

Domestic Violence Amendment Bill (No 2)

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Child and Family Protection Bill as reported from the Justice and Electoral Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- This bill comprising clauses 1 and 2, and Part 1
- Care of Children Amendment Bill comprising Part 2
- Adoption Amendment Bill comprising Part 3.

Domestic Violence Amendment Bill (No 2)

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

~~text deleted~~

Hon Simon Power

Domestic Violence Amendment Bill (No 2)

Government Bill

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal Act amended	2
4 Purpose of this Part	2
5 Interpretation	3
6 Protection of persons other than applicant	3
7 New heading and sections 28B to 28D inserted	4
<i>Interim care and contact orders</i>	
28B Interim orders in respect of child of applicant's family	4
28C Duration of interim order	4
28D Application for parenting order under Care of Children Act 2004 must be made	4
8 Terms of direction that respondent or associated respondent attend programme	5
9 Direction to attend programme made on application without notice	5
10 Application without notice for occupation order or tenancy order	6
11 Application without notice for ancillary furniture order or furniture order	6
12 Procedure where respondent does not require hearing	6
13 New section 79A inserted	6
79A Review of contact arrangements	6

14	Procedure where hearing required	7
15	New section 80A inserted	7
	80A Temporary order discharged when made final order under section 80(1)	8
16	Conduct of proceedings	8

.

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Domestic Violence Amendment Act **2010**.

2 Commencement

This Act comes into force 3 months after the date on which it receives the Royal assent.

5

3 Principal Act amended

This **Part** amends the Domestic Violence Act 1995.

4 Purpose of this Part

The purpose of this **Part** is to strengthen the objects and implementation of the principal Act by—

10

(a) providing for certain persons to have extended protection; and

(b) enabling the ~~court~~ Court to make interim orders to protect the welfare and best interests of a child; and

(c) empowering a Registrar to amend the terms of a direction made under section 32 of the principal Act; and

15

(d) extending the period for objecting to a direction made under section 32 of the principal Act; and

(e) clarifying that where a temporary order becomes final by operation of law, the final order comes into force immediately; and

20

(f) allowing a lawyer appointed to act for a child under the Care of Children Act 2004 to attend the hearing of proceedings under the principal Act.

5 Interpretation

Section 2 is amended by inserting the following definitions in their appropriate alphabetical order:

“**day-to-day care** has the meaning given to it by section 8 of the Care of Children Act 2004 5

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

6 Protection of persons other than applicant

(2) Section 16 is amended by inserting the following subsections after subsection (1): 10

“(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. 15

“(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 20

“(b) the order sooner lapses or is discharged.”

(3) Section 16 is amended by adding the following subsections:

“(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— 25

“(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 30

“(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.” 35

7 New heading and sections 28B to 28D inserted

The following heading and sections are inserted before the heading above section 29:

“Interim care and contact orders

“28B Interim orders in respect of child of applicant’s family 5

“(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: 10

“(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: 15

“(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. 20

“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 25

“(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.

“28D Application for parenting order under Care of Children Act 2004 must be made 30

“(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. 35

“(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)**.” 5

8 Terms of direction that respondent or associated respondent attend programme

Section 33 is amended by inserting the following subsections after subsection (1):

“(1A) **Subsection (1B)** applies if— 10

“(a) the ~~court~~ Court makes a direction under section 32; and

“(b) the respondent or associated respondent, as the case requires, has not been served with a copy of the protection order at least 10 working days prior to the date specified in the direction for his or her first attendance at the programme. 15

“(1B) The Registrar may amend the direction made under section 32 to specify that the respondent or associated respondent, as the case requires, attend the programme for the first time on a later date and, if necessary, at a different— 20

“(a) time:

“(b) place.”

9 Direction to attend programme made on application without notice

Section 36 is amended by repealing subsections (2) and (3) 25 and substituting the following subsections:

“(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 person to whom it relates; and 30

“(b) that person may, within those 10 days, notify the ~~court~~ Court that he or she objects to the direction.

“(3) Where the respondent or associated respondent notifies the ~~court~~ Court, in accordance with **subsection (2)(b)**, that he or she objects to the direction,— 35

- “(a) the Registrar must, if the respondent or associated 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 5
later than 42 days after receipt of the notice of objection; and
- “(b) the direction is suspended from the date on which the ~~court~~ Court receives the notice of objection until the ~~court~~ Court, after considering the person’s objection, confirms the direction (whether with or without variation).” 10

10 Application without notice for occupation order or tenancy order

Section 60 is amended by inserting the following subsection after subsection (2): 15

- “(2A) When a temporary order becomes a final order pursuant to subsection (2), the final order comes into effect immediately.”

11 Application without notice for ancillary furniture order or furniture order 20

Section 70 is amended by inserting the following subsection after subsection (2):

- “(2A) When a temporary order becomes a final order pursuant to subsection (2), the final order comes into effect immediately.”

12 Procedure where respondent does not require hearing 25

Section 77 is amended by inserting the following subsection after subsection (1):

- “(1A) When a temporary order becomes a final order pursuant to subsection (1), the final order comes into effect immediately.”

13 New section 79A inserted 30

The following section is inserted after section 79:

“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; 5
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: 10
- “(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 15
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— 20
- “(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: 25
- “(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.”
- 14 Procedure where hearing required** 30
Section 80(1) is amended by repealing paragraph (b) and substituting the following paragraph:
- “(b) make the temporary order a final order (whether with or without variation); or”.
- 15 New section 80A inserted** 35
The following section is inserted after section 80:

“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. 5

“(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.”

16 Conduct of proceedings

Section 83(1) is amended by inserting the following paragraph after paragraph (d): 10

“(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:”

• • • • •

15

Legislative history

10 August 2011

Divided from Child and Family Protection Bill (Bill 72–2) by committee of the whole House as Bill 72–3A
