

Jan Logie MP

Parliamentary Under-Secretary to the Minister of Justice (Domestic and Sexual Violence Issues)

Proactive release – Family Court (Family Violence and Other Matters) Amendment Rules 2019 and other legislative instruments

Date of issue: 25 June 2019

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

No.	Document	Comments
1	Family Court (Family Violence and Other Matters) Amendment Rules 2019 and Other Legislative Instruments <i>Cabinet paper</i> Office of the Under-Secretary to the Minister of Justice (Domestic and Sexual Violence Issues)	Released in full. <i>Note that the copies of the regulations provided to Ministers with this paper have been withheld in accordance with section 61 of the Legislation Act 2012 and section 9(2)(h) of the Official Information Act 1982 to maintain legal professional privilege. The legislative instruments are publicly available from www.legislation.govt.nz.</i>
2	LEG-19-MIN-0049: Family Court (Family Violence and Other Matters) Amendment Rules 2019: and Other Legislative Instruments <i>Cabinet Minute</i> Cabinet Office <i>Meeting Date: 7 May 2019</i>	Released in full.

In Confidence

Office of the Parliamentary Under-Secretary to the Minister of Justice (Domestic and Sexual Violence Issues)

Chair, Cabinet Legislation Committee

Family Court (Family Violence and Other Matters) Amendment Rules 2019 and other legislative instruments

Proposal

- 1 This paper seeks Cabinet's agreement to authorise the submission to the Executive Council of the:
 - 1.1 Criminal Procedure (Transfer of Information) Amendment Regulations 2019;
 - 1.2 Evidence (Family Violence) Amendment Regulations 2019;
 - 1.3 Family Court (Family Violence and Other Matters) Amendment Rules 2019;
 - 1.4 Family Proceedings (Family Violence) Amendment Rules 2019;
 - 1.5 Family Violence Regulations 2019;
 - 1.6 Oranga Tamariki (National Care Standards and Related Matters) (Family Violence) Amendment Regulations 2019;
 - 1.7 Sentencing (Family Violence) Amendment Regulations 2019; and
 - 1.8 Social Security (Family Violence) Amendment Regulations 2019;
- 2 These legislative instruments will come into effect on 1 July 2019. For efficiency, this paper seeks agreement to authorise submission of all of these instruments at the same time.

Policy

- 3 Family violence has a devastating impact on families and communities. The effects of violence are cumulative and have a profound impact over time and across generations.
- 4 If we are to effect real and lasting change that prevents the intergenerational cycle of violence and other poor life outcomes, then we need to do this as a coherent, coordinated package of reforms. This approach is reflected in legislative reforms that were agreed by the previous government under CAB-16-MIN-0420, CAB-16-MIN-0421 and CAB-16-MIN-0422, and by this government under SWC-18-MIN-0069.
- 5 Secondary legislation (regulations and rules) is required to support the Family Violence Act 2018 and some components of the Family Violence (Amendments) Act 2018. The aim of these legislative changes are to reduce existing barriers through providing simpler processes for people who need to take action under the Act, being more proactive in enforcing orders that have been made; while also assisting perpetrators to address their violent behaviour through earlier assessment and access to services designed to change that behaviour.

Criminal Procedure (Transfer of Information) Amendment Regulations 2019

- 6 These regulations complement other amendments to the Criminal Procedure (Transfer of Information) Regulations 2013 (principal regulations) made by the Family Violence Act 2018 and the Care of Children Act 2011 (CoCA) by the Family Violence (Amendments) Act 2018.
- 7 They will allow the Family, District or High Court when dealing with a CoCA proceeding to be able to obtain more information about a party's criminal offending where it involves family violence.

Evidence (Family Violence) Amendment Regulations 2019

- 8 These regulations will align the Evidence Regulations 2007 (the principal regulations) with the Family Violence Act 2018 and enable a Family Court Judge to ask the Police for a copy of a video record of a child complainant or the lawyer for any parties to the proceedings to view this record.

Family Court (Family Violence and Other Matters) Amendment Rules 2019

- 9 These rules amend the Family Court Rules 2002 (the principal rules). They allow the Chief Executive of the Ministry of Justice to approve the forms to be used by applicants and parties in proceedings under the Family Violence Act 2018. Forms to be issued by the court or a Registrar in proceedings under that Act will continue to be prescribed.
- 10 The Ministry of Justice has worked with the judiciary and other stakeholders to simplify the prescribed forms to the extent possible within legal requirements. To improve the approved forms, in particular the protection order application form, the Ministry of Justice has worked in close collaboration with a wide range of stakeholders, so they can be used by any person seeking action under the Family Violence legislation and minimise barriers to seeking justice.
- 11 A new rule is inserted to enable some Care of Children Act 2004 information to be shared to the criminal jurisdiction for consideration at bail where the offence is one involving family violence. The existence of care of children proceedings can exacerbate risk, and this change will ensure that judges can make more informed bail decisions for family violence offending.
- 12 These rules also reflect changes made by the District Court Act 2016, where this act constituted the District Courts as a unitary court with the Family Court as a division of it. This creates some consequential changes; for example, where "Family Courts" and "District Courts" need to be updated in the principal rules.

Family Proceedings (Family Violence) Amendment Rules 2019

- 13 These rules amend the Family Proceedings Rules 1981 and apply to the District Court's limited jurisdiction under the Family Proceedings Act 1980 and Care of Children Act 2004. These amendments revoke an information sheet for applications for a maintenance order.

Family Violence Regulations 2019

- 14 These regulations update and re-enact the regulations made under the former Domestic Violence Act 1995, the Domestic Violence (General) and (Public Registers) Regulations 1996 and 1998 respectively.

Oranga Tamariki (National Care Standards and Related Matters) (Family Violence) Amendment Regulations 2019

15 These regulations align the principal regulations with the Family Violence Act 2018.

Sentencing (Family Violence) Amendment Regulations 2019

16 These regulations amend the Sentencing Regulations 2002, by replacing the prescribed form for a protection order issued by a court against an offender, to reflect the Family Violence Act 2018 and the amendments made by the Family Violence (Amendments) Act 2018 to the sections of the Sentencing Act 2002 about protection orders.

Social Security (Family Violence) Amendment Regulations 2019

17 These regulations amend the Social Security Regulations 2018 (the principal regulations). The amendments align the principal regulations with the Family Violence Act 2018.

Timing and 28-day rule

18 These legislative instruments will come into force on 1 July 2019. This complies with the 28-day rule.

Compliance

19 These legislative instruments comply with each of the following:

- 19.1 the principles of the Treaty of Waitangi;
- 19.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
- 19.3 the principles and guidelines set out in the Privacy Act 1993;
- 19.4 relevant international standards and obligations; and
- 19.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

19 There are no apparent grounds for the Regulations Review Committee to draw these legislative instruments to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

20 The Parliamentary Counsel Office has certified the attached legislative instruments as being in order for submission to Cabinet.

Impact analysis

21 Regulatory Impact Analysis was undertaken as part of the paper to the Cabinet Social Policy Committee, entitled Reform of Family Violence Law – Paper One: Context and supporting integrated responses [CAB-16-MIN-0420].

22 A Regulatory Impact Analysis is not required for the other legislative instruments on the basis that the amendments have no or only minor impacts on businesses, individuals or not-for-profit entities.

Publicity

23 The Ministry of Justice has developed a comprehensive communications package to support the Family Violence legislation as it comes into force, enabled in part by these regulation and rule changes.

Proactive Release

24 I propose to proactively release this paper in full, within 30 business days of the decision.

Consultation

25 The Parliamentary Under Secretary has consulted with the Minister of Justice and he has agreed to the submission of this paper and legislative instruments.

26 The following agencies have been consulted with in relation to these rules and regulation amendments: Accident Compensation Corporation, Department of Corrections, Department of Internal Affairs, Housing New Zealand Corporation, Ministry of Business, Innovation and Employment, Ministry of Education, Ministry for Women, Ministry for Pacific Peoples, Ministry of Social Development, Oranga Tamariki, Office of the Privacy Commissioner, New Zealand Police and Te Puni Kōkiri.

27 The Department of Prime Minister and Cabinet and the Treasury have been informed of these proposed amendments.

28 The judiciary have been consulted on these rules and regulations.

29 The New Zealand Law Society were not able to be consulted on these rules and regulations.

Statutory requirements

30 The Family Violence Regulations 2019 are (as required by section 249 of the Family Violence Act 2018) submitted for making on the recommendation of the Minister of Justice.

31 The Social Security (Family Violence) Amendment Regulations 2019 are (as required by section 431(4) and (5) of the Social Security Act 2018) submitted for making on the recommendation of the Minister for Social Development made under section 431(4) and (5) of the Social Security Act 2018.

Recommendations

32 I recommend that the Cabinet Legislation Committee:

1 **Note** that on 22 August 2016 the Cabinet Social Policy Committee agreed to amend family violence legislation that these amendment orders will help bring into full effect [CAB-16-MIN-0420, CAB-16-MIN-0421, CAB-16-MIN-0422];

2 **Authorise** the submission to the Executive Council of the:

2.1 Criminal Procedure (Transfer of Information) Amendment Regulations 2019;

- 2.2 Evidence (Family Violence) Amendment Regulations 2019;
- 2.3 Family Court (Family Violence and Other Matters) Amendment Rules 2019;
- 2.4 Family Proceedings (Family Violence) Amendment Rules 2019;
- 2.5 Family Violence Regulations 2019;
- 2.6 Oranga Tamariki (National Care Standards and Related Matters) (Family Violence) Amendment Regulations 2019;
- 2.7 Sentencing (Family Violence) Amendment Regulations 2019; and
- 2.8. Social Security (Family Violence) Amendment Regulations 2019.

3 **Note** that the above instruments will come into force on 1 July 2019.

Authorised for lodgement

Jan Logie MP

Parliamentary Under-Secretary to the Minister of Justice (Domestic and Sexual Violence Issues)



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Family Court (Family Violence and Other Matters) Amendment Rules 2019: and Other Legislative Instruments

Portfolio Justice (Domestic and Sexual Violence Issues)

On 7 May 2019, the Cabinet Legislation Committee:

- 1 **noted** that in 2016, the previous government agreed to amend family violence legislation that these amendment orders will help bring into full effect [CAB-16-MIN-0420, CAB-16-MIN-0421, CAB-16-MIN-0422];
- 2 **noted** that on 13 June 2018, the Cabinet Social Wellbeing Committee (SWC) agreed to a number of the amendments to the Family and Whānau Violence Legislation Bill which was awaiting its second reading [SWC-18-MIN-0069];
- 3 **authorised** the submission to the Executive Council of the:
 - 3.1 Criminal Procedure (Transfer of Information) Amendment Regulations 2019 [PCO 21881/2.0];
 - 3.2 Evidence (Family Violence) Amendment Regulations 2019 [PCO 21882/2.0];
 - 3.3 Family Court (Family Violence and Other Matters) Amendment Rules 2019 [PCO 21441/9.0];
 - 3.4 Family Proceedings (Family Violence) Amendment Rules 2019 [PCO 21883/2.0];
 - 3.5 Family Violence Regulations 2019 [PCO 21860/2.0];
 - 3.6 Oranga Tamariki (National Care Standards and Related Matters) (Family Violence) Amendment Regulations 2019 [PCO 21884/2.0];
 - 3.7 Sentencing (Family Violence) Amendment Regulations 2019 [PCO 21885/6.0];
 - 3.8 Social Security (Family Violence) Amendment Regulations 2019 [PCO 21888/2.0];
- 4 **noted** that the above instruments come into force on 1 July 2019.

Vivien Meek
Committee Secretary

Hard-copy distribution: (see over)

Present:

Rt Hon Winston Peters
Hon Phil Twyford
Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon Dr David Clark
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Kris Faafoi
Hon Tracey Martin
Hon Eugenie Sage
Hon Ruth Dyson (Senior Government Whip)

Officials present from:

Officials Committee for LEG

Hard-copy distribution:

Parliamentary Under-Secretary to the Minister of Justice