

LEGAL NOTICE NO.....

THE VICTIM PROTECTION ACT, 2014

(No. 17 of 2014)

THE VICTIM PROTECTION (GENERAL) REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 34 of the Victim Protection Act, 2014, the Attorney-General makes the following Regulations —

Citation. **1.** These Regulations may be cited as the Victim Protection (General) Regulations, 2020.

Interpretation. **2.** In these Regulations, unless the context otherwise requires—

No. 17 of 2014. “Act” means the Victim Protection Act, 2014;

“Board” means the Victim Protection Board established under section 19 of the Victim Protection Act, 2014;

“competent authority” includes a person, agency, organization or institution performing investigative, prosecutorial, and other victim support services within the scope of the Act;

“investigative agency” means any person or institution, mandated by law to conduct investigation in any criminal case and include the National Police Service, the Independent Policing Oversight Authority, the Ethics and Anti-Corruption Commission or the National Environment Management Authority;

“victim’s interest” means a matter that affects the physical, psychological, economic or social circumstances of a victim or their rights under the Act; and

“victim service agency” means a person or entity that is publicly or privately funded and mandated to provide services to victims, and include prisons, probation and aftercare services, the Department of Children Services, registered children’s homes, health providers, the Witness Protection Agency, the Victim Protection Board or any other relevant non-state entity.

Access to
information by a
victim. **3.** (1) A victim may request for any information that he or she requires under the Act, to be disseminated to him or her, adequately, either orally or in writing.

(2) Where the request under sub regulation (1) is made orally, the responsible person or entity shall reduce the request into writing.

(3) Where a request under sub regulation (1) has been made to a competent authority, it shall avail the information requested in writing within fourteen days' of the request or accepting a victim's case.

(4) Where the request under sub regulation (1) relates to information that concerns the life or liberty of a person, the competent authority shall avail the information requested, within twenty-four hours of receipt of the request.

Transfer of request for information.

4. (1) A competent authority shall, not later than twenty-four hours from the date of receipt of a request under regulation 3, transfer the request or any relevant part of it, to a relevant public entity, if the information requested is held by that other public entity and consequently inform the person who made the request of the transfer.

(2) A public entity which receives a transfer under sub regulation (1) shall avail the information requested or if not, give reasons for the failure to avail the information requested, within fourteen days from the date the application was first made.

Institutions to designate a victim officer.

5. (1) A competent authority shall designate a victim officer, who shall respond to each victim in person, or over a telephone if the victim is unable or unwilling to meet him or her in person.

(2) Where a designated victim officer is unable to respond to a victim in person or over telephone, either due to the victim's inaccessibility or unwillingness to meet or speak with the designated victim officer, the officer, shall forthwith prepare and file with the Board, a Victim Report in Form 1 set out in the Schedule and annex thereto any other relevant document pertaining to that victim's case.

Database.

6. (1) A competent authority shall maintain a database or a written record of the requests made under regulation 4 received by it within forty-eight hours of the request being made, in a victim's file.

(2) Where a competent authority requires additional time to act on requests made under regulation 4, it shall notify the victim, giving reasons, for the extension of time, but such extension shall not exceed twenty-eight days from the date of receipt of the request.

Verification and registration.

7. (1) The Board shall establish a mechanism for registration and verification of persons declared as victims.

(2) A victim, a victim's representative or a victim service agency, shall, within a period of two years from the time the offence occurred, register with the Board as a victim by preparing and filing a Victim Registration Form in Form 2 set out in the Schedule.

(3) The registration form mentioned in sub regulation (2) may be prepared in either the English, Kiswahili or Braille.

(4) Where the Board discovers that a victim has been falsely registered, the Board shall forthwith deregister the victim.

Welfare services to victims.

8. The Board shall, subject to section 22 of the Act, ensure access to welfare services to victims, where necessary, and such services may include —

- (a) the provision of urgent medical treatment;
- (b) crisis intervention to the victim or the victim's family;
- (c) short or long term medical treatment;
- (d) psychosocial support; and
- (e) access to and participation in criminal justice system.

Victim's participation.

9. A competent authority shall ensure that a victim's right to participation in judicial activities is protected by allowing the victim to peruse their victim file and receive hand written or typed copies of the contents of the file.

Information on potential decision.

10. (1) A victim is entitled, either orally or in writing, to be informed within a reasonable time of any potential decision that may affect him or her.

(2) If the decision referred to in sub regulation (1) is likely to negatively affect the victim, the responsible agency shall give the victim the reasons for taking such decision and the victim may respond to such a decision, either orally or in writing.

(3) If the victim responds orally, the agency involved shall cause the response to be reduced in writing.

Investigations and charges.

11. (1) An investigative or prosecutorial agency shall ensure that investigations are expeditiously completed and a decision on whether to prefer charges is made within reasonable timelines.

(2) If an agency is unable to communicate to a victim within the time lines referred to in sub regulation (1), the agency shall immediately notify the victim, in writing with reasons, of the delay.

(3) The notice referred to in sub regulation (2) shall state the period within which the investigations and subsequent decision to charge is likely to be made.

Failure of a case to proceed.

12. When a case fails to proceed before a court, an investigative, prosecutorial or judicial agency shall, either orally or in writing, in a language that the victim understands, —

- (a) inform a victim;
- (b) specify the reasons for the failure; and
- (c) state the date the case is next scheduled to come before the court.

Summoning of
Witnesses.

13. (1) A victim may request a prosecutorial agency to apply for summons against any witness when a witness fails to appear before a court.

(2) Where a prosecutorial agency receives a request under sub regulation (1), the agency shall apply for the summons unless there are compelling reasons not to apply for the summons.

Advice on plea
bargaining.

14. (1) An investigative, prosecutorial or judicial agency shall advise the victim, either orally or in writing, of the likelihood of a plea bargain before such decision is made by the relevant agency.

(2) Without prejudice to the generality of sub regulation (1), advice on potential plea bargain, shall be as per the guidelines prescribed by the Director of Public Prosecutions.

Assessment
reports.

15. (1) A victim service agency shall designate a competent person to undertake preliminary assessment of victims.

(2) A person designated under sub regulation (1), shall prepare a report in accordance with section 6 of the Act and file the report with the relevant agency dealing with the victim's care and protection.

(3) Notwithstanding sub regulation (2), the relevant agency in charge of the victim's care and protection, shall conduct a complete assessment and the report shall outline —

- (a) the level of protection, needs, necessary support or special measures related to the protection of the victim within thirty days; and
- (b) if applicable, the needs of the victim's family, within forty-five days, after the offence is reported or after the victim is referred to the agency.

(4) Despite sub regulation (2), the filed report shall be sent, either an electronic or hard copy, to the relevant agency involved in the victim's care and protection, within seven days.

Contents of the
final assessment
report.

16. A report prepared pursuant to regulation 15 shall specify —

- (a) the needs, support, protection and special measures considered by the agency;
- (b) any crisis intervention that is necessary for the victim or the victim's family;
- (c) any short or long term medical treatment for any serious medical conditions, including pre and post-natal care for pregnant victims;

- (d) a statement as to whether the victim or the victim's family, have been appraised of their rights under the law, including the right to participation, information, protection and the right to have their views considered;
- (e) a statement as to whether the victim or the victim's family, have been notified of their right to confidentiality, privacy and any limitations of those rights, under the applicable law;
- (f) any counselling or other psycho-social support plan created for the victim or the victim's family;
- (g) the assistance to be given to the victim or the victim's family, including the supply of food, clothing, shelter, and logistical support or transportation;
- (h) the mechanism to be employed to measure the progress of the victim or the victim's family, toward restoration and healing;
- (i) the support to be provided to the victim or the victim's family during legal proceedings, including representation;
- (j) a statement as to whether there are any known threats to the safety of the victim or the victim's family and, if so, what mechanisms need to be implemented to ensure their physical, mental, and emotional wellbeing;
- (k) the economic empowerment measures that need to be implemented on the victim's behalf, including enrolling the victim in classes and life skills training courses, assisting with school fees for the victim or the victim's immediate family or dependents and assisting the victim seeking for employment opportunities;
- (l) any home studies or visits to take place to ensure the safety and security of the victim or the victim's immediate family; and
- (m) any other relevant information.

Request of
information from
Kenya Prisons
Service or
Probation and
Aftercare Service.

17. (1) A victim, a victim's representative or a victim service agency, may make a request under regulation 4 from the Kenya Prison Service or Probation and Aftercare Service.

(2) The Kenya Prison Service or Probation and Aftercare Service shall document the request made under sub regulation (1) in the offender's file and give an acknowledgement to person who made the request within seventy-two hours or the next business day that the agency is open, whichever is earlier.

No. 31 of 2016.

(3) The Kenya Prison Service or Probation and Aftercare Service shall determine whether the interest of the person who made a request referred to in sub regulation (1), outweighs the right of privacy of the offender in accordance with the Access to Information Act, 2016, before availing the information to the victim, and if —

- (a) any of the Services determines that the interest of the person who made a request referred to in sub regulation (1) outweighs right of privacy of the offender, the relevant Service shall avail the requested information to the person who made a request referred to in sub regulation (1), as soon as is reasonably practicable, but not later than twenty-one days after receipt of the written request;
- (b) any of the Services determines that the right of privacy of the offender outweighs the interest of the person who made a request referred to in sub regulation (1), the relevant Service shall notify, in writing, the person who made a request referred to in sub regulation (1), of its decision and state the reasons behind the decision not to disseminate the information, as soon as is reasonably practicable, but not later than twenty-one days after receipt of the written request; or
- (c) any of the Services determines that the person who made a request referred to in sub regulation (1), is entitled to some, but not all, of the information requested, the relevant Service, shall avail the information to which the person who made a request referred to in sub regulation (1) is entitled and shall notify him, in writing, of the reasons why he is not entitled to the rest of the requested information as soon as is reasonably practicable, but not later than twenty one days after receipt of the written request.

Information on compensation, restitution or benefit.

18. (1) A victim, a victim's representative or a victim service agency, may request, in writing, for the information on any compensation, restitution or benefit awarded by a court, either during proceedings or at the final determination of a case, by filing the request with the relevant court.

(2) Upon receipt of a request referred to in sub regulation (1), the court shall give the victim or the representative a stamped acknowledgement of the request either, immediately if the written request was delivered in person, or within a reasonable time after receipt of the request, if the written request was delivered via electronic mail or courier.

(3) The court shall provide a person who made a request under sub regulation (1), with the requested information in written form as soon as is reasonably practicable.

Complaints procedure.

19. A victim, a victim's representative or a victim service agency, may lodge a complaint against a competent authority on services rendered by any of the agencies by filing a complaint with the Commission on

Administrative Justice as required under the Commission on Administrative Act.

Limitation on information requested.

20. A request for information that is made pursuant to these Regulations shall be subject to the Access to Information Act, 2016.

Report by victim service agencies.

21. A victim service agency shall file a quarterly report with the Board or avail such information as may be required of it, in a manner provided by the Board.

SCHEDULE

VICTIM REPORT FORM

Form 1

(r. 6 (2))

SECTION 1–Victim identification		
1.Name of the Victim (Last, First, Middle)		
2. Identification Number	3. Age	4. Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Others
5. Physical address (Include County, Constituency, Location, Village, nearest road, church, mosque, police station etc)		6. Contact details (Telephone number, email address and P.O. Box)
7. Occupation	8. Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed	
9. Alternate contact person (Name and contact details, include telephone number). <i>Describe nature of the relationship to the victim, if any.</i>		

SECTION 2–Guardian/representative information		
Please fill this section if the Victim is a [] Minor [] Incapacitated [] Deceased		
1. Name of guardian/representative (Last, First, Middle)		2. Identification number
3.Contact details (Telephone Number and email)	4. Physical location (County, Constituency, Location, Village)	5.Sex [] Male [] Female [] Others
6. Nature of guardian/representative relationship to the victim [] Spouse [] Parent [] Child [] Sibling [] Grandparent [] Grandchild [] Guardian [] Other: (Please specify).....		
Declaration I hereby declare that the information provided is true and correct, to the best of my knowledge and belief. _____ Name _____ Signature _____ Date		
SECTION 3–Particulars of the designated officer		
1.Name (Last, First, Middle)		2. Identification number
3. Job title	4.Organisation/agency/institution	5. Rank/position
6. Work station (Include physical address i.e. County, town, name of building, floor number, office number)	7. Employment number:	
Official Stamp		
Signature		

SECTION 4–Please describe reason(s) for the victim’s inaccessibility or unwillingness to meet or speak with the designated officer.

SECTION 5–Measures taken or to be taken by the designated officer.

Please describe what efforts and measures the designated officer has taken or is planning to take:

A duly filled copy of this form, shall be submitted to the Victim Protection Board

VICTIM REGISTRATION FORM

Form 2

(r.7 (2))

SECTION 1 – Victim identification

1. Name of Victim (Last, First, Middle)

2. Age

3. Identification
number

4. Physical Address (County, Constituency, Location
Village, include nearest road, church, mosque, police
station etc.....)

5. Contact details (Telephone
number(s), email(s) address and P.O.
Box)

The Victim Protection (General) Regulations, 2020.

6. Marital Status (<i>tick where appropriate</i>) <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed		7. Occupation
8. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Others	9. Alternate contact person (Name and contact details (including telephone number(s) and/or email(s) address)	
10. Please indicate all dependents (if any) and the nature of their relationship to the victim.		
11. Description of the victim		
(a) Complexion of the victim:		
(b) Height of the victim:		
(c) Any distinguishing feature of the victim:		
(d) In case of deceased victims, any distinguishing item on the victim such as clothing, jewellery or other distinguishing item:		
(e) Others (<i>please describe</i>)		

SECTION 2 –Family member/dependant information Please complete this section if the victim is a <input type="checkbox"/> Minor <input type="checkbox"/> Deceased <input type="checkbox"/> Incapacitated		
1. Name of family member/dependant (Last, First, Middle)	2. Age	3. Identification number
4. Physical Address (Include County, Constituency, Location, Village, nearest road, church, mosque, police station etc....)	5. Contact Details (Telephone number(s), email(s) address and P.O. Box)	
6. Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed		7. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Others
8. Your relationship to the Victim <input type="checkbox"/> Spouse <input type="checkbox"/> Parent <input type="checkbox"/> Child <input type="checkbox"/> Sibling <input type="checkbox"/> Grandparent <input type="checkbox"/> Grandchild <input type="checkbox"/> Guardian <input type="checkbox"/> Other: Please specify _____		

9. Are you or were you a dependant on the deceased victim for either; Primary Financial Support <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please specify monthly amount _____ Child Support or Alimony <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please specify monthly amount _____	
10. Dependants: Please list names and birthdates of ALL the victim's legal dependants <i>(Please attach a copy of birth certificate and Identification Card)</i>	
Name	Date of Birth
11. Alternate contact person (Name and contact details(including telephone number(s) and/or email(s) address)	

SECTION 3 – Crime and offender(s) particulars			
1. Type of Crime (Tick where appropriate)			
<input type="checkbox"/> Murder <input type="checkbox"/> Man Slaughter <input type="checkbox"/> Robbery <input type="checkbox"/> Robbery with Violence <input type="checkbox"/> Traffic Related Offence <input type="checkbox"/> Stealing	<input type="checkbox"/> Assault <input type="checkbox"/> Battery <input type="checkbox"/> Arson <input type="checkbox"/> Sexual Related Offences <input type="checkbox"/> Fraud Financial Crimes	<input type="checkbox"/> Others (explain)	
2. Date and time of Crime 3. OB Number	4. Date Crime was reported to a Victim Officer/Victim Service Provider		5. Location crime took place
6. Brief description of the crime			

7. Describe the Injuries that resulted from the crime (<i>attach medical reports, if any</i>)	
8. Name of the Offender(s), if known?	
9. Nature of the offender(s) relationship to the victim (<i>if any</i>)?	
10. Has the offender been charged in Court? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> I Do Not Know	
11. Name of Court (<i>Include location of Court</i>)	12. Case title (<i>include case number</i>)
13. Did the court order the offender to pay the victim compensation or restitution? <input type="checkbox"/> Yes <input type="checkbox"/> No (<i>If yes, please attach the compensation or restitution order</i>)	
14. Amount ordered;	
15. Has the offender settled the compensation or restitution order?	
16. Is there a pending/concluded civil litigation against the offender? <input type="checkbox"/> Yes <input type="checkbox"/> No (<i>If yes give details about the case including case number, location of court etc.</i>)	

<p>SECTION 4 – Victim assistance/support and compensation claim</p> <p>The Victim/Family member/Dependant is required to attach to this form all supporting documents that support his or her claim.</p>
<p>Describe the victim assistance the Victim/Family Member/Dependent is requesting (<i>i.e. Psychosocial support, Information, Court Interpreter, Medical treatment, Protection</i>)</p>

Tick the type of Compensation Claim the Victim/Family Member/Dependant is requesting

- ☐ economic loss occasioned by the offence;
- ☐ loss of or damage to property
- ☐ loss of user over the property
- ☐ personal injury
- ☐ costs of any medical or psychological treatment
- ☐ costs of necessary transportation and accommodation suffered or incurred as a result of an offence

Please indicate if you are receiving or have received any support or assistance from any other victim service agency (*give details*)

List of supporting documents (*tick as appropriate*):

- ☐ Medical report(s)
- ☐ Police report(s)
- ☐ Photograph or videos
- ☐ Public report(s)
- ☐ Relevant court document
- ☐ Victim impact assessment report
- ☐ Any other relevant document

Declaration

I hereby declare that the information provided is true and correct, to the best of my knowledge and belief. I also understand that the Victim Protection Board may decline my application where information given/rendered is false.

_____ **Name**

_____ **Signature**

_____ **Date**

A person does not need an Advocate to file a claim.

The Victim Protection Board may require the Victim//Family member/Dependant to produce such information as is necessary.

Eligibility for victim assistance/support and/or compensation is governed by the laws of Kenya including the Constitution, The Victim Protection Act, 2014, and Regulations to the Victims Protection Act, 2014.

This form is not for sale

Received by:

_____ **Name**

_____ **Agency**

_____ **Date and Time**

**Official stamp of receiving
agency**

VICTIM COMPLAINT FORM

Form 3

(r. 19(1), (3))

SECTION 1 – Victim identification

1. Name of the Victim (Last, First, Middle)

2. Identification Number

3. Age

4. Contact details (Telephone number(s),
email(s) address and P.O. Box)

5. Physical address (Include County, Constituency, village, nearest
road, church police station etc.)

6. Sex:
☐ Male ☐ Female
☐ Others

7. Marital status
☐ Single ☐ Married ☐ Separated ☐ Divorced ☐
Widowed

8. Occupation

9. Alternate contact person (*Name and contact details, include telephone number(s)*)

SECTION 2 - Guardian/representative information

Please fill this section if the Victim is a ☐ Minor ☐ Incapacitated ☐ Deceased

1. Name of Guardian/Representative
(Last, First, Middle)

2. Identification
Number

3. Contact Details (Telephone
Number(s), email(s) and P.O
Box)

4. Physical location (County,
Constituency, Location, Village)

5. Sex
☐ Male ☐ Female
☐ Others

6. Nature of Guardian/Representative/Claimant relationship to the Victim

☐ Spouse ☐ Parent ☐ Child ☐ Sibling
☐ Grandparent ☐ Grandchild ☐ Guardian ☐ Other: Please specify

7. Alternate Contact Person (*Name and contact details, include telephone number and email address*)

SECTION 3 - Please state the agency against which the complaint is being made. If possible indicate the name(s) or job designation or give a physical description of complicit officers.

Section 4 – Complaint (*Give details including: who, what, when, why, how & where*)

Declaration

I hereby declare that the information provided is true and correct, to the best of my knowledge and belief.

Name
Signature
Date

Acknowledgement slip

I _____ (Name of receiving officer) _____
(Job title) _____ (Name of Agency), acknowledge receipt of a
complaint form by _____ (Name of
victim/guardian/representative/claimant) on this _____ day of _____ 2017 at
_____ .

Signature

Official stamp

Made....., 2020.

P. KIHARA KARIUKI,
Attorney-General.