

Criminal Justice (Victims of Crime) Bill 2016

Regulatory Impact Analysis

1. Summary RIA

Summary of Regulatory Impact Analysis (RIA)	
Department/Office: Department of Justice and Equality	Title of Legislation: Criminal Justice (Victims of Crime) Bill 2016
Stage: Publication of Bill	Date: December 2016
Related Publications: Criminal Justice (Victims of Crime) Bill 2016	
Available to view or download at: http://www.justice.ie (when published)	
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What policy objectives have been pursued? <p>The Programme for Government contains a commitment (the Commitment) to publish legislation to implement in full the EU Victims of Crime Directive strengthening the rights, support and protection of victims across the European Union.</p> <p>Ireland is required to transpose Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime. The transposition date for the Directive was 16 November 2015.</p> What policy options have been considered? Please summarise the costs, benefits and impacts relating to each of the options below and indicate whether a preferred option has been identified. <p>1. Do nothing.</p>	

2. Introduce primary legislation to strengthen the rights of victims of crime and their families in accordance with the commitment in the Programme for Government and to transpose the EU Directive.

3. Transpose the EU Directive by way of a Statutory Instrument made under s.3 of the European Communities Act 1972(as amended).

Preferred Option:

Introduce primary legislation to strengthen the rights of victims of crime and their families in accordance with the commitment in the Programme for Government and to transpose the EU Directive.

OPTIONS

	COSTS	BENEFITS	IMPACTS
1.	No direct costs,	None.	Failure to transpose EU Directive leaving the State open to enforcement proceedings and financial penalties. Commitment in Programme to strengthen the rights of victims of crime and their families unfulfilled.
2.	As the transposition date has passed, the Directive is now directly applicable on certain Criminal Justice Agencies. These agencies have been operating the Directive on a non-statutory basis since 16 November 2015, the costs of which have been met from within existing resources. Some additional costs are likely to arise when the provisions concerning	Transposition of EU Directive and fulfilment of commitment in Programme.	Compliance with Directive and Programme commitment by establishing, in statute, the rights of victims in criminal proceedings

	<p>information, interpretation and translation are fully implemented by all bodies concerned and from the proposals relating to the extension of out-of-court video recording of evidence. It is not possible to estimate these additional costs as they are dependent on the take-up by victims. The provisions contained in the Bill which will give rise to additional costs are required by the EU Directive.</p>		
3.	<p>The position as regards costs under this option is the same as set out above under option 2.</p>	<p>Transposition of EU Directive and fulfilment of commitment in Programme.</p>	<p>Compliance with Directive and Programme commitment by establishing, in statute albeit it secondary legislation, the rights of victims in criminal proceedings</p>

2. Policy Context and Objectives

The Programme for Government contains a commitment to publish legislation to implement in full the EU Victims of Crime Directive strengthening the rights, support and protection of victims across the European Union.

Ireland is required to transpose, by 16 November 2015, Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.

The objective is to put in place a rights based approach to victims, as envisaged by both the Directive and the Commitment. The Bill provides a broad definition of a “victim” which includes family members of a deceased person where death has been caused by a criminal offence.

It sets out the **rights** of victims to, inter alia, information on the criminal justice process generally and specifically in relation to their own case, individual assessment of needs of victims, the right to be informed of a decision not to prosecute in their case and the right to request a review of that decision.

3. Identification and Description of Options

The following options were considered:

1. Do nothing.
2. Introduce primary legislation to strengthen the rights of victims of crime and their families in accordance with the commitment in the Programme for Government and to transpose the EU Directive.
3. Transpose the EU Directive by way of a Statutory Instrument made under s.3 of the European Communities Act 1972(as amended).

4. Analysis of Costs, Benefits and Impacts for ALL Options

Option 1. Do nothing

To do nothing would amount to a failure to transpose the EU Directive leaving the State open to enforcement proceedings and financial penalties. The Commitment to strengthen the rights of victims of crime and their families would be unfulfilled and victims would have no statutory rights, having instead to seek to rely on the direct effect of the Directive on the State.

Option 2. Introduce legislation to fulfil the commitment in the Programme for Government and to transpose the EU Directive.

As the transposition date has passed, the Directive is now directly applicable on certain Criminal Justice Agencies. These agencies have been operating the Directive on a non-statutory basis since 16 November 2015, the costs of which have been met from within existing resources.

Some additional costs are likely to arise when the provisions concerning information, interpretation and translation are fully implemented by all bodies concerned and from the proposals relating to the extension of out-of-court video recording of evidence. It is not possible to estimate these additional costs as they are

dependent on the take-up by victims. The provisions contained in the Bill which will give rise to additional costs are required by the EU Directive.

This option enables the creation, in statute, of the rights of victims in criminal proceedings, in compliance with the Directive and in accordance with the Programme Commitment. It is considered that, given the nature and significance of the rights being created, primary legislation is the most appropriate option.

Option 3. Transpose the EU Directive by way of a Statutory Instrument made under s.3 of the European Communities Act 1972(as amended).

The position as regards costs under this option is the same as that set out above under option 2. This option would enable compliance with Directive by establishing, in statute, albeit in secondary legislation, the rights of victims in criminal proceedings and would fulfil the Programme Commitment.

5. Consultation

There has been extensive consultation, on a bilateral basis, with the criminal justice agencies in drawing up the proposed Bill. The Criminal Justice Agencies have also engaged in multilateral meetings to consider the practical implementation of the Bill.

Following from a Round Table discussion with Victim Support Groups and other relevant Non-Governmental organizations prior to the publication of the General Scheme, a further round Table was convened by the Tánaiste to discuss progress on the implementation of the Directive. Key criminal justice agencies also took part in this Round Table.

The General Scheme has also been subject to pre-legislative scrutiny.

The proposed Bill now presented takes account of the discussions at both Round Tables, bilateral consultations and submissions received.

6. Enforcement and compliance

Compliance with the provisions of the Bill is a matter for the relevant agency/body in the first instance. The Bill requires that victims at first contact are offered information on the procedures for making a complaint in respect of any alleged breach of rights or obligations arising under the Bill.

As the Bill seeks to transpose the Directive, the enforcement and compliance powers of the EU Commission will apply.

7. Review

The operation of the Bill will be kept under ongoing review in consultation with all stakeholders.

The Directive also requires the EU Commission, by 16 November 2017, to submit a report to the European Parliament and Council on the steps Member States have taken to ensure compliance with the Directive.

8. Publication

The Regulatory Impact Analysis will be published on the Department's website when the proposed Bill is published.

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