

**Reprint  
as at 31 March 2014**



**Care of Children Amendment Act  
2013**

Public Act    2013 No 45  
Date of assent    15 July 2013  
Commencement    see section 2

Care of Children Amendment Act 2013: repealed, on 31 March 2014, by section 152(c) of the Care of Children Act 2004 (2004 No 90).

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**Note**

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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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Care of Children Amendment Act 2013.

**2 Commencement**

- (1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council, and 1 or more orders may be made appointing different dates for different provisions.
- (2) If any provision of this Act has not earlier been brought into force under subsection (1), it comes into force on the day that is 1 year after the date on which this Act receives the Royal assent.

**3 Principal Act**

This Act amends the Care of Children Act 2004 (the **principal Act**).

**4 Costs of court-appointed counsel**

Section 131 is amended by repealing subsection (4) and substituting the following subsections:

- “(4) Despite subsection (1), the court may, if it thinks it is appropriate, order a party to the proceedings to refund to the Crown an amount the court specifies in respect of any fees and expenses that relate to an appointment under section 130(1) and have been paid under that subsection.
- “(5) Despite subsection (1), where in any proceedings, other than an application under section 105 or 111, a lawyer has been appointed under section 7(1) and the fees and expenses relating to that appointment have been paid under subsection (1), the court must make an order under section 131A, unless the court declines to do so in accordance with that section.

- “(6) However, no order under section 131A may be made against—
- “(a) the Crown, whether acting through the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989 or otherwise; or
  - “(b) a person in whose custody the child concerned has been placed pursuant to an order made under the Children, Young Persons, and Their Families Act 1989.”

## 5 New sections 131A to 131C inserted

The following sections are inserted after section 131:

### “131A Order requiring refund of payments in respect of lawyer acting for child

- “(1) An order referred to in section 131(5) must order the parties to refund to the Crown the prescribed proportion of the amount paid by the Crown, under section 131(1)(b), in respect of the appointment of a lawyer appointed under section 7(1).
- “(2) Each party must pay an equal share of the prescribed proportion.
- “(3) Despite subsection (1), the court may decline to make an order against a party if satisfied that the order would cause serious hardship to the party or to a dependent child of the party.
- “(4) Despite subsection (2), if the court is satisfied that, in view of the circumstances of the case, including the conduct of any party, it would be inappropriate to require a party to pay the amount payable in accordance with that subsection, the court may substitute, for that party, a different amount not exceeding the prescribed proportion.
- “(5) In this section,—
- “**dependent child**, in relation to a party, means a child whose care is substantially the responsibility of the party
  - “**prescribed proportion** means the proportion that is prescribed by regulations made under section 147 for the purposes of this section
  - “**serious hardship**, in relation to a party or a dependent child of a party,—
    - “(a) includes significant financial difficulties that arise because of—

- “(i) the party’s inability to meet minimum living expenses according to normal community standards; or
  - “(ii) the cost of medical treatment for an illness or injury of the party or a dependent child of the party; or
  - “(iii) a serious illness suffered by the party or by a dependent child of the party; or
  - “(iv) the cost of education for a dependent child of the party:
- “(b) does not include significant financial difficulties that arise because—
- “(i) the social activities and entertainment of the party or those of a dependent child of the party may be limited; or
  - “(ii) the party is unable to afford goods or services that are expensive or of a high quality or standard according to normal community standards.

**“131B Enforcement of orders to refund fees and expenses of court-appointed lawyers**

- “(1) The amount that a party is ordered to refund under section 131(4) or 131A is a debt due to the Crown by that party and may be enforced in a District Court or the High Court, as the case may require, in the same manner as a judgment of that court.
- “(2) Despite section 113 or 123 of the District Courts Act 1947 or section 100A of the Judicature Act 1908, no court fee is payable by a person who seeks to enforce, on behalf of the Crown, an order referred to in subsection (1), but the fee that would otherwise be payable—
- “(a) is to be added to the amount sought to be enforced; and
  - “(b) must be paid to the Registrar of the court out of any proceeds that result from the enforcement.
- “(3) For the purposes of section 14(1)(b) of the Crown Proceedings Act 1950, the Secretary for Justice may, on behalf of the Crown, enforce a debt under this section.

**“131C Time for payment of orders to refund fees and expenses of court-appointed lawyers may be extended**

- “(1) If an amount that a party is ordered to refund under section 131(4) or 131A is outstanding, the Registrar may enter into an arrangement with the party to allow for either or both of the following:
- “(a) a greater time for payment:
  - “(b) payment to be made by instalments.
- “(2) No arrangement under subsection (1) may permit an amount to remain unpaid for more than 5 years after the date on which the arrangement is entered into.
- “(3) No action to enforce an amount that is the subject of an arrangement under this section may be taken as long as the arrangement continues in force and is duly observed.
- “(4) If an amount may be paid by instalments and default is made in the payment of any instalment, proceedings may be taken against the person in default as if default had been made in the payment of all instalments then remaining unpaid.”

**6 Regulations**

Section 147(2) is amended by inserting the following paragraph after paragraph (c):

- “(ca) prescribing, for the purposes of section 131A, the proportion of any amount paid by the Crown under section 131(1)(b):”.

**7 Transitional provisions relating to reimbursement of costs of court-appointed counsel**

- (1) Section 131(4) of the principal Act, as in force before the commencement of section 4 of this Act, continues to apply to proceedings commenced before the commencement of section 4.
- (2) This subsection applies to—
- (a) any order made under section 131(4) of the principal Act as in force before the commencement of section 4 of this Act, but only if, before that commencement, no steps had been taken to enforce that order; and

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- (b) any order made, after that commencement, under section 131(4) of the principal Act as continued by subsection (1).
- (3) Despite subsection (1), in relation to any orders to which subsection (2) applies, section 131(4) of the principal Act, as continued by subsection (1), must be read as if for the words “, by order of a District Court or the High Court as the case may require, in the same manner as a judgment of that Court” there were substituted the words “in a District Court or the High Court, as the case may require, in the same manner as a judgment of that court”.
- (4) Sections 131A and 131B(1) of the principal Act, as inserted by section 5 of this Act do not apply to proceedings commenced before the commencement of section 5.
- (5) Sections 131B(2) and (3) and 131C, as inserted by section 5 of this Act, apply, with any necessary modifications, to any orders to which subsection (2) applies.
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## Reprints notes

### **1**    *General*

This is a reprint of the Care of Children Amendment Act 2013 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*

Care of Children Act 2004 (2004 No 90): section 152(c)

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