminal justice system, victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by them and that, upon request, they receive such information: <ol style="list-style-type: none"> (a) any final judgement in a trial; 	<ul style="list-style-type: none"> • Article 6 is implemented by sections 6 and 27A of the 2014 Act and by section 16 of the 2003 Act. Information about victims' rights to information will also be provided within the Victims' Code for Scotland, which will be published under section 3B of the 2014 Act.

	<p>(b) information enabling the victim to know about the state of the criminal proceedings, unless in exceptional cases the proper handling of the case may be adversely affected by such notification.</p> <p>3. Information provided for under paragraph 1(a) and paragraph 2(a) shall include reasons or a brief summary of reasons for the decision concerned, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.</p> <p>4. The wish of victims as to whether or not to receive information shall bind the competent authority, unless that information must be provided due to the entitlement of the victim to active participation in the criminal proceedings. Member States shall allow victims to modify their wish at any moment, and shall take such modification into account.</p> <p>5. Member States shall ensure that victims are offered the opportunity to be notified, without unnecessary delay, when the person remanded in custody, prosecuted or sentenced for criminal offences concerning them is released from or has escaped detention. Furthermore, Member States shall ensure that victims are informed of any relevant measures issued for their protection in case of release or escape of the offender.</p> <p>6. Victims shall, upon request, receive the information provided for in paragraph 5 at least in cases where there is a danger or an identified risk of harm to them, unless there is an identified risk of harm to the offender which would result from the notification.</p>	
<p>7</p>	<p>Right to interpretation and translation</p> <p>1. Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, upon request, with interpretation in accordance with their role in the relevant criminal justice system in criminal proceedings, free of charge, at least during any interviews or questioning of the victim during criminal proceedings before investigative and judicial authorities, including during police questioning, and interpretation for their active participation in court hearings and any necessary interim hearings.</p>	<ul style="list-style-type: none"> Article 7 is implemented by section 3F of the 2014 Act. The right to challenge a decision to refuse to provide interpretation or translation (Article 7(7)) is provided by the obligation on CAs in section 3A of the 2014 Act to create a complaints process for victims.

2. Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, communication technology such as videoconferencing, telephone or internet may be used, unless the physical presence of the interpreter is required in order for the victims to properly exercise their rights or to understand the proceedings.

3. Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, in accordance with their role in the relevant criminal justice system in criminal proceedings, upon request, with translations of information essential to the exercise of their rights in criminal proceedings in a language that they understand, free of charge, to the extent that such information is made available to the victims. Translations of such information shall include at least any decision ending the criminal proceedings related to the criminal offence suffered by the victim, and upon the victim's request, reasons or a brief summary of reasons for such decision, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.

4. Member States shall ensure that victims who are entitled to information about the time and place of the trial in accordance with Article 6(1) and who do not understand the language of the competent authority, are provided with a translation of the information to which they are entitled, upon request.

5. Victims may submit a reasoned request to consider a document as essential. There shall be no requirement to translate passages of essential documents which are not relevant for the purpose of enabling victims to actively participate in the criminal proceedings.

6. Notwithstanding paragraphs 1 and 3, an oral translation or oral summary of essential documents may be provided instead of a written translation on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings.

7. Member States shall ensure that the competent authority assesses whether victims need interpretation or translation as provided for under paragraphs 1 and 3. Victims may challenge a decision not to provide interpretation or translation. The procedural rules for such a challenge shall be determined by national law.

	<p>8. Interpretation and translation and any consideration of a challenge of a decision not to provide interpretation or translation under this Article shall not unreasonably prolong the criminal proceedings.</p>	
<p>8</p>	<p>Right to access victim support services</p> <ol style="list-style-type: none"> 1. Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings. Family members shall have access to victim support services in accordance with their needs and the degree of harm suffered as a result of the criminal offence committed against the victim. 2. Member States shall facilitate the referral of victims, by the competent authority that received the complaint and by other relevant entities, to victim support services. 3. Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organisations to call on existing specialised entities providing such specialist support. Victims, in accordance with their specific needs, shall have access to such services and family members shall have access in accordance with their specific needs and the degree of harm suffered as a result of the criminal offence committed against the victim. 4. Victim support services and any specialist support services may be set up as public or non-governmental organisations and may be organised on a professional or voluntary basis. 5. Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority. 	<ul style="list-style-type: none"> • Article 8(1), (3) and (4) is implemented by the Scottish Ministers' power to provide grants to victim support organisations under section 111 of the 2010 Act. Grants provided under section 111 may be made to such bodies and subject to such conditions as the Scottish Ministers consider appropriate. In addition, section 1(3)(c) of the 2014 Act provides that the authorities listed in section 1(2) must have regard to the general principle that victims and witnesses should have access to appropriate support during and after the criminal investigation and proceedings. This obligation arises in the exercise of functions in relation to victims and witnesses. • Grant-supported bodies include Victim Support Scotland ("VSS"), which provides a range of vital services for victims of crime (whether a crime has been reported or not). The services VSS provide include practical and emotional support, and are both free and confidential. VSS also provides information to victims about how to apply for compensation, and its Witness Service offers support to those who will be giving evidence, including information about the process and court familiarisation visits where appropriate. VSS receives around £4m per year from the SG for the provision of these services. • There are also a number of victim support services in Scotland who can provide specialist support to those affected by crime such as Rape Crisis Scotland, Scottish Women's Aid, Trafficking Awareness Raising Alliance, Migrant Help, BRAKE and Children 1st. • Further support and information for victims is available at https://www.mygov.scot/crime-justice-and-the-law/.

		<ul style="list-style-type: none"> Article 8(2) and (5) is implemented by section 3D of the 2014 Act. Competent authorities are under an obligation to refer victims to support services upon request regardless of whether or not the victim has made a complaint about the offence.
<p>9</p>	<p>Support from victim support services</p> <ol style="list-style-type: none"> Victim support services, as referred to in Article 8(1), shall as a minimum provide: <ol style="list-style-type: none"> information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial; information about or direct referral to any relevant specialist support services in place; emotional and, where available psychological support; advice relating to financial and practical issues arising from the crime; unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation. Member States shall encourage victim support services to pay particular attention to the specific needs of victims who have suffered considerable harm due to the severity of the crime. Unless otherwise provided by other public or private services, specialist support services referred to in Article 8(3), shall, as a minimum, develop and provide: <ol style="list-style-type: none"> shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of secondary and repeat victimisation, of intimidation and of retaliation; targeted and integrated support for victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling. 	<ul style="list-style-type: none"> Article 9 in general is implemented by section 111 of the 2010 Act which empowers the Scottish Ministers to provide grant funding for victim support services. Grants can be made under section 111 to such bodies and subject to such conditions as the Scottish Ministers consider appropriate. Article 9(1) is implemented by section 3D of the 2014 Act which creates an obligation on competent authorities to refer victims to the providers of the services listed in Article 9(1).

<p>10</p>	<p>Right to be heard</p> <p>1. Member States shall ensure that victims may be heard during criminal proceedings and may provide evidence. Where a child victim is to be heard, due account shall be taken of the child's age and maturity.</p> <p>2. The procedural rules under which victims may be heard during criminal proceedings and may provide evidence shall be determined by national law.</p>	<ul style="list-style-type: none"> • Article 10 is implemented in part by the right of victims to make a victim statement under section 14 of the 2003 Act. • Victims also have a right to be heard when the relevant offender is to be released from prison. Sections 17 and 17A of the 2003 Act. • Subject to prosecutorial discretion, victims may be requested to give evidence in court. Scotland's general laws of evidence apply to those victims who are called to give evidence. • For those victims who are to give evidence, and are considered vulnerable or have protection needs, special measures can be made available through sections 271 to 271M of the 1995 Act in order to assist them in giving evidence. These measures are automatic for children and for those persons who are alleged victims of specific offences such as sexual offences, trafficking and stalking.
<p>11</p>	<p>Rights in the event of a decision not to prosecute</p> <p>1. Member States shall ensure that victims, in accordance with their role in the relevant criminal justice system, have the right to a review of a decision not to prosecute. The procedural rules for such a review shall be determined by national law.</p> <p>2. Where, in accordance with national law, the role of the victim in the relevant criminal justice system will be established only after a decision to prosecute the offender has been taken, Member States shall ensure that at least the victims of serious crimes have the right to a review of a decision not to prosecute. The procedural rules for such a review shall be determined by national law.</p> <p>3. Member States shall ensure that victims are notified without unnecessary delay of their right to receive, and that they receive sufficient information to decide whether to request a review of any decision not to prosecute upon</p>	<ul style="list-style-type: none"> • Article 11 is implemented in part by section 4 of the 2014 Act and will be further implemented by the procedural rules made by the Lord Advocate under that section. • Information about victims' rights to information will also be provided within the Victims' Code for Scotland, which will be published under section 3B of the 2014 Act.

	<p>request.</p> <p>4. Where the decision not to prosecute is taken by the highest prosecuting authority against whose decision no review may be carried out under national law, the review may be carried out by the same authority.</p> <p>5. Paragraphs 1, 3 and 4 shall not apply to a decision of the prosecutor not to prosecute, if such a decision results in an out-of-court settlement, insofar as national law makes such provision.</p>	
<p>12</p>	<p>Right to safeguards in the context of restorative justice services</p> <p>1. Member States shall take measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation, to be applied when providing any restorative justice services. Such measures shall ensure that victims who choose to participate in restorative justice processes, have access to safe and competent restorative justice services, subject to at least the following conditions:</p> <p>(a) the restorative justice services are used only if they are in the interest of the victim, subject to any safety considerations, and are based on the victim's free and informed consent, which may be withdrawn at any time;</p> <p>(b) before agreeing to participate in the restorative justice process, the victim is provided with full and unbiased information about that process and the potential outcomes as well as information about the procedures for supervising the implementation of any agreement;</p> <p>(c) the offender has acknowledged the basic facts of the case;</p> <p>(d) any agreement is arrived at voluntarily and may be taken into account in any further criminal proceedings;</p> <p>(e) discussions in restorative justice processes that are not conducted in public are confidential and are not subsequently disclosed, except with the agreement of the parties or as required by national law due to an overriding public interest.</p> <p>2. Member States shall facilitate the referral of cases, as appropriate to restorative justice services, including through the establishment of procedures or guidelines on the conditions for such referral.</p>	<ul style="list-style-type: none"> Article 12 is implemented by section 5 of the 2014 Act.
<p>13</p>	<p>Right to legal aid</p>	<ul style="list-style-type: none"> Victims are not parties to criminal proceedings in Scotland. Accordingly, the obligation in Article 13 is not

	Member States shall ensure that victims have access to legal aid, where they have status of parties to criminal proceedings. The conditions or procedural rules under which victims have access to legal aid shall be determined by national law.	<p>applicable to Scotland.</p> <ul style="list-style-type: none"> • If a victim needs legal advice and assistance they can contact a lawyer. They may be entitled to help with the costs of that advice and assistance via the legal aid system.
14	Right to reimbursement of expenses Member States shall afford victims who participate in criminal proceedings, the possibility of reimbursement of expenses incurred as a result of their active participation in criminal proceedings, in accordance with their role in the relevant criminal justice system. The conditions or procedural rules under which victims may be reimbursed shall be determined by national law.	<ul style="list-style-type: none"> • Article 14 is implemented by section 3H of the 2014 Act.
15	Right to the return of property Member States shall ensure that, following a decision by a competent authority, recoverable property which is seized in the course of criminal proceedings is returned to victims without delay, unless required for the purposes of criminal proceedings. The conditions or procedural rules under which such property is returned to the victims shall be determined by national law.	<ul style="list-style-type: none"> • Article 15 is implemented by section 3I of the 2014 Act.
16	Right to decision on compensation from the offender in the course of criminal proceedings 1. Member States shall ensure that, in the course of criminal proceedings, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time, except where national law provides for such a decision to be made in other legal proceedings. 2. Member States shall promote measures to encourage offenders to provide adequate compensation to victims.	<ul style="list-style-type: none"> • Article 16 is implemented by provision enabling the court to grant Compensation Orders in section 249 of the 1995 Act. • In addition, if a victim has been physically or mentally injured because they were the blameless victim of a violent crime they may be entitled to compensation through the Criminal Injuries Compensation Scheme
17	Rights of victims resident in another Member State	<ul style="list-style-type: none"> • Article 17 is implemented by section 3J of the 2014 Act. In addition, part 1 of the Crime (International Cooperation)

	<p>1. Member States shall ensure that their competent authorities can take appropriate measures to minimise the difficulties faced where the victim is a resident of a Member State other than that where the criminal offence was committed, particularly with regard to the organisation of the proceedings. For this purpose, the authorities of the Member State where the criminal offence was committed shall, in particular, be in a position:</p> <p>(a) to take a statement from the victim immediately after the complaint with regard to the criminal offence is made to the competent authority;</p> <p>(b) to have recourse to the extent possible to the provisions on video conferencing and telephone conference calls laid down in the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 for the purpose of hearing victims who are resident abroad.</p> <p>2. Member States shall ensure that victims of a criminal offence committed in Member States other than that where they reside may make a complaint to the competent authorities of the Member State of residence, if they are unable to do so in the Member State where the criminal offence was committed or, in the event of a serious offence, as determined by national law of that Member State, if they do not wish to do so.</p> <p>3. Member States shall ensure that the competent authority to which the victim makes a complaint transmits it without delay to the competent authority of the Member State in which the criminal offence was committed, if the competence to institute the proceedings has not been exercised by the Member State in which the complaint was made.</p>	<p>Act 2003 implements Article 17 providing mutual legal assistance for criminal proceedings in another country.</p>
<p>18</p>	<p>Right to protection</p> <p>Without prejudice to the rights of the defence, Member States shall ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against the risk of, emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members.</p>	<ul style="list-style-type: none"> • Article 18 is implemented by sections 271 to 271M, 274, 288C, 288E and 288F of the 1995 Act; section 82 of the Serious Organised Crime and Police 2005 Act, sections 1A(2)(e) and 8 of the 2014 Act. • Other measures are also available which could be used for the protection of victims and their families (bail conditions, special measures, Non Harassment Orders, Restriction of Liberty Orders, Anti-Social Behaviour Orders etc.). In addition, relevant measures such as interdicts and interim interdicts may be applied for through

	<p>19</p> <p>Right to avoid contact between victim and offender</p> <ol style="list-style-type: none"> 1. Member States shall establish the necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact. 2. Member States shall ensure that new court premises have separate waiting areas for victims. 	<p>the civil courts.</p> <ul style="list-style-type: none"> • Article 19 is implemented by section 9D of the 2014 Act.
<p>20</p>	<p>Right to protection of victims during questioning in criminal investigations</p> <p>Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that during criminal investigations:</p> <ol style="list-style-type: none"> (a) interviews of victims are conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the competent authority; (b) the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation; (c) victims may be accompanied by their legal representative and a person of their choice, unless a reasoned decision has been made to the contrary; (d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings. 	<ul style="list-style-type: none"> • Article 20 is implemented by section 9A of the 2014 Act.
<p>21</p>	<p>Right to protection of privacy</p> <ol style="list-style-type: none"> 1. Member States shall ensure that competent authorities may take during the criminal proceedings appropriate measures to protect the privacy, including personal characteristics of the victim taken into account in the individual assessment provided for under Article 22, and images of victims and of their family members. Furthermore, Member States shall ensure that competent authorities may take all lawful measures to prevent public dissemination of any information that could lead to the identification of a child victim. 	<ul style="list-style-type: none"> • Article 21 is implemented by section 11 of the Contempt of Court Act 1981, sections 47, 92, 271HB and 271N to 271Z of the 1995 Act, and section 9E of the 2014 Act.

	<p>2. In order to protect the privacy, personal integrity and personal data of victims, Member States shall, with respect for freedom of expression and information and freedom and pluralism of the media, encourage the media to take self-regulatory measures.</p>	
<p>22</p>	<p>Individual assessment of victims to identify specific protection needs</p> <ol style="list-style-type: none"> 1. Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. 2. The assessment shall, in particular, take into account: <ol style="list-style-type: none"> a) the personal characteristics of the victim; b) the type or nature of the crime; and c) the circumstances of the crime. 3. In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close-relationship, sexual violence, exploitation or hate crime; and victims with disabilities shall be duly considered. 4. For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article. 5. The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim. 	<ul style="list-style-type: none"> • Article 22 is implemented by sections 9B and 9C of the 2014 Act and sections 271 to 271E of the 1995 Act.

	<p>6. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 23 and 24.</p> <p>7. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.</p>	
<p>23</p>	<p>Right to protection of vulnerable victims during criminal proceedings</p> <ol style="list-style-type: none"> 1. Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that victims with specific protection needs who benefit from special measures identified as a result of an individual assessment provided for in Article 22(1), may benefit from the measures provided for in paragraphs 2 and 3 of this Article. A special measure envisaged following the individual assessment shall not be made available if operational or practical constraints make this impossible, or where there is an urgent need to interview the victim and failure to do so could harm the victim or another person or could prejudice the course of the proceedings. 2. The following measures shall be available during criminal investigations to victims with specific protection needs identified in accordance with Article 22(1): <ol style="list-style-type: none"> (a) interviews with the victim being carried out in premises designed or adapted for that purpose; (b) interviews with the victim being carried out by or through professionals trained for that purpose; (c) all interviews with the victim being conducted by the same persons unless this is contrary to the good administration of justice; (d) all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced. 3. The following measures shall be available for victims with specific protection needs identified in accordance with Article 22(1) during court proceedings: <ol style="list-style-type: none"> (a) measures to avoid visual contact between victims and offenders including during the giving of evidence, by appropriate means including the use of 	<ul style="list-style-type: none"> • Article 23(1) and (2) is implemented by sections 8 and 9C of the 2014 Act. • Article 23(3) is implemented by sections 92, 271 to 271M, 274, 288C, 288D, 288E and 288F of the 1995 Act section 9D and 9E of the 2014 Act.

	<p>communication technology;</p> <p>(b) measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology;</p> <p>(c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and</p> <p>(d) measures allowing a hearing to take place without the presence of the public.</p>	
<p>24</p>	<p>Right to protection of child victims during criminal proceedings</p> <p>1. In addition to the measures provided for in Article 23, Member States shall ensure that where the victim is a child:</p> <p>(a) in criminal investigations, all interviews with the child victim may be audio-visually recorded and such-recorded interviews may be used-as evidence in criminal proceedings;</p> <p>(b) in criminal investigations and proceedings, in accordance with the role of victims in the relevant criminal justice system, competent authorities appoint a special representative for child victims where, according to national law, the holders of parental responsibility are precluded from representing the child victim as a result of a conflict of interest between them and the child victim, or where the child victim is unaccompanied or separated from the family;</p> <p>(c) where the child victim has the right to a lawyer, he or she has the right to legal advice and representation, in his or her own name, in proceedings where there is, or there could be, a conflict of interest between the child victim and the holders of parental responsibility.</p> <p>2. Where the age of a victim is uncertain and there are reasons to believe that the victim is a child, the victim shall, for the purposes of this Directive, be presumed to be a child.</p>	<ul style="list-style-type: none"> • Article 24(1)(a) is implemented by Part XII of the 1995 Act and section 7 of the 2014 Act. • Article 24(1)(b) is implemented by section 22 of the Children (Scotland) Act 1995 in relation to criminal investigations. General assistance may be provided for children in criminal proceedings under s271-271M of the 1995 Act. However, child victims have no separate role, and have no separate legal representation, in criminal proceedings. • Article 24(1) (c) does not relate to our criminal justice system, as victims have no separate role, and have no separate legal representation, in criminal proceedings. • Article 24(2) is implemented by section 307(7) of the Criminal Procedure (Scotland) Act 1995. This provision allows the court to deem a person to be such age as appears to the court to have been that person's age at the relevant time, after considering any available evidence.
<p>25</p>	<p>Training of practitioners</p> <p>1. Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff receive both general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims and to enable them to deal with victims</p>	<ul style="list-style-type: none"> • CAs ensure that any of their members of staff who are required to interact with victims as part of their duties are given such training as the CA considers appropriate in relation to the specific needs of victims.

	<p>in an impartial, respectful and professional manner.</p> <ol style="list-style-type: none"> 2. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request that those responsible for the training of judges and prosecutors involved in criminal proceedings make available both general and specialist training to increase the awareness of judges and prosecutors of the needs of victims. 3. With due respect for the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of lawyers of the needs of victims. 4. Through their public services or by funding victim support organisations, Member States shall encourage initiatives enabling those providing victim support and restorative justice services to receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner. 5. In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall aim to enable the practitioner to recognise victims and to treat them in a respectful, professional and non-discriminatory manner. 	
<p>26</p>	<p>Co-operation and co-ordination of services</p> <ol style="list-style-type: none"> 1. Member States shall take appropriate action to facilitate cooperation between Member States to improve the access of victims to the rights set out in this Directive and under national law. Such cooperation shall be aimed at least at: <ol style="list-style-type: none"> (a) the exchange of best practices; (b) consultation in individual cases; and (c) assistance to European networks working on matters directly relevant to victims' rights. 2. Member States shall take appropriate action, including through the internet, aimed at raising awareness of the rights set out in this Directive, reducing the risk of victimisation, and minimising the negative impact of-crime and the risks 	<p>No transposition required.</p>

	of secondary and repeat victimisation, of intimidation and of retaliation, in particular by targeting groups at risk such as children, victims of gender-based violence and violence in close relationships. Such action may include information and awareness raising campaigns and research and education programmes, where appropriate in cooperation with relevant civil society organisations and other stakeholders.	
27	<p>Transposition</p> <p>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 16 November 2015.</p> <p>2. When Member States adopt those provisions they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such a reference is to be made.</p>	No transposition required.
28	<p>Provision of data and statistics</p> <p>Member States shall, by 16 November 2017 and every three years thereafter, communicate to the Commission available data showing how victims have accessed the rights set out in this Directive.</p>	No transposition required.
29	<p>Report</p> <p>The Commission shall, by 16 November 2017, submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures in order to comply with this Directive, including a description of action taken under Articles 8, 9 and 23, accompanied, if necessary, by legislative proposals.</p>	No transposition required.
30	<p>Replacement of Framework Decision 2001/220/JHA</p> <p>Framework Decision 2001/220/JHA is hereby replaced in relation to MS participating in the adoption of this Directive, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law. In relation to Member States participating in the adoption of this Directive, references to that Framework Decision shall be construed as references to this Directive</p>	No transposition required.

31	<p>Entry into force</p> <p>Directive shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i>.</p>	No transposition required.
32	<p>Addressees</p> <p>This Directive is addressed to the Member States in accordance with the Treaties.</p>	No transposition required.