

**Reprint  
as at 31 March 2014**



**Family Proceedings Amendment  
Act 2013**

Public Act    2013 No 47  
Date of assent    15 July 2013  
Commencement    see section 2

Family Proceedings Amendment Act 2013: repealed, on 31 March 2014, by section 189(3) of the Family Proceedings Act 1980 (1980 No 94).

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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 Family Proceedings 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 Family Proceedings Act 1980 (the **principal Act**).

**4 Appointment of barrister or solicitor to assist Court or represent children**

Section 162(6) is repealed.

**5 New sections 162B to 162E inserted**

The following sections are inserted after section 162:

**“162B Costs of Court-appointed barrister or solicitor**

- “(1) Despite section 162(3), where any fees and expenses have been paid under that subsection that relate to an appointment under section 162(1)(a), 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 those fees and expenses.

“(2) Despite section 162(3), where any fees and expenses have been paid under that subsection that relate to an appointment under section 162(1)(b), the Court must make an order under section 162C, unless the Court declines to do so in accordance with that section.

“**162C Order requiring refund of payments in respect of barrister or solicitor representing child**

“(1) An order referred to in section 162B(2) must order the parties to refund to the Crown the prescribed proportion of the amount paid by the Crown, under section 162(3), in respect of the appointment of the barrister or solicitor under section 162(1)(b).

“(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 same proportion that is prescribed by regulations made under section 147 of the Care of Children Act 2004 for the purposes of section 131A of that Act

“**serious hardship**, in relation to a party or a dependent child of the 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.

**“162D Enforcement of orders to refund fees and expenses of Court-appointed barristers or solicitors**

- “(1) The amount that a party is ordered to refund under section 162B(1) or 162C 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.

**“162E Time for payment of orders to refund fees and expenses of Court-appointed barristers or solicitors may be extended**

- “(1) If an amount that a party is ordered to refund under section 162B(1) or 162C 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 Transitional provisions relating to reimbursement of costs of Court-appointed counsel**

- (1) Section 162(6) of the principal Act, as in force immediately before the commencement of section 4 of this Act, continues to apply to proceedings commenced before that commencement.
- (2) This subsection applies to—
- (a) any order made under section 162(6) 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
  - (b) any order made, after that commencement, under section 162(6) of the principal Act as continued by subsection (1).
- (3) Despite subsection (1), in relation to any orders to which subsection (2) applies, section 162(6) 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 162B, 162C, and 162D(1) of the principal Act as enacted by section 5 of this Act do not apply to proceedings commenced before the commencement of section 5.
  - (5) Sections 162D(2) and (3) and 162E of the principal Act, as enacted 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 Family Proceedings 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***

Family Proceedings Act 1980 (1980 No 94): section 189(3)

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