

**Reprint
as at 1 July 2019**



Domestic Violence Amendment Act 2013

Public Act 2013 No 77
Date of assent 24 September 2013
Commencement see section 2

Domestic Violence Amendment Act 2013: repealed, on 1 July 2019, pursuant to section 258 of the Family Violence Act 2018 (2018 No 46).

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Domestic Violence Amendment 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 5:
 - (b) section 11(1):
 - (c) section 13, 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 principal Act:
 - (d) section 17(1).
- (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.

Section 2(2): sections 3, 4(1), 8, 16, and 17(2) brought into force, on 31 March 2014, by the Domestic Violence Amendment Act 2013 Commencement Order 2014 (LI 2014/91).

3 Principal Act

This Act amends the Domestic Violence Act 1995 (the **principal Act**).

4 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 **approved agency**, **programme**, and **programme provider**.

5 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):

6 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”.

7 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.

8 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 46Q of the Care of Children Act 2004.

9 Sections 29 to 44 and cross-heading above section 29 repealed

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

10 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”.

11 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”.

12 Section 49A repealed (Offence to fail to comply with direction)

Repeal section 49A.

13 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.
- (2) 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).
- (3) 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).
- (4) 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 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) vary 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) 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 (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 51O(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 51O(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) 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):
 - (iv) section 51L(3):
 - (v) 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.

14 Section 76 amended (Respondent to notify intention to appear)

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

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

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

16 Section 81 amended (Court may appoint lawyer)

- (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.
- (3) 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.
- (4) 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 decide to adjust the amount of the invoice.
- (5) In section 81(5), replace “bill” with “invoice”.

17 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”.

18 Cross-heading above section 133 replaced

Replace the cross-heading above section 133 with:

Transitional provisions on enactment of this Act

19 New sections 134 to 138 and cross-heading inserted

After section 133, insert:

*Transitional provisions applying on enactment of Domestic Violence
Amendment Act 2013*

134 Programmes requested or directed before commencement of this section

- (1) Subsection (2) applies if, before the date of commencement of this section,—
- (a) an applicant or a specified person made a request under section 29; but
 - (b) the Registrar had not referred the request to a programme provider.
- (2) The Registrar must refer the request to a service provider under section 51C.
- (3) Subsections (4) and (5) apply if, before the date of commencement of this section,—
- (a) a direction under section 32 was made in any proceeding; but
 - (b) the Registrar had not, under section 34, notified the programme 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 this section

- (1) Subsections (2) and (3) apply if, before the date of commencement of this section,—
 - (a) a request made to a Registrar under section 29 was referred to a programme provider; but
 - (b) the programme provider 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) 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 this section

- (1) This section applies if—
 - (a) there was arranged or was in progress immediately before the date of commencement of 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 this section, continue to apply in respect of the provision of that programme as if the Domestic Violence Amendment Act 2013 had not been enacted.

137 Proceedings commenced before commencement of this section but not completed

- (1) This section applies if, at any time before the date of commencement of this section, proceedings have been commenced under any of the following provisions but were not by that date completed (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 this section, continue to apply to a pending proceeding as if the Domestic Violence Amendment 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 this section is of no effect on or after that date.

Reprints notes

1 *General*

This is a reprint of the Domestic Violence Amendment Act 2013 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Family Violence Act 2018 (2018 No 46): section 258

Domestic Violence Amendment Act 2013 Commencement Order 2014 (LI 2014/91)