

House of Representatives
**Supplementary
Order Paper**

Tuesday, 3 September 2013

Family Court Proceedings Reform Bill

*Proposed amendments for the consideration
of the Committee of the whole House*

Key:

- **this is inserted text**
- **~~this is deleted text~~**

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
 - **NOT have the status of an as-reported version of the Bill.**
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Explanatory note

This Supplementary Order Paper makes various amendments to the Family Court Proceedings Reform Bill. Some are minor or technical amendments, which are general drafting refinements and improvements. Other amendments are of a more substantial nature and are listed below.

Payments to professionals

The provisions in the Bill relating to the fees and expenses of a lawyer appointed to represent a child, a lawyer appointed to assist the court, and a person appointed under the Care of Children Act 2004 to write a report are amended as follows:

- if no regulations are made determining the fees and expenses payable to a lawyer appointed to represent a child or to assist the court, the fees and expenses are determined by the Registrar of the court:
- if no regulations are made determining the fees and expenses payable to a person appointed under the Care of Children Act 2004 to prepare a cultural, medical, psychiatric, or psychological report, the fees and expenses are determined by the Registrar of the court:
- the provisions not yet in force in the Care of Children Amendment Act 2013, the Child Support Amendment Act (No 2) 2013, and the Family Proceedings Amendment Act 2013 requiring the court to order parties to contribute toward the costs of a lawyer appointed to represent a child (other than in cases of serious hardship) are integrated with related provisions of this Bill to avoid discord between the various amendments (and those Amendment Acts are repealed):
- the court may not order the parties to contribute toward the fees and expenses of a lawyer appointed to assist the court if the lawyer was appointed to provide independent advice on any complex legal issue:
- the provisions enabling a Registrar to enter into an arrangement with a party for the payment of cost contributions are deleted.

(See clauses 21 and 24, new sections 131 and 135 to 135C of the Care of Children Act 2004; clause 53(2), new section 81(2A) of

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the Domestic Violence Act 1995; *clause 73, new sections 226B to 226E* of the Child Support Act 1991; *clause 79, new section 162* of the Children, Young Persons, and Their Families Act 1989; *clause 87, new sections 162B, 162C, and 162E* of the Family Proceedings Act 1980; *clause 94, new section 37A(2)(a)* of the Property (Relationships) Act 1976; *clause 99, new section 65B* of the Protection of Personal and Property Rights Act 1988).

Appeals

Section 143 of the Care of Children Act 2004, section 120 of the Child Support Act 1991, and section 174 of the Family Proceedings Act 1980, which afford rights of appeal to the High Court, are amended. The amendments provide that no appeal may be made to the High Court in respect of a decision by a court to appoint, or direct a Registrar to appoint, a lawyer to represent a child or assist the court. Additionally, in proceedings under the Care of Children Act 2004, no appeal may be made in respect of a decision by a court to request a person to write a cultural, medical, psychiatric, or psychological report, or in respect of a direction that parties may or may not be represented at a settlement conference (*clause 28B(2) and (3), new section 143(3A); clause 72A, new section 120(1AA); clause 88AB, new section 174(1A)*).

Amendments to Care of Children Act 2004

The provisions in *Part 1* of the Bill relating to the Care of Children Act 2004 are amended as follows:

- a Family Court Judge may, only on 1 occasion during a proceeding under the Care of Children Act 2004, direct that—
 - the parties attend family dispute resolution (*clause 9, new section 46D(4)*);
 - a settlement conference be convened (*clause 9, new section 46K*);
- the maximum number of counselling sessions is to be determined by regulations or, if no regulations are made, by the Registrar of the court (*clause 9, new section 46GA; clause 29, new section 147(2)(ada)*);
- fees and expenses of counsellors are to be determined by regulations or, if no regulations are made, by the Registrar of

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the court (*clause 9, new section 46H; clause 29, new section 147(2)(ae)*):

- on the direction of a Judge, an interim parenting order becomes a final parenting order on its expiry if a party or the lawyer appointed to represent the child (if any) does not wish to be heard (*clause 12, new section 49AB*):
- provision is made for certain forms to be approved by the Secretary for Justice instead of being prescribed in the Family Courts Rules 2002 (*clauses 6(2), 6A, 13A, 19A, 19B, and 28D*).

Family dispute resolution

The provisions in *Part 3* of the Bill relating to family dispute resolution are amended as follows:

- the approval of an organisation as an approved dispute resolution organisation may be made subject to terms and conditions (*clause 58(3)*):
- the appointment of an FDR provider by an approved dispute resolution organisation continues during any period that the organisation's approval is suspended (*clause 59A(1)*):
- the appointment of an FDR provider by an approved dispute resolution organisation continues for a period of 6 months after that organisation's approval is cancelled (*clause 59A(2)*):
- the appointment of an FDR provider may be suspended or cancelled on prescribed grounds (*clauses 60AA and 60E(da)*):
- dispute resolution forms will not be prescribed but will be approved by the Chief Executive of the Ministry of Justice (*clause 56, definition of family dispute resolution form, amended, and clause 60E(e) deleted*).

Amendment to Legal Services Act 2011

Legal aid will not be available to a person proposing to commence proceedings under the Care of Children Act 2004, or to a respondent in such proceedings who is preparing a notice of intention to appear or notice of defence (*clause 71(1), new section 7(3A)(c) deleted*).

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Departmental disclosure statement

The Ministry of Justice considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.

The Honourable Minister, in Committee, to propose the amendments shown in the following document.

Hon Judith Collins

Family Court Proceedings Reform Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Family Court Proceedings Reform Act **2013**.

2 Commencement

- (1) The following provisions come into force on the day after the date on which this Act receives the Royal assent:
- (a) **section 9**, to the extent only that it inserts **new sections 46EA, 46EB, and 46FA** into the Care of Children Act 2004:
 - (b) **section 29(1) and (5)**:
 - (ba) **section 35**:
 - (c) **section 51(1)**:
 - (d) **section 52A**, to the extent only that it inserts the **Part 2A** heading, new sections 51A and 51B, and the cross-heading above section 51B into the Domestic Violence Act 1995:
 - (e) **section 54(1)**:
 - (f) **Part 3**, except **section 60B and 60C**.
- (2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates.

- (3) Any provision that has not earlier been brought into force comes into force on **1 October 2014**.

Part 1

Amendments to Care of Children Act 2004

3 Principal Act

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

4 Sections 4 and 5 replaced

Replace sections 4 and 5 with:

“4 Child’s welfare and best interests to be paramount

- “(1) The welfare and best interests of a child in his or her particular circumstances must be the first and paramount consideration—
- “(a) in the administration and application of this Act, for example, in proceedings under this Act; and
 - “(b) in any other proceedings involving the guardianship of, or the role of providing day-to-day care for, or contact with, a child.
- “(2) Any person considering the welfare and best interests of a child in his or her particular circumstances—
- “(a) must take into account—
 - “(i) the principle that decisions affecting the child should be made and implemented within a time frame that is appropriate to the child’s sense of time; and
 - “(ii) the principles in **section 5**; and
 - “(b) may take into account the conduct of the person who is seeking to have a role in the upbringing of the child to the extent that that conduct is relevant to the child’s welfare and best interests.
- “(3) It must not be presumed that the welfare and best interests of a child (of any age) require the child to be placed in the day-to-day care of a particular person because of that person’s gender.
- “(4) This section does not—

- “(a) limit section 6 or 83, or subpart 4 of Part 2; or
- “(b) prevent any person from taking into account other matters relevant to the child’s welfare and best interests.

“5 Principles relating to child’s welfare and best interests

The principles relating to a child’s welfare and best interests are that—

- “(a) a child’s safety must be protected and, in particular, a child must be protected from all forms of violence (as defined in section 3(2) to (5) of the Domestic Violence Act 1995) from all persons, including members of the child’s family, family group, whānau, hapū, and iwi:
- “(b) a child’s care, development, and upbringing should be primarily the responsibility of his or her parents and guardians:
- “(c) a child’s care, development, and upbringing should be facilitated by ongoing consultation and co-operation between his or her parents, guardians, and any other person having a role in his or her care under a parenting or guardianship order:
- “(d) a child should have continuity in his or her care, development, and upbringing:
- “(e) a child should continue to have a relationship with both of his or her parents, and that a child’s relationship with his or her family group, whānau, hapū, or iwi should be preserved and strengthened:
- “(f) a child’s identity (including, without limitation, his or her culture, language, and religious denomination and practice) should be preserved and strengthened.

“5A Domestic violence to be taken into account

“(1) This section applies if—

- “(a) an application is made to the court for—
 - “(i) a guardianship order under section 19 or 27; or
 - “(ii) a direction under **section 46L** in relation to a guardianship dispute; or
 - “(iii) a parenting order under section 48; or
 - “(iv) a variation of a parenting order under section 56; and

- “(b) a final protection order made under section 14 of the Domestic Violence Act 1995 is, or at any time has been, in force against 1 or more parties to the application.
- “(2) In taking into account the principle in **section 5(a)**, the court must have regard in particular to the following matters:
 - “(a) whether the protection order is still in force:
 - “(b) the circumstances in which the protection order was made:
 - “(c) any written reasons given by the Judge who made the protection order for his or her decision.”

5 Section 7 replaced (Lawyer to act for child)

Replace section 7 with:

- “**7 Appointment of lawyer to represent child in proceedings**
A court may appoint, or direct the Registrar of the court to appoint, a lawyer to represent a child who is the subject of, or who is a party to, proceedings (other than criminal proceedings) under this Act if the court—
 - “(a) has concerns for the safety or well-being of the child; and
 - “(b) considers an appointment necessary.
- “**7A Lawyers acting for parties**
 - “(1) A lawyer may act for a party to a proceeding under this Act that is to be heard and determined in a Family Court only as provided in **subsections (2) to (5A)**.
 - “(2) A lawyer may act for a party to a proceeding commenced by an application made under subpart 4 of Part 2.
 - “(3) A lawyer may act for a party to a proceeding if that party is the Crown.
 - “(4) A lawyer may act for a party to a proceeding that is—
 - “(a) commenced by an application made without notice until such time (if at all) as a Family Court Judge directs that the application proceed on notice:
 - “(b) commenced by an application made on notice from such time (if at all) as a Family Court Judge directs that—
 - “(i) the application proceed as if it were an application made without notice; or

- “(ii) the application be heard by the court in conjunction with an application that is filed under any other Act; or
- “(iii) the application proceed to a hearing:
- “(c) commenced by an application made without notice that a Family Court Judge has directed proceed on notice, from such time (if at all) as the Judge makes a direction of a kind specified in **paragraph (b)(ii) or (iii)**.
- “(5) A lawyer may act for a child who is a party to a proceeding if the lawyer has been appointed by the court under **section 7** to represent that child.
- “(5A) A lawyer may act for a party at a settlement conference convened under **section 46K** if a Judge directs that the parties may be represented at that conference.
- “(5B) A direction referred to in **subsection (5A)** may be made by a Judge if the Judge considers that—
 - “(a) at least 1 of the parties needs legal representation at the settlement conference; and
 - “(b) the parties having legal representation at the settlement conference will be likely to facilitate settlement of the issues in dispute by agreement between the parties.
- “(6) In this section,—
 - “**act**, in relation to a party, means—
 - “(a) to sign any document for the party:
 - “(b) to file any document for the party:
 - “(c) to accept service for the party:
 - “(d) to represent the party in court, or otherwise attend with the party before a Judge or Registrar
 - “~~defended proceeding~~ means a proceeding in which a respondent is defending or opposing the application
 - “**party to a proceeding** includes a party to a proposed proceeding.
- “(7) To avoid doubt, nothing in this section prevents a lawyer from—
 - “(a) giving legal advice to a party:
 - “(b) preparing any document for a party:
 - “(c) conducting negotiations for a party.

“7B Duties ~~on~~ of lawyer for proposed party when giving advice

A lawyer for a person who is proposing to commence proceedings under **section 46L**, 48, or 56 providing legal advice to a person about arrangements for the guardianship or care of a child, or both, must ensure that the person is aware of—

- “(a) the need for the child’s welfare and best interests to be the first and paramount consideration when settling arrangements; and
- “(b) the mechanisms for assisting resolution of family disputes; and
- “(c) the steps for commencing the a proceeding under this Act and subsequently pursuing the proceeding through the court process to obtain a resolution; and
- “(d) the types of directions and orders that the court may make if a proceeding is commenced.”

6 Section 8 amended (Interpretation)

- (1) In section 8, insert in their appropriate alphabetical order:
 - “**approved counselling organisation** means a counselling organisation that is approved by the Secretary under **section 46EA**
 - “**counselling services** means counselling services provided by a counsellor for the purposes specified in **section 46E(2)**
 - “**counsellor** means a person who is appointed as a counsellor under **section 46FA**
 - “**parenting information programme** means a programme specified as a parenting information programme in regulations made under this Act”.

- (2) In section 8, repeal the definition of **prescribed**.

6A Section 23 amended (Appointment of eligible spouse or partner of parent as additional guardian)

In section 23(5), replace “the prescribed form” with “a form approved by the Secretary”.

7 Section 40 amended (Agreements between parents and guardians)

Replace section 40(1) with:

“(1) A party to an agreement to which subsection (2) applies may seek to have the terms of the agreement embodied in an order of the court that may be enforced, as provided in subsections (3) and (4).”

8 Sections 44 to 46 and cross-heading above section 44 repealed

Repeal sections 44 to 46 and the cross-heading above section 44.

9 New sections 46C to 46L and cross-headings inserted

After section 46B, insert:

“46C Certain children may seek review of parent’s or guardian’s decision or refusal to give consent

“(1) A child of or over the age of 16 years who is affected by a decision or by a refusal of consent by a parent or guardian in an important matter may (unless the child is under the guardianship of the court) apply to a Family Court Judge, who may, if he or she thinks it reasonable in all the circumstances to do so, review the decision or refusal and make any order in respect of it that he or she thinks fit.

“(2) A consent given by a Family Court Judge under this section has the same effect as if it had been given by the parent or guardian.

“(3) This section does not apply where a parent or guardian refuses to give consent to a child’s marriage, civil union, or entry into a de facto relationship. In those cases, sections 18 to 20 of the Marriage Act 1955, sections 19 and 20 of the Civil Union Act 2004, and section 46A of this Act, respectively, apply instead.

“Family dispute resolution

“46CA Meaning of family dispute resolution

In **sections 46CB and 46D**, **family dispute resolution**, **family dispute resolution form**, and **family dispute resolution provider** **FDR provider** have the meanings given to them by **Part 3 of the Family Court Proceedings Reform Act 2013**.

“46CB Family dispute resolution mandatory before commencement of proceedings

- “(1) This section applies to an application under **section 46L** or ~~48 of the Care of Children Act 2004~~.
- “(2) The application must be accompanied by a family dispute resolution form that has been signed by a family dispute resolution an FDR provider within the preceding 12 months.
- “(2A) **Subsection (2)** does not apply if **subsection (3)** applies.
- “(3) A family dispute resolution form is not required to accompany an application that—
- “(a) is in response to an application that another party to the proceedings has made for an order under **section 46L** or ~~48 of the Care of Children Act 2004~~; or
 - “(b) is without notice; or
 - “(c) is for a consent order; or
 - “(d) seeks the enforcement of an existing order; or
 - “(e) relates to a child who is the subject of proceedings already begun under Part 2 of the Children, Young Persons, and Their Families Act 1989; or
 - “(f) is accompanied by an affidavit ~~providing reasonable grounds to believe that—~~ that provides evidence of either of the following matters:
 - “(i) that at least 1 of the parties to the family dispute is unable to participate effectively in family dispute resolution:
 - “(ii) that at least 1 of the parties to the family dispute, or a child of one of the parties, has been subject to domestic violence by one of the other parties to the dispute.
- “(4) A Registrar may refuse to accept for filing an application that is accompanied by an affidavit of the kind referred to in **subsection (3)(f)** if the affidavit does not provide sufficient evidence of either of the matters set out in **subparagraphs (i) and (ii)** of that paragraph.
- “(5) A Registrar who is unsure, under **subsection (4)**, whether to refuse to accept an application for filing may refer that application and accompanying affidavit to a Judge, and the Judge must determine whether the affidavit provides sufficient evidence of either of the matters set out in **subsection (3)(f)**.

“46D Family dispute resolution after proceedings commenced

- “(1) This section applies after an application has been made to a Family Court for—
- “(a) a direction under **section 46L**; or
 - “(b) a parenting order under section 48.
- “(2) ~~At any time before the application is finally determined,~~ a Family Court Judge may direct the parties to attend family dispute resolution.
- “(3) A direction under **subsection (2)** may only be made by a Judge if—
- “(a) the Judge considers that there is a reasonable prospect that family dispute resolution will assist the parties in reaching an agreement on the resolution of the matters in dispute; and
 - “(b) the parties—
 - “(i) have not participated in family dispute resolution in the preceding 12 months; or
 - “(ii) have participated in family dispute resolution in the preceding 12 months but consent to the direction being made.
- “(4) A direction under **subsection (2)** may be made only once.

“Counselling

“46E Counselling after proceedings commenced

- “(1) This section applies after an application has been made to a Family Court for—
- “(a) a direction under **section 46L**; or
 - “(b) a parenting order under section 48.
- “(2) A Family Court Judge may direct the Registrar of the court to refer the parties to the application to counselling services for either or both of the following purposes:
- “(a) to improve the relationship between the parties; ~~and;~~
 - “(b) to encourage compliance with any direction or order ~~subsequently~~ made by the court.
- “(3) A direction under **subsection (2)** may only be made by a Family Court Judge if the Judge considers that the provision of counselling services is the best means of assisting the par-

ties with their relationship ~~and~~ or the implementation of any decision of the court, or both of those matters.

- “(4) A Family Court Judge may make a direction under **subsection (2)**—
- “(a) at any stage of the proceedings, including when making a final order; but
 - “(b) once only.
- “(5) On receipt of a direction under **subsection (2)**, the Registrar must—
- “(a) arrange for the parties to be referred to a counsellor or an approved counselling organisation; and
 - “(b) inform the parties accordingly.

“**46EA Approval of counselling ~~organisations~~ organisation**

- “(1) The Secretary may, by notice in the *Gazette*, approve any organisation (whether incorporated or unincorporated) as an approved counselling organisation.
- “(2) In deciding whether to approve an organisation under **subsection (1)**, the Secretary must apply any criteria prescribed by regulations made under **section 147(2)(aa)**.
- “(3) An approval under **subsection (1)** may be made on any terms and conditions the Secretary thinks fit.

“**46EB Suspension or cancellation of approval of counselling ~~organisations~~ organisation**

- “(1) The Secretary may, by notice in the *Gazette*, suspend or cancel the approval of an organisation as an approved counselling organisation on any ground prescribed by regulations made under **section 147(2)(ab)**.
- “(2) If under **subsection (1)** the Secretary suspends the approval of an organisation, the organisation is not an approved counselling organisation during the period for which the approval is suspended.

“**46F Duties of approved counselling organisation**

An approved counselling organisation to which any parties are referred under **section 46E(5)(b)(a)** must—

- “(a) nominate a counsellor to provide counselling services to the parties; and
- “(b) arrange for the counsellor to meet with the parties.

“46FA Appointment of counsellors

- “(1) The Secretary or an approved counselling organisation may appoint a person as a counsellor if the Secretary or approved counselling organisation is satisfied that the person is qualified and competent to provide counselling services.
- “(2) In deciding whether a person meets the criteria in **subsection (1)**, the Secretary or approved counselling organisation must apply the qualification and competency requirements prescribed by regulations made under **section 147(2)(ac) and (ad)**.

“46G Privilege

- “(1) This section applies to a statement a party makes to a counsellor for the purpose of enabling the counsellor to provide counselling services.
- “(2) No evidence of the statement is admissible in any court or before any person acting judicially.
- “(3) A counsellor commits an offence and is liable on conviction to a fine not exceeding \$500 who discloses to any other person a statement made to the counsellor for the purpose of enabling the counsellor to provide counselling services.

“46GA Number of sessions of counselling

The maximum number of sessions of counselling to be carried out under **section 46E** must be determined in accordance with regulations made under **section 147(2)(ada)** or, if no such regulations are made, by the Registrar of the court.

“46H Counselling fees and expenses

Fees in respect of counselling carried out under **section 46E**, and reasonable expenses incurred, ~~are payable out of public money appropriated by Parliament for the purpose. must—~~

- “(a) be determined in accordance with regulations made under **section 147(2)(ae)** 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.

“Parenting information programmes

“46I Judge may direct party to undertake parenting information programme

- “(1) At any time after an application has been made to the court for a parenting order under section 48, a Family Court Judge may direct 1 or more parties to the application to attend a parenting information programme.
- “(2) However, the Family Court Judge may not make a direction under **subsection (1)** in respect of a party if that party has undertaken a parenting information programme within the preceding 2 years.

“Settlement conferences

“46J Purpose of settlement conferences

The purpose of a settlement conference is to enable a Family Court Judge to—

- “(a) ascertain whether any or all of the issues in dispute between the parties can be settled; and
- “(b) settle those issues.

“46K Settlement conferences

- “(1) ~~A settlement conference may be convened on the direction of a Judge at any time before a proceeding is set down for hearing.~~
- “(1) A Family Court Judge may, before the hearing of a proceeding, direct the Registrar to convene a settlement conference.
- “(1A) However, a settlement conference may be convened under **subsection (1)** on 1 occasion only, but may be adjourned at any time and to any place.

- “(2) ~~At a settlement conference, a Family Court Judge may, with the consent of the parties, make an order settling some or all of the issues in dispute between the parties.~~
- “(3) Before a party consents to the making of an order, a Family Court Judge may advise that party to obtain legal advice.
- “(4) ~~A Judge may adjourn a settlement conference to enable a party to obtain legal advice.~~

“Guardianship disputes

“46L Disputes between guardians

- “(1) If 2 or more guardians of a child are unable to agree on a matter concerning the exercise of their guardianship, any of them may apply to the court for its direction.
- “(2) An application under **subsection (1)** must be made to a Family Court unless **subsection (3)** applies.
- “(3) An application under **subsection (1)** must be made to the High Court, and the High Court has exclusive jurisdiction to settle the dispute, where,—
- “(a) under an order of the High Court, 2 or more persons are guardians of, or have the role of providing day-to-day care for, a child, and that order has not been removed into a Family Court under section 127; or
- “(b) ~~the~~ a child is under the guardianship of the High Court.
- “(4) On an application under **subsection (1)**, the court may make any order relating to the matter that it thinks proper.”

10 New sections 47A and 47B inserted

After section 47, insert:

“47A Mandatory statement in applications

- “(1) This section applies to an application for a parenting order under section 48.
- “(2) The application must include a statement made by or on behalf of the applicant for the order about whether and how the order can and should provide for any other person or persons to have the role of providing day-to-day care for, or contact with, the child.

“47B Mandatory statement and evidence in applications

- “(1) This section applies to—
- “(a) an application for a parenting order under section 48;
 - “(b) an application to vary a parenting order under section 56.
- “(2) The application must include a statement made by or on behalf of the applicant for the order—
- “(a) that the applicant has undertaken a parenting information programme within the preceding 2 years; or
 - “(b) that the applicant is not required to undertake a parenting information programme because—
 - “(i) the applicant is unable to participate effectively in a parenting information programme; or
 - “(ii) the applicant is making the application without notice.
- “(3) Evidence in support of a statement made under **subsection (2)(a) or (b)(i)** must be included in the application.
- “(4) A Registrar may refuse to accept an application if the Registrar considers that the evidence provided does not adequately support the statement.”

11 Section 48 amended (Parenting orders)

Repeal section 48(4) to (6):

11 Section 48 amended (Parenting orders)

Replace section 48(4) to (6) with:

- “(4) A parenting order (whether an interim parenting order or a final parenting order) may be made subject to any terms or conditions the court considers appropriate (for example, a condition requiring a party to enter into a bond).”

12 Section 49 replaced (Applications to include statement on others’ involvement)

Replace section 49 with:

“49 Interim parenting orders

- “(1) At any time before an application for a parenting order is finally determined in ~~the Family Court~~ a court, a Judge may make an interim parenting order that has effect until—

- “(a) a specified date; or
 - “(b) a specified event; or
 - “(c) it is replaced by—
 - “(i) another interim order; or
 - “(ii) a final order.
- “(2) However, a Judge must not make an interim order unless the Judge is satisfied that an interim order serves the welfare and best interests of the child better than a final order.

“49A Interim parenting order where parent has neither does not have day-to-day care nor for, or contact with, child

- “(1) This section applies if—
- “(a) an interim parenting order is made; and
 - “(b) the parents of the child in respect of whom the interim parenting order is made are parties to the order; and
 - “(c) under the interim parenting order, one of the parents has neither the role of providing day-to-day care for nor contact with the child.
- “(2) If this section applies, the court must, as soon as practicable, assign a hearing date that is not more than 3 months after the date of the interim parenting order, and at the hearing on that date the court may replace the interim order with—
- “(a) a further interim order; or
 - “(b) a final parenting order.

“49AB Interim parenting order may become final order on specified date

- “(1) When making an interim parenting order that has effect until a specified date (the **specified date**), a Family Court Judge may direct that the interim parenting order is to become a final parenting order on the specified date unless before that date a party to the proceeding or any lawyer appointed under **section 7** notifies the court that he or she wishes to be heard.
- “(2) If a party to the proceeding or any lawyer appointed under **section 7** does not, before the specified date, notify the court that he or she wishes to be heard, the interim parenting order becomes a final parenting order on the specified date.

“(3) When an interim parenting order becomes a final parenting order under **subsection (2)**, the final parenting order comes into effect immediately.

“49B Final parenting orders

“(1) At any time during a proceeding, a Judge may make a final parenting order if the parties consent.

“(2) When an application for a parenting order is finally determined in by the Family Court court, a Judge must make a final parenting order.

“(3) ~~A final parenting order may be made subject to any terms and conditions the court considers appropriate (for example, a condition requiring a party to enter into a bond).”~~

13 Section 51 amended (Court must consider protective conditions in certain cases)

Repeal section 51(3).

13A Section 55 amended (Content and explanation of parenting orders)

In section 55(1)(b), replace “the prescribed form” with “a form approved by the Secretary”.

14 Sections 57 to 62 and cross-heading above section 58 replaced

Replace sections 57 to 62 and the cross-heading above section 58 with:

“57 Variation of final parenting order by consent memorandum instead of application

“(1) This section applies if the parties to a final parenting order made under this Act agree to a variation of the order, or to a variation of any term or condition to which the order is subject (the **proposed variation**).

“(2) A party to the final parenting order may, instead of applying under section 56 for a variation of the order, file a consent memorandum seeking an order in terms of the proposed variation.

“(3) The consent memorandum must—

- “(a) set out the proposed variation; and
 - “(b) state that all persons affected by the final parenting order (other than children) agree to the proposed variation; and
 - “(c) be signed by all parties.
- “(4) On the filing of a consent memorandum, the Registrar may make and seal an order varying the final parenting order in terms of the proposed variation set out in the memorandum.

“Supervised contact

“58 Interpretation

In this section and **sections 59 and 60**,—

“**approved provider** means a supervised contact service provider who is—

- “(a) approved—
 - “(i) by the chief executive as a community service under section 403 of the Children, Young Persons, and Their Families Act 1989; or
 - “(ii) by the Secretary; or
 - “(iii) by an officer of the court appointed under section 8(2) of the Family Courts Act 1980; and
- “(b) nominated by the court or Registrar for the particular case

“**supervised contact** means direct (that is, face-to-face) contact between a party and a child, being contact that occurs—

- “(a) under the supervision of an approved provider; or
- “(b) in the immediate presence of a person approved by the court (for example, a relative, a friend of the family of the child, or any other person whom the court considers suitable).

“59 Court may order supervised contact

- “(1) This section applies if the court—
 - “(a) is making or varying a parenting order determining the time or times when a person may have contact with a child; and
 - “(b) is not satisfied that the child will be safe with that person.

- “(2) The court may make an order for supervised contact between the child and that person, and, if it does so, the court must specify in the order whether the supervised contact is to occur—
- “(a) under the supervision of an approved provider; or
 - “(b) in the immediate presence of a person approved by the court (for example, a relative, a friend of the family of the child, or any other person whom the court considers suitable).

“60 Costs of formal supervised contact

- “(1) This section applies only to supervised contact that is ordered under **section 59** and supervised by an approved provider.
- “(2) The number of sessions of the contact that will be funded out of public money must be determined in accordance with regulations made under section 147(2)(a) or, in the absence of regulations of that kind, by the Registrar or the court.
- “(3) Fees in respect of the contact—
- “(a) must be determined in accordance with regulations made under section 147(2)(b) or, in the absence of regulations of that kind, by the Registrar or the court; and
 - “(b) are payable out of public money appropriated by Parliament for the purpose.”

15 Section 63 repealed (Purpose and overview of sections 64 to 80)

Repeal section 63.

16 Section 64 amended (Guiding consideration and principles)

Repeal section 64(2).

17 Sections 65 to 67 repealed

Repeal sections 65 to 67.

18 Section 69 amended (Court may require parties to attend for counselling or for hearing of application under section 68)

- (1) In the heading to section 69, delete “for counselling or”.
- (2) Repeal section 69(1)(a).

19 Section 78 replaced (Contravening parenting order)

Replace section 78 with:

“78 Contravening parenting or guardianship order

- “(1) A person commits an offence who, without reasonable excuse, intentionally—
- “(a) contravenes—
 - “(i) a parenting order; or
 - “(ii) a guardianship order made under section 40 or **46L**; or
 - “(b) prevents compliance with—
 - “(i) a parenting order; or
 - “(ii) a guardianship order made under section 40 or **46L**.
- “(2) A person who commits an offence under **subsection (1)** is liable on conviction to—
- “(a) a term of imprisonment not exceeding 3 months; or
 - “(b) a fine not exceeding \$2,500.
- “(3) Nothing in this section limits the power of a court to punish a person for contempt of court.”

19A Section 102 amended (Child abducted from New Zealand)

Replace section 102(2) with:

- “(2) Every application under subsection (1) must be in a form approved by the Secretary.”

19B Section 112 amended (Child outside New Zealand)

Replace section 112(2) with:

- “(2) Every application under subsection (1) must be in a form approved by the Secretary.”

19C Section 125 amended (Jurisdiction of courts)

In section 125(2)(a), replace “section 44” with “**section 46L**”.

20 Section 130 replaced (Counsel to assist court)

Replace section 130 with:

“130 Appointment of lawyer to assist court

In any proceedings under this Act (other than criminal proceedings), a court may—

- “(a) appoint a lawyer to assist the court; or
- “(b) direct the Registrar of the court to appoint a lawyer to assist the court.”

21 Section 131 replaced (Costs of court-appointed counsel)

Replace section 131 with:

“~~131~~ Fees and expenses of lawyer appointed under section 7 or 130

- “(1) The fees and expenses of a lawyer appointed under **section 7 or 130** must—
 - “(a) be determined in accordance with regulations made under **section 16D** of the Family Courts Act 1980; and
 - “(b) be paid out of public money appropriated by Parliament for the purpose.
- “(2) An invoice rendered by a lawyer appointed under **section 7 or 130** for fees and expenses must be given to the Registrar of the court in which the proceedings were heard; and the Registrar may tax the invoice.
- “(3) A lawyer who is dissatisfied with the decision of the Registrar as to the amount of the invoice may, within 14 days after the date of the decision, apply to a Judge to review the decision; and the Judge may on the application make any order varying or confirming the decision that the Judge considers fair and reasonable.
- “(4) Where the fees and expenses of a lawyer appointed under **section 7** have been paid under **subsection (1)(b)**; the court may, if it thinks it appropriate, order a party to the proceedings to refund to the Crown an amount the court specifies in respect of those fees and expenses; and the amount ordered to be refunded is a debt due to the Crown by that party and, in default of payment of that amount, payment may be enforced, 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.

- ~~“(5) Where the fees and expenses of a lawyer appointed under **section 130** have been paid under **subsection (1)(b)**, the court must make an order under **section 135A** unless the court declines to do so in accordance with that section.~~
- ~~“(6) However, no order under **section 135A** may be made—~~
- ~~“(a) in any proceedings commenced by an application under section 105 or a request under section 111; or~~
- ~~“(b) against—~~
- ~~“(i) 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~~
- ~~“(ii) 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.~~

“131 Fees and expenses of lawyer appointed under section 7 or 130

- ~~“(1) The fees and expenses of a lawyer appointed under **section 7 or 130** must—~~
- ~~“(a) be determined in accordance with regulations made under **section 16D** of the Family Courts 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.~~
- ~~“(2) An invoice rendered by a lawyer appointed under **section 7 or 130** 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.~~
- ~~“(3) A lawyer who is dissatisfied with the decision of the Registrar as to the amount of the invoice may, within 14 days after the date of the decision, apply to a Family Court Judge to review the decision, and the Judge may on the application make any order varying or confirming the decision that the Judge considers fair and reasonable.~~

- “(4) Where in any proceedings a lawyer has been appointed under **section 7 or 130** and the fees and expenses relating to that appointment have been paid under **subsection (1)**, the court must make an order under **section 135A**, unless the court declines to do so in accordance with that section.
- “(5) However, no order under **section 135A** may be made—
- “(a) in any proceedings commenced by an application under section 105 or a request under section 111; or
- “(b) against—
- “(i) 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
- “(ii) 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; or
- “(c) in respect of an appointment under **section 130**, where a lawyer has been appointed under that section to provide to the court independent advice on any complex legal issue.”

21A New section 131A inserted (Advice from chief executive or social worker)

After section 131, insert:

“131A Advice from chief executive or social worker

- “(1) For the purpose of expediting an application for a guardianship order or parenting order (~~other than an interim parenting order~~), a Registrar, on his or her own initiative, may—
- “(a) refer the application to the chief executive; and
- “(b) request the chief executive to provide brief written advice on the nature and extent of any involvement that the department has had with the parties.
- “(2) On receipt of a request for advice made under **subsection (1)**, the chief executive or a social worker must provide the advice.
- “(3) The Registrar must refer advice received under **subsection (2)** to the Family Court Judge who is considering the application.”

22 Section 133 replaced (Reports from other persons)

Replace section 133 with:

“133 Reports from other persons

“Definitions

“(1) In this section,—

“application—

“(a) means—

“(i) an application for guardianship; or

“(ii) an application for a parenting order; or

“(iii) an application under section 105(1); but

“(b) does not include an application for an interim order about the role of providing day-to-day care for a child

“approval means an approval under subsection (10)

“cultural report means a report that is about the child who is the subject of an application and that covers an aspect or aspects of the child’s cultural background, including the child’s religious denomination and practice

“materials means—

“(a) the psychological report; and

“(b) the report writer’s notes; and

“(c) other materials the report writer used in preparing the psychological report

“medical report means a medical report that is about the child who is the subject of an application

“psychiatric report means a psychiatric report that is about the child who is the subject of an application

“psychological report means a report that is about the child who is the subject of an application and that covers any or all of the following matters:

“(a) how current arrangements for the child’s care are working for the child:

“(b) the child’s relationship with each party, including, if appropriate, the child’s attachment to each party:

“(c) the child’s relationship with other significant persons in the child’s life:

“(d) the effect or likely effect on the child of each party’s parenting skills:

- “(e) the effect or likely effect on the child of the parties’ ability or otherwise to co-operate in the parenting of the child:
- “(f) the advantages and disadvantages for the child of the options for the care of the child:
- “(g) any matter that the court specifies under **subsection (5)(b)(ii)**
- “**report writer** means—
 - “(a) the person requested under **subsection (2)** to prepare a report:
 - “(b) the psychologist requested under **subsection (5)** to prepare a report
- “**second opinion** means—
 - “(a) a critique of a psychological report; and
 - “(b) a report covering the same matters as those covered by a psychological report.
- “*Court’s power to obtain cultural reports, medical reports, or psychiatric reports*
- “(2) To obtain a written cultural report, medical report, or psychiatric report, the court may—
 - “(a) request a person whom the court considers qualified for the purpose to prepare one; or
 - “(b) direct the Registrar to request a person whom the Registrar considers qualified for the purpose to prepare one.
- “(3) The court may act under **subsection (2)** only if satisfied that—
 - “(a) the information that the report will provide is essential for the proper disposition of the application; and
 - “(b) the report is the best source of the information, having regard to the quality, timeliness, and cost of other sources; and
 - “(c) the proceedings will not be unduly delayed by the time taken to prepare the report; and
 - “(d) any delay in the proceedings will not have an unacceptable effect on the child.
- “(4) If the court is entitled by **subsection (3)** to act under **subsection (2)** and if the court knows the parties’ wishes about the obtaining of a report or can speedily ascertain them, the

court must have regard to the parties' wishes before deciding whether or not to act under **subsection (2)**.

“Court’s power to obtain psychological reports

- “(5) To obtain a written psychological report,—
- “(a) the court may—
- “(i) request a psychologist whom the court considers qualified for the purpose to prepare one; or
- “(ii) direct the Registrar to request a psychologist whom the Registrar considers qualified for the purpose to prepare one; and
- “(b) the court—
- “(i) must specify which of the matters listed in **paragraphs (a) to (f)** of the definition of psychological report in **subsection (1)** that the report is to cover; and
- “(ii) may specify any matter not listed in **paragraphs (a) to (f)** of the definition of psychological report in **subsection (1)** that the report is to cover.
- “(6) The court may act under **subsection (5)(a)** only if—
- “(a) the court is satisfied that the information that the psychological report will provide is essential for the proper disposition of the application; and
- “(b) the court is satisfied that the psychological report is the best source of the information, having regard to the quality, timeliness, and cost of other sources; and
- “(c) the court is satisfied that the proceedings will not be unduly delayed by the time taken to prepare the psychological report; and
- “(d) the court is satisfied that any delay in the proceedings will not have an unacceptable effect on the child; and
- “(e) the court does not seek the psychological report solely or primarily to ascertain the child’s wishes.
- “(7) If the court is entitled by **subsection (6)** to act under **subsection (5)** and if the court knows the parties’ wishes about the obtaining of a psychological report or can speedily ascertain them, the court must have regard to the parties’ wishes before deciding whether or not to act under **subsection (5)**.

“Court’s power to direct meetings

- “(8) If the court acts under **subsection (2) or (5)**, it may give directions at the same time on arrangements for—
- “(a) the child to meet with the report writer; or
 - “(b) 1 or more of the parties to meet with the report writer; or
 - “(c) the child and 1 or more of the parties to meet with the report writer.
- “(9) If a party or the child fails to meet with the report writer as directed by the court,—
- “(a) the report writer must notify the court; and
 - “(b) the court may make further directions.

“Second opinions

- “(10) The approval of the court must be obtained before a second opinion may be prepared and presented.
- “(11) The court may give approval only if there are exceptional circumstances.
- “(11A) A party who obtains the approval of the court for the preparation and presentation of a second opinion is liable for the costs of that opinion.
- “(12) If the court gives approval, it may permit disclosure of the materials to the psychologist preparing the second opinion.
- “(13) If the court declines to give approval to a party, or if a party does not seek approval, the court may permit disclosure of the materials to a psychologist who is employed by the party and who is not the report writer.
- “(14) The court may permit disclosure under **subsection (13)** only if the court is satisfied that the psychologist requires the materials to assist the party to prepare the party’s cross-examination.”

23 Section 134 amended (Distribution, etc, of reports under sections 132 and 133)

In section 134(3)(b), replace “section 130(1)” with “**section 130**”.

24 Section 135 replaced (Costs of reports under section 133)

Replace section 135 with:

“135 Costs of reports requested under section 133

- “(1) Fees for the preparation of reports requested under **section 133**, and reasonable expenses incurred, must—
- “(a) be determined in accordance with regulations made under **section 16D** of the Family Courts 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.
- “(2) Where in any proceedings a report requested under **section 133** has been prepared and the fees and expenses relating to that report have been paid under **subsection (1)**, the court must make an order under **section 135A** unless the court declines to do so in accordance with that section.

“135A Order requiring refund reimbursement of costs payments

- “(1) An order referred to in **section 131(5) or 135(2)** must order the parties to refund to the Crown the prescribed proportion of the amount paid by the Crown—
- “(a) under **section 131(1)(b)**, in respect of the fees and expenses of a lawyer appointed under **section 130**;
 - “(b) under **section 135(1)(b)**, in respect of a report requested under **section 133**.
- “(1) An order referred to in **section 131(4) or 135(2)** must require the parties to reimburse to the Crown the prescribed proportion of the amount paid by the Crown,—
- “(a) under **section 131(1)(b)**, in respect of the fees and expenses of a lawyer appointed under **section 7 or 130**;
 - “(b) under **section 135(1)(b)**, in respect of a report requested under **section 133**.
- “(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.

“(3A) Each party against whom an order is made under **subsection (1)** must pay an equal share of the prescribed proportion.

“(4) Despite **subsection (2) (3A)**, 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.

“(6) In this section,—

“**dependent child**, in relation to a party, means a child whose day-to-day 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.

“135B Enforcement of orders made under section 135A

- “(1) The amount that a party is ordered to ~~refund~~ reimburse under **section 135A** 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 may, on behalf of the Crown, enforce a debt under this section.

“135C Time may be extended for payments ordered under section 135A

- “(1) ~~If an amount that a party is ordered to refund under **section 135A** 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.~~²²

25 Section 137 amended (Attendance at hearings generally)

- (1) Replace section 137(1)(b) with:

- “(b) parties to the proceedings:
“(ba) lawyers acting for the parties (if any):”.
- (2) Replace section 137(1)(c) with:
“(c) lawyers appointed under **section 7 or 130**:”.
- (2A) Repeal section 137(1)(f).
- (3) Repeal section 137(4)(c).
- (4) Repeal section 137(5).
- 26 Section 138 repealed (Attendance at hearings of persons involved in counselling or conciliation under Family Proceedings Act 1980)**
Repeal section 138.
- 27 New section 139A inserted (Leave required in certain cases to commence substantially similar proceedings)**
After section 139, insert:
- “139A Leave required in certain cases to commence substantially similar proceedings**
- “(1) A proceeding (a **new proceeding**) may not be commenced under **section 46L**, 48, or 56 without the leave of the court if that new proceeding—
- “(a) is substantially similar to a proceeding previously filed in a Family Court by any person (a **previous proceeding**); and
- “(b) is to be commenced less than 2 years after the final direction or order was given in the previous proceeding.
- “(2) The leave of the court may only be given under **subsection (1)** if, since ~~final judgment~~ the final direction or order was given in the previous proceeding, there has been a material change in the circumstances of—
- “(a) any party to the previous proceeding;
- “(b) any child who was the subject of the previous proceeding.
- “(3) In this section, a new proceeding is **substantially similar** to a previous proceeding if—
- “(a) the party commencing the new proceeding was a party to the previous proceeding; and

- “(b) a child who is the subject of the new proceeding was the subject of the previous proceeding; and
- “(c) the new proceeding—
 - “(i) is commenced under the same provision of this Act as the previous proceeding; or
 - “(ii) is for an order varying the order made in the previous proceeding; or
 - “(iii) is for an order discharging the order made in the previous proceeding.
- “(4) This section does not apply if every party to the new proceeding consents to its commencement.”

28 Section 141 amended (Power to restrict commencement of proceedings)

In the heading to section 141, after “**proceedings**”, insert “**if vexatious proceedings previously instituted**”.

28A Section 142 amended (Costs)

After section 142(2), insert:

- “(3) This section is subject to **sections 131(5) and 135(2)**.”

28B Section 143 amended (Appeals to High Court)

- (1) In section 143(2), replace “section 44 or section 46” with “**section 46C or 46L**”.
- (2) In section 143(3), delete “(other than criminal proceedings or proceedings under section 44 or section 46)”.
- (3) After section 143(3), insert:
 - “(3A) However, no appeal may be made to the High Court under subsection (3) in relation to—
 - “(a) any interlocutory or interim order made in the following kinds of proceedings:
 - “(i) criminal proceedings; or
 - “(ii) proceedings under **section 46C**; or
 - “(iii) proceedings under **section 46L**; or
 - “(b) a decision under—
 - “(i) **section 7** to appoint, or to direct the Registrar of the court to appoint, a lawyer to represent a child;
 - or

- “(ii) **section 130** to appoint, or to direct the Registrar of the court to appoint, a lawyer to assist the court; or
- “(iii) **section 133** to obtain a written cultural report, medical report, psychiatric report, or psychological report; or
- “(c) a direction under **section 7A(5A)** that the parties may, or may not, be represented at a settlement conference.”

28C Section 145 amended (Appeal to Court of Appeal)
In section 145(1)(a), replace “section 44 or section 46” with “**section 46C or 46L**”.

28D Section 146 amended (Rules of court)
Repeal section 146(3).

29 Section 147 amended (Regulations)

- (1) Before section 147(2)(a), insert:
- “(aa) prescribing for the purposes of **section 46EA** any criteria that the Secretary must apply when deciding whether to approve an organisation as an approved counselling organisation:
- “(ab) prescribing for the purposes of **section 46EB** the grounds on which the Secretary may suspend or cancel the approval of an organisation as an approved counselling organisation, which may include—
- “(i) that the approval was given on the basis of information that was false or misleading in a material respect; or
- “(ii) that the organisation no longer satisfies any criteria for approval prescribed by regulations made under **paragraph (aa)**; or
- “(iii) that the organisation has requested the suspension or cancellation of the approval; or
- “(iv) that the organisation has been wound up, dissolved, or otherwise ceases ~~has~~ has ceased to exist:
- “(ac) prescribing for the purposes of **section 46FA** the qualification and competency requirements that must be met

for a person to be appointed as a counsellor, which, without limitation, may require a person—

“(i) to be a member of a ~~specified~~ professional body that the Secretary identifies as a professional body by notice in the *Gazette*:

“(ii) to have a specified qualification:

“(iii) to have a specified level of counselling experience:

“(ad) prescribing for the purposes of **section 46FA** any matters that disqualify a person from being appointed as a counsellor, which, without limitation, may include having a conviction for certain types of offences:

“(ada) prescribing for the purposes of **section 46GA** the maximum number of counselling sessions that may be carried out under **section 46E**:

“(ae) prescribing for the purposes of **section 46H** the amount of fees and expenses payable for counselling services provided under **section 46E**:

“(af) specifying for the purposes of **sections 46I and 47B(2)** 1 or more parenting information programmes that provide information about the effects of a relationship breakdown, including—

“(i) how a child may be affected when parents separate; and

“(ii) how the needs of a child may be met when parents separate.”.

(2) In section 147(2)(a),—

(a) replace “section 62(2)” with “**section 60(2)**”; and

(b) replace “section 60(5)” with “**section 59(2)**”.

(3) In section 147(2)(b),—

(a) replace “section 62(3)” with “**section 60(3)**”; ~~and~~; and

(b) replace “section 60(5)” with “**section 59(2)**”; ~~and~~; and

(c) replace “section 62(2)” with “**section 60(2)**”.

(4) Repeal section 147(2)(c).

(5) Replace section 147(2)(d) with:

“(d) prescribing, for the purposes of **section 135A**, the proportion of any amount paid by the Crown under—

“(i) **section 131(1)(b)**;

“(ii) **section 135(1)(b)**.”.

30 Section 148 amended (Other Acts not affected)

In section 148(2), delete “66 and 69 and”.

31 Section 152 amended (Repeal)

In section 152, insert as subsection (2):

“(2) The Care of Children Amendment Act 2008 (2008 No 74) is repealed.”

31 Section 152 replaced (Repeal)

Replace section 152 with:

“152 Repeals

The following Acts are repealed:

“(a) Guardianship Act 1968 (1968 No 63):

“(b) Care of Children Amendment Act 2008 (2008 No 74):

“(c) Care of Children Amendment Act 2013 (2013 No 45).”

31A Cross-heading above section 153 replaced

Replace the cross-heading above section 153 with:

*“Saving and transitional provisions on
enactment of this Act”.*

32 New section 165 inserted (Proceedings pending before commencement of Part 1 of Family Court Proceedings Reform Act 2013) and cross-heading inserted

After section 164, insert:

*“Transitional provision applying on enactment
of Part 1 of Family Court Proceedings Reform
Act 2013*

“165 Proceedings pending commenced before commencement of Part 1 of Family Court Proceedings Reform Act 2013 this section but not completed

“(1) This section applies to proceedings under this Act that were commenced before the date of commencement of **Part 1 of the Family Court Proceedings Reform Act 2013** this section but were not by that date completed (a **pending proceeding**).

“(2) The following provisions do not apply to a pending proceeding:

- “(a) **section 7A**; and
“(b) **section 135A**; and
“(c) **section 135B**; and
~~“(d) **section 135C**;~~
- “(3) The following provisions, as in force immediately before the date of commencement of **Part 4 of the Family Court Proceedings Reform Act 2013** this section, continue to apply to a pending proceeding with any necessary modifications as if **Part 1 of the Family Court Proceedings Reform Act 2013** had not ~~come into force~~ been enacted:
- “(aa) section 131; and
“(a) section 135; and
“(b) section 137.
- “(4) If section 57, as in force immediately before the date of commencement of **Part 4 of the Family Court Proceedings Reform Act 2013** this section, applied in respect of any interim order, section 57 continues to apply in respect of that order as if **Part 1 of the Family Court Proceedings Reform Act 2013** had not ~~come into force~~ been enacted.
- “(5) If in any pending proceeding there is in force immediately before the date of commencement of **Part 4 of the Family Court Proceedings Reform Act 2013** this section an order for supervised contact between a child who is the subject of the proceedings and any party, sections ~~58 to 62~~ and 147(2)(a) and (b) continue to apply in respect of that proceeding **as if Part 1 of the Family Court Proceedings Reform Act 2013** had ~~not come into force~~ not been enacted.
- “(6) If in any pending proceeding a referral to counselling was made either on the court’s initiative (under section 45) or on the request of a party (under section 65) and that counselling ~~has been~~ was arranged or ~~is~~ was in progress immediately before the date of commencement of **Part 4 of the Family Court Proceedings Reform Act 2013** this section,—
- “(a) sections 66, 67, 69, and 138 continue to apply as if **Part 1 of the Family Court Proceedings Reform Act 2013** had not ~~come into force~~ been enacted; but
“(b) the counselling may not start or continue 4 months after the date of commencement of **Part 4 of the Family Courts Proceedings Reform Act 2013** this section.”

Part 2
Amendments to Domestic Violence Act
1995

- 33 Principal Act**
This Part amends the Domestic Violence Act 1995 (the **principal Act**).
- 34 Section 2 amended (Interpretation)**
- (1) In section 2, insert in its appropriate alphabetical order:
“**contact** has the meaning given to it by section 8 of the Care of Children Act 2004”.
- (2) ~~In section 2, repeal the definitions of:~~
- ~~(a) **approved agency**;~~
- ~~(b) **programme**;~~
- ~~(c) **programme provider**;~~
- (2) In section 2, repeal the definitions of **approved agency**, **programme**, and **programme provider**.
- 35 Section 3 amended (Meaning of domestic violence)**
After section 3(2)(c)(iv), insert:
“(iva) financial or economic abuse (for example, denying or limiting access to financial resources, or preventing or restricting employment opportunities or access to education):”.
- 36 Section 5 amended (Object)**
- (1) In section 5(2)(c), replace “programmes” with “safety programmes”.
- (2) In section 5(2)(d), replace “programmes” with “non-violence programmes”.
- 36A Section 13 amended (Application without notice for protection order)**
- (1) Replace section 13(4)(e) with:
“(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.”

(2) Replace section 13(5)(e) with:

“(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.”

36B Section 19 amended (Standard conditions of protection order)

(1) In section 19(2)(e)(iv), after “1989”, insert “; or”.

(2) After section 19(2)(e)(iv), insert:

“(v) as is necessary for the purposes of attending a settlement conference convened under **section 46K** of the Care of Children Act 2004”.

37 Sections 29 to 44 and cross-heading above section 29 repealed

Repeal sections 29 to 44 and the cross-heading above section 29.

50A Section 46 amended (Power to vary protection order)

(1) In section 46(1)(c) and (d), replace “section 32” with “**section 51D**”.

(2) In section 46(2)(c) and (d), replace “section 32” with “**section 51D**”.

51 Section 49 amended (Offence to breach protection order)

(1) In section 49(3), replace “2 years” with “3 years”.

(2) In section 49(4), replace “section 32(1) or (2) to attend a specified programme” with “**section 51D**”.

52 Section 49A repealed (Offence to fail to comply with direction)

Repeal section 49A.

52A New Part 2A inserted

After Part 2, insert:

**“Part 2A
“Programmes**

“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.

*“Approval of service providers***“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.
- “(1A) 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)**.
- “(1B) 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)**.
- “(2) The Secretary must publish on an Internet site maintained by or on behalf of the Ministry of Justice a list of service providers.

*“Safety programmes***“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.

“Non-violence programmes

“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.

“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 ~~section~~ 79.

“**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) ~~confirm the direction but~~ vary the terms of 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.

“**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**.

“**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.

“**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) ~~advise~~ 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.

“**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.

“**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.

“**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 (2) (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.

“**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.

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

“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.

“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.

“51P Judge may call respondent before court

- “(1) If, under **section 510(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.

“51Q Respondent called before court

- “(1) If a respondent appears before the court under **section 510(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.

“Completion of non-violence programme

“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) ~~notify~~ 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.

“Confidentiality of information

“**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)**;
 - “(iiiia) **section 51L(3)**;
 - “(iv) **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.

“Enforcement of directions

“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.”

52B Section 76 amended (Respondent to notify intention to appear)

In section 76(2)(b), replace “36” with “**51E**”.

52C Section 77 amended (Procedure where respondent does not require hearing)

In section 77(1), replace “36” with “**51E**”.

53 Section 81 amended (Court may appoint lawyer)

~~(1) In section 81(2), (3), and (4), replace “this section” with “subsection (1)(c)”.~~

(1) In section 81(2), replace “this section” with “subsection (1)(c)”.

(2) After section 81(2), insert:

“(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 Courts 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.”

(2A) Replace section 81(3) with:

“(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.”

(3) Replace section 81(4) with:

“(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 ~~tax~~ decide to adjust the amount of the invoice.”

(4) In section 81(5), replace “bill” with “invoice”.

54 Section 127 amended (Regulations)

(1) Replace section 127(a) to (e) with:

“(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**.”

(2) In section 127(f), replace “section 81” with “section 81(1)(c)”.

(3) In section 127(g), replace “section 42” with “**section 51O or 51P**”.

54A Cross-heading above section 133 replaced

Replace the cross-heading above section 133 with:

“Transitional provisions on enactment of this Act”.

55 New sections 134 to 138 and cross-heading inserted

After section 133, insert:

*“Transitional provisions applying on enactment
of Part 2 of the Family Court Proceedings
Reform Act 2013*

**“134 Programmes requested or directed before commencement
of Part 2 of Family Court Proceedings Reform Act 2013
this section**

**“(1) Subsection (2) applies if, before the date of commencement
of Part 2 of the Family Court Proceedings Reform Act
2013 this section,—**

**“(a) an applicant or a specified person has made a request
under section 29; but**

**“(b) the Registrar has had not referred the request to a pro-
gramme provider.**

**“(2) The Registrar must refer the request to a service provider under
section 51C.**

**“(3) Subsection (4) applies if, before the date of commencement
of Part 2 of the Family Court Proceedings Reform Act
2013,—**

**“(a) a respondent or an associated respondent or both a
respondent and an associated respondent have been
directed under section 32 to attend a specified pro-
gramme; but**

**“(b) the Registrar has not, under section 34, notified the pro-
gramme provider of that direction.**

**“(4) The Registrar must refer the respondent or associated respond-
ent or both to a service provider under section 51C.**

**“(3) Subsections (4) and (5) apply if, before the date of com-
mencement of this section,—**

**“(a) a direction under section 32 was made in any proceed-
ing; but**

**“(b) the Registrar had not, under section 34, notified the pro-
gramme 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.
- “135 **Referrals to programme providers before commencement of Part 2 of Family Proceedings Reform Act 2013** this section
- “(1) **Subsections (2) and (3)** apply if, before the date of commencement of **Part 2 of the Family Court Proceedings Reform Act 2013** this section,—
- “(a) a request made to a Registrar under section 29 has been was referred to a programme provider; but
 - “(b) the programme provider has 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) and (6)** apply if, before the date of commencement of **Part 2 of the Family Court Proceedings Reform Act 2013**,—
- “(a) a notification under section 38 has been given to a programme provider of a direction made under section 32; and
 - “(b) the programme provider has 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 Registrar must, under **section 51G**,—
- “(a) make a referral to a service provider; and

- ~~“(b) notify the service provider of the referral.~~
- “(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.

“136 **Programmes arranged or in progress before commencement of Part 2 of Family Court Proceedings Reform Act 2013 this section**

- “(1) This section applies if—
- “(a) ~~there has been~~ was arranged or was in progress immediately before the date of commencement of **Part 2 of the Family Court Proceedings Reform Act 2013** 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 **Part 2 of the Family Court Proceedings Reform Act 2013** this section, continue to apply

in respect of the provision of that programme as if **Part 2 of the Family Court Proceedings Reform Act 2013** had not come into force been enacted.

“137 Proceedings commenced before commencement of Part 2 of Family Court Proceedings Reform Act 2013 this section but not completed

“(1) This section applies if, at any time before the date of commencement of **Part 2 of the Family Court Proceedings Reform Act 2013** this section, proceedings have been commenced under any of the following provisions but ~~have not been determined or were not by that date completed by that date~~ (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 **Part 2 of the Family Court Proceedings Reform Act 2013** continue to apply in respect of those proceedings as if **Part 2 of the Family Court Proceedings Reform Act 2013**:~~

“(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 **Part 2 of the Family Court Proceedings Reform Act 2013** had not been enacted.

“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 **Part 2 of the Family Court Proceedings Reform Act 2013** this section is of no effect on or after that date.”

Part 3 Family dispute resolution

Preliminary provisions

55A Purposes

The purposes of this **Part** are—

- (a) to require the use of family dispute resolution in specified family disputes:
- (b) to provide for operational measures required for the use of family dispute resolution.

56 **Interpretation**

In this **Part**,—

approved dispute resolution organisation means a dispute resolution organisation that is approved by the Secretary under **section 58**

domestic violence has the meaning given to it in the Domestic Violence Act 1995

family dispute means a dispute that will require an application described in **section 46D(1)** of the Care of Children Act 2004 if a party to the dispute wants a court to resolve it

family dispute resolution means family dispute resolution provided by a family dispute resolution provider for the purposes of—

- (a) assisting parties to a family dispute to resolve the dispute without having to pursue court proceedings; and
- (b) ensuring that the parties' first and paramount consideration in reaching a resolution is the welfare and best interests of the children

family dispute resolution form means a form approved by the Secretary that is described in **section 60B(2), (4), or (6) (6), or (8)**

family dispute resolution provider means a person who is appointed as a family dispute resolution provider under **section 60**

family dispute resolution provider or FDR provider means a person who is appointed as a family dispute resolution provider under **section 60**

Secretary means the Chief Executive of the Ministry of Justice.

57 Purposes

The purposes of this **Part** are—

- (a) to require the use of family dispute resolution in specified family disputes;
- (b) to provide for operational measures required for the use of family dispute resolution.

57A Part binds the Crown

This **Part** binds the Crown.

Dispute resolution organisations

58 Approval of dispute resolution organisations

- (1) The Secretary may, by notice in the *Gazette*, approve an organisation (whether incorporated or unincorporated) as an approved dispute resolution organisation.
- (2) In deciding whether to approve an organisation under **subsection (1)**, the Secretary must apply any criteria prescribed by regulations made under **section 60E(a)**.
- (3) An approval under **subsection (1)** may be made on any terms and conditions prescribed by regulations made under **section 60E(ab)** that the Secretary thinks fit.

59 Suspension or cancellation of approval of dispute resolution organisations

- (1) The Secretary may, by notice in the *Gazette*, suspend or cancel the approval of an organisation as an approved dispute resolution organisation on any ground prescribed by regulations made under **section 60E(b)**.
- (2) If under **subsection (1)** the Secretary suspends the approval of an organisation, the organisation is not an approved dispute resolution organisation during the period for which the approval is suspended.

59A **Effect of suspension or cancellation on FDR providers appointed by dispute resolution organisation**

- (1) If the approval of an organisation as an approved dispute resolution organisation is suspended under **section 59** for any period (the **suspension period**),—
- (a) every appointment of an FDR provider made by the organisation under **section 60(1)** continues during the suspension period; and
 - (b) all terms or conditions of an appointment continue to apply in respect of that appointment.
- (2) If the approval of an organisation as an approved dispute resolution organisation is cancelled under **section 59**,—
- (a) every appointment of an FDR provider made by the organisation under **section 60(1)** continues for a period of 6 months from the date of cancellation of the organisation's approval; and
 - (b) the Secretary may—
 - (i) perform oversight in respect of those FDR providers; or
 - (ii) enter into an agreement with 1 or more other approved dispute resolution organisations for the performance of oversight in respect of those FDR providers.

Family dispute resolution providers

- 60** **Appointment of family dispute resolution FDR providers**
- (1) The Secretary or an approved dispute resolution organisation may appoint a person as a family dispute resolution provider if that person is qualified and competent to provide services intended to resolve family disputes.
- (2) In deciding whether a person meets the criteria in **subsection (1)**, the Secretary or approved dispute resolution organisation must apply the qualification and competency requirements prescribed by regulations made under **section 60E(c) and (d)**.
- (3) An appointment under **subsection (1)** may be made on any terms and conditions that the Secretary or the approved dispute resolution organisation (as the case may be) thinks fit.

60AA Suspension or cancellation of appointment of FDR providers

- (1) The Secretary may, on any ground prescribed by regulations made under **section 60E(da)**, suspend or cancel the appointment of an FDR provider that is made by the Secretary.
- (2) An approved dispute resolution organisation may, on any ground prescribed by regulations made under **section 60E(da)**, suspend or cancel the appointment of an FDR provider that is made by the organisation.

60A Duties of family dispute resolution FDR providers

- (1) ~~A family dispute resolution~~ An FDR provider must determine whether it is appropriate to start family dispute resolution for a family dispute.
- (2) ~~If a family dispute resolution~~ an FDR provider determines that it is appropriate to start family dispute resolution for a family dispute, the ~~family dispute resolution~~ FDR provider must make every endeavour to—
 - (a) identify the matters in issue between the parties; and
 - (b) facilitate discussion between the parties in respect of those matters; and
 - (c) assist the parties to reach an agreement on the resolution of those matters that best serves the welfare and best interests of all children involved in the dispute.

Family dispute resolution forms

60B Family dispute resolution forms

- (1) **Subsection (2)** ~~applies when a family dispute resolution~~ an FDR provider decides that it is inappropriate to start or continue family dispute resolution for a family dispute because—
 - (a) at least 1 of the parties to the family dispute is unable to participate effectively in family dispute resolution; or
 - (b) at least 1 of the parties to the family dispute, or a child of one of the parties, has been subject to domestic violence by one of the other parties to the dispute; or
 - (c) a situation exists that gives the ~~family dispute resolution~~ FDR provider reasonable grounds for deciding

that family dispute resolution is inappropriate for the parties to the family dispute.

- (2) The ~~family dispute resolution~~ FDR provider must give each of the parties to the family dispute a form that states that family dispute resolution is inappropriate for the dispute.
- (3) **Subsection (4)** applies when a ~~family dispute resolution~~ an FDR provider decides that it is inappropriate to start or continue with family dispute resolution for a family dispute because one of the parties to the family dispute refuses to attend or to continue to attend family dispute resolution.
- (4) The ~~family dispute resolution~~ FDR provider must give every other party to the family dispute a form that states that family dispute resolution was not possible because one party refused to attend or to continue to attend family dispute resolution.
- (5) **Subsection (6)** applies when a ~~family dispute resolution~~ an FDR provider decides that a family dispute with which the provider is dealing is unable to be resolved within a reasonable time.
- (6) The ~~family dispute resolution~~ FDR provider must give each of the parties to the family dispute a form that states—
 - (a) the matters on which the parties reached, and did not reach, resolution while the ~~family dispute resolution~~ FDR provider was dealing with the dispute; and
 - (b) if proceedings are commenced, or have been commenced, whether, in the opinion of the provider,—
 - (i) a settlement conference would be likely to facilitate settlement of the matters on which the parties did not reach resolution; and
 - (ii) at least 1 of the parties would need legal representation at a settlement conference in order to participate effectively in that hearing.
- (7) **Subsection (8)** applies when a ~~family dispute resolution~~ an FDR provider and the parties agree that resolution has been reached on all matters in dispute.
- (8) The ~~family dispute resolution~~ FDR provider must give each of the parties to the family dispute a form that states—
 - (a) all of the matters on which resolution has been reached; and

- (b) the agreement reached in respect of those matters.
- (9) ~~A family dispute resolution~~An FDR provider cannot be required to attend court to explain the opinion of the ~~family dispute resolution~~FDR provider given under **subsection (6)(b)**.

60C Provision of family dispute resolution forms to court

- (1) If the parties have attended family dispute resolution pursuant to a direction made under **section 46D** of the Care of Children Act 2004, the ~~family dispute resolution~~FDR provider must send to the court a copy of the form given to the parties under **section 60B(2), (4), (6), or (8)**.
- (2) In any other case where the parties have attended family dispute resolution and proceedings have been commenced, the ~~family dispute resolution~~FDR provider must send to the court a copy of the form given to the parties under **section 60B(2), (4), (6), or (8)** if—
- (a) requested to do so by the court; and
- (b) the request is received by the ~~family dispute resolution~~FDR provider no more than 12 months after completion of the family dispute resolution.

Miscellaneous

60D Privilege

- (1) This section applies to a statement that a party to a family dispute makes to a ~~family dispute resolution~~an FDR provider for the purpose of enabling the ~~family dispute resolution~~FDR provider to deal with the dispute.
- (2) No evidence of the statement is admissible in any court or before any person acting judicially, unless the statement is recorded in a family dispute resolution form.
- (3) ~~A family dispute resolution~~An FDR provider commits an offence and is liable on conviction to a fine not exceeding \$500 who discloses to any other person a statement made to the provider for the purpose of enabling the provider to deal with a family dispute.
- (4) However, an FDR provider does not commit an offence under **subsection (3)** if the disclosure of the statement is authorised by the person who made the statement.

60E 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 58(2)** any criteria that the Secretary must apply when deciding whether to approve an organisation as a dispute resolution organisation:
- (ab) prescribing for the purposes of **section 58(3)** the kinds of terms and conditions on which the approval of an organisation may be made:
- (b) prescribing for the purposes of **section 59** the grounds on which the Secretary may suspend or cancel the approval of an organisation as an approved dispute resolution organisation, which, without limitation, may include—
 - (i) that the approval was given on the basis of information that was false or misleading in a material respect:
 - (ii) that the organisation no longer satisfies any criteria for approval prescribed by regulations made under **paragraph (a)**:
 - (iii) that the organisation has requested the suspension or cancellation of the approval:
 - (iv) that the organisation has been wound up or dissolved, or has otherwise ceased to exist:
 - (v) that the organisation has breached a term or condition on which the organisation's approval was made:
- (c) prescribing for the purposes of **section 60(2)** the qualification and competency requirements that must be met for a person to be appointed as a ~~family dispute resolution~~ an FDR provider, which, without limitation, may require a person—
 - (i) to be a member of a specified professional body:
 - (ii) to have a specified qualification:
 - (iii) to have a specified level of dispute resolution experience:

- (d) prescribing for the purposes of **section 60(2)** any matters that disqualify a person from being appointed as a ~~family dispute resolution~~ an FDR provider, which, without limitation, may include having a conviction for certain types of offences:
- (da) prescribing for the purposes of **section 60AA** the grounds on which the Secretary or an approved dispute resolution organisation may suspend or cancel the appointment of a FDR provider, which, without limitation, may include that the dispute resolution provider—
 - (i) was appointed on the basis of information that was false or misleading in a material respect;
 - (ii) no longer meets the qualification and competency requirements for appointment prescribed by regulations made under **paragraph (c)**;
 - (iii) has become disqualified from appointment as an FDR provider by reason of any matter prescribed by regulations made under **paragraph (d)**;
 - (iv) has breached a term or condition on which the FDR provider’s appointment was made.
- (e) ~~prescribing the content of a family dispute resolution form.~~

Part 4

Amendments to Legal Services Act 2011

70 Principal Act

This Part amends the Legal Services Act 2011 (the **principal Act**).

71 Section 7 amended (Proceedings for which legal aid may be granted: civil matters)

(1) After section 7(3), insert:

“(3A) Despite subsection (1), legal aid is only available in proceedings under the Care of Children Act 2004 that are to be heard and determined in a Family Court if—

“(a) a lawyer may, under **section 7A(2)** of that Act, act in the proceedings and the proceedings are not of a kind specified in **subsection (3B)**; or

- ~~“(b) a lawyer may, under **section 7A(4) or (5A)** of that Act, act in the proceedings; or~~
- ~~“(c) a lawyer is providing legal advice and assistance to—~~
- ~~“(i) a proposed applicant, in connection with the commencement of proceedings; or~~
- ~~“(ii) a respondent, in connection with the preparation of a notice of intention to appear or a notice of defence; or~~
- “(a) a lawyer is acting in the proceedings as permitted by any of the following sections of that Act:
- “(i) **section 7A(2)**; or
- “(ii) **section 7A(4)(b)(ii) or (iii)**; or
- “(iii) **section 7A(4)(c)**; or
- “(iv) **section 7A(5A)**; or
- ~~“(b) a lawyer is acting in the proceedings as permitted by **section 7A(4)(a) or (b)(i)** of that Act, but the proceedings are not of a kind specified in **subsection (3B)**; or~~
- ~~“(d) a lawyer is giving providing legal advice to a party who—~~
- ~~“(i) has indicated at a settlement conference an intention to consent to the making of an order settling 1 or more of the issues in dispute in the proceedings; and~~
- ~~“(ii) has been advised by the Judge to obtain legal advice before that order is made.~~
- ~~“(3B) The kinds of proceedings referred to in **subsection (3A)(a)(b)** are—~~
- ~~“(a) proceedings commenced by an application that—~~
- ~~“(i) affects the applicant only; or~~
- ~~“(ii) is in respect of a routine matter; or~~
- ~~“(iii) is about a matter that does not affect the interests of any other person; or~~
- ~~“(b) proceedings where every person in respect of whom the order is sought has either died or cannot be found.”~~
- (2) After section 7(5), insert:
- ~~“(6) **Subsections (3A) and (3B)** do not apply in respect of any proceedings commenced under the Care of Children Act 2004 before the date of commencement of **Part 4 section 5 of the Family Court Proceedings Reform Act 2013.**”~~

Part 5
Amendments to other Acts

Subpart 1—Amendments to Child Support
Act 1991

72 Principal Act

This subpart amends the Child Support Act 1991 (the **principal Act**).

72A Section 120 amended (Appeal from decisions of courts)

After section 120(1), insert:

“(1AA) However, no appeal may be made to the High Court under subsection (1) in relation to a decision under—

“(a) **section 226** to appoint a lawyer to represent a child; or

“(b) **section 226A** to appoint, or to direct the Registrar to appoint, a lawyer to assist the court.”

73 Section 226 replaced (Appointment of barrister or solicitor to assist court or represent children)

Replace section 226 with:

“**226 Appointment of lawyer to represent child in proceedings**

“(1) In any proceedings under this Act (other than criminal proceedings), a court may appoint a lawyer to represent any child who is—

“(a) the subject of the proceedings; or

“(b) a party to the proceedings.

“(2) An appointment under **subsection (1)** may be made only if the court is satisfied that the appointment is necessary or desirable.

“**226A Appointment of lawyer to assist court**

In any proceedings under this Act (other than criminal proceedings), a court may—

“(a) appoint a lawyer to assist the court; or

“(b) direct the Registrar of the court to appoint a lawyer to assist the court.

“226B Fees and expenses of lawyer appointed under section 226 or 226A

- “(1) The fees and expenses of a lawyer appointed under section 226 or 226A must—**
- “(a) be determined in accordance with regulations made under section 16D of the Family Courts Act 1980; and**
 - “(b) be paid out of public money appropriated by Parliament for the purpose.**
- “(2) An invoice rendered by a lawyer appointed under section 226 or 226A for fees and expenses must be given to the Registrar of the court in which the proceedings were heard, and the Registrar may tax the invoice.**
- “(3) A lawyer who is dissatisfied with the decision of the Registrar as to the amount of the invoice may, within 14 days after the date of the decision, apply to a Family Court Judge to review the decision, and the Judge may on the application make any order varying or confirming the decision that the Judge considers fair and reasonable.**
- “(4) Where the fees and expenses of a lawyer appointed under section 226 have been paid under subsection (1)(b), the court may, if it thinks it appropriate, order a party to the proceedings to refund to the Crown an amount the court specifies in respect of those fees and expenses, and the amount ordered to be refunded is a debt due to the Crown by that party and, in default of payment of that amount, payment may be enforced, 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.**
- “(5) Where the fees and expenses of a lawyer appointed under section 226A have been paid under subsection (1)(b), the court must make an order under section 226G unless the court declines to do so in accordance with that section.**
- “(6) However, no order under section 226G may be made against the Crown, whether acting through the department for the time being responsible for the administration of this Act or otherwise.**

“226B Fees and expenses of lawyer appointed under section 226 or 226A

- “(1) The fees and expenses of a lawyer appointed under section 226 or 226A must—**
- “(a) be determined in accordance with regulations made under section 16D of the Family Courts 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.**
- “(2) An invoice rendered by a lawyer appointed under section 226 or 226A 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.**
- “(3) A lawyer who is dissatisfied with the decision of the Registrar as to the amount of the invoice may, within 14 days after the date of the decision, apply to a Family Court Judge to review the decision, and the Judge may on the application make any order varying or confirming the decision that the Judge considers fair and reasonable.**
- “(4) Where in any proceedings a lawyer has been appointed under section 226 or 226A and the fees and expenses relating to that appointment have been paid under subsection (1), the court must make an order under section 226C, unless the court declines to do so in accordance with that section.**
- “(5) However, no order under section 226C may be made—**
- “(a) against the Crown, whether acting through the department for the time being responsible for the administration of this Act or otherwise; or**
 - “(b) in respect of an appointment under section 226A, where a lawyer has been appointed under that section to provide to the court independent legal advice on any complex legal issue.**

“226C Order requiring refund reimbursement of costs payments

- “(1) An order referred to in section 226B(5) must order the parties to refund to the Crown the prescribed proportion of the amount**

paid by the Crown, under **section 226B(1)(b)**, in respect of the appointment of the lawyer under **section 226A**.

- ~~“(2) Each party must pay an equal share of the prescribed proportion.~~
- “(1) An order referred to in **section 226B(4)** must require the parties to reimburse to the Crown the prescribed proportion of the amount paid by the Crown, under **section 226B(1)(b)**, in respect of the fees and expenses of a lawyer appointed under **section 226 or 226A**.
- “(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.
- “(3A) Each party against whom an order is made under **subsection (1)** must pay an equal share of the prescribed proportion.
- “(4) Despite **subsection (2) (3A)**, 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 day-to-day 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 135A** of that Act
- “**serious hardship**, in relation to a party or a dependent child of a party, has the same meaning as in section 135G(3).
- “**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.

“226D Enforcement of orders made under section 226C

- “(1) The amount that a party is ordered to ~~refund~~ reimburse under **section 226C** 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 ~~given by the District Court in any civil proceeding 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.

“226E Time may be extended for payments ordered under section 226C

- “(1) ~~If an amount that a party is ordered to refund under **section 226C** 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.”

73A Section 232 amended (Costs)

In section 232, insert as subsection (2):

“(2) This section is subject to **section 226B(5)(4)**.”

74 Section 235 amended (Regulations)

Repeal section 235(1)(d).

74A New section 268A and cross-heading inserted

After section 268, insert:

*“Subpart 1 of Part 5 of the Family Court
Proceedings Reform Act 2013*

“**268A Transitional provision for proceedings pending commenced before the commencement of subpart 1 of Part 5 of the Family Court Proceedings Reform Act 2013 but not completed by that date**

“(1) This section applies to proceedings under this Act that were commenced before the date of commencement of **subpart 1 of Part 5 of the Family Court Proceedings Reform Act 2013** but were not by that date completed (a **pending proceeding**).

“(2) The following provisions do not apply to a pending proceeding:

“(a) **section 226A:**

“(b) **section 226B:**

“(c) **section 226C:**

“(d) **section 226D.**

~~“(e) **section 226E.**~~

- “(3) Section 226, as in force immediately before the date of commencement of **subpart 1 of Part 5 of the Family Court Proceedings Reform Act 2013**, continues to apply to a pending proceeding with any necessary modifications as if **subpart 1 of Part 5 of the Family Court Proceedings Reform Act 2013** had not come into force.”

74B Consequential repeal

The Child Support Amendment Act (No 2) 2013 (2013 No 46)
is repealed.

Subpart 2—Amendments to Children,
Young Persons, and Their Families Act 1989

75 Principal Act

This subpart amends the Children, Young Persons, and Their Families Act 1989 (the **principal Act**).

76 Section 137 amended (Court to consider report and make directions)

- (1) In section 137(1), delete “, after giving such persons (if any) as it thinks fit an opportunity to be heard.”.
- (2) After section 137(1), insert:
“(1A) When considering the report and revised plan, the court may, but need not, give to any person the opportunity to be heard.”

77 Section 159 amended (Appointment of barrister or solicitor to represent child or young person)

- (1) Replace the heading to section 159 with “**Appointment of lawyer to represent child or young person in proceedings**”.
- (2) In section 159, replace “barrister or solicitor” with “lawyer” in each place.
- (3) In section 159(3)(a), replace “barrister’s or solicitor’s” with “lawyer’s”.

78 Sections 160 and 161 replaced

Replace sections 160 and 161 with:

“160 Appointment of lawyer to assist court

In any proceedings in a Family Court under Part 2 or 3A, the court may—

- “(a) appoint a lawyer to assist the court; or
- “(b) direct the Registrar of the court to appoint a lawyer to assist the court.

“161 Further provisions relating to appointment under section 159 or 160

“(1) A lawyer appointed under section 159—

“(a) must be served with all documents required to be served on the parties to the proceedings; and

“(b) may—

“(i) request the court to obtain any report that the court is empowered to obtain for the purposes of the proceedings:

“(ii) act on behalf of the child or young person in respect of any matter relating to the detention of that child or young person in secure care, or the care of that child or young person in a residence.

“(2) A lawyer appointed under **section 160**—

“(a) must be served with all documents required to be served on the parties to the proceedings; and

“(b) may request the court to obtain any report that the court is empowered to obtain for the purposes of the proceedings.”

79 Section 162 replaced (Payment of barrister or solicitor appointed under section 159 or section 160)

Replace section 162 with:

“162 Payment of lawyer appointed under section 159 or 160

“(1) The fees and expenses of any lawyer appointed under section 159 or **160** must—

“(a) be determined in accordance with regulations made under **section 16D** of the Family Courts 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.
- “(2) An invoice rendered by a lawyer appointed under section 159 or **160** for fees and expenses must be given to the Registrar of the court in which the proceedings were heard, and the Registrar may ~~tax~~ decide to adjust the amount of the invoice.
- “(3) A lawyer who is dissatisfied with the decision of the Registrar as to the amount of the invoice may, within 14 days after the date of the decision, apply to a Family Court Judge to review the decision, and the Judge may on the application make any order varying or confirming the decision that the Judge considers fair and reasonable.
- “(4) Where the fees and expenses of a lawyer appointed under section 159 or **160** have been paid under **subsection (1)(b)**, the court may, if it thinks it is appropriate, order a party to the proceedings to refund to the Crown an amount that the court specifies in respect of those fees and expenses, and the amount ordered to be refunded is a debt due to the Crown by that party and, in default of payment of that amount, payment may be enforced, 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.”

80 New sections 206A and 206B inserted

After section 206, insert:

- “**206A Leave required in certain cases to commence substantially similar proceedings**
- “(1) A proceeding (a new proceeding) may not be commenced under Part 2 without the leave of the court if that new proceeding—
- “(a) is substantially similar to a proceeding previously filed in a Family Court by any person (a **previous proceeding**); and
- “(b) is to be commenced less than 2 years after the final direction or order was given in the previous proceeding.
- “(2) The leave of the court may only be given under **subclause subsection (1)** if, since ~~final judgment~~ the final direction or

order was given in the previous proceeding, there has been a material change in the circumstances of—

- “(a) any party to the previous proceeding;
- “(b) any child or young person who was the subject of the previous proceeding.

“(3) In this section, a new proceeding is **substantially similar** to a previous proceeding if—

- “(a) the party commencing the new proceeding was a party to the previous proceeding; and
- “(b) a child who is the subject of the new proceeding was the subject of the previous proceeding; and
- “(c) the new proceeding—
 - “(i) is commenced under the same provision of this Act as the previous proceeding; or
 - “(ii) is for an order varying the order made in the previous proceeding; or
 - “(iii) is for an order discharging the order made in the previous proceeding.

“(4) This section does not apply if—

- “(a) every party to the new proceeding consents to its commencement; or
- “(b) the new proceeding is commenced by—
 - “(i) the chief executive; or
 - “(ii) a social worker; or
 - ~~“(iii) a constable.~~
 - “(iii) an iwi social service; or
 - “(iv) a cultural social service; or
 - “(v) the director of a child and family support service;
or
 - “(vi) a constable.

“206B Power to dismiss proceedings

The court may dismiss proceedings before it under Part 2 if it is satisfied—

- “(a) that the proceedings relate to a specified child and that the continuation of the proceedings is, in the particular circumstances, clearly contrary to the welfare and best interests of the child; or

“(b) that the proceedings are frivolous or vexatious or an abuse of the procedure of the court.”

81 Section 447 amended (Regulations)

Repeal section 447(e)(i).

Subpart 2A—Amendments to Family Courts
Act 1980

81A Principal Act

This subpart amends the Family Courts Act 1980 (the **principal Act**).

81B New sections 9A to 9C inserted

After section 9, insert:

“9A Duty ~~on~~ of lawyers to promote conciliation

- “(1) A lawyer acting for a party in any proceeding in the Family Court must, so far as possible, promote conciliation.
- “(2) In **subsection (1)**, **party** includes a proposed party.

“9B Role of lawyer appointed to represent child or young person in proceedings

- “(1) The role of a lawyer who is appointed to represent a child or young person in proceedings is to—
- “(a) act for the child or young person in the proceedings in a way that the lawyer considers promotes the ~~child’s~~ welfare and best interests of the child or young person;
- “(b) ensure that any views expressed by the child or young person to the lawyer on matters affecting the child or young person and relevant to the proceedings are communicated to the court;
- “(c) assist the parties to reach agreement on the matters in dispute in the proceedings to the extent to which doing so is in the best interests of the child or young person;
- “(d) provide advice to the child or young person, at a level commensurate with that child’s or young person’s level of understanding, about—
- “(i) any right of appeal against a decision of the court;
- and

- “(ii) the merits of pursuing any such appeal:
- “(e) undertake any other task required by or under any other Act.
- “(2) To facilitate the role set out in **subsection (1)(b)**, the lawyer must meet with the child or young person and, if it is appropriate to do so ~~having regard to that child’s age and maturity~~, ascertain the child’s or young person’s views on matters affecting the child or young person relevant to the proceedings.
- “(3) However, **subsection (2)** does not apply if, because of exceptional circumstances, a Judge directs that it is inappropriate for the lawyer to meet with the child or young person.
- “(4) A lawyer appointed to represent a child or young person in proceedings may—
 - “(a) call any person as a witness in the proceedings:
 - “(b) cross-examine witnesses called by any party to the proceedings or by the court.

9C Role of lawyer appointed to assist court

- “(1) The role of a lawyer who is appointed to assist the court in proceedings is to—
 - “(a) provide independent legal advice to the court on any complex factual or legal issue requested by the court:
 - “(b) offer an impartial perspective in relation to any issue arising in the proceedings:
 - “(c) undertake any other task required by or under any other Act.
- “(2) A lawyer appointed to assist the court in proceedings may—
 - “(a) call any person as a witness in the proceedings:
 - “(b) cross-examine witnesses called by any party to the proceedings or by the court.”

81C New section 12A inserted (Evidence)

After section 12, insert:

12A Evidence

- “(1) This section applies to a proceeding—
 - “(a) under an Act ~~described~~ specified in **subsection (2)**;
 - and
 - “(b) in a court described in **subsection (3)**.

- “(2) The Acts referred to in **subsection (1)(a)** are as follows:
- “(a) ~~the~~ Adoption Act 1955:
 - “(b) ~~the~~ Care of Children Act 2004:
 - “(c) ~~the~~ Child Support Act 1991:
 - “(d) ~~the~~ Children, Young Persons, and Their Families Act 1989:
 - “(e) ~~the~~ Domestic Violence Act 1995:
 - “(f) ~~the~~ Family Proceedings Act 1980:
 - “(g) ~~the~~ Property (Relationships) Act 1976:
 - “(h) ~~the~~ Protection of Personal and Property Rights Act 1988.
- “(3) The courts referred to in **subsection (1)(b)** are as follows:
- “(a) a Family Court:
 - “(b) a District Court that has concurrent jurisdiction with a Family Court:
 - “(c) a District Court acting under section 15:
 - “(d) a District Court hearing a proceeding under section 151 of the Children, Young Persons, and Their Families Act 1989:
 - “(e) any other court hearing a proceeding that is—
 - “(i) under an Act ~~described~~ specified in **subsection (2)**; and
 - “(ii) not a criminal proceeding; and
 - “(iii) one in which the court receives evidence or further evidence.
- “(4) The effect of section 5(3) of the Evidence Act 2006 is that that Act applies to the proceeding. However, the court hearing the proceeding may receive any evidence, whether or not admissible under the Evidence Act 2006, that the court considers may assist it to determine the proceeding.”

81D Section 16B amended (Regulations)

- (1) In the heading to section 16B, after “**Regulations**”, insert “**relating to court fees**”.
- (2) Repeal section 16B(1)(g).

81E New section 16D inserted (Regulations relating to payments to professionals)

After section 16C, insert:

“16D Regulations relating to payments to professionals

“Fees and expenses for lawyers for child and lawyers to assist court

- “(1) In **subsections (2) to (5)**, lawyer means either of the following:
- “(a) a lawyer appointed under any of the following provisions to represent a child or young person:
 - “(i) **section 7** of the Care of Children Act 2004:
 - “(ii) **section 226** of the Child Support Act 1991:
 - “(iii) section 159~~(+)~~ of the Children, Young Persons, and Their Families Act 1989:
 - “(iv) section 81(1)(b) of the Domestic Violence Act 1995:
 - “(v) **section 162~~(+)~~** of the Family Proceedings Act 1980:
 - “(vi) section 37A~~(+)~~ of the Property (Relationships) Act 1976; or
 - “(b) a lawyer appointed under any of the following provisions to assist the court:
 - “(i) **section 130** of the Care of Children Act 2004:
 - “(ii) **section 226A** of the Child Support Act 1991:
 - “(iii) **section 160** of the Children, Young Persons, and Their Families Act 1989:
 - “(iv) section 81(1)(a) of the Domestic Violence Act 1995:
 - “(v) **section 162A** of the Family Proceedings Act 1980:
 - “(vi) **section 65A** of the Protection of Personal and Property Rights Act 1988.
- “(2) The Governor-General may, from time to time, by Order in Council, make regulations for determining—
- “(a) the fees payable to a lawyer in respect of the lawyer’s appointment:
 - “(b) the expenses payable to a lawyer in respect of the lawyer’s appointment.
- “(3) Regulations under **subsection (2)(a)** may—
- “(a) prescribe the maximum hourly rate or rates for the fee payable, and different rates may be prescribed depending on—

- “(i) the complexity of the proceedings:
- “(ii) the number of proceedings in which the lawyer is engaged during a specified period:
- “(b) prescribe the maximum number of hours for which the fee is payable, and different numbers of hours may be prescribed depending on—
 - “(i) the complexity of the proceedings:
 - “(ii) the number of proceedings in which the lawyer is engaged during a specified period:
- “(c) provide that any rate prescribed under **paragraph (a)**, or any number of hours prescribed under **paragraph (b)**, or both, may be increased by the court in a particular proceeding if the court is satisfied that the increase is justified because of exceptional circumstances.
- “(4) If no regulations are made under **subsection (2)(a)** in respect of any lawyer, the fees payable to that lawyer are to be determined by the Registrar of the court.
- “(5) Regulations under **subsection (2)(b)** may prescribe—
 - “(a) the types of expenses for which a lawyer may claim reimbursement:
 - “(b) the rate of reimbursement of those expenses:
 - “(c) the circumstances in which expenses may be reimbursed.

“Fees and expenses for report writers under Care of Children Act 2004
- “(6) In **subsections (7) to (10)**, **report writer** means any of the following:
 - “(a) a person who prepares a cultural report when requested to do so under section **133(2)** of the Care of Children Act 2004:
 - “(b) a person who prepares a medical report when requested to do so under section **133(2)** of the Care of Children Act 2004:
 - “(c) a person who prepares a psychiatric report when requested to do so under section **133(2)** of the Care of Children Act 2004:
 - “(d) a person who prepares a psychological report when requested to do so under section **133(5)** of the Care of Children Act 2004.

- “(7) The Governor-General may, from time to time, by Order in Council, make regulations for determining—
- “(a) the fees payable to a report writer for doing either or both of the following:
 - “(i) preparing a report:
 - “(ii) attending as a witness in the proceedings for which the report writer prepared the report:
 - “(b) the expenses payable to a report writer for doing either or both of the following:
 - “(i) preparing a report:
 - “(ii) attending as a witness in the proceedings for which the report writer prepared the report.
- “(8) Regulations under **subsection (7)(a)** may—
- “(a) prescribe the maximum hourly rate or rates for the fee payable, and different rates may be prescribed depending on—
 - “(i) the type of report:
 - “(ii) the complexity of the proceedings:
 - “(iii) the number of proceedings in which the report-writer is engaged during a specified period:
 - “(b) prescribe the maximum number of hours for which the fee is payable, and different numbers of hours may be prescribed depending on—
 - “(i) the type of report:
 - “(ii) the complexity of the proceedings:
 - “(iii) the number of proceedings in which the report-writer is engaged during a specified period:
 - “(c) provide that any rate prescribed under **paragraph (a)**, or any number of hours prescribed under **paragraph (b)**, or both, may be increased by the court in a particular proceeding if the court is satisfied that the increase is justified because of exceptional circumstances.
- “(9) If no regulations are made under **subsection (7)(a)** in respect of any report writer, the fees payable to that report writer are to be determined by the Registrar of the court.
- “(10) Regulations under **subsection (7)(b)** may prescribe the following:
- “(a) the types of expenses for which a report writer may claim reimbursement:

- “(b) the rate of reimbursement of those expenses:
- “(c) the circumstances in which expenses may be reimbursed.”

81F Section 17 amended (Certain enactments amended)

Repeal section 17(2).

81G New section 17A inserted (Repeals)

After section 17, insert:

“17A Repeals

The following provisions are repealed:

- “(a) section 24 of the Adoption Act 1955:
- “(b) section 128 of the Care of Children Act 2004:
- “(c) section 228 of the Child Support Act 1991:
- “(d) section 195 of the Children, Young Persons, and Their Families Act 1989:
- “(e) section 84 of the Domestic Violence Act 1995:
- “(f) ~~section~~ sections 4 and 5 of the Family Courts Amendment Act 2008:
- “(g) section 164 of the Family Proceedings Act 1980:
- “(h) section 36 of the Property (Relationships) Act 1976:
- “(i) section 77 of the Protection of Personal and Property Rights Act 1988.”

Subpart 3—Amendments to Family
Proceedings Act 1980

82 Principal Act

This subpart amends the Family Proceedings Act 1980 (the **principal Act**).

83 Section 2 amended (Interpretation)

In section 2, repeal the definitions of—

- (a) **approved marriage or civil union guidance organisation or counselling organisation:**
- (b) **attachment order:**
- (c) **charging order:**
- (d) **child of the civil union:**
- (e) **counsellor:**

- (f) **employer:**
- (g) **family chattels:**
- (h) **family home:**
- (i) **mediation conference:**
- (j) **salary or wages.**

84 Section 5 repealed (Marriage or civil union guidance or counselling organisations)

Repeal section 5.

85 Part 2 repealed

Repeal Part 2.

86 Section 160 amended (Applications may be heard together)

In section 160(1), delete “Care of Children Act 2004 or under the”.

87 Section 162 replaced (Appointment of barrister or solicitor to assist court or represent children)

Replace section 162 with:

“162 Appointment of lawyer to represent child in proceedings

“(1) In any proceedings under this Act (other than criminal proceedings), a court may appoint a lawyer to represent any child who is—

“(a) the subject of the proceedings; or

“(b) a party to the proceedings.

“(2) An appointment under **subsection (1)** may be made only if the court is satisfied that the appointment is necessary or desirable.

“162A Appointment of lawyer to assist court

In any proceedings under this Act (other than criminal proceedings), a court may—

“(a) appoint a lawyer to assist the court; or

“(b) direct the Registrar of the court to appoint a lawyer to assist the court.

“162B Fees and expenses of lawyer appointed under section 162 or 162A

- “(1) The fees and expenses of a lawyer appointed under section 162 or 162A must—**
- “(a) be determined in accordance with regulations made under section 16D of the Family Courts Act 1980; and**
 - “(b) be paid out of public money appropriated by Parliament for the purpose.**
- “(2) An invoice rendered by a lawyer appointed under section 162 or 162A for fees and expenses must be given to the Registrar of the court in which the proceedings were heard, and the Registrar may tax the invoice.**
- “(3) A lawyer who is dissatisfied with the decision of the Registrar as to the amount of the invoice may, within 14 days after the date of the decision, apply to a Family Court Judge to review the decision, and the Judge may on the application make any order varying or confirming the decision that the Judge considers fair and reasonable.**
- “(4) Where the fees and expenses of a lawyer appointed under section 162 have been paid under subsection (1)(b), the court may, if it thinks it appropriate, order a party to the proceedings to refund to the Crown an amount the court specifies in respect of those fees and expenses, and the amount ordered to be refunded is a debt due to the Crown by that party and, in default of payment of that amount, payment may be enforced, 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.**
- “(5) Where the fees and expenses of a lawyer appointed under section 162A have been paid under subsection (1)(b), the court must make an order under section 162G unless the court declines to do so in accordance with that section.**
- “(6) However, no order under section 162G may be made against the Crown, whether acting through the department for the time being responsible for the administration of this Act or otherwise.**

“162B Fees and expenses of lawyer appointed under section 162 or 162A

- “(1) The fees and expenses of a lawyer appointed under section 162 or 162A must—**
- “(a) be determined in accordance with regulations made under section 16D of the Family Courts 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.**
- “(2) An invoice rendered by a lawyer appointed under section 162 or 162A 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.**
- “(3) A lawyer who is dissatisfied with the decision of the Registrar as to the amount of the invoice may, within 14 days after the date of the decision, apply to a Family Court Judge to review the decision, and the Judge may on the application make any order varying or confirming the decision that the Judge considers fair and reasonable.**
- “(4) Where in any proceedings a lawyer has been appointed under section 162 or 162A and the fees and expenses relating to that appointment have been paid under subsection (1), the court must make an order under section 162C, unless the court declines to do so in accordance with that section.**
- “(5) However, no order under section 162C may be made—**
- “(a) against the Crown, whether acting through the department for the time being responsible for the administration of this Act or otherwise; or**
 - “(b) in respect of an appointment under section 162A, where a lawyer has been appointed under that section to provide to the court independent legal advice on any complex legal issue.**

“162C Order requiring refund reimbursement of costs payments

- “(1) An order referred to in section 162B(5) must order the parties to refund to the Crown the prescribed proportion of the amount**

paid by the Crown, under **section 162B(1)(b)**, in respect of the appointment of the lawyer under **section 162A**.

- “(2) Each party must pay an equal share of the prescribed proportion.
- “(1) An order referred to in **section 162B(4)** must require the parties to reimburse to the Crown the prescribed proportion of the amount paid by the Crown, under **section 162B(1)(b)**, in respect of the fees and expenses of a lawyer appointed under **section 162 or 162A**.
- “(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.
- “(3A) Each party against whom an order is made under **subsection (1)** must pay an equal share of the prescribed proportion.
- “(4) Despite **subsection (2) (3A)**, 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 day-to-day 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 135A** 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 made under section 162C

- “(1) The amount that a party is ordered to ~~refund~~ reimburse under **section 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 may be extended for payments ordered under section 162C

- “(1) If an amount that a party is ordered to refund under **section 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.”

88 Section 165 amended (Power of District Court or Family Court to call witnesses)

Replace section 165(4) with:

- “(4) A witness called by the court under this section may be—
- “(a) examined and re-examined by the court, or by a lawyer appointed to assist the court; and
- “(b) cross-examined by or on behalf of any party to the proceedings.”

88A Section 171 amended (Costs)

After section 171(2), insert:

- “(3) This section is subject to **section 162B(5)**.”

88AB Section 174 amended (Appeals from decisions of District Courts and Family Courts)

- (1) In section 174(1AA), delete “(other than criminal proceedings or proceedings under section 130)”.
- (2) In section 174(1), replace “subsection (1A)” with “subsection (1AA)”.
- (3) Replace section 174(1A) with:
- “(1A) However, no appeal may be made to the High Court under subsection (1) in relation to—
- “(a) criminal proceedings; or
- “(b) a decision under—
- “(i) **section 162** to appoint a lawyer to represent a child; or

“(ii) **section 162A** to appoint, or to direct the Registrar of the court to appoint, a lawyer to assist the court.

“(1B) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.”

89 Section 187 amended (Regulations)
Repeal section 187(a), (ca), (cb), and (cc).

90 New sections 193 and 194 inserted
After section 192, insert:

“**193 Transitional provision for counselling or mediation arranged before commencement of subpart 3 of Part 5 of Family Court Proceedings Reform Act 2013**
If any counselling or mediation has been arranged under Part 2 before the date of commencement of **subpart 3 of Part 5 of the Family Court Proceedings Reform Act 2013**, but that counselling or mediation has not been commenced or completed by that date,—
“(a) the counselling or mediation may be commenced or completed on or after the date of commencement of **subpart 3 of Part 5 of the Family Court Proceedings Reform Act 2013** as if **subpart 3 of Part 5 of the Family Court Proceedings Reform Act 2013** had not come into force; but
“(b) the counselling or mediation may not be commenced or continued 4 months after the date of commencement of **subpart 3 of Part 5 of the Family Court Proceedings Reform Act 2013**.

“**194 Transitional provision for proceedings pending commenced before the commencement of subpart 3 of Part 5 of the Family Court Proceedings Reform Act 2013 but not completed by that date**
“(1) This section applies to proceedings under this Act that were commenced before the date of commencement of **subpart 3 of Part 5 of the Family Court Proceedings Reform Act**

2013 but were not by that date completed (a **pending proceeding**).

- “(2) The following provisions do not apply to a pending proceeding:
- “(a) **section 162A:**
 - “(b) **section 162B:**
 - “(c) **section 162C:**
 - “(d) **section 162D.**
 - “(e) **section 162E:**
- “(3) Section 162, as in force immediately before the date of commencement of **subpart 3 of Part 5 of the Family Court Proceedings Reform Act 2013**, continues to apply to a pending proceeding with any necessary modifications as if **subpart 3 of Part 5 of the Family Court Proceedings Reform Act 2013** had not come into force.”

91 Schedule 2 amended

~~In Schedule 2, after the item relating to the Matrimonial Proceedings Amendment Act 1970, insert “**Family Proceedings Amendment Act 2008 (2008 No 79)**”.~~

91 Schedule 2 amended

In Schedule 2, after the item relating to the Matrimonial Proceedings Amendment Act 1970, insert:
“**Family Proceedings Amendment Act 2008 (2008 No 79)**
“**Family Proceedings Amendment Act 2013 (2013 No 47)**.”

Subpart 4—Amendments to Property
(Relationships) Act 1976

92 Principal Act

This subpart amends the Property (Relationships) Act 1976 (the **principal Act**).

93 Section 22 amended (Jurisdiction)

Repeal section 22(3) to (5).

94 Section 37A amended (Court may appoint lawyer for children)

Replace section 37A(2)(a) with:

“(a) must be determined in accordance with regulations made under **section 16D** of the Family Courts Act 1980 or, if no such regulations are made, by the Registrar of the court; and”.

95 New section 38A and cross-heading inserted

After section 38, insert:

“Transfer of proceedings

“38A Transfer of proceedings to High Court

“(1) A Family Court Judge may order the transfer of proceedings to the High Court if the Judge is satisfied that the High Court is the more appropriate venue for dealing with the proceedings.

“(2) In considering whether to make an order under **subsection (1)**, the Judge ~~may~~ must have regard to ~~any matter the Judge considers relevant, including (but not limited to)~~—

“(a) the complexity of the proceedings or of any question in issue in the proceedings:

“(b) any proceedings before the High Court that are between the same parties and that involve related issues:

“(c) any other matter that the Judge considers relevant in the circumstances.

“(3) An order may be made under **subsection (1)** on—

“(a) the application of a party to the proceedings; or

“(b) the court’s initiative.

“(4) Any proceedings transferred to the High Court by an order made under **subsection (1)** continue in that court as if they had been properly commenced there.”

96 Section 53 amended (Rules of court and regulations)

Repeal section 53(2A)(a).

Subpart 5—Amendments to Protection of Personal and Property Rights Act 1988

97 Principal Act

This subpart amends the Protection of Personal and Property Rights Act 1988 (the **principal Act**).

98 Section 65 amended (Appointment of barrister or solicitor by court or Registrar)

- (1) Replace the heading to section 65 with “**Appointment of lawyer to represent person in respect of whom application made**”.
- (2) In section 65, replace “barrister or solicitor” with “lawyer” in each place.
- (3) Repeal section 65(3).
- (4) In section 65(5), replace “barristers or solicitors” with “lawyers”.
- (5) Replace section 65(6) with:
 - “(6) 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 ~~tax~~ decide to adjust the amount of the invoice.”
- (6) In section 65(7), replace “bill” with “invoice”.

99 New sections 65A and 65B inserted

After section 65, insert:

“65A Appointment of lawyer to assist court

In any proceedings under this Act, a court may—

- “(a) appoint a lawyer to assist the court; or
- “(b) direct the Registrar of the court to appoint a lawyer to assist the court.

“65B Payment of lawyer appointed under section 65A

- “(1) The fees and expenses of any lawyer appointed under **section 65A** must—

- “(a) be determined in accordance with regulations made under **section 16D** of the Family Courts 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.

“(2) An invoice rendered by a lawyer appointed under **section 65A** for fees and expenses must be given to the Registrar of the court in which the proceedings were heard, and the Registrar may ~~tax~~ decide to adjust the amount of the invoice.

“(3) A lawyer who is dissatisfied with the decision of the Registrar as to the amount of the invoice may, within 14 days after the date of the decision, apply to a Family Court Judge to review the decision, and the Judge may on the application make any order varying or confirming the decision that the Judge considers fair and reasonable.

“(4) Where the fees and expenses of a lawyer appointed under **section 65A** have been paid under **subsection (1)(b)**, the court may, if it thinks it appropriate, order a party to the proceedings to refund to the Crown an amount that the court specifies in respect of those fees and expenses, and the amount ordered to be refunded is a debt due to the Crown by that party and, in default of payment of that amount, payment may be enforced, 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.”

100 Section 76 amended (Court may call for report on person)

- (1) In section 76, replace “barrister or solicitor” with “lawyer” in each place.
- (2) In section 76(3)(b), replace “section 65(3)” with “**section 65A**”.
- (3) In section 76(6), replace “section 65(3)” with “**section 65A**”.

101 Section 78 amended (Power of court to call witnesses)

In section 78(3), delete “, or by any barrister or solicitor assisting the court.”.

102 Section 79 amended (Attendance at hearings)

Replace section 79(1)(f) with:

“(f) a lawyer appointed under **section 65A** to assist the court.”.

103 Section 88 amended (Procedure on review)

In section 88, replace “65” with “**65A**”.

104 Section 112 amended (Regulations)

In section 112(a), replace “barristers and solicitors” with “lawyers”.
