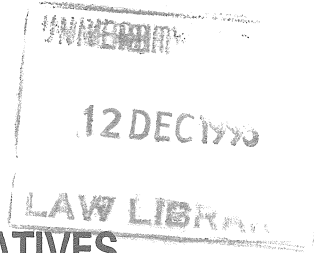


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HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Thursday, 7 December 1995

DOMESTIC VIOLENCE BILL

Proposed Amendments

Hon. D. A. M. GRAHAM, in Committee, to move the following amendments:

Clause 18A: To add on page 33, as subclause (8), the following subclause:

(8) Nothing in this section applies to a special condition relating to weapons.

Clause 18B (1) (c) (ii): To insert in line 33 on page 33, after the word “demand”, the words “made, at any time,”.

Clause 18C: To omit from line 15 on page 35 the words “of a protection order”.

To insert on page 35, after subclause (5), the following subclause:

(5A) The terms of a special condition relating to weapons may not be relaxed except pursuant to this section.

Clause 18E (1) (b): To insert in line 5 on page 37, after the expression “section 188 (2)”, the expression “or section 180 (1)”.

Clause 19: To omit from lines 16 and 17 on page 39 the words “, on the completion by the person making the request of the prescribed form,”.

To insert in line 25 on page 39, after the word “section,”, the words “and the applicant is not legally represented”.

To add on page 39, after paragraph (a) of subclause (4), the following paragraph:

(aa) A request may be made under this section, on behalf of an applicant, by a representative:

To add on page 40, as subclause (6), the following subclause:

(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.

New clause 19A: To insert on page 40, after *clause 19*, the following clause:

19A. Commencement of section 19—(1) Section 19 of this Act, in so far as that section provides for Registrars to authorise the provision of programmes to persons who are not children, shall come into force on the date appointed pursuant to **section 1 (2)** of this Act as the date on which this Act shall come into force.

(2) Subject to **subsection (4)** of this section, **section 19** of this Act, in so far as that section provides for Registrars to authorise the provision of programmes to children, shall come into force on a date to be appointed by the Governor-General by Order in Council; and one or more Orders in Council may be made appointing different dates for different purposes.

(3) Without limiting the generality of **subsection (2)** of this section, one or more Orders in Council may be made under that subsection appointing different dates in respect of different areas of New Zealand, or in respect of different Courts.

(4) Except where **section 19** of this Act comes into force, for all purposes, at an earlier date, that section shall, notwithstanding **subsection (2)** of this section, come into force for all purposes on the expiry of the period of 2 years after the date appointed pursuant to **section 1 (2)** of this Act as the date on which this Act shall come into force.

Clause 22A: To add on page 45, as subclause (3), the following subclause:

(3) Failure to give the warning required by **subsection (2)** of this section does not affect the validity of the direction confirmed or varied.

Clause 25: To insert in line 12 on page 49, immediately before the expression "**section 65**", the words ", subject to any regulations made under this Act,".

To add on page 49, as subclause (5), the following subclause:

(5) Failure to give the warning required by **subsection (4)** of this section does not affect the validity of the direction confirmed or varied.

Clause 64 (1) (c): To insert in line 16 on page 77, after the expression "**section 62 (3)**", the expression "or **section 63 (2)**".

Clause 65 (3) (b): To add on page 79, as subparagraph (iii), the following subparagraph:

(iii) By any lawyer appointed pursuant to **section 64A** of this Act in respect of the proceedings.

Clause 70: To insert in line 29 on page 81, after the word "order", the words "(other than an order discharging an order made under this Act)".

To add on page 82, as subclause (5), the following subclause:

(5) Failure to include in a copy of an order made under this Act the notice required by **subsection (4)** of this section does not affect the validity of the order made.

Clause 72: To omit subclause (1) (all the words in lines 29 to 34 on page 83), and substitute the following subclause:

(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 71 (2)** of this Act, 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 III** of this Act, and no other order under that Part of this Act is made in substitution for that order; or
- (c) The order varies an order made under **Part III** of this Act.

New clause 75A: To insert on page 85, after *clause 75*, the following clause:

75A. Appeals to be heard as soon as practicable—Every appeal under **section 73** or **section 75** of this Act must be heard as soon as practicable after the appeal is lodged.

Clause 77: To omit from line 9 on page 86, and also from lines 20 and 32 on that page and from line 10 on page 87, the word “final”.

Clause 86o (1): To omit paragraph (b) (all the words in lines 17 and 18 on page 99), and substitute the following paragraph:

- (b) Prescribing such forms as are necessary for the purposes of this Part of this Act, or authorising any specified person or persons to prescribe or approve forms, and requiring the use of such forms:

Clause 88 (2): To omit paragraph (b) (all the words in lines 21 and 22 on page 102), and substitute the following paragraph:

- (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:

Clause 89: To omit paragraphs (aa) to (ac) (all the words in lines 13 to 35 on page 104), and substitute the following paragraphs:

- (aa) Making provision for organisations and persons to be approved to provide programmes, and for the approval of programmes for the purposes of this Act, including (without limitation),—

- (i) Constituting, or providing for the constitution or appointment, of panels or other groups or bodies for the purposes of regulations made under this paragraph, prescribing the powers, duties, and functions of such panels, groups, or bodies, and regulating their procedures:

- (ii) Providing for the payment of fees or allowances, or both, to all, or any class of, the members of any panel, group, or body for whose constitution or appointment **subparagraph (i)** of this paragraph provides, including (without limitation) providing for the payment, by the Crown, of remuneration by way of fees, or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951 as if such persons were members of a statutory Board:

- (iii) Providing for the specifying of conditions subject to which approvals may be granted, for the variation and withdrawal of approvals, and for the revocation, variation, and addition of any condition of any approval:

- (iv) Providing for approvals to be granted for an indefinite period, or for a limited period:
 - (v) Providing for the review of approvals:
 - (vi) Providing for organisations approved as programme providers to authorise persons to act as programme providers for the purposes of this Act:
- (ab) Prescribing transitional provisions relating to the coming into force of **section 19** of this Act, in so far as that section provides for Registrars to authorise the provision of programmes to persons who are not children, which regulations may provide that, notwithstanding anything in that section or **section 2** of this Act, for such period (not exceeding 1 year) beginning on the commencement of **section 19** of this Act (to the extent that it so provides), and subject to such conditions as are specified in the regulations, authorities may be given under **section 19** of this Act in respect of programmes that have not been approved in accordance with regulations made under this section, or are not provided by programme providers that are approved in accordance with such regulations, or both:
- (ac) Prescribing transitional provisions relating to the coming into force of **section 21** of this Act, which regulations may provide that, notwithstanding anything in that section or **section 2** of this Act, for such period (not exceeding 1 year) beginning on the commencement of **section 21** of this Act, and subject to such conditions as are specified in the regulations, directions may be made under **section 21** of this Act in respect of programmes that have not been approved in accordance with regulations made under this section, or are not provided by programme providers that are approved in accordance with such regulations, or both:

To insert on page 105, after paragraph (ba), the following paragraph:

- (bc) Prescribing the fees, travelling allowances, and expenses payable to persons called by the Court under **section 65** of this Act; 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 25** of this Act:

Clause 110: To insert in line 23 on page 122, after the expression “**Domestic Violence Act 1994**”, the words “, or an order under **Part III** of that Act,”.

To insert in line 24 on page 122, after the expression “**section 11**”, the expression “or **section 57**”.

To omit from line 36 on page 122 the words “of the **Domestic Violence Act 1994**, for a protection order”, and substitute the words “or **section 57** of the **Domestic Violence Act 1995**, for a protection order or an order under **Part III** of that Act, or both”.

EXPLANATORY NOTE

This Supplementary Order Paper proposes various amendments to the Domestic Violence Bill.

Clause 18A is amended by adding a new subclause (8). The new subclause makes it clear that the provisions of *clause 18A* (which provide that special conditions of a protection order that are inconsistent with the parties to the order living in the same dwellinghouse do not apply while the parties are so living together) do not apply in relation to a special condition relating to weapons.

Clause 18B (1) (c) (ii) is amended to make it clear that when a special condition relating to weapons is imposed, the Police may at any time demand that the respondent or any associated respondent surrender any weapons in his or her possession.

Clause 18c is amended—

- (a) To make a minor technical drafting change:
- (b) To make it clear that the terms of a special condition relating to weapons may be amended only pursuant to that clause, and may not be varied pursuant to the general power in *clause 29* to vary protection orders.

Clause 18E (1) (b): The amendment makes a technical drafting change.

Clause 19 is amended—

- (a) To remove the specific requirement that requests for the provision of programmes to applicants and other persons must be made on a prescribed form. This amendment is consequential on the amendment made, by this SOP, to *clause 88 (2)*:
- (b) So that a Judge or Registrar is required to inform an applicant of the right to make such a request only if the applicant is not legally represented:
- (c) To provide that such requests may be made, on behalf of applicants, by representatives appointed pursuant to the Bill:
- (d) To impose on lawyers acting for applicants a duty to ensure that the applicant is aware of his or her right to make such a request, and to take such further steps as the lawyer considers necessary to enable the applicant to make such a request.

New clause 19A is inserted. The new clause relates to the commencement of *clause 19*.

New clause 19A provides that to the extent that *clause 19* provides for Registrars to authorise the provision of programmes to persons who are not children (as defined in the Bill), the clause is to come into force on the same date as the rest of the Bill.

To the extent that the clause provides for the provision of programmes to children, *clause 19* may be brought into force on different dates for different purposes, (for example, for different areas of the country or different Courts). This facility to phase in the entitlement in *clause 19* is to allow time for appropriate programmes to be developed for children. However, at the end of 2 years after the rest of the Bill comes into force, *clause 19* comes into force for all purposes.

Clause 22A is amended to provide that failure to give the warning required by subclause (2) of that clause does not invalidate any direction confirmed or varied under that provision.

Clause 25 is amended—

- (a) So that the application of *clause 65* in relation to persons called before the Court pursuant to *clause 25* is subject to any regulations made under *clause 89*. This is consequential on the amendment made, by this SOP,

to *clause 89* (which confers power to make regulations). The proposed *new paragraph (bc)* of *clause 89* would empower the making of regulations that, among other things, limit the extent to which persons called before the Court pursuant to *clause 25* will be entitled to travelling allowances and expenses:

- (b) To provide that failure to give the warning required by subclause (4) of *clause 25* does not invalidate any direction confirmed or varied under that provision.

Clause 64 (1) (c): The amendment is of a technical drafting nature.

Clause 65 (3) (b) is amended to provide that counsel appointed pursuant to *clause 64A* may examine and cross-examine witnesses called by the Court.

Clause 70 is amended—

- (a) So that the requirement in that clause for a Judge or Registrar to explain the effect of an order (and certain other matters) to a respondent or associated respondent who is before the Court does not apply in relation to an order that discharges an order made under the Bill;
- (b) To provide that failure to include in a copy of an order the notice required by that clause does not invalidate the order.

Clause 72 is amended so that orders discharging orders made under *Part III* of the Bill, where no other order under that Part is made in substitution for such an order, and orders varying orders made under that Part, are excluded from the provisions of *clause 72*.

New clause 75A is inserted, which provides that appeals to the High Court or the Court of Appeal under the Bill must be heard as soon as practicable.

Clause 77 is amended so that the clause applies to any New Zealand protection order, whether final or not. It will be over to the authorities in the foreign country to which the order is transmitted to determine whether or not to give effect to the order.

Clause 86o (1) is amended so that forms required for the purposes of *Part VA* may be prescribed in regulations, or may be prescribed or approved by persons specified in regulations.

Clause 88 (2) is amended so that forms required for the purposes of the Bill may be prescribed in rules, or may be prescribed or approved by persons specified in rules.

Clause 89, which empowers the making of regulations, is amended—

- (a) To spell out, in more detail, the matters in respect of which regulations may be made for the purpose of approving programme providers and programmes for the purposes of *clauses 19 and 21*;
- (b) As a consequence of the provision made in proposed *new clause 19A* to phase in the commencement of *clause 19* in so far as that provision relates to programmes for children;
- (c) To confer express power to prescribe the fees, travelling allowances, and expenses payable to persons called by the Court pursuant to *clause 65*, and to confer power to limit the extent to which those fees, etc. are payable to persons called before the Court pursuant to *clause 25*.

Clause 110: The amendments are of a technical drafting nature.