

**Reprint
as at 1 March 2017**



Domestic Violence Act 1995

Public Act 1995 No 86
Date of assent 15 December 1995
Commencement see section 1

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Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

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An Act to provide greater protection from domestic violence

1 Short Title and commencement

- (1) This Act may be cited as the Domestic Violence Act 1995.
- (2) Except as provided in subsection (3) and section 30, this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.
- (3) Part 6 shall come into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions and for different purposes.

Section 1: this Act (but section 29 only to the extent that it authorises the provision of programmes to persons who are not children, and sections 108–120 only for the purposes of the public registers maintained under the public register provisions specified in this order) brought into force, on 1 July 1996, by the Domestic Violence Act Commencement Order 1996 (SR 1996/142).

Section 1: sections 108–120 brought into force only for the purposes of the public registers maintained under the public register provisions specified in this order, on 15 December 1998, by the Domestic Violence Act Commencement Order 1998 (SR 1998/343).

Part 1 Preliminary provisions

2 Interpretation

In this Act, unless the context otherwise requires,—

ancillary furniture order means an order made under section 63; and includes a temporary order made under that section

applicant means—

- (a) a person who applies for an order under this Act on his or her own behalf;
- (b) the person on whose behalf an application for an order is made pursuant to section 9 or section 11 or section 12 or section 73

application without notice means an application made without notice to the person or persons against whom the application is made

associated respondent means a person against whom a protection order applies by virtue of a direction made pursuant to section 17

child means a person who is under the age of 17 years; but does not include a person who is or has been married or in a civil union or a de facto relationship

child of the applicant's family means a child who ordinarily or periodically resides with the applicant (whether or not the child is a child of the applicant and the respondent or of either of them)

contact has the meaning given to it by section 8 of the Care of Children Act 2004

country includes any State, territory, province, or other part of a country

court means the Family Court or the District Court; and includes a Judge of any such court

day-to-day care has the meaning given to it by section 8 of the Care of Children Act 2004

domestic relationship means one of the relationships set out in section 4(1)

domestic violence has the meaning set out in section 3

dwellinghouse includes—

- (a) any flat or town house, whether or not occupied pursuant to a licence to occupy within the meaning of section 121A of the Land Transfer Act 1952;
- (b) any mobile home, caravan, or other means of shelter placed or erected upon any land and intended for occupation on that land

encourage includes to incite, counsel, or procure

family member, in relation to a person, means—

- (a) any other person who is or has been related to the person by blood or by or through marriage, a civil union, or a de facto relationship, or by adoption;
- (b) any other person who is a member of the person's whanau or other culturally recognised family group;
- (c) *[Repealed]*

firearms licence means a firearms licence issued under section 24 of the Arms Act 1983

foreign protection order,—

- (a) means an order made by a court in a prescribed foreign country, being—
 - (i) an order to protect a person from behaviour by the person against whom the order is made, where, if the behaviour occurred in New Zealand, it would be behaviour in respect of which a protection order could be made under this Act; or
 - (ii) an order that varies, discharges, or is made in substitution for, such an order; but
- (b) does not include—
 - (i) an order made *ex parte*; or
 - (ii) an order of an interim nature; or
 - (iii) an order made by a court in a prescribed foreign country that varies, discharges, or is made in substitution for, a New Zealand order that is registered or is otherwise enforceable in that country

furniture order means an order made under section 67; and includes a temporary order made under that section

lawyer has the meaning given to it by section 6 of the Lawyers and Conveyancers Act 2006

occupation order means an order made under section 53; and includes a temporary order made under that section

parenting order has the meaning given to it by section 8 of the Care of Children Act 2004

partner, in the phrase “spouse or partner” and in related contexts, means, in relation to a person,—

- (a) the person’s civil union partner; or
- (b) the person’s de facto partner; or
- (c) any other person, in any case where those persons are the biological parents of the same person

prescribed foreign country means—

- (a) Australia; or
- (b) any state or territory of Australia; or
- (c) any other country outside New Zealand that is declared, by Order in Council made under section 105, to be a prescribed foreign country

property, in relation to a person, means property that—

- (a) the person owns; or
- (b) the person does not own but—
 - (i) uses or enjoys; or
 - (ii) is available for the person’s use or enjoyment; or
 - (iii) is in the person’s care or custody; or
 - (iv) is at the person’s dwellinghouse

protected person, in relation to a protection order, means—

- (a) the person for whose protection the order is made;
- (b) any child of that person’s family;
- (c) any person for whose benefit the order applies pursuant to a direction made under section 16

protection order means an order made under section 14; and includes a temporary order made under that section

registered foreign protection order means a foreign protection order that is registered in a court pursuant to section 97

Registrar means the Registrar of a court; and includes a Deputy Registrar of a court

representative,—

- (a) in relation to a minor aged 16 or under, means a guardian *ad litem* or next friend appointed, pursuant to rules of court, to take proceedings under this Act on behalf of that minor aged 16 or under:

- (b) in relation to a person to whom section 11 applies, means a guardian *ad litem* appointed, pursuant to rules of court, to take proceedings under this Act on behalf of that person:
- (c) in relation to a person to whom section 12 applies, means a guardian *ad litem* appointed, pursuant to that section, to take proceedings under this Act on behalf of that person

respondent means the person against whom an application has been made for an order under this Act; and includes a person (other than an associated respondent) against whom an order is made under this Act

Secretary means the chief executive of the Ministry of Justice

special condition, in relation to a protection order, means any condition of the order imposed pursuant to section 27

specified person means a person for whose benefit a protection order applies pursuant to a direction made under section 16

standard condition relating to weapons means the standard condition contained in section 21

temporary order means an order of limited duration that is made on an application without notice

tenancy order means an order made under section 57; and includes a temporary order made under that section

tenant, in relation to any dwellinghouse, includes any person—

- (a) whose tenancy of that dwellinghouse has expired or been determined; and
- (b) who is for the time being deemed, pursuant to any enactment or rule of law, to continue to be the tenant of the dwellinghouse;—

and **tenancy** has a corresponding meaning

use domestic violence, in relation to any person, means to engage in behaviour that amounts to domestic violence against that person

weapon means any firearm, airgun, pistol, restricted weapon, ammunition, or explosive, as those terms are defined in the Arms Act 1983.

Compare: 1982 No 120 s 2

Section 2 **approved agency**: repealed, on 1 October 2014, by section 4(2) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 2 **child**: amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 2 **contact**: inserted, on 31 March 2014, by section 4(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 2 **court**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 2 **day-to-day care**: inserted, on 16 November 2011, by section 5 of the Domestic Violence Amendment Act 2011 (2011 No 58).

Section 2 **family member** paragraph (a): replaced, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 2 **family member** paragraph (c): repealed, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 2 **lawyer**: replaced, on 1 August 2008, by section 348 of the Lawyers and Conveyancers Act 2006 (2006 No 1).

Section 2 **parenting order**: inserted, on 16 November 2011, by section 5 of the Domestic Violence Amendment Act 2011 (2011 No 58).

Section 2 **partner**: replaced, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 2 **programme**: repealed, on 1 October 2014, by section 4(2) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 2 **programme provider**: repealed, on 1 October 2014, by section 4(2) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 2 **representative** paragraph (a): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 2 **Secretary**: amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

3 Meaning of domestic violence

- (1) In this Act, **domestic violence**, in relation to any person, means violence against that person by any other person with whom that person is, or has been, in a domestic relationship.
- (2) In this section, **violence** means—
 - (a) physical abuse:
 - (b) sexual abuse:
 - (c) psychological abuse, including, but not limited to,—
 - (i) intimidation:
 - (ii) harassment:
 - (iii) damage to property:
 - (iv) threats of physical abuse, sexual abuse, or psychological abuse:
 - (iva) financial or economic abuse (for example, denying or limiting access to financial resources, or preventing or restricting employment opportunities or access to education):
 - (v) in relation to a child, abuse of the kind set out in subsection (3).
- (3) Without limiting subsection (2)(c), a person psychologically abuses a child if that person—
 - (a) causes or allows the child to see or hear the physical, sexual, or psychological abuse of a person with whom the child has a domestic relationship; or
 - (b) puts the child, or allows the child to be put, at real risk of seeing or hearing that abuse occurring;—

but the person who suffers that abuse is not regarded, for the purposes of this subsection, as having caused or allowed the child to see or hear the abuse, or, as the case may be, as having put the child, or allowed the child to be put, at risk of seeing or hearing the abuse.

- (4) Without limiting subsection (2),—
- (a) a single act may amount to abuse for the purposes of that subsection:
 - (b) a number of acts that form part of a pattern of behaviour may amount to abuse for that purpose, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial.
- (5) Behaviour may be psychological abuse for the purposes of subsection (2)(c) which does not involve actual or threatened physical or sexual abuse.

Section 3(2)(c)(iva): inserted, on 25 September 2013, by section 5 of the Domestic Violence Amendment Act 2013 (2013 No 77).

4 Meaning of domestic relationship

- (1) For the purposes of this Act, a person is in a **domestic relationship** with another person if the person—
- (a) is a spouse or partner of the other person; or
 - (b) is a family member of the other person; or
 - (c) ordinarily shares a household with the other person; or
 - (d) has a close personal relationship with the other person.
- (2) For the purposes of subsection (1)(c), a person is not regarded as sharing a household with another person by reason only of the fact that—
- (a) the person has—
 - (i) a landlord-tenant relationship; or
 - (ii) an employer-employee relationship; or
 - (iii) an employee-employee relationship—
with that other person; and
 - (b) they occupy a common dwellinghouse (whether or not other people also occupy that dwellinghouse).
- (3) For the purposes of subsection (1)(d), a person is not regarded as having a close personal relationship with another person by reason only of the fact that the person has—
- (a) an employer-employee relationship; or
 - (b) an employee-employee relationship—
with that other person.
- (4) Without limiting the matters to which a court may have regard in determining, for the purposes of subsection (1)(d), whether a person has a close personal relationship with another person, the court must have regard to—

- (a) the nature and intensity of the relationship, and in particular—
 - (i) the amount of time the persons spend together;
 - (ii) the place or places where that time is ordinarily spent;
 - (iii) the manner in which that time is ordinarily spent;—but it is not necessary for there to be a sexual relationship between the persons:
- (b) the duration of the relationship.

Section 4(1)(a): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

5 Object

- (1) The object of this Act is to reduce and prevent violence in domestic relationships by—
 - (a) recognising that domestic violence, in all its forms, is unacceptable behaviour; and
 - (b) ensuring that, where domestic violence occurs, there is effective legal protection for its victims.
- (2) This Act aims to achieve its object by—
 - (a) empowering the court to make certain orders to protect victims of domestic violence;
 - (b) ensuring that access to the court is as speedy, inexpensive, and simple as is consistent with justice;
 - (c) providing, for persons who are victims of domestic violence, appropriate safety programmes;
 - (d) requiring respondents and associated respondents to attend non-violence programmes that have the primary objective of stopping or preventing domestic violence;
 - (e) providing more effective sanctions and enforcement in the event that a protection order is breached.
- (3) Any court which, or any person who, exercises any power conferred by or under this Act must be guided in the exercise of that power by the object specified in subsection (1).

Section 5(2)(c): amended, on 1 October 2014, by section 6(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 5(2)(d): amended, on 1 October 2014, by section 6(2) of the Domestic Violence Amendment Act 2013 (2013 No 77).

6 Act to bind the Crown

This Act binds the Crown.

Part 2

Protection orders

Applications

7 Application for protection order

- (1) A person who is or has been in a domestic relationship with another person may apply to the court for a protection order in respect of that other person.
- (2) Where the person who is eligible to apply for a protection order is under 16 years of age, the application must be made by a representative in accordance with section 9(2).
- (3) Where the person who is eligible to apply for a protection order is a person to whom section 11 applies, the application must be made by a representative in accordance with that section.
- (4) Where the person who is eligible to apply for a protection order is aged 16 years or older but is unable, in the circumstances specified in section 12(1)(b), to make the application personally, an application may be made on that person's behalf by a representative appointed in accordance with section 12.

Section 7(2): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 7(4): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

8 Contents of application

Any application for a protection order may seek—

- (a) a direction under section 16 that the order apply for the benefit of a particular person with whom the applicant has a domestic relationship:
- (b) a direction under section 17 that the order apply against a particular person, being a person whom the respondent has encouraged to engage in behaviour that, if engaged in by the respondent, would amount to domestic violence against the applicant, a child of the applicant's family, or a person referred to in paragraph (a).

9 Applications by minors

- (1) Subject to subsections (2), (2A), and (4), a minor may make an application for a protection order under this Act.
- (2) A minor under 16 years of age must make the application for a protection order by a representative pursuant to rules of court.
- (2A) Subject to sections 11 and 12, a minor aged 16 years may make an application either on his or her own behalf under subsection (4), or by a representative pursuant to rules of court.

- (3) Nothing in subsection (2) or subsection (2A) prevents a minor under the age of 17 on whose behalf an application for a protection order is made by a representative from being heard in the proceedings; and where the minor expresses views on the need for and outcome of the proceedings, the court must take account of those views to the extent that it thinks fit, having regard to the age and maturity of the minor.
- (4) Subject to sections 11 and 12, a minor—
- (a) who is aged 17 years or over; and
 - (b) who wishes to apply for a protection order—
- must make the application on his or her own behalf, without a next friend or guardian *ad litem*, and orders may be made on the application, and enforced, as if the minor were of full age.

Compare: 1980 No 94 s 158

Section 9(1): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 9(2): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 9(2A): inserted, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 9(3): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 9(4)(a): replaced, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

10 Applications against minors

- (1) No application for a protection order may be made against a minor under the age of 17 years, unless the minor is or has been married or in a civil union or de facto relationship.
- (2) The court must not make a direction under section 17 that a protection order apply against a minor under the age of 17 years, unless the minor is or has been married or in a civil union or de facto relationship.
- (3) For the avoidance of doubt, it is hereby declared that—
- (a) an application for a protection order may be made against a minor who is or has been married, or in a civil union or de facto relationship, or who has attained the age of 17 years, and orders may be made on the application, and enforced; and
 - (b) the court may make a direction under section 17 that a protection order apply against such a minor,—
- as if the minor were of full age.

Section 10(1): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 10(2): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 10(3)(a): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

11 Applications on behalf of persons lacking capacity

- (1) This section applies to any person aged 16 years or over who—
 - (a) lacks, wholly or partly, the capacity to understand the nature, and to foresee the consequences, of decisions in respect of matters relating to his or her personal care and welfare; or
 - (b) has the capacity to understand the nature, and to foresee the consequences, of decisions in respect of matters relating to his or her personal care and welfare, but wholly lacks the capacity to communicate decisions in respect of such matters.
- (2) Where a person to whom this section applies is eligible to apply for a protection order, then, in any of the circumstances referred to in any of paragraphs (a) to (c), the application must be made, on that person's behalf, by a representative in accordance with rules of court:
 - (a) in any case where no one has power, under an appointment made under the Protection of Personal and Property Rights Act 1988, to make such an application on the first-mentioned person's behalf;
 - (b) even though a person has power, under such an appointment, to make such an application, in any case where the person so appointed has refused or failed to do so;
 - (c) in any case where the first-mentioned person is a minor who is not a child.
- (3) Notwithstanding anything in the Protection of Personal and Property Rights Act 1988, an application must not be made under that Act for an order under section 10(1)(i) of that Act solely for the purpose of the commencement of proceedings under this Act.

Section 11(1): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

12 Applications on behalf of certain other persons

- (1) This section applies where—
 - (a) a person aged 16 years or over (other than a person to whom section 11 applies) is eligible to apply for a protection order; and
 - (b) that person is unable, whether by reason of physical incapacity or fear of harm or other sufficient cause, to make the application personally; and
 - (c) it is desirable that the protection order be sought on an application without notice.
- (2) Where this section applies, the court or a Registrar may, on an application without notice made by an adult person who is not under disability, appoint any adult person to be a representative of another person for the purpose of making

and prosecuting, on behalf of that other person, an application for a protection order.

- (3) Where an application for the appointment of a representative is made pursuant to subsection (2), the court or Registrar must make the appointment sought if the court or, as the case requires, the Registrar is satisfied,—
 - (a) that reasonable steps have been taken to ascertain the wishes of the person to whom the application relates in relation to the matter; and
 - (b) where the wishes of that person have been able to be ascertained,—
 - (i) that the person does not object to the appointment; or
 - (ii) that the person's objection is not freely made; and
 - (c) that it is in the best interests of the person to whom the application relates to make the appointment; and
 - (d) that the proposed appointee—
 - (i) consents in writing to the appointment; and
 - (ii) is not under disability; and
 - (e) that there is unlikely to be any conflict between the interests of the proposed appointee and the interests of the person in respect of whom the application is made.
- (4) The fact that an application for a protection order is made, on a person's behalf, by a representative appointed pursuant to this section does not prevent the person on whose behalf the application is made from being heard in the proceedings.
- (5) Without limiting subsection (3)(b), where—
 - (a) a representative appointed pursuant to this section applies, on another person's behalf, for a protection order; and
 - (b) at any time before the application is determined, the other person objects to the continuation of the proceedings,—

then, unless the court is satisfied that the objection is not freely made, no further steps may be taken in the proceedings.

Section 12(1)(a): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

13 Application without notice for protection order

- (1) A protection order may be made on an application without notice if the court is satisfied that the delay that would be caused by proceeding on notice would or might entail—
 - (a) a risk of harm; or
 - (b) undue hardship—to the applicant or a child of the applicant's family, or both.

- (2) Without limiting the matters to which the court may have regard when determining whether to grant a protection order on an application without notice, the court must have regard to—
 - (a) the perception of the applicant or a child of the applicant's family, or both, of the nature and seriousness of the respondent's behaviour; and
 - (b) the effect of that behaviour on the applicant or a child of the applicant's family, or both.
- (3) A protection order made on an application without notice is a temporary order that, subject to sections 76 to 80, and unless it is sooner discharged, becomes final by operation of law 3 months after the date on which it is made.
- (4) Where a protection order is made on an application without notice, the respondent may,—
 - (a) notify the court, in accordance with section 76, that he or she wishes to be heard on whether a final order should be substituted for the temporary protection order:
 - (b) apply pursuant to section 22 for the modification or discharge of the standard condition relating to weapons:
 - (c) apply pursuant to section 46 for a variation or discharge of any special conditions of the protection order:
 - (d) apply pursuant to section 47 for the protection order to be discharged:
 - (e) where a direction is made under section 51D, in respect of the respondent, notify the court, in accordance with section 51E, that he or she objects to the direction.
- (5) Where a protection order is made on an application without notice and, pursuant to section 17, the court directs that the order applies against another person, that associated respondent may,—
 - (a) notify the court, in accordance with section 76 (as applied by section 79), that he or she wishes to be heard on whether a final order should be substituted for the temporary protection order, in so far as the order relates to him or her:
 - (b) apply pursuant to section 22 for the modification or discharge of the standard condition relating to weapons, in so far as the standard condition relates to him or her:
 - (c) apply pursuant to section 46 for a variation or discharge of any special condition of the protection order, in so far as the special condition relates to him or her:
 - (d) apply pursuant to section 47 for the protection order to be discharged, in so far as the order relates to him or her:

- (e) where a direction is made under section 51D, in respect of the associated respondent, notify the court, in accordance with section 51E, that he or she objects to the direction.

Compare: 1982 No 120 s 5

Section 13(4)(e): replaced, on 1 October 2014, by section 7(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 13(5)(e): replaced, on 1 October 2014, by section 7(2) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Scope of protection orders

14 Power to make protection order

- (1) The court may make a protection order if it is satisfied that—
 - (a) the respondent is using, or has used, domestic violence against the applicant, or a child of the applicant’s family, or both; and
 - (b) the making of an order is necessary for the protection of the applicant, or a child of the applicant’s family, or both.
- (2) For the purposes of subsection (1)(a), a respondent who encourages another person to engage in behaviour that, if engaged in by the respondent, would amount to domestic violence against the applicant, or a child of the applicant’s family, or both, is regarded as having engaged in that behaviour personally.
- (3) Without limiting section 3(4)(b) or the matters that the court may consider in determining, for the purposes of subsection (1)(b) of this section, whether the making of an order is necessary for the protection of the applicant, or a child of the applicant’s family, or both, where some or all of the behaviour in respect of which the application is made appears to be minor or trivial when viewed in isolation, or appears unlikely to recur, the court must nevertheless consider whether the behaviour forms part of a pattern of behaviour in respect of which the applicant, or a child of the applicant’s family, or both, need protection.
- (4) For the avoidance of doubt, an order may be made under subsection (1) where the need for protection arises from the risk of domestic violence of a different type from the behaviour found to have occurred for the purposes of paragraph (a) of that subsection.
- (5) Without limiting the matters that the court may consider when determining whether to make a protection order, the court must have regard to—
 - (a) the perception of the applicant, or a child of the applicant’s family, or both, of the nature and seriousness of the behaviour in respect of which the application is made; and
 - (b) the effect of that behaviour on the applicant, or a child of the applicant’s family, or both.

15 Existence of other proceedings not to preclude granting of protection order

A court must not decline to make a protection order merely because of the existence of other proceedings (including, but not limited to, proceedings relating to the role of providing day-to-day care for, or contact with, or custody of a minor) between or relating to the parties, whether or not those proceedings also relate to any other person.

Section 15: amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

16 Protection of persons other than applicant

- (1) Where the court makes a protection order, that order applies for the benefit of any child of the applicant's family.
- (1A) A protection order continues to apply for the benefit of a child of the applicant's family until—
 - (a) the child ceases to be a child of the applicant's family; or
 - (b) the order sooner lapses or is discharged.
- (1B) If a child of the applicant's family having attained the age of 17 years continues to ordinarily or periodically reside with the applicant (an **adult child**), a protection order continues to apply for the benefit of the adult child until—
 - (a) the adult child ceases to ordinarily or periodically reside with the applicant; or
 - (b) the order sooner lapses or is discharged.
- (2) Subject to subsection (3), where the court makes a protection order, it may direct that the order also apply for the benefit of a particular person with whom the applicant has a domestic relationship.
- (3) No direction may be made pursuant to subsection (2) in respect of a person unless the court is satisfied that—
 - (a) the respondent is engaging, or has engaged, in behaviour that, if the respondent and the person were or, as the case may be, had been in a domestic relationship, would amount to domestic violence against the person; and
 - (b) the respondent's behaviour towards the person is due, in whole or in part, to the applicant's domestic relationship with the person; and
 - (c) the making of a direction under this section is necessary for the protection of the person; and
 - (d) where practicable, the person consents to the direction being made.
- (4) Subsections (2) to (5) of section 14 apply, with the necessary modifications, in respect of an application for a direction pursuant to subsection (2) of this section.

- (5) If the applicant dies at any time after a protection order is made for the protection of the applicant, then, notwithstanding the death of the applicant, the order (if it has not sooner lapsed or been discharged) continues to apply for the benefit of—
- (a) a child who at the time of the applicant's death was a child of the applicant's family, until that child attains the age of 17 years; and
 - (b) a person in respect of whom a direction has been made under subsection (2), until the order lapses or is discharged.
- (6) Subsections (1A), (1B), and (5) apply in respect of a protection order regardless of whether the protection order is made before or after the commencement of those subsections.

Section 16(1A): inserted, on 16 November 2011, by section 6(1) of the Domestic Violence Amendment Act 2011 (2011 No 58).

Section 16(1B): inserted, on 16 November 2011, by section 6(1) of the Domestic Violence Amendment Act 2011 (2011 No 58).

Section 16(5): inserted, on 16 November 2011, by section 6(2) of the Domestic Violence Amendment Act 2011 (2011 No 58).

Section 16(6): inserted, on 16 November 2011, by section 6(2) of the Domestic Violence Amendment Act 2011 (2011 No 58).

17 Protection from respondent's associates

- (1) Subject to subsection (2), where the court makes a protection order against the respondent, the court may also direct that the order apply against a person whom the respondent is encouraging, or has encouraged, to engage in behaviour against a protected person, where that behaviour, if engaged in by the respondent, would amount to domestic violence.
- (2) No direction may be made under subsection (1) in respect of a person unless the court is satisfied that—
- (a) the person is engaging, or has engaged, in behaviour against a protected person, where that behaviour, if engaged in by the respondent, would amount to domestic violence; and
 - (b) the making of a direction under this section is necessary for the protection of the protected person.
- (3) A direction may be made pursuant to subsection (1) whether the behaviour against a protected person was engaged in before or after the person became a protected person.
- (4) Subsections (2) to (5) of section 14 apply, with the necessary modifications, in respect of an application for a direction pursuant to subsection (1) of this section.

18 Mutual orders

Where the court grants an application for a protection order, it must not also make a protection order in favour of the respondent unless the respondent has

made an application for a protection order and the court has determined that application in accordance with this Act.

Standard conditions of protection orders

19 Standard conditions of protection order

- (1) It is a condition of every protection order that the respondent must not—
- (a) physically or sexually abuse the protected person; or
 - (b) threaten to physically or sexually abuse the protected person; or
 - (c) damage, or threaten to damage, property of the protected person; or
 - (d) engage, or threaten to engage, in other behaviour, including intimidation or harassment, which amounts to psychological abuse of the protected person; or
 - (e) encourage any person to engage in behaviour against a protected person, where the behaviour, if engaged in by the respondent, would be prohibited by the order.
- (2) Without limiting subsection (1), but subject to section 20, it is a condition of every protection order that at any time other than when the protected person and the respondent are, with the express consent of the protected person, living in the same dwellinghouse, the respondent must not,—
- (a) watch, loiter near, or prevent or hinder access to or from, the protected person's place of residence, business, employment, educational institution, or any other place that the protected person visits often; or
 - (b) follow the protected person about or stop or accost the protected person in any place; or
 - (c) without the protected person's express consent, enter or remain on any land or building occupied by the protected person; or
 - (d) where the protected person is present on any land or building, enter or remain on that land or building in circumstances that constitute a trespass; or
 - (e) make any other contact with the protected person (whether by telephone, electronic message, correspondence, or otherwise), except such contact—
 - (i) as is reasonably necessary in any emergency; or
 - (ii) as is permitted under any order or written agreement relating to the role of providing day-to-day care for, or contact with, or custody of any minor; or
 - (iii) as is permitted under any special condition of the protection order; or

- (iv) as is necessary for the purposes of attending a family group conference within the meaning of section 2 of the Children, Young Persons, and Their Families Act 1989; or
 - (v) as is necessary for the purposes of attending a settlement conference convened under section 46Q of the Care of Children Act 2004.
- (3) Where, pursuant to a direction made under section 17, a protection order applies against an associated respondent, the provisions of this section apply, with all necessary modifications, in respect of the associated respondent.
- (4) References in subsection (2) of this section to the express consent of a protected person include the express consent of a person (other than the respondent or, as the case may be, the associated respondent) who is specified, in a special condition of the protection order imposed pursuant to section 27(3), as a person who is entitled to consent, on the protected person's behalf, in relation to the matter, and to withdraw such consent.

Compare: 1982 No 120 ss 7, 16

Section 19(2)(e): amended, on 28 October 2009, by section 4 of the Domestic Violence Amendment Act 2009 (2009 No 43).

Section 19(2)(e)(ii): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 19(2)(e)(iv): amended, on 31 March 2014, by section 8(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 19(2)(e)(v): inserted, on 31 March 2014, by section 8(2) of the Domestic Violence Amendment Act 2013 (2013 No 77).

20 Further provisions relating to standard condition prohibiting contact

- (1) The standard condition contained in section 19(2) (in this section referred to as the non-contact condition) has effect except while the protected person and the respondent are, with the express consent of the protected person, living in the same dwellinghouse.
- (2) The non-contact condition is automatically suspended for any period during which the protected person and the respondent, with the express consent of the protected person, live in the same dwellinghouse.
- (3) Where the non-contact condition is suspended in accordance with subsection (2), and the protected person subsequently withdraws his or her consent to the respondent living in the same dwellinghouse, then (unless the protection order has been sooner discharged) the non-contact condition automatically revives.
- (4) The non-contact condition—
 - (a) may become suspended in accordance with subsection (2) on 1 or more occasions:
 - (b) may revive in accordance with subsection (3) on 1 or more occasions.

- (5) Where, pursuant to a direction made under section 17, a protection order applies against an associated respondent, the provisions of this section apply, with all necessary modifications, in respect of the associated respondent.
- (6) References in this section to the consent of a protected person, or to the withdrawal of a protected person's consent, include, as the case requires,—
 - (a) the consent of a person (other than the respondent or, as the case may be, the associated respondent) who is specified, in a special condition of the protection order imposed pursuant to section 27(3), as a person who is entitled to consent, on the protected person's behalf, in relation to the matter:
 - (b) the withdrawal of consent by such a person.

Standard condition relating to weapons

21 Standard condition relating to weapons

- (1) Subject to section 22, it is a condition of every protection order—
 - (a) that the respondent must not possess, or have under his or her control, any weapon; and
 - (b) that the respondent must not hold a firearms licence; and
 - (c) that the respondent must,—
 - (i) as soon as practicable after the service on him or her of a copy of the protection order, but in any case no later than 24 hours after such service; and
 - (ii) on demand made, at any time, by any constable,—
surrender to a constable—
 - (iii) any weapon in the respondent's possession or under the respondent's control, whether or not any such weapon is lawfully in the respondent's possession or under the respondent's control; and
 - (iv) any firearms licence held by the respondent.
- (2) Subject to section 22, on the making of a protection order,—
 - (a) where the protection order is a temporary order, any firearms licence held by the respondent is deemed to be suspended:
 - (b) where the protection order is a final order, any firearms licence held by the respondent is deemed to be revoked.
- (3) The respondent does not fail to comply with the standard condition contained in subsection (1) merely by having in his or her possession, or having under his or her control, any weapon or any firearms licence, where,—
 - (a) in the case of a weapon, the weapon was in his or her possession, or under his or her control, immediately before the making of the protection order; and

- (b) in the case of a weapon or a firearms licence, the weapon or licence is in his or her possession, or under his or her control, during the period necessary to comply with the terms of that standard condition that relate to the surrender of the weapon or licence.
- (4) Subject to section 22, where, pursuant to that section, a protection order is varied so as to include the standard condition relating to weapons,—
 - (a) the reference in subsection (1)(c)(i) to service of a copy of the protection order is to be read as a reference to service of a copy of the order by which the standard condition is so included;
 - (b) the references in subsections (2) and (3)(a) to the making of a protection order are to be read as references to the making of the order by which the standard condition is so included,—

and the provisions of this Act apply accordingly with all necessary modifications.

- (5) Subject to section 22, where, pursuant to a direction made under section 17, a protection order applies against an associated respondent, the provisions of this section apply, with all necessary modifications, in respect of the associated respondent.

Section 21(1)(c): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 21(1)(c)(ii): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

22 Court may dispense with, modify, discharge, or re-impose standard condition relating to weapons

- (1) Where,—
 - (a) the court makes a final protection order on an application on notice; or
 - (b) pursuant to section 80(1), the court—
 - (i) discharges a temporary protection order and makes a final protection order in its place; or
 - (ii) confirms a temporary protection order to the extent that it has not already become final,—

the court may, subject to section 23,—

- (c) direct that the standard condition relating to weapons is not to be a condition of the protection order; or
- (d) modify the terms of that standard condition.
- (2) Subject to section 23, the court may, if it thinks fit, on the application of the applicant or the respondent, vary a protection order,—
 - (a) where the standard condition relating to weapons is not a condition of the protection order, by directing that the standard condition relating to

- weapons (whether with or without modification) is to be a condition of the protection order:
- (b) where the standard condition relating to weapons is a condition of the protection order (whether with or without modification), by—
 - (i) discharging the standard condition relating to weapons:
 - (ii) modifying the terms of that standard condition.
- (3) Subject to section 23, where a protection order applies against an associated respondent, the court may, on the application of the applicant or the associated respondent, vary the protection order, in so far as it relates to the associated respondent,—
- (a) where the standard condition relating to weapons is not a condition of the protection order, by directing that the standard condition relating to weapons (whether with or without modification) is to be a condition of the protection order:
 - (b) where the standard condition relating to weapons is a condition of the protection order (whether with or without modification), by—
 - (i) discharging the standard condition relating to weapons:
 - (ii) modifying the terms of that standard condition.
- (4) For the avoidance of doubt (but without limiting subsection (3)), it is hereby declared that a court may—
- (a) direct that the standard condition relating to weapons—
 - (i) is not to be a condition of a protection order, in so far as the protection order relates to the respondent; but
 - (ii) is to be a condition of a protection order (whether with or without modification), in so far as the protection order relates to the associated respondent:
 - (b) discharge the standard condition relating to weapons in so far as the condition relates to the respondent, but not in so far as the condition relates to the associated respondent.
- (5) Where an application is made under subsection (2) or subsection (3) in respect of a temporary protection order, the Registrar must assign a hearing date, which must be—
- (a) as soon as practicable; and
 - (b) unless there are special circumstances, in no case later than 42 days after the application is made.
- (6) Sections 9, 11, and 12, so far as applicable and with the necessary modifications, apply in relation to—
- (a) any application under this section, on behalf of a protected person, for—

- (i) a direction that the standard condition relating to weapons be a condition of a protection order; or
 - (ii) the modification or discharge of the standard condition relating to weapons; and
- (b) the defending, on behalf of a protected person, of any such application made by the respondent or the associated respondent—
as they apply in relation to the making of an application for a protection order.

23 Further provisions relating to powers conferred by section 22

- (1) A court must not exercise the power conferred by section 22—
- (a) to direct that the standard condition relating to weapons is not to be a condition of a protection order; or
 - (b) to discharge the standard condition relating to weapons—
unless the court is satisfied that the standard condition relating to weapons is not necessary for the protection of the persons for whose benefit the protection order applies from further domestic violence.
- (2) Subject to subsection (3), a court may only exercise the power conferred by section 22 to modify the terms of the standard condition relating to weapons in the following ways:
- (a) to permit a person to whom the standard condition applies to have in his or her possession, or have under his or her control, a specified weapon, or weapons of a specified class, either unconditionally or subject to such conditions as the court thinks fit:
 - (b) where necessary, to permit such a person to hold a firearms licence:
 - (c) in any case where the terms of the standard condition have already been modified so as to make them less onerous than the terms set out in section 21, by reinstating (whether in whole or in part) those terms as so set out.
- (3) A court may exercise the power conferred by section 22 to modify the terms of the standard condition relating to weapons in any of the ways set out in paragraph (a) or paragraph (b) of subsection (2) of this section only if the court is satisfied—
- (a) that the standard condition relating to weapons, in the terms set out in section 21, is not necessary for the protection of the persons for whose benefit the protection order applies from further domestic violence; and
 - (b) that the standard condition relating to weapons, in the terms proposed, will sufficiently protect those persons from further domestic violence.
- (4) In determining whether or not to exercise any of the powers conferred by section 22,—

- (a) the need to protect those persons for whose benefit the protection order applies from further domestic violence is the paramount consideration; and
- (b) without limiting paragraph (a), the court must, so far as is practicable, have regard to the following matters:
 - (i) whether the persons for whose benefit the protection order applies consent to the exercise of the power in the manner proposed:
 - (ii) with respect to any domestic violence that is relevant in relation to the exercise of the power, the nature and seriousness of that domestic violence, and how recently that domestic violence occurred:
 - (iii) the effect that the terms of the standard condition relating to weapons is having, or will have, on the persons to whom the condition applies, or will apply, if the powers are not exercised in the manner proposed:
 - (iv) such other matters as the court considers relevant.
- (5) Where the terms of the standard condition relating to weapons are modified pursuant to section 22, the terms of that standard condition (as set out in section 21) apply subject to the terms of that modification, and the provisions of this Act apply accordingly.
- (6) The fact that—
 - (a) the standard condition relating to weapons has been discharged pursuant to section 22; or
 - (b) the terms of the standard condition relating to weapons have been modified pursuant to that section—
 does not oblige any Police employee to issue a firearms licence to any person to whom that standard condition applied or, as the case requires, applies.

Section 23(6): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

24 Further provisions relating to effect of standard condition relating to weapons

- (1) Where—
 - (a) a temporary protection order becomes a final order in accordance with section 77(1); and
 - (b) at the time the order becomes final, any firearms licence held by the respondent or an associated respondent is suspended pursuant to section 21(2),—
 that firearms licence is deemed to be revoked.
- (2) Where a person's firearms licence is suspended pursuant to section 21(2),—

- (a) that person is deemed, for all purposes, not to be the holder of a firearms licence during the period of the suspension; but
 - (b) immediately on that suspension ceasing to be in force, then, except where the firearms licence is revoked (whether pursuant to subsection (1) or otherwise) or ceases to be in force, that firearms licence revives.
- (3) Where, pursuant to subsection (1) or section 21 of this Act, a firearms licence is revoked or deemed to be revoked, that revocation has effect as if the firearms licence had been revoked pursuant to section 27 of the Arms Act 1983, except that nothing in this subsection—
- (a) limits the terms of the standard condition relating to weapons; or
 - (b) confers on any person any right to appeal to any court, other than under section 91, against the revocation of that firearms licence.

25 Retention, return, and disposal of surrendered weapons and licences

- (1) Where a person to whom the standard condition relating to weapons applies surrenders any weapon to a constable pursuant to section 21, the following provisions apply:
- (a) in any case where the person's firearms licence is suspended by virtue of section 21(2),—
 - (i) subject to subparagraph (ii), to paragraphs (b) and (c), and to section 22, the Police must detain the weapon for the period of the suspension, and, except where the weapon may lawfully be retained pursuant to any other enactment, must return the weapon to the person as soon as practicable after that suspension ceases to be in force:
 - (ii) subject to paragraph (c), the person whose firearms licence is suspended may, at any time during the period of the suspension, if the weapon is owned by him or her, sell or otherwise dispose of the weapon to a person approved for the purpose by a constable, and in any such case the weapon must be delivered to that other person:
 - (b) in any case where the person's firearms licence is revoked by virtue of section 21(2) or section 24(1) of this Act, then, subject to paragraph (c) of this subsection, subsections (2) to (4) of section 28 of the Arms Act 1983 apply, with all necessary modifications, as if the weapon were a firearm that had been delivered to a constable pursuant to section 28 of the Arms Act 1983:
 - (c) if, at the time of the surrender of the weapon, the person was not lawfully entitled to possess the weapon (disregarding, for that purpose, the effect of the standard condition relating to weapons), the weapon is deemed to have been seized and detained pursuant to the Arms Act

1983, and the provisions of sections 65 and 70 of that Act apply accordingly:

- (d) in any other case,—
 - (i) subject to subparagraph (ii), to paragraph (c), and to section 22, the Police must detain the weapon for the period during which the standard condition relating to weapons remains in force, and, except where the weapon may lawfully be retained pursuant to any other enactment, must return the weapon to the person as soon as practicable after the standard condition relating to weapons ceases to be in force:
 - (ii) subject to paragraph (c), the person may, at any time during the period during which the standard condition relating to weapons remains in force, if the weapon is owned by him or her, sell or otherwise dispose of the weapon to a person approved for the purpose by a constable, and in any such case the weapon must be delivered to that other person.
- (2) Where a person's firearms licence is suspended pursuant to subsection (2) of section 21, and that person surrenders that licence to a constable pursuant to that section, the Police must detain that licence for the period of the suspension, and, except where the licence is revoked or ceases to be in force, or may lawfully be retained pursuant to any other enactment, must return the licence to the person as soon as practicable after that suspension ceases to be in force.

Section 25(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 25(1)(a)(ii): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 25(1)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 25(1)(d)(ii): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 25(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

26 Arms Act 1983 not affected

- (1) Nothing in any of sections 21 to 25 of this Act limits or affects any provision of the Arms Act 1983 that authorises or permits—
 - (a) the revocation of any firearms licence; or
 - (b) the seizure of any weapon.
- (2) Where—
 - (a) a person's firearms licence is suspended pursuant to section 21(2); and
 - (b) during the period of that suspension, that firearms licence is revoked pursuant to the Arms Act 1983,—

that suspension ceases to be in force.

Special conditions of protection orders

27 Court may impose special conditions

- (1) Where the court makes a protection order, it may impose any conditions that are reasonably necessary, in the opinion of the court, to protect the protected person from further domestic violence by the respondent, or the associated respondent, or both.
- (2) Without limiting subsection (1), a condition imposed under subsection (1) may relate to—
 - (a) the manner in which arrangements for access to a child are to be implemented;
 - (b) the manner and circumstances in which the respondent or the associated respondent, or both, may make contact with the protected person.
- (3) Without limiting subsection (1), the court may impose, as a condition of a protection order, a condition specifying a person who, for the purposes of sections 19(2), 20, and 28, is entitled—
 - (a) to consent on behalf of the protected person; and
 - (b) to withdraw such consent.
- (4) Where the court imposes a condition under this section, it may specify the period during which the condition is to have effect.
- (5) In the absence of a direction under subsection (4), and subject to section 28, a special condition has effect for the duration of the protection order, unless sooner varied or discharged.

28 Further provisions relating to certain special conditions

- (1) This section applies to any special condition of a protection order, where the special condition is inconsistent with the protected person and the respondent living in the same dwellinghouse.
- (2) Subject to sections 27(4) and 46, a special condition to which this section applies has effect except while the protected person and the respondent are, with the express consent of the protected person, living in the same dwellinghouse.
- (3) A special condition to which this section applies is automatically suspended for any period during which the protected person and the respondent, with the express consent of the protected person, live in the same dwellinghouse.
- (4) Where a special condition to which this section applies is suspended in accordance with subsection (3), and the protected person subsequently withdraws his or her consent to the respondent living in the same dwellinghouse, then (unless the protection order has been sooner discharged, and subject to sections 27(4) and 46) the special condition automatically revives.

- (5) A special condition to which this section applies—
- (a) may become suspended in accordance with subsection (3) on 1 or more occasions:
 - (b) may revive in accordance with subsection (4) on 1 or more occasions.
- (6) Where, pursuant to a direction made under section 17, a protection order applies against an associated respondent, the provisions of this section apply, with all necessary modifications, in respect of the associated respondent.
- (7) References in this section to the consent of a protected person, or to the withdrawal of a protected person's consent, include, as the case requires,—
- (a) the consent of a person (other than the respondent or, as the case may be, the associated respondent) who is specified, in a special condition of the protection order imposed pursuant to section 27(3), as a person who is entitled to consent, on the protected person's behalf, in relation to the matter:
 - (b) the withdrawal of consent by such a person.

Interim care and contact orders

Heading: inserted, on 16 November 2011, by section 7 of the Domestic Violence Amendment Act 2011 (2011 No 58).

28B Interim orders in respect of child of applicant's family

- (1) This section applies when—
- (a) an application has been made to the Family Court for a protection order; and
 - (b) there is a child of the applicant's family.
- (2) The Family Court may make 1 or more of the following orders if it considers the order or orders are necessary to protect the welfare and best interests of the child concerned:
- (a) an interim order or orders about the role of providing day-to-day care for, or about contact with, a child of the applicant's family:
 - (b) any interim order or orders varying any order of the kind referred to in paragraph (a).
- (3) An order must not be made under subsection (2) in respect of a child of the applicant's family of or over the age of 16 years unless there are special circumstances.

Section 28B: inserted, on 16 November 2011, by section 7 of the Domestic Violence Amendment Act 2011 (2011 No 58).

28C Duration of interim order

An interim order made under section 28B ceases to have effect (if it has not ceased to have effect sooner) on the earlier of—

- (a) the date that is 1 year after the day on which the order is made; or
- (b) the date that the child attains the age of 16 years, unless the Family Court in special circumstances orders otherwise on or after making the order.

Section 28C: inserted, on 16 November 2011, by section 7 of the Domestic Violence Amendment Act 2011 (2011 No 58).

28D Application for parenting order under Care of Children Act 2004 must be made

- (1) Where 1 or more interim orders have been made under section 28B, a party in whose favour an order has been made must as soon as possible (if that party has not already done so) make an application under the Care of Children Act 2004 for a parenting order.
- (2) For the purposes of section 16(1) of the Legal Services Act 2000, proceedings that relate to, or arise out of, an application for a protection order under Part 2 of the Domestic Violence Act 1995 include proceedings commenced pursuant to an application referred to in subsection (1).

Section 28D: inserted, on 16 November 2011, by section 7 of the Domestic Violence Amendment Act 2011 (2011 No 58).

Programmes

[Repealed]

Heading: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

29 Programmes for protected persons

[Repealed]

Section 29: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

30 Commencement of section 29

[Repealed]

Section 30: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

31 Joint programme sessions

[Repealed]

Section 31: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

32 Power to direct respondent or associated respondent to attend programme

[Repealed]

Section 32: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

33 Terms of direction that respondent or associated respondent attend programme

[Repealed]

Section 33: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

34 Registrar to notify programme provider to whom respondent or associated respondent is referred

[Repealed]

Section 34: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

35 Programme provider to arrange meeting with respondent or associated respondent

[Repealed]

Section 35: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

36 Direction to attend programme made on application without notice

[Repealed]

Section 36: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

37 Court may confirm or discharge direction

[Repealed]

Section 37: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

38 Respondent or associated respondent excused from attending

[Repealed]

Section 38: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

39 Notice of absence from programme

[Repealed]

Section 39: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

40 Notice of conclusion of programme

[Repealed]

Section 40: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

41 Programme provider may request variation of direction

[Repealed]

Section 41: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

41A Powers of Registrar on receipt of notice under section 39 or 41

[Repealed]

Section 41A: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

42 Judge may call respondent or associated respondent before court

[Repealed]

Section 42: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

42A Respondent or associated respondent called before court

[Repealed]

Section 42A: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

43 Confidentiality of information disclosed to programme provider

[Repealed]

Section 43: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

44 Programme providers' fees and expenses

[Repealed]

Section 44: repealed, on 1 October 2014, by section 9 of the Domestic Violence Amendment Act 2013 (2013 No 77).

Duration, variation, and discharge of protection orders

45 Duration of protection order

- (1) A temporary protection order continues in force until—
 - (a) the order becomes a final order in accordance with section 77(1); or
 - (b) the order lapses pursuant to section 77(4); or
 - (c) the order is discharged pursuant to section 80.
- (2) A final protection order continues in force until it is discharged pursuant to section 47.

46 Power to vary protection order

- (1) The court may, if it thinks fit, on the application of the applicant or the respondent, vary a protection order—
 - (a) by varying or discharging any special condition of the protection order:

- (b) by imposing any special condition:
 - (c) by varying or discharging a direction made pursuant to section 51D:
 - (d) by making a direction pursuant to section 51D.
- (2) Where a protection order applies against an associated respondent, the court may, if it thinks fit, on the application of the applicant or the associated respondent, vary the protection order, in so far as it relates to the associated respondent,—
- (a) by varying or discharging any special condition of the protection order:
 - (b) by imposing any special condition:
 - (c) by varying or discharging a direction made pursuant to section 51D:
 - (d) by making a direction pursuant to section 51D.
- (3) The court may, if it thinks fit, on the application of the applicant, vary a protection order—
- (a) by directing, pursuant to section 16(2), that the protection order also apply for the benefit of a particular person:
 - (b) by directing, pursuant to section 17, that the protection order apply against a particular person.
- (4) The court may, if it thinks fit, on the application of a specified person (other than a child), vary a protection order—
- (a) by varying or discharging any special condition of the protection order, in so far as the special condition relates to the specified person:
 - (b) by imposing a special condition that relates to that specified person.
- (5) Where an application is made under this section in respect of a temporary protection order, the Registrar must assign a hearing date, which must be—
- (a) as soon as practicable; and
 - (b) unless there are special circumstances, in no case later than 42 days after the application is made.

Section 46(1)(c): amended, on 1 October 2014, by section 10(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 46(1)(d): amended, on 1 October 2014, by section 10(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 46(2)(c): amended, on 1 October 2014, by section 10(2) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 46(2)(d): amended, on 1 October 2014, by section 10(2) of the Domestic Violence Amendment Act 2013 (2013 No 77).

47 Power to discharge protection order

- (1) The court may, if it thinks fit, on the application of the applicant or the respondent, discharge a protection order.

- (2) On an application under subsection (1), the court may discharge a protection order even though the order—
 - (a) applies for the benefit of a specified person pursuant to a direction made under section 16(2); or
 - (b) applies against an associated respondent pursuant to a direction made under section 17.
- (3) Where a protection order to which subsection (2) relates is discharged, the order ceases to have effect for the benefit of the specified person or, as the case requires, against the associated respondent, as if that person had applied for and been granted a discharge of the order pursuant to subsection (4).
- (4) Where a protection order—
 - (a) applies for the benefit of a specified person pursuant to a direction made under section 16(2); or
 - (b) applies against an associated respondent pursuant to a direction made under section 17,—

the specified person or, as the case may be, the associated respondent may apply for the order to be discharged in so far as it relates to him or her.
- (5) On an application under subsection (4), the court may, if it thinks fit, discharge a protection order in so far as it relates to that specified person or, as the case may be, that associated respondent.
- (6) Where an application is made under this section in respect of a temporary protection order, the Registrar must assign a hearing date, which must be—
 - (a) as soon as practicable; and
 - (b) unless there are special circumstances, in no case later than 42 days after the application is made.

Compare: 1982 No 120 s 8

48 Variation or discharge on behalf of protected person

Sections 9, 11, and 12, so far as applicable and with the necessary modifications, apply in relation to—

- (a) any application, on behalf of a protected person, for the variation or discharge of a protection order under this Act; and
- (b) the defending, on behalf of a protected person, of any such application made by the respondent or the associated respondent—

as they apply in relation to the making of an application for a protection order.

Enforcement of protection orders

49 Offence to breach protection order

- (1) Every person commits an offence who breaches a protection order by—

- (a) doing any act in contravention of the protection order; or
 - (b) failing to comply with any condition of the protection order.
- (2) It is a defence in a prosecution for an offence under subsection (1) if the defendant proves that he or she had a reasonable excuse for breaching the protection order.
- (3) Every person who is convicted of an offence against this section is liable to imprisonment for a term not exceeding 3 years.
- (4) To avoid doubt, a failure to comply with a direction made under section 51D is not a breach of a protection order under subsection (1)(b).

Section 49: replaced, on 28 October 2009, by section 7(1) of the Domestic Violence Amendment Act 2009 (2009 No 43).

Section 49(3): amended, on 25 September 2013, by section 11(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 49(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 49(4): amended, on 1 October 2014, by section 11(2) of the Domestic Violence Amendment Act 2013 (2013 No 77).

49A Offence to fail to comply with direction

[Repealed]

Section 49A: repealed, on 1 October 2014, by section 12 of the Domestic Violence Amendment Act 2013 (2013 No 77).

50 Power to arrest for breach of protection order

Where a protection order is in force, any constable may arrest, without warrant, any person who the constable has good cause to suspect has—

- (a) contravened the protection order; or
- (b) failed to comply with any condition of the protection order.

Section 50: replaced, on 28 October 2009, by section 8 of the Domestic Violence Amendment Act 2009 (2009 No 43).

51 Release of person arrested

[Repealed]

Section 51: repealed, on 1 January 2001, by section 74(2) of the Bail Act 2000 (2000 No 38).

Part 2A Programmes

Part 2A: inserted, on 25 September 2013, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51A Interpretation

In this Part, unless the context otherwise requires,—

approval means an approval of a service provider under section 51B that has not been suspended or cancelled

assessment, in relation to a respondent, means an assessment of the respondent undertaken by a service provider to determine—

- (a) the extent to which the respondent poses a safety risk to any person or the public; and
- (b) what, if any, non-violence programme is the most appropriate for the respondent to attend

non-violence programme means a programme that—

- (a) is provided by a service provider; and
- (b) is provided to a respondent; and
- (c) has the primary objective of stopping or preventing domestic violence on the part of the respondent

programmes means—

- (a) safety programmes; and
- (b) non-violence programmes

respondent means the person against whom an application has been made for an order under this Act, and includes an associated respondent

safety programme means a programme that—

- (a) is provided by a service provider; and
- (b) is provided to a protected person; and
- (c) has the primary objective of promoting (whether by education, information, support, or otherwise) the protection of the protected person from domestic violence

service provider means a person or an organisation that has been granted an approval to do either or both of the following:

- (a) undertake assessments;
- (b) provide programmes.

Section 51A: inserted, on 25 September 2013, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

Approval of service providers

Heading: inserted, on 25 September 2013, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51B Service providers

- (1) The Secretary may decide to grant, suspend, or cancel an approval of a person or an organisation as a service provider.

- (2) A person or an organisation seeking an approval under subsection (1) must follow the process (if any) prescribed by regulations made under section 127(a)(i).
- (3) In deciding whether to grant, suspend, or cancel an approval under subsection (1), the Secretary must apply the criteria (if any) prescribed by regulations made under section 127(a)(ii).
- (4) The Secretary must publish on an Internet site maintained by or on behalf of the Ministry of Justice a list of service providers.

Section 51B: inserted, on 25 September 2013, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

Safety programmes

Heading: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51C Safety programmes for protected persons

- (1) Where the court makes a protection order,—
 - (a) the applicant, or the applicant's representative, may request the Registrar to authorise the provision of a safety programme to all or any of the following persons:
 - (i) the applicant;
 - (ii) a child of the applicant's family;
 - (iii) a specified person; and
 - (b) a specified person (other than a child) may request the Registrar to authorise the provision of a safety programme to that specified person if no request has been made under paragraph (a)(iii).
- (2) Where, at the time the protection order is made, the applicant has not made a request pursuant to this section, and the applicant is not legally represented, the Judge or the Registrar must cause the applicant to be informed of the applicant's right to make such a request.
- (3) A request may be made under subsection (1) at any time while the protection order remains in force.
- (4) Where a request is made to a Registrar under subsection (1), the Registrar must arrange for the matter to be referred to a service provider without delay.
- (5) The number of safety programme sessions to be provided to a protected person by a service provider to whom a referral has been made under subsection (4) is to be determined by the Registrar following discussion with the service provider.
- (6) Every lawyer acting for an applicant for a protection order must—
 - (a) ensure that the applicant is aware of the applicant's right to make a request under this section; and

- (b) where the applicant wishes to exercise that right, take such further steps as the lawyer considers necessary to enable the applicant to do so.

Section 51C: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

Non-violence programmes

Heading: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51D Direction to attend assessment and non-violence programme

- (1) On making a protection order, the court must direct the respondent to—
 - (a) undertake an assessment; and
 - (b) attend a non-violence programme.
- (2) The court need not make a direction under subsection (1) if—
 - (a) there is no service provider available; or
 - (b) the court considers that there is any other good reason for not making a direction.

Section 51D: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51E Direction to attend non-violence programme made on application without notice

- (1) This section applies where the court makes a direction under section 51D on an application made without notice.
- (2) Where this section applies,—
 - (a) the direction does not take effect until 10 working days after a copy of the direction is served on the respondent; and
 - (b) the respondent may, within those 10 working days, notify the court that he or she objects to the direction.
- (3) Where the respondent notifies the court, in accordance with subsection (2)(b), that he or she objects to the direction,—
 - (a) the Registrar must, if the respondent wishes to be heard, assign a hearing date, which must be—
 - (i) as soon as practicable; and
 - (ii) unless there are special circumstances, in no case later than 42 days after receipt of the notice of objection; and
 - (b) the direction is suspended from the date on which the court receives the notice of objection until the court, after considering the respondent's objection, confirms (whether with or without variation) or discharges the direction.

- (4) Nothing in this section or section 51F gives the court power to review any order or decision other than the direction to which the notice relates, but nothing in this section limits section 76 or 79.

Section 51E: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51F Court may confirm or discharge direction after considering objection made under section 51E

- (1) After considering an objection, made under section 51E, to a direction, the court may—
- (a) confirm the direction; or
 - (b) vary the direction; or
 - (c) discharge the direction.
- (2) Where, pursuant to subsection (1), the court confirms or varies a direction, then, if the respondent is before the court, the Judge must warn the respondent that non-compliance with the direction is an offence punishable by imprisonment.
- (3) Failure to give the warning required by subsection (2) does not affect the validity of the direction confirmed or varied.

Section 51F: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51G Referral of respondent to service provider

- (1) After the court has made a direction under section 51D, the Registrar must, without delay,—
- (a) arrange for the respondent to be referred to a service provider; and
 - (b) notify the service provider of the direction made under section 51D.
- (2) This section is subject to section 51E.

Section 51G: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51H Service provider to meet with respondent

As soon as possible after receiving a notification under section 51G, the service provider must arrange to meet with the respondent to—

- (a) undertake an assessment of the respondent; and
- (b) determine whether there is an appropriate non-violence programme for the respondent to attend.

Section 51H: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51I Service provider to notify Registrar about safety concerns

- (1) This section applies if a service provider has concerns about the safety of a protected person—
 - (a) after undertaking an assessment of the respondent; or
 - (b) during the provision of a non-violence programme to a respondent.
- (2) The service provider must, without delay, notify the Registrar of those concerns.
- (3) On receiving a notification under subsection (2), the Registrar must—
 - (a) forward a copy of the notification to a Judge; and
 - (b) arrange for the protected person to be advised of the service provider's concerns.
- (4) On receiving a copy of a notification under subsection (3)(a), the Judge may make such orders or directions as the Judge thinks fit in the circumstances.

Section 51I: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51J Referral to different service provider

- (1) This section applies if a service provider, after undertaking an assessment of the respondent,—
 - (a) determines that there is an appropriate non-violence programme for the respondent to attend; but
 - (b) is not able to provide that programme to the respondent.
- (2) The service provider must—
 - (a) notify the Registrar; and
 - (b) send to the Registrar the following information:
 - (i) the result of the assessment of the respondent undertaken by the service provider; and
 - (ii) any other information relating to the respondent that is held by the service provider.
- (3) After receiving a notification under subsection (2)(a) and the information referred to in subsection (2)(b), the Registrar must make a new referral under section 51G to a service provider that is able to provide an appropriate programme to the respondent.

Section 51J: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51K Judge may discharge direction to attend non-violence programme in certain cases

- (1) This section applies if a service provider, after undertaking an assessment of a respondent, determines that—

- (a) there is an appropriate non-violence programme for the respondent to attend but that—
 - (i) the respondent's attendance at the programme should be delayed to enable other matters to first be addressed; or
 - (ii) it would not be appropriate for the respondent to attend the programme; or
 - (b) there is not an appropriate non-violence programme for the respondent to attend.
- (2) The service provider must notify the Registrar, and the Registrar must bring the matter to the attention of a Judge.
- (3) When a matter is brought to the attention of a Judge under subsection (2), the Judge must—
- (a) discharge the direction made under section 51D(1)(b); and
 - (b) make such other orders or directions as the Judge thinks fit in the circumstances.

Section 51K: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51L Service provider and respondent to settle terms of attendance at non-violence programme

- (1) Before providing a non-violence programme to a respondent, the service provider must settle in writing with the respondent the terms of attendance, which must include—
- (a) the number of programme sessions that the respondent must attend; and
 - (b) the place, date, and time of the first programme session, and all subsequent sessions, that the respondent must attend.
- (2) The service provider must provide to the Registrar a copy of the terms of attendance that the service provider has settled with the respondent.
- (3) If a service provider is not able to settle with a respondent the terms of attendance, the service provider must notify the Registrar.
- (4) On receipt of a notice under subsection (3), the Registrar must—
- (a) settle the terms of attendance with the respondent and the service provider; or
 - (b) bring the matter to the attention of a Judge.
- (5) When a matter is brought to the attention of a Judge under subsection (4)(b), the Judge may make such further directions as the Judge thinks fit in the circumstances.

Section 51L: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51M Notice to be given to court if continued provision of non-violence programme inappropriate

- (1) Subsection (2) applies if at any time during the provision of a non-violence programme the service provider considers that—
 - (a) it is no longer appropriate or practicable for the service provider to provide the programme to the respondent; or
 - (b) the respondent is not participating fully in the programme, and that this is significantly affecting the respondent's ability to benefit fully from the programme.
- (2) The service provider must—
 - (a) notify the Registrar; and
 - (b) send to the Registrar all information relating to the respondent that is held by the service provider.
- (3) After receiving a notification under subsection (2)(a) and the information referred to in subsection (2)(b), the Registrar must—
 - (a) make a new referral under section 51G to a different service provider; or
 - (b) bring the matter to the attention of a Judge.
- (4) When a matter is brought to the attention of a Judge under subsection (3)(b), the Judge may make such other orders or directions as the Judge thinks fit in the circumstances.

Section 51M: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

Non-compliance with direction to attend assessment and non-violence programme

Heading: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51N Notice of non-compliance with direction

- (1) This section applies if the court makes a direction under section 51D and the respondent fails to do either or both of the following:
 - (a) undertake an assessment with the service provider to whom notice of the direction has been given under section 51G;
 - (b) attend a non-violence programme in accordance with terms of attendance settled under section 51L.
- (2) The service provider must give written notice to the Registrar of the respondent's failure.
- (3) Notice under subsection (2) must be given within 7 days of the respondent's failure.

Section 51N: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51O Powers of Registrar on receipt of notice under section 51N

- (1) On receiving a notice under section 51N, the Registrar must, without delay,—
 - (a) exercise the powers under section 82, as if he or she were the court referred to in that section, to call the respondent before the court; or
 - (b) bring the matter to the attention of a Judge so that the Judge may consider whether to exercise the power conferred by section 51P in relation to the respondent.
- (2) If the Registrar exercises the powers under section 82 in the manner allowed by subsection (1)(a), then, subject to any regulations made under this Act, section 82 applies so far as applicable and with the necessary modifications as if the respondent were a witness in proceedings.

Section 51O: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51P Judge may call respondent before court

- (1) If, under section 51O(1)(b), a Registrar brings a matter to the attention of a Judge, subsection (2) applies.
- (2) A Judge may exercise the powers under section 82 to call the respondent before the court.
- (3) If a Judge exercises the powers under section 82, that section applies, so far as applicable and with all necessary modifications, as if the respondent were a witness in proceedings.

Section 51P: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51Q Respondent called before court

- (1) If a respondent appears before the court under section 51O(1)(a) or 51P(2), the court may, after hearing from the respondent, confirm, vary, or discharge the direction or change the terms of attendance.
- (2) If the court confirms or varies a direction under subsection (1), the Judge must warn the respondent that non-compliance with the direction is an offence punishable by imprisonment.
- (3) Failure to give the warning required by subsection (2) does not affect the validity of the direction confirmed or varied.

Section 51Q: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

Completion of non-violence programme

Heading: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51R Notice of completion and outcome of non-violence programme

- (1) When a respondent has completed a non-violence programme, the service provider must, without delay, provide to the Registrar a report that—
 - (a) states whether, in the opinion of the service provider, the respondent has achieved the objectives of the non-violence programme; and
 - (b) advises of any concerns that the service provider has about the safety of any protected person.
- (2) On receiving a report under subsection (1), the Registrar must—
 - (a) forward a copy of that report to a Judge; and
 - (b) arrange for the protected person to be notified—
 - (i) that the respondent has completed a non-violence programme; and
 - (ii) that a report has been provided by the service provider of that non-violence programme under subsection (1); and
 - (iii) of any concerns that the service provider has about the safety of the protected person advised in that report.
- (3) On receiving a copy of a report under subsection (2)(a), the Judge may make such orders or directions as the Judge thinks fit in the circumstances.

Section 51R: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

Confidentiality of information

Heading: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51S Confidentiality of information disclosed to service provider

- (1) In this section, unless the context otherwise requires, **information** includes any statement or admission.
- (2) Information received by a service provider in the course of providing a programme may not—
 - (a) be disclosed to any other person; or
 - (b) be admitted as evidence in any court or before any person acting judicially.
- (3) However, nothing in subsection (2) prohibits the disclosure of information received by a service provider in the course of providing a programme if that disclosure is made—
 - (a) for the purpose of giving a notification to a Registrar under—
 - (i) section 51I(2):
 - (ii) section 51J(2):
 - (iii) section 51K(2):

- (iv) section 51L(3):
- (v) section 51M(2):
- (b) for the purpose of a Registrar making a referral under—
 - (i) section 51J(3):
 - (ii) section 51M(3)(a):
- (c) for the purpose of any proceedings under—
 - (i) section 51O:
 - (ii) section 51P:
- (d) for the purposes of investigating or prosecuting—
 - (i) an offence against section 51T; or
 - (ii) an offence committed or alleged to have been committed during the provision of a programme:
- (e) in circumstances in which the service provider believes, on reasonable grounds, that the disclosure is necessary to prevent or lessen a serious threat to public safety or the safety of any person:
- (f) with the authority of the person who disclosed the information to the service provider.

Section 51S: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

Enforcement of directions

Heading: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51T Offence to fail to comply with direction

A respondent who fails, without reasonable excuse, to comply with a direction made under section 51D commits an offence and is liable on conviction to—

- (a) a fine not exceeding \$5,000; or
- (b) a term of imprisonment not exceeding 6 months.

Section 51T: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

Part 3

Orders relating to property

Occupation orders

52 Application for occupation order

Any person aged 16 years or over who is or has been in a domestic relationship with another person may apply for an order granting the applicant the right to live in a dwellinghouse which, at the time the order is made, either party to the

proceedings owns or in which either has a legal interest (including, but not limited to, a tenancy).

Compare: 1982 No 120 s 19

Section 52: amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

53 Power to make occupation order

- (1) Subject to section 74 of this Act and to subsection (2), on hearing an application for an occupation order, the court may, notwithstanding anything in the Property (Relationships) Act 1976, make an order granting to the applicant the right to personally occupy a specified dwellinghouse.
- (2) The court may make an order under subsection (1) only if it is satisfied that the order—
 - (a) is necessary for the protection of the applicant; or
 - (b) is in the best interests of a child of the applicant's family.
- (3) An order may be made under this section in respect of a dwellinghouse whether or not—
 - (a) the parties have ever lived in the same dwellinghouse, whether in the dwellinghouse to which the order relates or any other dwellinghouse; or
 - (b) either party lives in the dwellinghouse at the time the order is made.
- (4) In determining whether to make an order under this section, the court must have regard to the reasonable accommodation needs of all persons who may be affected by the order.
- (5) An order made under this section may be—
 - (a) for such period or periods; and
 - (b) on such terms and conditions relating to the occupation of the dwellinghouse to which the order relates,—

as the court thinks fit.

Compare: 1982 No 120 s 21

Section 53(1): amended, on 1 February 2002, by section 64(2) of the Property (Relationships) Amendment Act 2001 (2001 No 5).

54 Effect of occupation order

- (1) The person in whose favour an occupation order is made is entitled, to the exclusion of the person against whom the order is made, to personally occupy the dwellinghouse to which the order relates, together with any land, buildings, or improvements appurtenant to that dwellinghouse which are used, or ordinarily would be used, for the purposes of a household.
- (2) An occupation order is enforceable as if it were an order for the recovery of land made pursuant to section 79(2)(c) of the District Court Act 2016.

Compare: 1982 No 120 s 22

Section 54(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

55 Power to vary or discharge occupation order

- (1) On the application of either party, or of the personal representative of either party, the court may, if it thinks fit, make an order—
 - (a) extending or reducing any period specified by the court pursuant to section 53(5); or
 - (b) varying or discharging any terms and conditions imposed by the court pursuant to section 53(5); or
 - (c) discharging the occupation order.
- (2) Where an application is made under this section in respect of a temporary occupation order, the Registrar must assign a hearing date, which must be—
 - (a) as soon as practicable; and
 - (b) unless there are special circumstances, in no case later than 42 days after the application is made.

Compare: 1982 No 120 s 23

Tenancy orders

56 Application for tenancy order

- (1) Any person aged 16 years or over who is or has been in a domestic relationship with another person may apply to the court for an order vesting in the applicant the tenancy of any dwellinghouse of which, at the time the order is made, the other party to the proceedings is—
 - (a) the sole tenant; or
 - (b) a tenant holding jointly, or in common, with the applicant.
- (2) In this section, **dwellinghouse** includes—
 - (a) any furniture or other household effects let with the dwellinghouse; and
 - (b) any land, outbuildings, or parts of buildings included in the tenancy.

Compare: 1982 No 120 s 24; 1987 No 136 s 2

Section 56(1): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

57 Power to make tenancy order

- (1) Subject to section 74 of this Act and to subsection (2), on hearing an application for a tenancy order, the court may, notwithstanding anything in the Property (Relationships) Act 1976, make an order vesting in the applicant the tenancy of a specified dwellinghouse.
- (2) The court may make an order under subsection (1) only if it is satisfied that the order—

- (a) is necessary for the protection of the applicant; or
 - (b) is in the best interests of a child of the applicant's family.
- (3) In determining whether to make an order under this section, the court must have regard to the reasonable accommodation needs of all persons who may be affected by the order.

Compare: 1982 No 120 s 26

Section 57(1): amended, on 1 February 2002, by section 64(2) of the Property (Relationships) Amendment Act 2001 (2001 No 5).

58 Effect of tenancy order

- (1) Where a tenancy order takes effect, then, unless the tenancy is sooner lawfully determined,—
- (a) the applicant becomes the tenant of the dwellinghouse upon and subject to the terms and conditions of the tenancy in force at the time the order is made; and
 - (b) the other party ceases to be a tenant.
- (2) Every tenancy order has effect and may be enforced as if it were an order of the court for possession of the land granted in favour of the applicant.
- (3) Nothing in this Act or in any tenancy order—
- (a) limits or affects the operation of any enactment or rule of law for the time being applicable to—
 - (i) any tenancy to which section 56 applies; or
 - (ii) the dwellinghouse held under the tenancy; or
 - (b) authorises the court to vary any express or implied term or condition of the tenancy except by—
 - (i) vesting the tenancy pursuant to section 57; or
 - (ii) revesting the tenancy pursuant to section 59.

Compare: 1982 No 120 s 27

59 Power to discharge tenancy order and revest tenancy

- (1) On the application of a party against whom a tenancy order is made, or that party's personal representative, the court may, if it thinks fit, make an order discharging the tenancy order and revesting the tenancy accordingly.
- (2) Where an application is made under this section in respect of a temporary tenancy order, the Registrar must assign a hearing date, which must be—
- (a) as soon as practicable; and
 - (b) unless there are special circumstances, in no case later than 42 days after the application is made.
- (3) Where any revesting order made under subsection (1) takes effect, then, unless the tenancy is sooner lawfully determined, the person in whose favour it is

made becomes the tenant of the dwellinghouse upon and subject to the terms and conditions of the tenancy in force at the time of the making of the reversioning order.

Compare: 1982 No 120 s 28

General provisions relating to occupation orders and tenancy orders

60 Application without notice for occupation order or tenancy order

- (1) An occupation order or a tenancy order may be made on an application without notice only if the court is satisfied that—
 - (a) the respondent has physically or sexually abused the applicant or a child of the applicant's family; and
 - (b) the delay that would be caused by proceeding on notice would or might expose the applicant or a child of the applicant's family to physical or sexual abuse.
- (2) Any occupation order or tenancy order made on an application without notice is a temporary order that, subject to sections 76 to 80, and unless it is sooner discharged, becomes final by operation of law 3 months after the date on which it is made.
- (2A) When a temporary order becomes a final order pursuant to subsection (2), the final order comes into effect immediately.
- (3) An occupation order or a tenancy order may be made on an application without notice only where the court has made or, at the same time, makes a protection order, unless the court considers that there are special reasons for not making a protection order.
- (4) Where an occupation order or a tenancy order is made on an application without notice while the applicant and the respondent are living in the same dwellinghouse, that occupation order or tenancy order expires,—
 - (a) on its discharge by the court; or
 - (b) on the discharge of a temporary protection order made in conjunction with that occupation order or tenancy order; or
 - (c) if no such protection order has been made and the court has not sooner discharged the occupation order or tenancy order, at the close of the seventh day after the date of the making of the occupation order or tenancy order.
- (5) Where an occupation order or a tenancy order is made on an application without notice, the respondent may,—
 - (a) notify the court, in accordance with section 76, that he or she wishes to be heard on whether a final order should be substituted for the temporary order:

- (b) in the case of an occupation order, apply pursuant to section 55 for the order to be varied or discharged;
- (c) in the case of a tenancy order, apply pursuant to section 59 for the order to be discharged and the tenancy reverted.

Compare: 1982 No 120 s 20

Section 60(2A): inserted, on 16 November 2011, by section 10 of the Domestic Violence Amendment Act 2011 (2011 No 58).

61 Procedure for occupation orders and tenancy orders

- (1) Where an application is made for an occupation order, the court may treat that application as an application for a tenancy order or an occupation order or both, and may, if it is satisfied that—
 - (a) it has jurisdiction to make a tenancy order; and
 - (b) the making of a tenancy order is appropriate; and
 - (c) section 74 has been complied with in respect of the making of a tenancy order other than a temporary order,—

make a tenancy order (whether or not it makes an occupation order).

- (2) Where an application is made for a tenancy order, the court may treat that application as an application for an occupation order or a tenancy order or both, and may, if it is satisfied that—
 - (a) it has jurisdiction to make an occupation order; and
 - (b) the making of an occupation order is appropriate; and
 - (c) section 74 has been complied with in respect of the making of an occupation order other than a temporary order,—

make an occupation order (whether or not it makes a tenancy order).

Compare: 1982 No 120 s 29(3)–(4)

Ancillary furniture orders

62 Application for ancillary furniture order

- (1) Where a person applies for an occupation order or a tenancy order in respect of any dwellinghouse, the person may,—
 - (a) at the time of making that application, or at any time before that application is determined; or
 - (b) if the court makes an occupation order or a tenancy order on that application, at any time while that order remains in force,—

apply to the court for an order granting to the applicant the possession and use of all or any of the furniture, household appliances, and household effects in that dwellinghouse.

- (2) Nothing in subsection (1) prevents a court that makes an occupation order or a tenancy order from making, of its own motion, an ancillary furniture order in

respect of all or any of the furniture, household appliances, and household effects in the dwellinghouse specified in the occupation order, or, as the case may be, the tenancy order.

Compare: 1982 No 120 s 30(1)

63 Power to make ancillary furniture order

- (1) Subject to section 74 and to subsections (2) and (6), on or after making an occupation order or a tenancy order, the court may make an order granting to the applicant the use of all or any of the furniture, household appliances, and household effects in the dwellinghouse specified in the occupation order, or as the case may be, the tenancy order.
- (2) The court may make an order under subsection (1) only if it is satisfied—
 - (a) that, before the making of the order, the applicant and the other party to the proceedings have lived in the same dwellinghouse at the same time, and that the applicant is or will be living in the dwellinghouse specified in the occupation order or, as the case may be, the tenancy order; or
 - (b) that a child of the applicant's family is or will be living in the dwellinghouse so specified.
- (3) An order made under subsection (1) may relate to furniture, household appliances, and household effects that were in the relevant dwellinghouse at the time the application for the order was made (or, in the case of an order made of the court's own motion, at the time the application for the relevant occupation order or tenancy order was made), whether or not those items are still in the relevant dwellinghouse at the time the order under subsection (1) is made.
- (4) It is not necessary for the court to specify, in an order made under subsection (1), every item of furniture, or every household appliance or household effect, to which the order relates, as long as the items to which the order relates are readily ascertainable from the terms of the order.
- (5) Subject to subsection (6), an order made under this section may be on such terms and conditions relating to the furniture, household appliances, and household effects to which the order relates as the court thinks fit.
- (6) An order made under this section may be for such period as the court thinks fit, but—
 - (a) unless the court otherwise directs, the order continues in force for 6 months from the date on which it is made; and
 - (b) in any event, irrespective of the terms of the order, the order expires if the occupation order or tenancy order to which the order relates expires or is discharged.

Compare: 1982 No 120 s 30

64 Effect of ancillary furniture order

- (1) The person in whose favour an ancillary furniture order is made is entitled, to the exclusion of the person against whom the order is made, to the possession of the furniture, household appliances, and household effects to which the order relates for so long as the order is in force.
- (2) Every ancillary furniture order has effect and may be enforced as if it were an order of the court for delivery of chattels granted in favour of the person for whose benefit the ancillary furniture order is made.

65 Power to vary or discharge ancillary furniture order

- (1) Subject to subsection (2), on the application of either party, or of the personal representative of either party, the court may, if it thinks fit, make an order—
 - (a) extending or reducing any period specified by the court pursuant to section 63(6); or
 - (b) varying the furniture, household appliances, and household effects to which the order relates; or
 - (c) varying or discharging any terms and conditions imposed by the court pursuant to section 63(5); or
 - (d) discharging the ancillary furniture order.
- (2) The court must not vary an ancillary furniture order—
 - (a) if the occupation order or tenancy order to which the ancillary furniture order relates is no longer in force; or
 - (b) in circumstances in which the court could not make an ancillary furniture order under section 63.
- (3) Where an application is made under this section in respect of a temporary ancillary furniture order, the Registrar must assign a hearing date, which must be—
 - (a) as soon as practicable; and
 - (b) unless there are special circumstances, in no case later than 42 days after the application is made.

Furniture orders

66 Application for furniture order

Where a person aged 16 years or over—

- (a) applies for a protection order; and
- (b) that person—
 - (i) and the person against whom the application is made live in the same dwellinghouse, or have lived in the same dwellinghouse at the same time, (regardless of which ground in section 4 is relied

on as establishing, for the purposes of a protection order, that the parties have or have had a domestic relationship); but

- (ii) does not apply for an occupation order or a tenancy order in respect of that dwellinghouse,—

that person may—

- (c) at the time of making that application, or at any time before that application is determined; or
- (d) if the court makes the protection order sought, at any time while that order remains in force,—

apply to the court for an order for the possession and use of all or any of the furniture, household appliances, and household effects in that dwellinghouse.

Section 66: amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

67 Power to make furniture order

- (1) Subject to section 74 and to subsections (2) and (6), but notwithstanding anything in the Property (Relationships) Act 1976, on or after making a protection order, the court may also make an order granting to the applicant the possession and use of all or any of the furniture, household appliances, and household effects in the dwellinghouse in which the parties live or have lived.
- (2) The court may make an order under subsection (1) only if it is satisfied—
 - (a) that the applicant, or a child of the applicant's family, or both, are or were living in the dwellinghouse; and
 - (b) that the furniture, household appliances, and household effects are reasonably required to equip another dwellinghouse in which the applicant, or a child of the applicant's family, or both, are or will be living.
- (3) An order made under subsection (1) may relate to furniture, household appliances, and household effects that were in the relevant dwellinghouse at the time the application for the order was made, whether or not those items are still in the relevant dwellinghouse at the time the order is made.
- (4) It is not necessary for the court to specify, in an order made under subsection (1), every item of furniture, or every household appliance or household effect, to which the order relates, as long as the items to which the order relates are readily ascertainable from the terms of the order.
- (5) An order made under this section may be on such terms and conditions relating to the furniture, household appliances, and household effects to which the order relates as the court thinks fit.
- (6) An order made under this section may be for such period as the court thinks fit, but—
 - (a) unless the court otherwise directs, the order continues in force for 6 months from the date on which it is made; and

- (b) in any event, irrespective of its terms, the order expires if the protection order to which the order relates expires or is discharged.

Section 67(1): amended, on 1 February 2002, by section 64(2) of the Property (Relationships) Amendment Act 2001 (2001 No 5).

68 Effect of furniture order

- (1) The person in whose favour a furniture order is made is entitled, to the exclusion of the person against whom the order is made, to the possession of the furniture, household appliances, and household effects to which the order relates for so long as it is in force.
- (2) Every furniture order has effect and may be enforced as if it were an order of the court for delivery of chattels granted in favour of the person for whose benefit the furniture order is made.

69 Power to vary or discharge furniture order

- (1) On the application of either party, or of the personal representative of either party, the court may, if it thinks fit, make an order—
- (a) extending or reducing any period specified by the court pursuant to section 67(6); or
- (b) varying the furniture, household appliances, and household effects to which the order relates; or
- (c) varying or discharging any terms and conditions imposed by the court pursuant to section 67(5); or
- (d) discharging the furniture order.
- (2) Nothing in this section allows a court to vary a furniture order—
- (a) if the protection order to which the furniture order relates is no longer in force; or
- (b) in circumstances in which the court could not make a furniture order under section 67.
- (3) Where an application is made under this section in respect of a temporary furniture order, the Registrar must assign a hearing date, which must be—
- (a) as soon as practicable; and
- (b) unless there are special circumstances, in no case later than 42 days after the application is made.

Applications without notice for furniture orders

70 Application without notice for ancillary furniture order or furniture order

- (1) Subject to subsections (3) and (4), an order under section 63 or section 67 may be made on an application without notice if the court is satisfied—

- (a) that the respondent has physically or sexually abused the applicant or a child of the applicant's family; and
 - (b) that the delay that would be caused by proceeding on notice would or might expose the applicant or a child of the applicant's family to physical or sexual abuse.
- (2) Any ancillary furniture order or furniture order made on an application without notice is a temporary order that, subject to sections 76 to 80, and unless it is sooner discharged, becomes final by operation of law 3 months after the date on which it is made.
- (2A) When a temporary order becomes a final order pursuant to subsection (2), the final order comes into effect immediately.
- (3) No ancillary furniture order may be made on an application without notice unless the court has made or, at the same time, makes an occupation order or a tenancy order.
- (4) No furniture order may be made on an application without notice unless the court has made or, at the same time, makes a protection order.
- (5) Where an ancillary furniture order or a furniture order is made on an application without notice while the applicant and the respondent are living in the same dwellinghouse, the order expires—
- (a) on its discharge by the court; or
 - (b) in the case of an ancillary furniture order, on the discharge of the occupation order or the tenancy order to which the ancillary furniture order relates; or
 - (c) in the case of a furniture order, on the discharge of the protection order to which the furniture order relates.
- (6) Where an ancillary furniture order or a furniture order is made on an application without notice, the respondent may—
- (a) notify the court, in accordance with section 76, that he or she wishes to be heard on whether a final order should be substituted for the temporary order;
 - (b) in the case of an ancillary furniture order, apply pursuant to section 65 for the order to be varied or discharged;
 - (c) in the case of a furniture order, apply pursuant to section 69 for the order to be varied or discharged.

Section 70(2A): inserted, on 16 November 2011, by section 11 of the Domestic Violence Amendment Act 2011 (2011 No 58).

General provisions relating to property orders

71 Applications for property orders by minors

- (1) Subject to sections 11 and 12 (as applied by section 73), a minor—

- (a) who is aged 17 years or over; and
- (b) who wishes to apply for an order under this Part—

must make the application on his or her own behalf, without a next friend or guardian *ad litem*, and orders may be made on the application, and enforced, as if the minor were of full age.

- (2) Subject to sections 11 and 12, a minor aged 16 years may either make the application on his or her own behalf under subsection (1), or may make it by a representative pursuant to rules of court; and in either case orders may be made on the application, and enforced, as if the minor were of full age.

Section 71 heading: amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 71(1)(a): replaced, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 71(2): inserted, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

72 Applications for property orders against minors

- (1) No application for an order under this Part may be made against a minor under the age of 17 years, unless the minor is or has been married or in a civil union or de facto relationship.
- (2) For the avoidance of doubt, it is hereby declared that—
 - (a) an application for an order under this Part may be made against a minor who is or has been married, or in a civil union or de facto relationship, or who has attained the age of 17 years; and
 - (b) orders may be made on the application, and enforced,—as if the minor were of full age.

Section 72(1): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 72(2)(a): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

73 Applications for property orders on behalf of persons other than children

Sections 11 and 12, so far as applicable and with the necessary modifications, apply in relation to an application under this Part as if it were an application under Part 2 for a protection order.

74 Notice to persons with interest in property affected

- (1) Before any order (other than a temporary order) is made under this Part, such notice as the court directs must be given to any person having an interest in the property that would be affected by the order.
- (2) Any person to whom notice is given pursuant to subsection (1) is entitled to appear and to be heard in the matter as a party to the application.

Compare: 1982 No 120 s 29(1), (2)

75 Protection of mortgagees, etc

- (1) Subject to subsection (2), the rights conferred on any person in respect of any property by any order made under this Act are subject to the rights of any person entitled to the benefit of any mortgage, security, charge, or encumbrance affecting that property if—
 - (a) the mortgage, security, charge, or encumbrance was registered before the order was made; or
 - (b) the rights of the person entitled to that benefit arise under an instrument (including, but not limited to, a hire purchase agreement) executed before the date of the making of the order.
- (2) Notwithstanding anything in any enactment or in any instrument, no money payable under any such mortgage, security, charge, or encumbrance may be called up, or becomes due, by reason only of the making of an order under this Act.

Compare: 1982 No 120 s 40

Part 4 Procedure

Temporary orders

76 Respondent to notify intention to appear

- (1) Where the court makes a temporary order under this Act, the respondent is entitled to notify the court that he or she wishes to be heard on whether a final order should be substituted for the temporary order.
- (2) The temporary order must contain a notice to the respondent that clearly states—
 - (a) the respondent's right under subsection (1); and
 - (b) that, subject to sections 51E, 78, and 79, if the respondent does not take any steps in the proceedings, the temporary order becomes final in accordance with section 77 by operation of law 3 months after the date on which it is made.
- (3) Where the respondent notifies the court, in accordance with subsection (1), that he or she wishes to be heard, the Registrar must assign a hearing date, which must be—
 - (a) as soon as practicable; and
 - (b) unless there are special circumstances, in no case later than 42 days after the receipt of the respondent's notice.

Section 76(2)(b): amended, on 1 October 2014, by section 14 of the Domestic Violence Amendment Act 2013 (2013 No 77).

77 Procedure where respondent does not require hearing

- (1) Subject to sections 51E, 78, and 79 and to subsections (2) and (3), unless the respondent notifies the court in accordance with section 76(1) that he or she wishes to be heard, or the order is sooner discharged, a temporary order becomes final by operation of law 3 months after the date on which it is made.
- (1A) When a temporary order becomes a final order pursuant to subsection (1), the final order comes into effect immediately.
- (2) No temporary order becomes final pursuant to subsection (1) unless—
 - (a) the respondent has been served with a copy of the order not less than 10 clear days before the 3 month period specified in subsection (1) elapses; and
 - (b) the respondent has not notified the court, before that period elapses, that he or she wishes to be heard.
- (3) Where, pursuant to subsection (2)(a), a temporary order does not become final, the court may from time to time extend the period within which the temporary order can be served. No such extensions may extend that period by more than 3 months in total, and the temporary order continues in force until the expiry of any such extensions.
- (4) Where the period for service is extended pursuant to subsection (3), and, at the expiry of the period or periods, the temporary order has not been served, the order lapses.

Section 77(1): amended, on 1 October 2014, by section 15 of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 77(1A): inserted, on 16 November 2011, by section 12 of the Domestic Violence Amendment Act 2011 (2011 No 58).

78 Court may require hearing before order becomes final

- (1) Where, on or after making a temporary order, the court considers that there is good reason why the order should not become final in accordance with section 77 without a hearing at which the applicant or the respondent, or both, are present or represented, the court, of its own motion, may direct that there be a hearing.
- (2) A direction made under subsection (1) may—
 - (a) relate to the whole, or to specified parts, of the order made or sought; and
 - (b) be made even though the respondent does not wish to be heard.
- (3) Where the direction under subsection (1) relates to specified parts of the order made or sought, the remaining parts of the order may become final in accordance with section 77.
- (4) Where, pursuant to subsection (1), the court directs that there be a hearing, the Registrar must assign a hearing date, which must be as soon as practicable.

- (5) Without limiting section 82, where the court makes a direction under subsection (1), it may issue a summons, in accordance with section 82(4), requiring the respondent to attend the court at a place and time specified in the summons.

79 Application of sections 76 to 78 to other affected persons

- (1) The provisions of sections 76, 77, and 78, so far as applicable and with the necessary modifications, apply to an associated respondent as if the person were the respondent.
- (2) Where, pursuant to section 76, the associated respondent notifies the court that he or she wishes to be heard, but the respondent does not do so, the temporary order becomes final in accordance with section 77(1) in so far as it relates to the respondent, even though a hearing is required on whether the order is to become final in respect of the associated respondent.
- (3) No occupation order, tenancy order, ancillary furniture order, or furniture order that is a temporary order becomes final unless the court is satisfied that—
- (a) notice has been given pursuant to section 74 to any person having an interest in the property affected by the order; and
 - (b) the person so notified takes no steps in the proceedings.

79A Review of contact arrangements

- (1) When making a temporary protection order, the Family Court may direct the Registrar to convene a review before a Family Court Judge of the arrangements for contact between the respondent and a child of the applicant's family.
- (2) On receiving a direction under subsection (1), the Registrar must—
- (a) appoint a time and place for the holding of the review; and
 - (b) inform the applicant and respondent of the date, time, and place of the review, and invite them to attend.
- (3) Only the following persons may attend the review:
- (a) the applicant;
 - (b) the respondent;
 - (c) a lawyer representing the applicant;
 - (d) a lawyer representing the respondent;
 - (e) a lawyer appointed under section 81;
 - (f) any lawyer appointed under section 7(1) of the Care of Children Act 2004 to act for a child who in proceedings under this Act is a child of the applicant's family;
 - (g) any other persons whom the Family Court Judge permits to be present.
- (4) If both the applicant and the respondent attend or are represented at the review, the Judge may—
- (a) make an interim order relating to contact under section 28B:

- (b) impose any condition under section 27 relating to the matter set out in subsection (2)(a) of that section:
 - (c) give any directions that the Judge considers necessary.
- (5) The provisions of this section, so far as applicable and with the necessary modifications, apply to an associated respondent as if the person were a respondent.

Section 79A: inserted, on 16 November 2011, by section 13 of the Domestic Violence Amendment Act 2011 (2011 No 58).

80 Procedure where hearing required

- (1) Where, pursuant to section 76 or section 79, the respondent or an associated respondent or any person to whom section 79(3) applies notifies the court that he or she wishes to be heard, or in any other case where a hearing is required or held, the court may at the hearing—
- (a) discharge the temporary order; or
 - (b) make the temporary order a final order (whether with or without variation); or
 - (c) in a case to which section 78(3) or section 79(2) applies and where part of the temporary order has become final in accordance with section 77,—
 - (i) confirm the temporary order to the extent that it has not already become final:
 - (ii) confirm the temporary order to the extent that it has not already become final, but exercise, in relation to that part of the temporary order so confirmed, any power conferred by this Act to vary or alter the terms and conditions of the order, or to impose new terms and conditions:
 - (iii) discharge the temporary order to the extent that it has not already become final; or
 - (d) on good cause being shown, adjourn the hearing to a fixed time and place.
- (2) Where, pursuant to subsection (1)(a), the court discharges a temporary tenancy order, the discharge of that order has effect as if the order had been discharged under section 59, and the tenancy reverts accordingly.
- (3) Where, pursuant to subsection (1)(c), the court confirms part of a temporary order (whether with or without variation), that part of the temporary order becomes final, but that confirmation does not affect the order to the extent that it has already become final.
- (4) Where a hearing is adjourned under subsection (1)(d) to another day, the court must not, at the adjourned hearing, exercise that power to adjourn the hearing to a further date unless there are special reasons for doing so.

- (5) Where a hearing is adjourned pursuant to subsection (1)(d) to a specified date, the temporary order continues in force until that date.

Section 80(1)(b): replaced, on 16 November 2011, by section 14 of the Domestic Violence Amendment Act 2011 (2011 No 58).

80A Temporary order discharged when made final order under section 80(1)

- (1) When a temporary order becomes a final order pursuant to section 80(1)(b), the temporary order is automatically discharged.
- (2) Where the part of a temporary order not already a final order is confirmed under section 80(1)(c)(i) or (ii), the temporary order is automatically discharged.

Section 80A: inserted, on 16 November 2011, by section 15 of the Domestic Violence Amendment Act 2011 (2011 No 58).

General provisions

81 Court may appoint lawyer

- (1) In any proceedings under this Act (not being criminal proceedings), the court may appoint a lawyer—
- (a) to assist the court; or
 - (b) to represent a child—
 - (i) in any proceedings on an application made, on behalf of that child, in accordance with section 9(2), for a protection order; or
 - (ii) in any proceedings relating to or arising out of a protection order made, under this Act, on any such application made on that child's behalf; or
 - (c) to represent any other person (being a person to whom section 11 applies)—
 - (i) in any proceedings on an application made, on behalf of that person, in accordance with section 11(2), for any order under this Act; or
 - (ii) in any proceedings relating to or arising out of an order made, under this Act, on any such application made on that person's behalf.
- (2) A lawyer appointed under subsection (1)(c) may call any person as a witness in the proceedings, and may cross-examine witnesses called by any party to the proceedings or by the court.
- (2A) The fees and expenses of a lawyer appointed under subsection (1)(a) or (b) must—
- (a) be determined in accordance with regulations made under section 16D of the Family Court Act 1980 or, if no such regulations are made, by the Registrar of the court; and

- (b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.
- (3) The fees and expenses of a lawyer appointed under subsection (1)(c) must—
 - (a) be determined in accordance with regulations made under this Act or, if no such regulations are made, by the Registrar of the court; and
 - (b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.
- (4) An invoice rendered by a lawyer appointed under this section for fees and expenses must be given to the Registrar of the court in which the proceedings were heard, and the Registrar may decide to adjust the amount of the invoice.
- (5) If the lawyer is dissatisfied with the decision of the Registrar as to the amount of the invoice, the lawyer may, within 14 days after the date of the decision, apply to a Judge of the court to review the decision; and the Judge may make such order varying or confirming the decision as the Judge considers fair and reasonable.

Compare: 1968 No 63 s 30; 1983 No 76 s 3; 1994 No 35 s 3(1)

Section 81(2): amended, on 31 March 2014, by section 16(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 81(2A): inserted, on 31 March 2014, by section 16(2) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 81(2A)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 81(3): replaced, on 31 March 2014, by section 16(3) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 81(4): replaced, on 31 March 2014, by section 16(4) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 81(5): amended, on 31 March 2014, by section 16(5) of the Domestic Violence Amendment Act 2013 (2013 No 77).

82 Power of court to call witnesses

- (1) In any proceedings before a court under this Act (not being criminal proceedings), the court may, of its own motion, call as a witness any person whose evidence may, in its opinion, be of assistance to the court.
- (2) Without limiting subsection (1), the power conferred by that subsection includes power to call as a witness—
 - (a) any party to the proceedings;
 - (b) the spouse or partner of such party;
 - (c) an associated respondent;
 - (d) a specified person.
- (3) Where the court calls a witness under this section,—
 - (a) the witness has the same privilege to refuse to answer any question as the witness would have if called by a party to the proceedings; and

- (b) the witness may be examined and re-examined—
 - (i) by the court:
 - (ii) by or on behalf of any party to the proceedings:
 - (iii) by any lawyer appointed pursuant to section 81 in respect of the proceedings.
- (4) Sections 159 and 161 to 165 of the Criminal Procedure Act 2011, so far as applicable and with the necessary modifications, apply to every person called as a witness by the court under this section as if that person had been called by a party to the proceedings.
- (5) The expenses of any witness called by the court under this section are payable—
 - (a) in accordance with the scale of witnesses' expenses prescribed by regulations made under this Act; and
 - (b) in the first instance, out of public money appropriated by Parliament for the purpose.

Compare: 1980 No 94 s 165

Section 82(2)(b): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 82(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

83 Conduct of proceedings

- (1) No person may be present during the hearing of any proceedings under this Act (other than criminal proceedings) except the following persons:
 - (a) officers of the court:
 - (b) the parties to the proceedings:
 - (c) any lawyer representing any party to the proceedings:
 - (d) any lawyer appointed pursuant to section 81 in respect of the proceedings:
 - (da) any lawyer appointed under section 7(1) of the Care of Children Act 2004 to act for a child who in proceedings under this Act is a child of the applicant's family:
 - (e) where, pursuant to any provision of this Act, any person is bringing or defending the proceedings on behalf of another person,—
 - (i) the person so bringing or defending the proceedings:
 - (ii) the person on whose behalf the proceedings are so brought or defended:
 - (f) witnesses:
 - (fa) accredited news media reporters:

- (g) any person who is nominated by the applicant for a protection order or by a protected person in accordance with subsection (2);
 - (h) any other person whom the Judge permits to be present.
- (2) For the purposes of any proceedings to which this section applies, any party to the proceedings (being an applicant for a protection order or a protected person) may nominate a reasonable number of persons (being members of his or her family, whanau, or family group, or any other person) to attend any hearing of those proceedings for the purpose of providing support to that person.
- (3) Any witness and any accredited news media reporter must leave the courtroom if asked to do so by the Judge.
- (4) No person present in the courtroom pursuant to subsection (1)(g) is entitled to be heard at the hearing, and the court may exclude any such person from the hearing at any time.
- (5) Nothing in this section limits any other power of the court—
- (a) to hear proceedings in private; or
 - (b) to permit a McKenzie friend to be present; or
 - (c) to exclude any person from the court.

Compare: 1982 No 120 s 32

Section 83(1)(da): inserted, on 16 November 2011, by section 16 of the Domestic Violence Amendment Act 2011 (2011 No 58).

Section 83(1)(fa): inserted, on 18 May 2009, by section 12(1) of the Domestic Violence Amendment Act 2008 (2008 No 77).

Section 83(3): amended, on 18 May 2009, by section 12(2) of the Domestic Violence Amendment Act 2008 (2008 No 77).

Section 83(5): replaced, on 18 May 2009, by section 12(3) of the Domestic Violence Amendment Act 2008 (2008 No 77).

84 Evidence

[Repealed]

Section 84: repealed, on 31 March 2014, by section 17A(e) of the Family Courts Act 1980 (1980 No 161).

85 Standard of proof

Every question of fact arising in any proceedings under this Act (other than criminal proceedings) must be decided on the balance of probabilities.

Compare: 1982 No 120 s 34

86 Orders by consent

Subject to section 18, in any proceedings before a court under this Act, the court may make any order under this Act by the consent of all of the parties to the proceedings.

Compare: 1982 No 120 s 36

87 Explanation of orders

- (1) Where, in any proceedings under this Act (other than criminal proceedings), the respondent or associated respondent, as the case may be, is before the court, then on making an order (other than an order discharging an order made under this Act), the Judge must explain to that person—
 - (a) the effect of the order; and
 - (b) the consequences that may follow if the person fails to comply with the terms of the order; and
 - (c) the means by which the order can be varied or discharged.
- (2) A Registrar may give the explanation required by subsection (1).
- (3) Failure to give the explanation required by subsection (1) does not affect the validity of the order made.
- (4) Where the court makes an order under this Act, the copy of the order that is given to or served on the respondent (and, where applicable, the associated respondent) must include a notice stating—
 - (a) the consequences that may follow if the person fails to comply with the terms of the order; and
 - (b) the means by which the order can be varied or discharged.
- (5) Failure to include in a copy of an order made under this Act the notice required by subsection (4) does not affect the validity of the order made.

88 Copies of orders to be sent to Police

- (1) On the making of a temporary order or a final order under this Act (including any order varying or discharging an order made under this Act or any order made in substitution for any such order), the Registrar of the court in which the order is made must ensure that a copy of the order is made available, without delay, to the District Commander at the appropriate Police District Headquarters.
- (2) Where a copy of an order is made available to a District Commander in accordance with subsection (1), the District Commander must ensure that a copy of that order, or a copy of that copy, is made available, without delay, to the officer in charge of the Police station nearest to where the protected person or, as the case requires, each protected person, resides.
- (3) For the purposes of this section, a copy of an order, or a copy of a copy of an order, may be made available in any of the following ways:
 - (a) by sending the copy by means of electronic transmission (whether by way of facsimile transmission, electronic mail, or other similar means of communication):

- (b) by entering the copy on a database maintained in electronic form, where that database may be accessed by the person or persons to whom the copy is required to be made available:
- (c) by making the copy available in such manner as is prescribed by regulations made under this Act:
- (d) by making the copy available in such other manner as is appropriate in the circumstances.

89 Information on service of certain orders to be communicated to Police

Where any person serves a copy of a protection order, or a copy of any order varying a protection order, on any person (being the respondent or an associated respondent) to whom the standard condition relating to weapons applies, the person so serving the order must, without delay, give notice to the officer in charge of the Police station nearest to where the copy of the order was served, of—

- (a) the place where the copy of the order was so served; and
- (b) the date and time of service.

90 Police to consider exercise of powers under Arms Act 1983

- (1) This section applies where a copy of an order, or a copy of a copy of an order, is made available to the officer in charge of a Police station in accordance with section 88(2), except where—
 - (a) the order discharges a protection order, and no other protection order is made in substitution for that protection order; or
 - (b) the order discharges an order made under Part 3, and no other order under that Part is made in substitution for that order; or
 - (c) the order varies an order made under Part 3.
- (2) Where this section applies, the officer in charge of the Police station must immediately establish whether or not the respondent and any associated respondent named in the order hold a firearms licence.
- (3) Where this section applies, and the officer in charge of the Police station knows that the respondent or any associated respondent, or both, hold a firearms licence (whether that knowledge arises from any inquiries carried out in accordance with subsection (2), or the terms of the protection order, or otherwise howsoever), then, except where the firearms licence is deemed to be revoked pursuant to section 21(2), the officer in charge must arrange for an appropriate person to consider immediately whether or not the powers conferred by sections 27(1) and 27A of the Arms Act 1983 (which relate to the revocation of a firearms licence) should be exercised in that case.
- (4) Where this section applies, the officer in charge of the Police station must, in every case, arrange for an appropriate person to consider immediately whether or not the powers conferred by section 60A of the Arms Act 1983 (which re-

lates to the seizure of a firearm in cases of domestic violence) should be exercised in that case.

Appeals

91 Appeals to High Court

(1AA) This subsection applies to a decision of a court, in proceedings under this Act, to—

- (a) make or refuse to make an order; or
- (b) dismiss the proceedings; or
- (c) otherwise finally determine the proceedings.

(1) A party to proceedings in which there is made a decision to which subsection (1AA) applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.

(2) The High Court Rules 2016 and sections 126 to 130 of the District Court Act 2016, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 124 of that Act.

(3) On the *ex parte* application of the appellant, the court appealed from may order that the appellant must not be required under section 126(1) of the District Court Act 2016 to give the Registrar of the High Court security for costs.

(3A) Subsection (3) overrides subsection (2).

(4) Subject to section 93, the decision of the High Court on an appeal to that court under this section is final.

Compare: 1982 No 120 s 38(1), (2), (6)

Section 91(1AA): inserted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 91(1): replaced, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 91(2): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 91(3): replaced, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 91(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 91(3A): inserted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

92 Application of provisions relating to minors, etc

Sections 9, 11, and 12, so far as applicable and with the necessary modifications, apply in relation to—

- (a) the making and prosecution of an appeal under section 91 or section 93; and
- (b) the defending of any such appeal—

as they apply in relation to the making of an application for a protection order.

93 Appeals to Court of Appeal

- (1) A party to any appeal under section 91 may, with the leave of the Court of Appeal, appeal to the Court of Appeal against any determination of the High Court on a question of law arising in that appeal.
- (2) On an appeal to the Court of Appeal under this section, the Court of Appeal has the same power to adjudicate on the proceedings as the High Court had.
- (3) The decision of the Court of Appeal on an appeal to that court under this section, and on an application to it under this section for leave to appeal, is final.

Compare: 1982 No 120 s 38(3)–(5)

94 Appeals to be heard as soon as practicable

Every appeal under section 91 or section 93 must be heard as soon as practicable after the appeal is lodged.

95 Effect of appeal

Except where the court making the order appealed from otherwise directs,—

- (a) the operation of an order made under this Act is not suspended by an appeal under section 91 or section 93; and
- (b) every order made under this Act may be enforced in the same manner in all respects as if no such appeal were pending.

Compare: 1982 No 120 s 38(7)

Part 5

Enforcement of protection orders overseas and foreign protection orders

Enforcement of New Zealand orders overseas

96 Enforcement of New Zealand orders overseas

- (1) Subject to subsections (2) and (3), the Secretary may request the appropriate court or authority in a foreign country to make arrangements for the enforcement in that country of a protection order made by a New Zealand court.
- (2) Where a person wishes a request to be transmitted to a foreign country pursuant to subsection (1), the person must make a request in writing in the first instance to the Registrar of the court in which the protection order was made.
- (3) Where, on receiving a request made pursuant to subsection (2), the Registrar is satisfied that—
 - (a) the request is made by or on behalf of a protected person; and

- (b) the request relates to a protection order made by a New Zealand court; and
- (c) orders of that nature may be enforced in the foreign country to which the request relates; and
- (d) there are reasonable grounds for believing that enforcement of the order in the foreign country is necessary for the protection of the protected person,—

the Registrar must send the request to the Secretary for transmission to the foreign country in accordance with subsection (1).

- (4) Where, pursuant to this section, a Registrar or the Secretary receives a request for the transmission of a protection order to a foreign country, the Registrar or, as the case requires, the Secretary may require the person by or on whose behalf the request is made to supply to the Registrar or, as the case requires, the Secretary such information or evidence (including certified copies of the order) as may be necessary—
 - (a) to enable the Registrar to determine whether or not the request satisfies the requirements of subsection (3); and
 - (b) to secure enforcement of the order in the foreign country.
- (5) Where, in relation to a request made under subsection (2), a Registrar or the Secretary imposes a requirement pursuant to subsection (4), the Registrar or, as the case requires, the Secretary may refuse to take any action, or further action, in relation to that request until that requirement is complied with.
- (6) Nothing in this section prevents—
 - (a) a protected person from applying to a court or other appropriate authority in a foreign country for enforcement, in that country, of a protection order; or
 - (b) the variation or discharge, pursuant to this Act, of a protection order that is enforced in a foreign country.
- (7) In this section, the term **enforcement** includes registration and enforcement; and **enforced** has a corresponding meaning.

Compare: 1968 No 63 ss 22L–22LA; 1979 No 52 s 2; 1991 No 19 s 34

Enforcement of foreign protection orders

97 Registration of foreign protection orders

- (1) A foreign protection order may be registered in a court in accordance with this section.
- (2) Where the Secretary receives—
 - (a) a certified copy of a foreign protection order; and
 - (b) a certificate—

- (i) that is signed by an officer of a court in the foreign country in which the order was made; and
- (ii) that contains a statement that the order is, at the date of the certificate, enforceable in the foreign country; and
- (c) written information tending to show that a person for whose protection the order was made—
 - (i) is present in New Zealand; or
 - (ii) is proceeding to New Zealand; or
 - (iii) is about to proceed to New Zealand,—

the Secretary must send the documents to a Registrar of a court for the purposes of registration.

- (3) The Registrar of the court must register the foreign protection order by filing a certified copy of the order in the court.
- (4) Where the Registrar of a court receives the documents described in subsection (2) other than from the Secretary, the Registrar may register the order if he or she is satisfied that the nature of the documents is such that, if they had been transmitted to the Secretary, they would have been sent to the Registrar by the Secretary.

Compare: 1968 No 63 s 22A; 1979 No 52 s 2

98 Copies of registered foreign protection orders to be sent to Police

Where a foreign protection order is registered pursuant to section 97, sections 88 to 90 apply—

- (a) in relation to that order; and
 - (b) in relation to any variation of that order pursuant to section 99(c),—
- as if the foreign protection order were a protection order made under this Act.

99 Effect of registration

Subject to section 101, upon registration pursuant to section 97, a foreign protection order—

- (a) has effect; and
 - (b) may be enforced; and
 - (c) in the terms in which it has effect in New Zealand, may be varied,—
- as if it were a protection order made under this Act on the date of registration.

Compare: 1968 No 63 s 22B; 1979 No 52 s 2

100 Variation of registered foreign protection order

- (1) Where, pursuant to section 99(c), a court makes an order varying a foreign protection order, the Registrar of the court—

- (a) must, in the prescribed manner, notify the court or the appropriate authority in the country in which the order was made of the variation; and
 - (b) unless the Registrar is the Registrar of the court in which the foreign protection order is registered, must forward to the Registrar of that court a copy of the order varying the foreign protection order.
- (2) The Registrar of the court in which the foreign protection order is registered, on receiving notice of the variation of that order, must note the court records accordingly.

Compare: 1968 No 63 s 22D; 1979 No 52 s 2

101 Registered foreign protection orders not to be enforced in certain circumstances

- (1) Where a court is satisfied that a foreign protection order—
- (a) was not, at the time of its registration in New Zealand, enforceable in the country in which it was made; or
 - (b) has, since its registration in New Zealand, ceased to be enforceable in the country in which it was made,—

the court must not enforce or vary the order under this Act.

- (2) Where the Registrar of the court in which a foreign protection order is registered is satisfied—
- (a) that a New Zealand court has refused, pursuant to subsection (1), to enforce or vary the order under this Act; or
 - (b) that the order is not enforceable in the country in which it was made; or
 - (c) that registration of the order in New Zealand is no longer necessary,—
- the Registrar must cancel the registration of the order and must, in the prescribed manner, notify the court or the appropriate authority in the country in which the order was made of the cancellation.
- (3) For the purposes of this section, a foreign protection order is not unenforceable in the country in which it was made solely by reason of the fact that the person to whom the order relates, or any other person affected by the order, is no longer in that country.

Compare: 1968 No 63 s 22E; 1979 No 52 s 2

102 Evidence taken overseas

Where, pursuant to section 99, an application is heard in a court, the evidence of any person beyond New Zealand may be taken in accordance with the rules of the High Court covering the examination of witnesses beyond New Zealand, and those rules, as far as they are applicable and with all necessary modifications, apply.

Compare: 1968 No 63 s 22H; 1979 No 52 s 2

103 Proof of documents

- (1) For the purposes of this Part,—
 - (a) any document purporting to be signed by any Judge or officer of a court in any prescribed foreign country is, in the absence of evidence to the contrary, deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it; and
 - (b) the officer of a court by whom a document purports to be signed is, in the absence of evidence to the contrary, deemed to have been the proper officer of the court to sign the document.
- (2) Any document purporting to be signed, certified, or verified by any of the persons mentioned in subsection (1) is admissible in evidence in proceedings under this Part if it appears to be relevant to those proceedings.

Compare: 1968 No 63 s 22I; 1979 No 52 s 2

104 Depositions to be evidence

Depositions taken for the purposes of this Part in a court in any prescribed foreign country may be received in evidence in any proceedings under this Part.

Compare: 1968 No 63 s 22J; 1979 No 52 s 2

105 Prescribed foreign countries

- (1) The Governor-General may from time to time, by Order in Council, declare any country outside New Zealand to be a prescribed foreign country for the purposes of this Act.
- (2) Any Order in Council made under subsection (1) may specify the courts of the foreign country in relation to which the order is to have effect, or may otherwise modify the application of that order to that other country.
- (3) Any Order in Council made under subsection (1) may be revoked or varied by a subsequent Order in Council.

Compare: 1968 No 63 s 22K; 1979 No 52 s 2

106 Evidence of orders made in foreign country

Nothing in this Part precludes a court from receiving evidence of an order made in a foreign country (whether or not that country is a prescribed foreign country) with respect to the protection of any person from domestic violence.

Compare: 1968 No 63 s 22F; 1979 No 52 s 2

Part 6

Non-publication of information relating to protected person on public registers

Interpretation

107 Interpretation

In this Part, unless the context otherwise requires,—

code of practice or code means a code of practice issued under section 122

direction means a direction made under section 109

Privacy Commissioner means the Privacy Commissioner appointed under the Privacy Act 1993

public register has the same meaning as in section 58 of the Privacy Act 1993

relevant information, in relation to any person, means information that discloses, or is likely to disclose, the whereabouts of that person.

Applications for directions

108 Protected person may apply for direction that identifying information on public register not be publicly available

- (1) Where a protection order is in force, any protected person may at any time apply to the agency responsible for administering any public register for a direction that any relevant information—
 - (a) that relates to that protected person, or to any protected person who is a child of the applicant's family, or to both; and
 - (b) that is included, or is about to be included, on that public register—
must not be made available to the public.
- (2) Every application under subsection (1)—
 - (a) must be made in the prescribed manner (if any); and
 - (b) must be made in the prescribed form (if any); and
 - (c) must, so far as practicable, specify with due particularity the relevant information in respect of which the direction is sought, so that the agency may locate that relevant information.
- (3) An agency to which an application is made under subsection (1) must, without delay, and in no case after the expiry of the prescribed period after receiving the application,—
 - (a) decide, in accordance with section 109, whether the application is to be granted or declined; and
 - (b) notify the applicant of its decision in accordance with section 110.

109 Agency to determine application

Where an application is made under section 108(1) to an agency, the agency may make the direction sought if the agency is satisfied that—

- (a) a protection order is in force in respect of the applicant; and
- (b) making the direction would not unduly compromise the public register to which the application relates.

110 Agency to notify applicant of decision

- (1) Where an agency makes a decision in respect of an application made under section 108(1), the agency must give written notice of its decision to the applicant.
- (2) Where the application is declined, the notice under subsection (1) must—
 - (a) specify the reasons for the decision; and
 - (b) notify the applicant of that person's right to complain to the Privacy Commissioner pursuant to section 118, including the time within which that complaint must be made.
- (3) Where an agency makes a direction in relation to a protection order, the agency must also give written notice of that direction to the Registrar of the court that made that protection order.

111 Information not to be disclosed pending determination of application or complaint

Where an application is made, pursuant to section 108(1), to an agency, then unless the application is sooner withdrawn, section 112 applies, as if the direction sought by the applicant had been made, from the expiry of the prescribed period after the date on which the application is received by the agency—

- (a) until the expiry of the prescribed period after notice of the agency's decision on that application is communicated to the applicant; and
- (b) where, before the expiry of the period referred to in paragraph (a), the Privacy Commissioner extends the period within which a complaint relating to that decision may be made under section 118, until the expiry of that period as so extended; and
- (c) if a complaint relating to that decision is made under section 118, until the complaint is finally dealt with or is withdrawn, whichever occurs first.

Effect of direction

112 Effect of direction

- (1) Notwithstanding any other enactment, but subject to section 116 and to any regulations made under this Act, where, in respect of any public register, an

agency makes a direction in respect of any relevant information, and for as long as that direction remains in force,—

- (a) that relevant information must not be included in—
 - (i) any copy (including a printout) of the whole or any part of the public register; or
 - (ii) any index to the register; or
 - (iii) any extract from, or certificate as to information recorded on, the register—

that is made available to the public after the direction is made; and

- (b) that relevant information must not be made available for inspection by members of the public (other than the person to whom the relevant information relates) who wish to inspect the register or any index to the register; and
- (c) no application made, by or in relation to the person to whom the relevant information relates, for the inclusion of any information on the public register, to the extent that the application contains relevant information relating to that person, must be made available for inspection by members of the public (other than the person to whom the relevant information relates);—

but that relevant information is, for all other purposes, deemed to be included on the public register.

- (2) The references in paragraphs (a) to (c) of subsection (1) to relevant information relate only to such relevant information relating to the person to whom the direction relates as the agency concerned is reasonably able to identify, having regard to the information provided by the applicant for the direction in his or her application under section 108(1).

113 Direction not applicable to relevant information subsequently included in register

- (1) Where, in relation to a public register, a direction applies in relation to relevant information, then—
 - (a) paragraphs (a) and (b) of subsection (1) of section 112 apply only in relation to relevant information included, or about to be included, on that public register at the date on which the direction is made; and
 - (b) paragraph (c) of that subsection applies only in relation to an application of the kind referred to in that paragraph, where the application has been made before the date on which the direction is made.
- (2) One or more directions relating to the same public register may be in force, at the same time, in relation to the same person.

Duration of direction

114 Duration of direction

- (1) Where—
- (a) a direction is made in respect of a protection order; and
 - (b) at the time the direction is made, the protection order is a final order,—
- then, unless the direction is sooner revoked or ceases to be in force pursuant to subsection (3), the direction expires at the end of the period of 5 years after the date on which the direction is made.

- (2) Where—
- (a) a direction is made in respect of a protection order; and
 - (b) at the time the direction is made, the protection order is a temporary order,—

the following provisions apply:

- (c) subject to paragraph (d), the direction, unless sooner revoked, expires at the end of the period of 4 months after the date on which the direction is made:
- (d) if, before the expiry of the period referred to in paragraph (c),—
 - (i) the applicant for the direction supplies, to the agency by which the direction is made, satisfactory evidence that the temporary protection order has become final by operation of law in accordance with section 77, or a copy of a copy of a final protection order made in substitution for the temporary protection order; or
 - (ii) pursuant to section 115, a Registrar notifies the agency that a final protection order has been made in substitution for the temporary protection order,—

then, unless the direction is sooner revoked or ceases to be in force pursuant to subsection (3), the direction continues in force and expires at the end of the period of 5 years after the date on which the direction is made.

- (3) Where—
- (a) a direction made by an agency is in force in respect of a final protection order; and
 - (b) either,—
 - (i) the person on whose application the direction was made notifies that agency that the protection order has been discharged; or
 - (ii) pursuant to section 115, a Registrar notifies the agency that the protection order has been discharged,—

the direction ceases to be in force on the expiry of the prescribed period after the date on which the agency receives that notification.

- (4) Where, on the application of any person, an agency makes a direction, that agency must, on the application of that person, revoke that direction.
- (5) The fact that a direction expires or is revoked or ceases to be in force pursuant to this section does not prevent the making of another direction in respect of the same relevant information.

115 Registrar to notify agency of making or discharge of protection order

Where, in accordance with section 110(3), an agency notifies a Registrar of a court that a direction has been made in relation to a protection order, then,—

- (a) in the case of a temporary protection order, on the making of a final protection order in substitution for that temporary order; or
- (b) on the discharge of that protection order (whether a temporary order or a final order),—

the Registrar of the court that made that substitute order or, as the case requires, discharged the order must, without delay, notify that fact to the agency.

Disclosure of relevant information with consent

116 Disclosure of relevant information with consent of protected person

- (1) This section applies to any information the disclosure or making available of which would otherwise be prohibited by section 111 or section 112.
- (2) Notwithstanding sections 111 and 112, but subject to subsection (3), where, in respect of any information to which this section applies, the person to whom the information relates—
 - (a) is requested, in writing, to authorise the agency concerned to disclose or make available some or all of that information; and
 - (b) gives such authority,—

the information may be disclosed or made available, but only in accordance with, and to the extent permitted by, that authority.

- (3) Nothing in this section authorises any information to which this section applies to be disclosed or made available in circumstances in which that information could not, apart from this section, be lawfully disclosed or made available.

Other enactments not affected

117 Other enactments not affected

Nothing in this Part limits or affects—

- (a) section 115 of the Electoral Act 1993; or
- (b) section 239(2) of the Land Transport Act 1998.

Section 117(b): replaced, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Complaints to Privacy Commissioner

118 Complaints to Privacy Commissioner

- (1) Where any person makes an application to an agency pursuant to section 108(1), and that agency declines to make the direction sought by the applicant, the applicant may make a complaint to the Privacy Commissioner, and the Privacy Commissioner may investigate that complaint.
- (2) If, in relation to an application made, pursuant to subsection (1) of section 108, to an agency, the agency fails, within the time limit fixed by subsection (3) of that section, to comply with paragraph (a) or paragraph (b) of subsection (3), then,—
 - (a) for the purposes of subsection (1), that failure is deemed to be a decision declining to make the direction sought by the applicant; and
 - (b) for the purposes of subsection (3), that failure is deemed to be a decision notice of which was communicated to the applicant on the expiry of the prescribed period after the agency received the application.
- (3) Every complaint made to the Privacy Commissioner pursuant to subsection (1) must be made within the prescribed period after notice of the decision is communicated to the complainant, or within such further period as the Privacy Commissioner may allow on application made either before or after the expiration of the prescribed period.
- (4) Where, pursuant to subsection (3), the Privacy Commissioner extends the period within which a complaint may be made under this section in relation to an agency's decision, the Privacy Commissioner must forthwith notify that agency of that extension and of the period of the extension.

119 Investigation of complaint

On completing any investigation conducted pursuant to section 118(1), the Privacy Commissioner must report the Commissioner's findings to the chief administrative officer of the agency whose actions were the subject matter of the investigation, and any report may include a recommendation that the agency make the direction sought by the complainant.

120 Application of certain provisions of Privacy Act 1993

Sections 68, 70, 71, 73, 75, and 80, and Parts 9 and 12, of the Privacy Act 1993, so far as applicable and with all necessary modifications, apply in relation to the making of a complaint pursuant to section 118 and to any investigation conducted by the Privacy Commissioner pursuant to section 118 or section 119.

*Regulations***121 Regulations**

- (1) Without limiting section 127, regulations may be made under that section for all or any of the following purposes:
 - (a) prescribing the manner in which applications under section 108(1) must be made:
 - (b) prescribing such forms as are necessary for the purposes of this Part, or authorising any specified person or persons to prescribe or approve forms, and requiring the use of such forms:
 - (c) prescribing the periods required to be prescribed for the purposes of sections 108(3), 111, 114(3), and 118:
 - (d) prescribing circumstances in which, and conditions on which, relevant information may be made available to the public even though a direction is in force in respect of that relevant information, while still ensuring, to the greatest possible extent, the protection of the person to whom the relevant information relates:
 - (e) prescribing the manner in which any notice required by this Part to be given by or to any person is to be so given.
- (2) Without limiting subsection (1) or section 127, regulations made pursuant to subsection (1)—
 - (a) may make different provision for different agencies and different public registers:
 - (b) may be made to apply generally in respect of all public registers, or in respect of any specified public register or of public registers of any specified class or classes.

*Codes of practice***122 Codes of practice**

- (1) The Privacy Commissioner may from time to time issue a code of practice.
- (2) A code of practice may,—
 - (a) to the extent that no regulations made pursuant to section 121 apply,—
 - (i) prescribe the manner in which applications under section 108(1) must be made:
 - (ii) prescribe forms of applications for the purposes of section 108(1):
 - (iii) prescribe, for the purposes of section 108(1), information that must be provided by applicants for the purpose of enabling the location of relevant information:
 - (b) prescribe how section 109(b) is to be applied:

- (c) prescribe how section 112 is to apply, or is to be complied with:
 - (d) prescribe how section 113 is to apply:
 - (e) provide for the review of the code by the Privacy Commissioner:
 - (f) provide for the expiry of the code.
- (3) A code of practice may apply in relation to any 1 or more of the following:
- (a) any specified public register or class or classes of public register:
 - (b) any specified agency or specified class or classes of agency:
 - (c) any specified relevant information or class or classes of relevant information.

123 Application of certain provisions of Privacy Act 1993

Sections 47 to 52 of the Privacy Act 1993, so far as applicable and with all necessary modifications, apply in relation to the issuing of a code of practice under this Act, and in relation to any code of practice issued under this Act, as if the issuing were done, or, as the case may be, the code were issued, under that Act.

124 Effect of code

- (1) Subject to subsection (2), where a code of practice is in force, the code has effect according to its tenor.
- (2) To the extent that a code is inconsistent with any provision of this Act or of any regulations made under this Act, the code is, to the extent of the inconsistency, of no effect.

Part 6A

Police safety orders

Part 6A: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124A Interpretation

In this Part, unless the context otherwise requires,—

constable has the meaning given to it by section 4 of the Policing Act 2008

District Court includes a Justice or Justices, or a Community Magistrate or Community Magistrates, presiding over the District Court; but does not include a Registrar

Police safety order or **order** means an on-the-spot order issued by a qualified constable under section 124B in the prescribed form

qualified constable means a constable who is of or above the level of position of sergeant

Registrar means any Registrar of the District Court; and includes a Deputy Registrar.

Section 124A: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

Section 124A **District Court**: inserted, on 25 February 2012, by section 4(1) of the Domestic Violence Amendment Act 2012 (2012 No 10).

Section 124A **District Court**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 124A **Registrar**: inserted, on 25 February 2012, by section 4(2) of the Domestic Violence Amendment Act 2012 (2012 No 10).

Section 124A **Registrar**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

124B Qualified constable may issue Police safety order

- (1) A qualified constable may issue an order against a person (**person A**) who is, or has been, in a domestic relationship with another person (**person B**) if the constable—
 - (a) does not arrest person A for an offence against any enactment involving the use of violence against person B; but
 - (b) has reasonable grounds to believe, having regard to the matters specified in subsection (2), that the issue of an order is necessary to ensure the safety of person B.
- (2) When considering whether to issue an order against person A, the constable must have regard to the following matters:
 - (a) whether, in the circumstances, he or she considers it is likely that—
 - (i) person A has used, or is using, domestic violence against person B;
 - (ii) person A has used, or is using, domestic violence against any other person with whom he or she has a domestic relationship;
 - (b) whether there is a likelihood that person A will use, or again use, domestic violence against person B;
 - (c) the welfare of any children residing with person B;
 - (d) the hardship that may be caused if the order is issued;
 - (e) any other matter the constable considers relevant.
- (3) A constable who is not a qualified constable may issue an order under this section only if he or she is specifically authorised by a qualified constable to issue that order.

Section 124B: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124C Consent to issue of Police safety order not required

An order may be issued without the consent of the person for whose safety the order is proposed to be issued.

Section 124C: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124D Police safety order not to be issued against child

An order may not be issued against a child.

Section 124D: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124E Effect of Police safety order

- (1) A person against whom an order is issued must immediately—
 - (a) surrender to a constable—
 - (i) any weapon in his or her possession or control; and
 - (ii) any firearms licence held by him or her;
 - (b) vacate any land or building occupied by a person at risk, whether or not he or she has a legal or equitable interest in the land or building.
- (2) It is a condition of every order that the person against whom the order is issued must not—
 - (a) physically or sexually abuse a person at risk; or
 - (b) threaten to physically or sexually abuse a person at risk; or
 - (c) damage, or threaten to damage, property of a person at risk; or
 - (d) engage, or threaten to engage, in other behaviour, including intimidation or harassment, that amounts to psychological abuse of a person at risk; or
 - (e) encourage any person to engage in behaviour against a person at risk, where the behaviour, if engaged in by the person against whom the order is issued, would be prohibited by the order; or
 - (f) watch, loiter near, or prevent or hinder access to or from the place of residence, business, or employment of a person at risk, or an educational institution attended by a person at risk, or any other place that a person at risk visits often; or
 - (g) follow a person at risk about or stop or accost a person at risk in any place; or
 - (h) where a person at risk is present on any land or building, enter or remain on that land or building in circumstances that constitute a trespass; or
 - (i) make any other contact with a person at risk (whether by telephone, electronic message, correspondence, or otherwise), except such contact as is reasonably necessary in any emergency.

- (3) In this section, **person at risk** means—
- (a) the person named in the order for whose safety the order is issued; and
 - (b) any child residing with that person.

Section 124E: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124F Suspension of firearms licence on issue of Police safety order

On the issue of an order, and for the period that the order is in force,—

- (a) any firearms licence held by the person against whom the order is issued is deemed to be suspended; and
- (b) the person against whom the order is issued is deemed, for all purposes, not to be the holder of a firearms licence.

Section 124F: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124G Suspension of parenting orders, etc

- (1) This section applies where—
- (a) an order is issued; and
 - (b) a child is residing with a person named in the order for whose protection the order is issued (a **protected child**); and
 - (c) a parenting order or day-to-day care or contact agreement is in force in respect of a protected child; and
 - (d) the person against whom the order is issued is a party to that parenting order or agreement.
- (2) While an order continues in force against any person, the provisions of a parenting order or an agreement affording to that person the day-to-day care of, or contact with, a protected child are suspended.

Section 124G: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124H Prompt service of Police safety order required

- (1) An order issued under section 124B must be served by a constable as soon as practicable on the person against whom the order is issued.
- (2) If an order issued under section 124B has not been served within 48 hours from the time of issue, the order lapses.

Section 124H: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124I Detention by constable

- (1) A constable who is proposing to issue a Police safety order under section 124B against any person may detain that person for a period, not exceeding 2 hours, that may be necessary to enable the constable to do 1 or more of the following:

- (a) obtain authorisation under section 124B(3) to issue the order:
 - (b) issue the order:
 - (c) serve the order.
- (2) If a person who is detained under subsection (1) fails or refuses to remain at the place where he or she is detained, that person—
 - (a) commits an offence and is liable on conviction to the penalty specified in subsection (4); and
 - (b) may be arrested without warrant.
- (3) To avoid doubt, subsection (2) applies in respect of a person detained under subsection (1)(a) regardless of whether an order is issued.
- (4) The maximum penalty for an offence against subsection (2)(a) is a fine not exceeding \$500.
- (5) In this section, **detain** includes move the person to a Police station.

Section 124I: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

Section 124I(2)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

124J Police safety order to be explained

- (1) A constable who issues an order must, if and to the extent that it is reasonably practicable to do so in the circumstances, either at the time of issue or service of the order, explain to the person against whom the order is issued—
 - (a) the purpose, duration, and effect of the order; and
 - (b) the consequences that may follow if the person against whom the order is issued contravenes the order.
- (2) A constable who issues an order must also, either before or after issue and service of the order, explain to the person for whose safety the order is issued the matters set out in subsection (1)(a) and (b).

Section 124J: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124K Duration of Police safety order

- (1) An order comes into force immediately on being served on the person against whom the order is issued.
- (2) An order continues in force for the period specified in the order, but that period must not exceed 5 days.
- (3) In considering the period to be specified in the order, the qualified constable must have regard to the matters set out in section 124B(2).

Section 124K: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124L Contravention of Police safety order

- (1) Subsection (2) applies where a person who has been served with an order refuses or fails to comply with—
 - (a) the order; or
 - (b) any condition of the order.
- (2) If this subsection applies, a constable may take the person into custody by—
 - (a) using such force as is reasonably necessary; or
 - (b) executing a warrant to arrest issued in respect of that person under section 124O(1)(a).
- (3) Where a person has been taken into custody under subsection (2), the constable may apply to the District Court, by making a complaint in the prescribed form, for a direction or an order under section 124N.
- (4) A person who is taken into custody under subsection (2)(a) must be brought before the District Court within 24 hours.

Section 124L: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

Section 124L(1): amended, on 25 February 2012, by section 5 of the Domestic Violence Amendment Act 2012 (2012 No 10).

Section 124L(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 124L(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

124M Issue of summons where person cannot be brought before District Court within 24 hours

- (1) If a person who is taken into custody under section 124L(2)(a) is not brought before the District Court within 24 hours, that person must, at or before the expiry of that period,—
 - (a) be released; and
 - (b) be served by a constable with a summons requiring him or her to appear before the District Court at the place and time specified in the summons.
- (2) A summons served under subsection (1)(b) must be in the prescribed form.
- (3) If a person who has been served with a summons under subsection (1)(b) does not attend personally at the place and time specified in the summons, the District Court or a Registrar may issue a warrant, in the prescribed form, to—
 - (a) arrest him or her; and
 - (b) bring him or her before the court.

Section 124M: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

Section 124M(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 124M(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 124M(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 124M(3): amended, on 25 February 2012, by section 6 of the Domestic Violence Amendment Act 2012 (2012 No 10).

124N Jurisdiction of District Court

- (1) If the District Court presided over by 1 or more Justices, or 1 or more Community Magistrates, is satisfied that a person has refused or failed to comply with a Police safety order, the court may,—
 - (a) if the order has not expired, direct that another order, which is to continue in force for a period not exceeding 5 days specified by the court, be—
 - (i) issued against the person in substitution of the earlier order for the safety of the person named in the earlier order; and
 - (ii) served by a constable or officer of the court as soon as practicable; or
 - (b) if the order has expired, direct that another order, which is to continue in force for a period not exceeding 5 days specified by the court, be—
 - (i) issued against the person for the safety of the person named in the earlier order; and
 - (ii) served by a constable or officer of the court as soon as practicable; or
 - (c) if it considers it appropriate in the circumstances to do so,—
 - (i) adjourn the proceedings to a specified time and place to enable a District Court Judge to consider whether a temporary protection order should be issued under subsection (2)(b); and
 - (ii) make a direction of the kind specified in paragraph (a) or (b), as the case may require.
- (2) If the District Court presided over by a District Court Judge is satisfied that a person has refused or failed to comply with a Police safety order, the Judge may—
 - (a) make a direction of the kind specified in subsection (1)(a) or (b); or
 - (b) issue, without application from any person, a temporary protection order under section 14 as if—
 - (i) every reference in that section to the respondent were a reference to the person who the Judge is satisfied has refused or failed to comply with the Police safety order (**person R**); and

- (ii) every reference in that section to the applicant were a reference to the person named in the Police safety order for whose safety the order was issued (**person S**).
- (3) A District Court Judge may issue a temporary protection order under subsection (2)(b) in the absence of person R, person S, or both.
- (4) Subsection (2)(b) is subject to subsection (5).
- (5) A District Court Judge may only issue an order of the kind referred to in subsection (2)(b) if person S—
 - (a) does not object; and
 - (b) has not made an application for a protection order against person R that is currently pending determination by a court.
- (6) Where the court makes a direction of the kind specified in subsection (1)(a) or (b), the court may direct that the person against whom the order is to be issued be detained in the custody of the court for a period, not exceeding 2 hours, that may be necessary to enable the order to be issued and served on that person.

Section 124N: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

Section 124N(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 124N(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

124O Issue of warrant to arrest person who contravenes Police safety order or fails to attend adjourned proceedings

- (1) Subsection (2) applies if—
 - (a) a person against whom a Police safety order is issued refuses or fails to comply with the order, or any condition of the order; or
 - (b) a person who the District Court is satisfied has refused or failed to comply with a Police safety order does not attend personally at the time and place to which proceedings have been adjourned under section 124N(1)(c)(i).
- (2) The District Court or a Registrar may issue a warrant in the prescribed form.
- (3) A warrant to arrest a person under this section—
 - (a) must be directed either—
 - (i) specifically to a constable; or
 - (ii) generally to every constable; but
 - (b) may be executed by any constable.
- (4) For the purpose of executing a warrant issued under this section, the constable executing it may at any time enter on to any premises, by force if necessary, if the constable has reasonable grounds to believe that the person against whom it is issued is on those premises.

- (5) The constable executing the warrant—
- (a) must have the warrant with him or her; and
 - (b) must produce it on initial entry and, if requested, at any subsequent time; and
 - (c) if he or she is not in uniform, produce evidence that he or she is a constable.
- (6) A person who is arrested under this section must, as soon as possible, be brought before the District Court to enable it to exercise its jurisdiction under section 124N.

Section 124O: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

Section 124O(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 124O(2): amended, on 25 February 2012, by section 7 of the Domestic Violence Amendment Act 2012 (2012 No 10).

Section 124O(6): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

124P Protection order to be issued and served

- (1) Where the District Court makes a temporary protection order under section 124N(2)(b), the Registrar of that court must—
- (a) immediately issue the order; and
 - (b) wherever practicable, serve a copy of the order on the person against whom the order is made before that person leaves the court.
- (2) For the purpose of subsection (1), the court may direct that the person against whom the order is made be detained in the custody of the court for a period, not exceeding 2 hours, that may be necessary to enable the order to be issued and a copy served on that person.

Section 124P: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

Section 124P(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

124Q Protection order to be sent to Family Court

- (1) Immediately after the issue of a protection order under section 124N, the District Court must send a copy of the order to the Family Court nearest to the residence of the person for whose safety the Police safety order and temporary protection order were issued.
- (2) On receipt of a copy of an order under subsection (1), the Registrar of the Family Court must enter the order in the records of the Family Court.

Section 124Q: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124R Protection order treated as if made by Family Court

As soon as an order has been entered in the records of the Family Court under section 124Q(2), the order is to be treated as if it were a temporary protection order made by that court.

Section 124R: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

124S Police employees, etc, protected from proceedings

No action or proceedings may be brought against the Crown or any constable in respect of any thing done, or omitted to be done, for the purpose of carrying out the provisions of this Part, where the Crown or the constable acted in good faith and with reasonable care.

Section 124S: inserted, on 1 July 2010, by section 9 of the Domestic Violence Amendment Act 2009 (2009 No 43).

Part 7**Miscellaneous provisions***Restriction on publication***125 Restriction of publication of reports of proceedings**

Sections 11B to 11D of the Family Court Act 1980 apply to the publication of a report of any proceedings under this Act (other than criminal proceedings)—

- (a) in the Family Court:
- (b) in any other court, in which case references in those sections to the Family Court or court must be read as references to that other court.

Section 125: replaced, on 18 May 2009, by section 13 of the Domestic Violence Amendment Act 2008 (2008 No 77).

Section 125: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 125(a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

*Rules and regulations***126 Rules of court**

- (1) In addition to all other powers conferred by the District Court Act 2016, the Governor-General may from time to time, by Order in Council, make rules—
 - (a) regulating the practice and procedure of the District Court in proceedings under this Act:
 - (b) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.
- (1A) Rules may be made under section 16A of the Family Court Act 1980 relating to the practice and procedure of the Family Court in proceedings under this Act.

- (2) Without limiting subsection (1) or section 16A of the Family Court Act 1980, rules made under either of those provisions may—
- (a) prescribe the procedure for the service of notices and other documents for the purposes of this Act, and provide for substituted service, and for service to be dispensed with, in such circumstances as are specified in the rules:
 - (b) prescribe such forms as are necessary for the purposes of this Act, or authorise any specified person or persons to prescribe or approve forms, and require the use of such forms:
 - (c) prescribe circumstances in which applications under this Act may be made without notice, and circumstances in which applications under this Act must be made on notice:
 - (d) make such provision as is necessary or desirable in relation to representatives, including (without limitation),—
 - (i) providing for the appointment, retirement, and removal of representatives:
 - (ii) prescribing the circumstances in which a representative is or is not responsible for costs, and providing for the recovery, by a representative, of costs paid or incurred by the representative while acting as such:
 - (iii) providing for the conduct of proceedings brought, on a person's behalf, by a representative:
 - (e) prescribe the procedure consequent on a temporary order, or part of a temporary order, becoming final in accordance with section 77, which procedure may include (without limitation) the issue by a Registrar of a certificate, order, or other document confirming that the temporary order has become final (in whole or in part), and setting out the terms and conditions of the final order:
 - (f) provide that Registrars may exercise specified powers of the court or a Judge:
 - (g) prescribe the manner in which a Registrar is to give notice, to a court or appropriate authority of a foreign country, of the variation or cancellation of registration of a foreign protection order:
 - (h) make such provision as is necessary or desirable in order to facilitate communications between the Secretary and courts or appropriate authorities in foreign countries for the purposes of Part 5:
 - (i) provide for information about proceedings under this Act to be transferred between courts (whether the District Court, the Family Court, the High Court, the Court of Appeal, or the Supreme Court), including (without limitation) between different courts, or between different divisions of the same court, or between courts exercising civil jurisdiction

and courts exercising criminal jurisdiction, or between courts exercising appellate jurisdiction and courts exercising original jurisdiction:

- (j) apply, with or without modification, provisions of the District Court Rules 2014.

(3) *[Repealed]*

Compare: 1982 No 120 s 39

Section 126(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 126(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 126(1)(a): amended, on 13 September 2002, by section 6 of the Family Courts Amendment Act 2000 (2000 No 65).

Section 126(1A): inserted, on 13 September 2002, by section 6 of the Family Courts Amendment Act 2000 (2000 No 65).

Section 126(1A): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 126(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 126(2): amended, on 13 September 2002, by section 6 of the Family Courts Amendment Act 2000 (2000 No 65).

Section 126(2)(i): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 126(2)(i): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 126(2)(j): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 126(3): repealed, on 13 September 2002, by section 6 of the Family Courts Amendment Act 2000 (2000 No 65).

127 Regulations

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) prescribing for the purposes of section 51B—
- (i) the process to be followed by a person or an organisation seeking an approval; and
 - (ii) the criteria that the Secretary must apply when deciding whether to grant, suspend, or cancel an approval:
- (b) prescribing the amount of fees and expenses, or a method for calculating the amount of fees and expenses, payable for the provision of assessments and programmes under Part 2A:
- (c) *[Repealed]*
- (d) *[Repealed]*
- (e) *[Repealed]*

- (f) making provision for the determination of the amount of fees and expenses, including minimum and maximum amounts, payable in respect of professional services provided by lawyers appointed under section 81(1)(c), which fees and expenses may differ according to the complexity of the proceedings and the time spent, and according to whether or not professional services are to be provided in a specified number of proceedings during a specified period:
- (g) prescribing the fees, travelling allowances, and expenses payable to persons called by the court under section 82; and prescribing the circumstances in which, and the extent (if any) to which, such fees, travelling allowances, and expenses are payable (in whole or in part) to persons to whom that section applies by virtue of section 51O or 51P:
- (h) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

Compare: 1982 No 120 s 39A; 1994 No 30 s 3

Section 127(a): replaced, on 25 September 2013, by section 17(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 127(b): replaced, on 25 September 2013, by section 17(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 127(c): repealed, on 25 September 2013, by section 17(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 127(d): repealed, on 25 September 2013, by section 17(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 127(e): repealed, on 25 September 2013, by section 17(1) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 127(f): amended, on 31 March 2014, by section 17(2) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Section 127(g): amended, on 1 October 2014, by section 17(3) of the Domestic Violence Amendment Act 2013 (2013 No 77).

Saving

128 Property (Relationships) Act 1976 not affected

Nothing in this Act limits or affects the power of a court to make an order (including an order made on an *ex parte* application) under section 27 or section 28 or section 28B or section 28C or section 33 of the Property (Relationships) Act 1976.

Compare: 1982 No 120 s 41

Section 128: replaced, on 1 February 2002, by section 64(2) of the Property (Relationships) Amendment Act 2001 (2001 No 5).

*Repeals and consequential amendments***129 Repeals**

The following enactments are hereby repealed:

- (a) the Domestic Protection Act 1982;
- (b) the Domestic Protection Amendment Act 1983;
- (c) the Domestic Protection Amendment Act 1985;
- (d) the Domestic Protection Amendment Act 1986;
- (e) the Domestic Protection Amendment Act 1987;
- (f) the Domestic Protection Amendment Act 1994;
- (g) *Amendment(s) incorporated in the Act(s).*

130 Amendments to Arms Act 1983

Amendment(s) incorporated in the Act(s).

131 Amendment to Children, Young Persons, and Their Families Act 1989

Amendment(s) incorporated in the Act(s).

132 Amendment to Electoral Act 1993

Amendment(s) incorporated in the Act(s).

Transitional provisions on enactment of this Act

Heading: replaced, on 1 October 2014, by section 18 of the Domestic Violence Amendment Act 2013 (2013 No 77).

133 Transitional provisions

- (1) All applications, appeals, proceedings, and other matters that, before the commencement of this section, have been brought or made under or pursuant to any of the provisions of the Domestic Protection Act 1982, and that have not been determined or completed before the commencement of this section, shall be determined and completed as if this Act had not been passed.
- (2) Where, at the commencement of this section, an interim order made under the Domestic Protection Act 1982 is in force, the provisions of that Act shall apply in respect of—
 - (a) the making of a final order in substitution for the interim order; and
 - (b) the variation, discharge, and enforcement of that order,—as if this Act had not been passed.
- (3) Every final non-violence order, and every final non-molestation order, that—
 - (a) originated under or pursuant to the Domestic Protection Act 1982, and that is subsisting or in force on the commencement of this section; or

- (b) pursuant to subsection (1) or subsection (2), is made after the commencement of this section under or pursuant to any of the provisions of that Act,—

is deemed to be a protection order that is subject to the standard conditions contained in section 19 (but not the standard condition relating to weapons), and accordingly—

- (c) has effect for the purposes of this Act; and
- (d) may be varied, discharged, and enforced,—

as if it had originated or been made under the corresponding provisions of this Act.

- (4) Every final occupation order, final tenancy order, or final ancillary furniture order that—
 - (a) originated under or pursuant to the Domestic Protection Act 1982, and that is subsisting or in force on the commencement of this section; or
 - (b) pursuant to subsection (1) or subsection (2), is made after the commencement of this section under or pursuant to any of the provisions of that Act,—

has effect and may be varied, discharged, and enforced, for the purposes of this Act, as if it had originated or been made under the corresponding provisions of this Act.

- (5) The Acts Interpretation Act 1924 applies subject to this section.

Compare: 1982 No 120 s 43

*Transitional provisions applying on enactment of Domestic Violence
Amendment Act 2013*

Heading: inserted, on 1 October 2014, by section 19 of the Domestic Violence Amendment Act 2013 (2013 No 77).

134 Programmes requested or directed before commencement of this section

- (1) Subsection (2) applies if, before the date of commencement of this section,—
 - (a) an applicant or a specified person made a request under section 29; but
 - (b) the Registrar had not referred the request to a programme provider.
- (2) The Registrar must refer the request to a service provider under section 51C.
- (3) Subsections (4) and (5) apply if, before the date of commencement of this section,—
 - (a) a direction under section 32 was made in any proceeding; but
 - (b) the Registrar had not, under section 34, notified the programme provider of that direction.
- (4) The direction under section 32 must be treated as a direction made under section 51D to—

- (a) undertake an assessment; and
 - (b) attend a non-violence programme.
- (5) The Registrar must, under section 51G,—
- (a) make a referral to a service provider; and
 - (b) notify the service provider of the referral.

Section 134: inserted, on 1 October 2014, by section 19 of the Domestic Violence Amendment Act 2013 (2013 No 77).

135 Referrals to programme providers before commencement of this section

- (1) Subsections (2) and (3) apply if, before the date of commencement of this section,—
- (a) a request made to a Registrar under section 29 was referred to a programme provider; but
 - (b) the programme provider had not arranged or commenced the provision of a programme in response to that request.
- (2) The programme provider must—
- (a) advise the Registrar of the position; and
 - (b) take no further step in respect of the referral.
- (3) The Registrar must arrange for the matter to be referred to a service provider under section 51C.
- (4) Subsections (5) to (7) apply if, before the date of commencement of this section,—
- (a) a notification under section 34 was given to a programme provider of a direction made under section 32 in any proceedings; but
 - (b) the programme provider had not arranged or commenced the provision of a programme in response to that notification.
- (5) The programme provider must—
- (a) advise the Registrar of the position; and
 - (b) take no further step in respect of the notification.
- (6) The direction under section 32 must be treated as a direction made under section 51D to—
- (a) undertake an assessment; and
 - (b) attend a non-violence programme.
- (7) The Registrar must, under section 51G,—
- (a) make a referral to a service provider; and
 - (b) notify the service provider of the referral.

Section 135: inserted, on 1 October 2014, by section 19 of the Domestic Violence Amendment Act 2013 (2013 No 77).

136 Programmes arranged or in progress before commencement of this section

- (1) This section applies if—
 - (a) there was arranged or was in progress immediately before the date of commencement of this section—
 - (i) the provision of a programme to a protected person that has been requested under section 29:
 - (ii) the provision of a programme to a respondent or an associated respondent that the respondent or associated respondent has been directed under section 32 to attend; and
 - (b) that programme has not been concluded by that date.
- (2) The provisions of this Act, as in force immediately before the date of commencement of this section, continue to apply in respect of the provision of that programme as if the Domestic Violence Amendment Act 2013 had not been enacted.

Section 136: inserted, on 1 October 2014, by section 19 of the Domestic Violence Amendment Act 2013 (2013 No 77).

137 Proceedings commenced before commencement of this section but not completed

- (1) This section applies if, at any time before the date of commencement of this section, proceedings have been commenced under any of the following provisions but were not by that date completed (a **pending proceeding**):
 - (a) section 42:
 - (b) section 46:
 - (c) section 49A.
- (2) The provisions of this Act, as in force immediately before the date of commencement of this section, continue to apply to a pending proceeding as if the Domestic Violence Amendment Act 2013 had not been enacted.

Section 137: inserted, on 1 October 2014, by section 19 of the Domestic Violence Amendment Act 2013 (2013 No 77).

138 Approval panel disestablished

- (1) The approval panel established by regulation 46 of the Domestic Violence (Programmes) Regulations 1996 is disestablished.
- (2) No member of the panel is entitled to compensation for loss of office resulting from the disestablishment of the panel.
- (3) An approval given by the panel under Part 3 of the Domestic Violence (Programmes) Regulations 1996 before the date of commencement of this section is of no effect on or after that date.

Section 138: inserted, on 1 October 2014, by section 19 of the Domestic Violence Amendment Act 2013 (2013 No 77).

Reprints notes

1 *General*

This is a reprint of the Domestic Violence Act 1995 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

District Court Act 2016 (2016 No 49): section 261
Domestic Violence Amendment Act 2013 (2013 No 77)
Domestic Violence Amendment Act 2012 (2012 No 10)
Criminal Procedure Act 2011 (2011 No 81): section 413
Domestic Violence Amendment Act 2011 (2011 No 58)
Domestic Violence Amendment Act 2009 (2009 No 43)
Land Transport Amendment Act 2009 (2009 No 17): section 35(4)
Domestic Violence Amendment Act 2008 (2008 No 77)
Policing Act 2008 (2008 No 72): sections 116(a)(ii), 130(1)
Lawyers and Conveyancers Act 2006 (2006 No 1): section 348
Relationships (Statutory References) Act 2005 (2005 No 3): section 7
Care of Children Act 2004 (2004 No 90): section 151
Supreme Court Act 2003 (2003 No 53): section 48(1)
State Sector Amendment Act 2003 (2003 No 41): section 14(2)
District Courts Amendment Act 2002 (2002 No 63): section 4
Property (Relationships) Amendment Act 2001 (2001 No 5): section 64(2)
Family Courts Amendment Act 2000 (2000 No 65): section 6
Bail Act 2000 (2000 No 38): section 74(2)
Domestic Violence Act Commencement Order 1998 (SR 1998/343)
Domestic Violence Act Commencement Order 1996 (SR 1996/142)
Family Courts Act 1980 (1980 No 161): section 17A(e)

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