

CLAUSE NOTES

Family Violence Amendment Bill 2015

- Clause 1: **Short title**
- Specifies the name of the proposed Act.
- Clause 2: **Commencement**
- Provides that the Act commences on Royal Assent.
- Clause 3: **Principal Act**
- Provides that the Principal Act for Part 2 is the *Family Violence Act 2004*.
- Clause 4: **Section 7 amended (Family violence)**
- Amends section 7 of the Principal Act to provide that property damage is a type of family violence.
- Clause 5: **Section 9A inserted**
- After section 9 of the Principal Act, section 9A is inserted.
- 9A. Limitation period for offences under section 8 or 9**
- Provides a 12 month limitation period for the commencement of proceedings for an offence under sections 8 or 9 of the Principal Act.
- Clause 6: **Section 10 amended (Power of police to enter certain premises)**
- Amends section 10 to insert a new paragraph (ab) in subsection (2) to provide that a police officer may verbally direct any person to remain on the premises with that police officer or another police officer to carry out a search of that person under section 10(3) of the Principal Act.
- Inserts a new subsection (2A) to provide that where a police officer directs a person to remain on the premises under new subsection (2)(ab) that a police officer may use the force that is reasonably necessary to detain and carry out a search of that person.
- Inserts a new subsection (7A) to provide that a police officer may authorise any other person to assist him or her to exercise their powers under section 10 of the Principal Act.
- Inserts a new subsection (7B) to provide that a person authorised to assist a police officer under new subsection (7A) may use reasonably necessary force to do so.

Inserts a new subsection (7C) to provide that it is an offence not to comply with a direction given by a police officer under new subsection (2)(ab). The penalty is a fine not exceeding 80 penalty units.

Clause 7: Section 12 amended (Bail)

Amends section 12(2) of the Principal Act by removing paragraph (c).

Clause 8: Section 14 amended (Police family violence orders)

Amends section 14 of the Principal Act by inserting subsection (9A) to clarify that a court may make an interim family violence order where an application to vary, extend or revoke a police family violence order has been made.

Clause 9: Section 23 amended (Court may make interim order)

Inserts a new subsection (1A) to clarify that a court may make an interim family violence order where an application under section 14(9) of the Principal Act to vary, extend or revoke a police family violence order has been made.

Clause 10: Section 25A inserted

After section 25 of the Principal Act, section 25A is inserted.

25A. Powers of court to remand in custody, admit to bail, &c.

(1) Provides that if proceedings for an application for a family violence order are adjourned the court may decide to:

- remand the respondent in custody and issue a warrant; or
- admit the respondent to bail; or
- issue a summons to the respondent ordering the respondent to appear before a court at a time and place to which the proceedings are adjourned.

(2) Specifies that when the court makes a decision under the new section 25A(1) the court must consider the safety and interests of the respondent's spouse or partner, and any affected child, to be of paramount importance.

(3) Provides that where a court remands a respondent in custody pursuant to new section 25A(1)(a), the court is to:

- specify in the warrant:

- o that the respondent is to be in custody for a period not exceeding 28 days at any one time; and
- o the date the respondent is to be brought before the court; and
- inform the respondent of the matters specified in the warrant.

(4) Provides that the period a respondent to an application for a family violence order may be admitted to bail in accordance with new section 25A(1)(b) must not exceed 60 days.

Clause 11: Section 26 amended (Application for registration of external family violence order)

Amends section 26 of the Principal Act by removing references to "Chief".

Clause 12: Section 27 amended (Registration of external family violence order)

Amends section 27 of the Principal Act by removing references to "Chief".

Clause 13: Section 32 amended (Restriction of publication of names of parties, &c.)

Amends section 32 of the Principal Act to provide that it is an offence to publish any material that is forbidden to be published under section 32(1) of the Principal Act and that it is an offence to publish any material that relates to proceedings under the Principal Act which may disclose the identity of an affected child.

The penalty for these offences is a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 3 months.

Clause 14: Principal Act

Provides that the Principal Act for Part 3 is the *Justices Act 1959*.

Clause 15: Section 106BA inserted

After section 106B of the Principal Act, section 106BA is inserted.

106BA. Powers of justices to make family violence orders after restraint order applications made

Provides that justices may make a family violence order pursuant to section 15 of the *Family Violence Act 2004* where an application for a restraint order has been made if the justices consider that the application should have been an application for a family violence order.

Clause 16:

Repeal of Act

This clause automatically repeals the amending legislation after the Act commences. The provisions that the amending legislation inserts into the Principal Act still remain in force after the repeal of the Amending Act.