



Domestic Violence—Victims’ Protection Act 2018

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Commencement see section 2

Contents

	Page
1 Title	4
2 Commencement	4
Part 1	
Employment Relations Act 2000	
3 Principal Act	4
<i>Amendments to Part 6AA (Flexible working)</i>	
4 Section 69AA amended (Object of this Part)	4
5 Section 69AAA amended (Interpretation)	4
<i>New Part 6AB inserted</i>	
6 New Part 6AB inserted	5
Part 6AB	
Flexible working short-term for people affected by domestic violence	
69AB Object of this Part	6
69ABA Interpretation	6
<i>Employee’s statutory right to make request</i>	
69ABB When and why employee may make request	7
69ABC Requirements relating to request	8
<i>Duties of employer</i>	
69ABE Employer must notify decision as soon as possible	8
69ABEA Proof of domestic violence	8
69ABF Grounds for refusal of request by employer	9

	<i>Resolving disputes</i>	
	69ABG Employee has choice of procedure at initial stage	9
	69ABH Mediation after initial reference to Labour Inspector	10
	69ABI Application to Authority after initial or later reference to mediation	10
	69ABJ Penalty	11
	69ABK Limitation on challenging employer	11
7	Section 69J amended (Employment of employee who elects to transfer to new employer treated as continuous)	11
	<i>Amendments related to adverse treatment in employment of people affected by domestic violence</i>	
8	Section 103 amended (Personal grievance)	11
9	New section 108A inserted (Adverse treatment in employment of people affected by domestic violence)	11
	108A Adverse treatment in employment of people affected by domestic violence	11
10	Section 111 amended (Definitions relating to personal grievances)	12
11	Section 123 amended (Remedies)	12
	<i>Consequential amendments related to new Part 6AB</i>	
12	Section 135 amended (Recovery of penalties)	13
13	Section 137 amended (Power of Authority to order compliance)	13
14	Section 161 amended (Jurisdiction)	13
15	Section 179B amended (Limitations on consideration by Employment Court of matters arising under Part 6AA)	13
	<i>Transitional, savings, and related provisions</i>	
16	Schedule 1AA amended	13
	Part 2	
	Holidays Act 2003	
17	Principal Act	13
	<i>Consequential amendments</i>	
18	Section 3 amended (Purpose)	13
19	Section 4 amended (Overview)	14
20	Section 5 amended (Interpretation)	14
21	Section 9 amended (Meaning of relevant daily pay)	14
22	Section 9A amended (Average daily pay)	14
23	Section 12 amended (Determination of what would otherwise be working day)	14
24	Section 14 amended (Meaning of gross earnings)	15
25	Section 16 amended (Entitlement to annual holidays)	15
26	New section 37A inserted (Employer must allow employee taking annual holidays to take domestic violence leave)	15

	37A	Employer must allow employee taking annual holidays to take domestic violence leave	15
27		Section 38 amended (Sickness, injury, or bereavement arising before scheduled annual holidays)	15
28		Section 39 amended (Employer may allow employee to take annual holidays if sick leave or bereavement leave exhausted)	16
29		Section 61A amended (Sickness, injury, or bereavement on public holiday)	16
30		Section 71 amended (Payment for sick leave and bereavement leave)	16
		<i>New subpart 5 of Part 2 inserted</i>	
31		New subpart 5 of Part 2 inserted	16
		Subpart 5—Domestic violence leave	
	72A	Purpose of this subpart	16
	72B	Meaning of person affected by domestic violence	16
		<i>Entitlement to domestic violence leave</i>	
	72C	Entitlement to domestic violence leave	17
	72D	When entitlement to domestic violence leave arises	17
	72E	Employee must notify employer of intention to take domestic violence leave	18
	72F	Domestic violence leave need not be paid out	18
	72G	Proof of domestic violence	18
	72H	Duration of domestic violence leave	18
		<i>Payment for domestic violence leave</i>	
	72I	Payment for domestic violence leave	18
	72J	When payment for domestic violence leave must be made	19
		<i>Consequential amendments</i>	
32		Section 74 amended (Who can enforce Act)	19
33		Section 75 amended (Penalty for non-compliance)	19
34		Section 81 amended (Holiday and leave record)	19
35		Section 83 amended (Failure to keep or provide access to holiday and leave record)	19
		<i>Transitional, savings, and related provisions</i>	
36		Schedule 1AA amended	19
		Part 3	
		Human Rights Act 1993	
37		Principal Act	20
		<i>Consequential amendment</i>	
38		Section 21A amended (Application of this Part limited if section 3 of New Zealand Bill of Rights Act 1990 applies)	20

	<i>New section 62A inserted</i>	
39	New section 62A inserted (Adverse treatment in employment of people affected by domestic violence)	20
	62A Adverse treatment in employment of people affected by domestic violence	20
	<i>Transitional, savings, and related provisions</i>	
40	Schedule 1AA amended	21
	Schedule	22
	Transitional, savings, and related provisions	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Domestic Violence—Victims’ Protection Act 2018.

2 Commencement

This Act comes into force on 1 April 2019.

Part 1
Employment Relations Act 2000

3 Principal Act

This Part amends the Employment Relations Act 2000 (the **principal Act**).

Amendments to Part 6AA (Flexible working)

4 Section 69AA amended (Object of this Part)

Replace section 69AA(a) with:

- (a) provide employees with a statutory right to make, or to have made on their behalf, a request for a variation of their working arrangements (other than a variation covered by Part 6AB (flexible working short-term for people affected by domestic violence)); and

5 Section 69AAA amended (Interpretation)

(1) In section 69AAA, insert in their appropriate alphabetical order:

additional terms that need variation, in relation to an employee, means 1 or more of the following:

- (a) the location of the employee’s workplace:
- (b) the employee’s duties at work:
- (c) the extent of the contact details that the employee must provide to the employer:

- (d) any other term of the employee’s employment—
 - (i) that is not a term covered by paragraphs (a) to (c) of this definition or by paragraphs (a) to (c) of the definition in this section of working arrangements; and
 - (ii) that, in the employee’s view, needs variation to enable the employee to deal with the effects of being a person affected by domestic violence

child has the meaning given to it in section 2 of the Domestic Violence Act 1995

domestic violence has the meaning given to it in section 3 of the Domestic Violence Act 1995

person affected by domestic violence means a person who is 1 or both of the following:

- (a) a person against whom any other person inflicts, or has inflicted, domestic violence;
- (b) a person with whom there ordinarily or periodically resides a child against whom any other person inflicts, or has inflicted, domestic violence

- (2) In section 69AAA, replace the definition of **request** with:

request means a request made under this Part that—

- (a) is written; and
- (b) requests an employer to vary an employee’s terms and conditions of employment relating to the employee’s working arrangements (other than by making a variation that the employee can request under Part 6AB (flexible working short-term for people affected by domestic violence)); and
- (c) is made by the employee or on the employee’s behalf

- (3) In section 69AAA, definition of **working arrangements**, after paragraph (c), insert:

- (d) if the employee is a person affected by domestic violence, additional terms that need variation.

New Part 6AB inserted

6 New Part 6AB inserted

After Part 6AA, insert:

Part 6AB

Flexible working short-term for people affected by domestic violence

69AB Object of this Part

The object of this Part is to—

- (a) provide employees who are people affected by domestic violence with a statutory right to make, or to have made on their behalf, a request for a short-term (2-month or shorter) variation of their working arrangements (including any additional terms that need variation), for the purpose of assisting the employees to deal with the effects on the employees of being people affected by domestic violence; and
- (b) require an employer to deal with a request as soon as possible but not later than 10 working days after receiving it; and
- (c) provide that an employer may refuse a request only if proof of domestic violence is required and not produced, or the request cannot be accommodated reasonably on certain non-accommodation grounds; and
- (d) if an employer does not deal with a request in accordance with this Part, provide for reference of the matter to a Labour Inspector, mediation, or the Authority.

69ABA Interpretation

In this Part, unless the context otherwise requires,—

additional terms that need variation, in relation to an employee, means 1 or more of the following:

- (a) the location of the employee’s workplace;
- (b) the employee’s duties at work;
- (c) the extent of the contact details that the employee must provide to the employer;
- (d) any other term of the employee’s employment—
 - (i) that is not a term covered by paragraphs (a) to (c) of this definition or by paragraphs (a) to (c) of the definition in this section of working arrangements; and
 - (ii) that, in the employee’s view, needs variation to enable the employee to deal with the effects of being a person affected by domestic violence

child has the meaning given to it in section 2 of the Domestic Violence Act 1995

domestic violence has the meaning given to it in section 3 of the Domestic Violence Act 1995

mediation means mediation provided under section 144

non-compliance with section 69ABE includes, without limitation, making a wrong determination under 1 or both of section 69ABF(1)(a) and (b)

person affected by domestic violence means a person who is 1 or both of the following:

- (a) a person against whom any other person inflicts, or has inflicted, domestic violence:
- (b) a person with whom there ordinarily or periodically resides a child against whom any other person inflicts, or has inflicted, domestic violence

request means a request made under this Part that—

- (a) is written; and
- (b) requests an employer to vary an employee’s terms and conditions of employment relating to the employee’s working arrangements; and
- (c) is made by the employee or on the employee’s behalf

working arrangements, in relation to an employee, means 1 or more of the following:

- (a) hours of work:
- (b) days of work:
- (c) place of work (for example, at home or at the employee’s place of work):
- (d) additional terms that need variation.

Employee’s statutory right to make request

69ABB When and why employee may make request

- (1) An employee who is a person affected by domestic violence may make a request—
 - (a) at any time; and
 - (b) for the purpose of assisting the employee to deal with the effects on the employee of being a person affected by domestic violence.
- (2) Subsection (1) applies regardless of how long ago the domestic violence occurred, and even if the domestic violence occurred before the person became an employee.
- (3) A request made under this Part for a short-term (2-month or shorter) variation of the employee’s working arrangements (as defined in section 69ABA) does not prevent a request also being made under Part 6AA by or on behalf of the employee for a permanent, or fixed-period longer than 2 months, variation under that Part of the employee’s working arrangements (as defined in section 69AAA).

69ABC Requirements relating to request

A request must be in writing and—

- (a) state—
 - (i) the employee's name; and
 - (ii) the date on which the request is made; and
 - (iii) that the request is made under this Part; and
- (b) specify the variation of the working arrangements requested and the period of time (which must be no longer than 2 months) for which the variation is requested; and
- (c) specify the date on which the employee proposes that the variation take effect and the date on which it is proposed that the variation end; and
- (d) specify how, in the employee's view, the variation will assist the employee to deal with the effects of being a person affected by domestic violence; and
- (e) explain, in the employee's view, what changes, if any, the employer may need to make to the employer's arrangements if the employee's request is approved.

*Duties of employer***69ABE Employer must notify decision as soon as possible**

- (1) An employer must deal with a request as soon as possible, but not later than 10 working days after receiving it, and must notify the employee in writing of whether his or her request has been approved or refused.
- (2) In or before giving the notification under subsection (1), the employer must provide the employee with information about appropriate specialist domestic violence support services.
- (3) If the employer refuses an employee's request, the notification given under subsection (1) must—
 - (a) state that the request is refused because of 1 or both grounds specified in section 69ABF(1)(a) and (b); and
 - (b) state the ground or grounds for refusal; and
 - (c) explain the reasons for that ground or those grounds.

69ABEA Proof of domestic violence

- (1) An employer may require proof that an employee is a person affected by domestic violence to be produced—
 - (a) to the employer; and
 - (b) by or on behalf of an employee; and
 - (c) for the purposes of a request made by or on behalf of the employee; and

- (d) as soon as practicable after that proof is required by the employer under this section; and
 - (e) within 10 working days after the employer receives the request.
- (2) However, the employer may require proof of that kind only if—
- (a) the employer informs the employee as early as possible that the proof is required; and
 - (b) the employer requires the proof within 3 working days after the employer receives the request.

Compare: 2003 No 129 s 68

69ABF Grounds for refusal of request by employer

- (1) An employer may refuse a request only if the employer determines 1 or both of the following:
- (a) that proof required to be produced under section 69ABEA was not produced within 10 working days after the employer receives the request;
 - (b) that the request cannot be accommodated reasonably on 1 or more of the non-accommodation grounds specified in subsection (2).
- (2) The non-accommodation grounds are—
- (a) inability to reorganise work among existing staff;
 - (b) inability to recruit additional staff;
 - (c) detrimental impact on quality;
 - (d) detrimental impact on performance;
 - (e) insufficiency of work during the periods the employee proposes to work;
 - (f) planned structural changes;
 - (g) burden of additional costs;
 - (h) detrimental effect on ability to meet customer demand.
- (3) An employer must not refuse a request just because—
- (a) the request is from an employee who is bound by a collective agreement; and
 - (b) the request relates to working arrangements to which the collective agreement applies; and
 - (c) the employee’s working arrangements would be inconsistent with the collective agreement if the employer were to approve the request.

Resolving disputes

69ABG Employee has choice of procedure at initial stage

- (1) This section applies if an employee believes that the employee’s employer has not complied with section 69ABE.

- (2) The employee may do 1 of the following:
 - (a) refer the matter to a Labour Inspector who must, to the extent practicable in the circumstances, assist the employee and employer to resolve the matter; or
 - (b) refer the matter to mediation, at which the matter is treated as an employment relationship problem; or
 - (c) apply to the Authority for a determination as to whether the employer has complied with section 69ABE.
- (3) A reference or application under subsection (2)(a), (b), or (c) must be made within 6 months after the relevant date.
- (4) In subsection (3), **relevant date** means,—
 - (a) if the employer notifies a refusal within 10 working days after receiving a request, the date on which the employer notifies the employee of the employer’s refusal; or
 - (b) in any other case, the date that is 10 working days after the employer receives the employee’s request.

69ABH Mediation after initial reference to Labour Inspector

- (1) This section applies if the employee is dissatisfied with the result of the reference under section 69ABG(2)(a) to a Labour Inspector.
- (2) The employee may refer the matter to mediation, at which the matter is treated as an employment relationship problem.
- (3) A reference under subsection (2) must be made within 6 months after the earlier of—
 - (a) the date when the result of the reference first became known to the employee; or
 - (b) the date when the result of the reference should reasonably have become known to the employee.

69ABI Application to Authority after initial or later reference to mediation

- (1) This section applies if the employee is dissatisfied with the result of the reference under section 69ABG(2)(b) or 69ABH(2) to mediation.
- (2) The employee may apply to the Authority for a determination as to whether the employer has complied with section 69ABE.
- (3) An application under subsection (2) must be made within 6 months after the earlier of—
 - (a) the date when the result of the reference first became known to the employee; or
 - (b) the date when the result of the reference should reasonably have become known to the employee.

69ABJ Penalty

- (1) An employer who does not comply with section 69ABE is liable to a penalty under this Act imposed by the Authority.
- (2) The penalty is payable to the employee concerned.
- (3) For the purposes of the 6-month time limit in section 135(5), the date on which the cause of action for the recovery of the penalty first became known to the employee, or should reasonably have become known to the employee, must be taken to be a date after, as the case requires,—
 - (a) the relevant date under section 69ABG(3); or
 - (b) the applicable date under section 69ABI(3)(a) or (b).

69ABK Limitation on challenging employer

An employee may challenge his or her employer’s refusal of a request, or failure to respond to a request, only—

- (a) if the employee believes his or her employer has not complied with section 69ABE; and
- (b) to the extent provided by sections 69ABG to 69ABJ.

7 Section 69J amended (Employment of employee who elects to transfer to new employer treated as continuous)

In section 69J(2)(a)(i), replace “and bereavement leave” with “bereavement leave, and domestic violence leave”.

Amendments related to adverse treatment in employment of people affected by domestic violence

8 Section 103 amended (Personal grievance)

After section 103(1)(d), insert:

- (da) that the employee has been treated adversely in the employee’s employment on the ground that the employee is, or is suspected or assumed or believed to be, a person affected by domestic violence; or

9 New section 108A inserted (Adverse treatment in employment of people affected by domestic violence)

After section 108, insert:

108A Adverse treatment in employment of people affected by domestic violence

- (1) For the purposes of sections 103(1)(da) and 123(1)(d), an employee is **treated adversely in the employee’s employment on the ground that the employee is, or is suspected or assumed or believed to be, a person affected by domestic violence** if, on the ground that the employee is, or is suspected or assumed or believed to be, a person affected by domestic violence (as that term

is defined in section 69ABA), that employee’s employer or a representative of that employer—

- (a) dismisses that employee, in circumstances in which other employees employed by that employer on work of that description are not or would not be dismissed; or
 - (b) refuses or omits to offer or afford to that employee the same terms of employment, conditions of work, fringe benefits, or opportunities for training, promotion, and transfer as are made available for other employees of the same or substantially the same qualifications, experience, or skills employed in the same or substantially similar circumstances; or
 - (c) subjects that employee to any detriment, in circumstances in which other employees employed by that employer on work of that description are not or would not be subjected to such detriment; or
 - (d) retires that employee, or requires or causes that employee to retire or resign.
- (2) Subsection (1) applies regardless of how long ago the domestic violence occurred or is suspected or assumed or believed to have occurred, and even if the domestic violence occurred or is suspected or assumed or believed to have occurred before the person became an employee.

10 Section 111 amended (Definitions relating to personal grievances)

- (1) In section 111, after “**sexual harassment**,” insert “**adverse treatment in employment of people affected by domestic violence**,”.
- (2) In section 111, after “108,” insert “108A,”.

11 Section 123 amended (Remedies)

Replace section 123(1)(d) with:

- (d) if the Authority or the court finds an employee to have been sexually or racially harassed in the employee’s employment, or treated adversely in the employee’s employment on the ground that the employee is, or is suspected or assumed or believed to be, a person affected by domestic violence, recommendations to the employer—
 - (i) concerning the action the employer should take in respect of the person who made the request referred to in section 108(1)(a) or was guilty of the harassing behaviour or of the adverse treatment on that ground, which action may include the transfer of that person, the taking of disciplinary action against that person, or the taking of rehabilitative action in respect of that person:
 - (ii) about any other action that it is necessary for the employer to take to prevent further harassment, or adverse treatment on that ground, of the employee concerned or any other employee.

Consequential amendments related to new Part 6AB

12 Section 135 amended (Recovery of penalties)

In section 135(5), after “within 12 months”, insert “or, for a penalty for non-compliance with section 69ABE, within 6 months”.

13 Section 137 amended (Power of Authority to order compliance)

In section 137(1)(a)(ii), after “Parts 1, 3 to 6,”, insert “6AB,”.

14 Section 161 amended (Jurisdiction)

(1) Repeal section 161(1)(cc).

(2) After section 161(1)(d), insert:

(daa) determining whether an employer has complied with section 69AAE:

(dab) determining whether an employer has complied with section 69ABE (including, without limitation, whether the employer has avoided non-compliance with section 69ABE, as that term is defined in section 69ABA):

15 Section 179B amended (Limitations on consideration by Employment Court of matters arising under Part 6AA)

(1) In the heading to section 179B, after “Part 6AA”, insert “or 6AB”.

(2) In section 179B(1), (2), (3), and (4), after “Part 6AA”, insert “or 6AB”.

Transitional, savings, and related provisions

16 Schedule 1AA amended

(1) In Schedule 1AA, before clause 1, insert the Part heading set out in Part 1 of the Schedule of this Act.

(2) In Schedule 1AA, clause 1, replace “schedule” with “Part”.

(3) In Schedule 1AA, after clause 4, insert the Part 2 set out in Part 2 of the Schedule of this Act.

**Part 2
Holidays Act 2003**

17 Principal Act

This Part amends the Holidays Act 2003 (the **principal Act**).

Consequential amendments

18 Section 3 amended (Purpose)

After section 3(d), insert:

(e) domestic violence leave to assist employees to deal with the effects on the employees of being people affected by domestic violence.

19 Section 4 amended (Overview)

In section 4(2)(b)(i), replace “and bereavement leave” with “bereavement leave, and domestic violence leave”.

20 Section 5 amended (Interpretation)

(1) In section 5(1), insert in their appropriate alphabetical order:

domestic violence has the meaning given to it in section 3 of the Domestic Violence Act 1995

domestic violence leave means paid domestic violence leave provided under subpart 5 of Part 2

person affected by domestic violence has the meaning given to it by section 72B

(2) In section 5(1), definition of **former Act**, replace “Injury Prevention, Rehabilitation, and Compensation Act 2001” with “Accident Compensation Act 2001”.

(3) In section 5(1), definition of **in advance**, after paragraph (b), insert:

(c) in relation to domestic violence leave, means any domestic violence leave taken by the employee before the entitlement to the leave has arisen under section 72C

(4) In section 5(1), definition of **leave pay**, replace “or bereavement leave” with “, bereavement leave, or domestic violence leave”.

21 Section 9 amended (Meaning of relevant daily pay)

In section 9(1) and (2), replace “or bereavement leave” with “bereavement leave, or domestic violence leave”.

22 Section 9A amended (Average daily pay)

In section 9A(1), replace “or bereavement leave” with “bereavement leave, or domestic violence leave”.

23 Section 12 amended (Determination of what would otherwise be working day)

(1) In section 12(1), replace “or to bereavement leave” with “to bereavement leave, or to domestic violence leave”.

(2) In section 12(3)(d), after “or bereavement leave”, insert “or domestic violence leave”.

(3) In section 12(3A), after “or bereavement leave”, insert “or domestic violence leave”.

24 Section 14 amended (Meaning of gross earnings)

- (1) In section 14(a)(iii), replace “or bereavement leave” with “bereavement leave, or domestic violence leave”.
- (2) In section 14(a)(vii) and (b)(ii), replace “Injury Prevention, Rehabilitation, and Compensation Act 2001” with “Accident Compensation Act 2001”.

25 Section 16 amended (Entitlement to annual holidays)

- (1) In section 16(2)(a)(i), after “leave under this Act”, insert “(for example, domestic violence leave)”.
- (2) In section 16(2)(a)(iv), replace “Injury Prevention, Rehabilitation, and Compensation Act 2001” with “Accident Compensation Act 2001”.
- (3) In section 16(2)(a)(v), after “or unpaid bereavement leave”, insert “or unpaid domestic violence leave”.

26 New section 37A inserted (Employer must allow employee taking annual holidays to take domestic violence leave)

After section 37, insert:

37A Employer must allow employee taking annual holidays to take domestic violence leave

- (1) This section applies to an employee who is taking annual holidays under this subpart and who then becomes entitled to take domestic violence leave under section 72C.
- (2) The employer must allow the employee to take any period related to the effects on the employee of domestic violence that the employee would otherwise take as an annual holiday as domestic violence leave.

27 Section 38 amended (Sickness, injury, or bereavement arising before scheduled annual holidays)

- (1) In the heading to section 38, replace “or bereavement” with “bereavement, or domestic violence”.
- (2) In section 38(1)(b)(iii), after “section 69(2)”, insert “; or”.
- (3) After section 38(1)(b)(iii), insert:
 - (iv) becomes entitled to take domestic violence leave under section 72C.
- (4) After section 38(2)(b), insert:
 - (c) any period related to the effects on the employee of domestic violence that the employee would otherwise take as an annual holiday as domestic violence leave.

28 Section 39 amended (Employer may allow employee to take annual holidays if sick leave or bereavement leave exhausted)

- (1) In the heading to section 39, replace “or bereavement leave” with “, bereavement leave, or domestic violence leave”.
- (2) In section 39(1)(b), after “subpart 4” insert “; or”.
- (3) After section 39(1)(b), insert:
 - (c) an employee requires more leave to assist the employee to deal with the effects on the employee of being a person affected by domestic violence than he or she is entitled to under subpart 5.

29 Section 61A amended (Sickness, injury, or bereavement on public holiday)

- (1) In the heading to section 61A, replace “or bereavement” with “bereavement, or domestic violence”.
- (2) Replace section 61A(1)(b) with:
 - (b) the employee suffers or has suffered a bereavement as described in section 69(2); or
 - (c) the employee becomes entitled to take domestic violence leave under section 72C.
- (3) In section 61A(2)(a), replace “or bereavement leave” with “, bereavement leave, or domestic violence leave”.

30 Section 71 amended (Payment for sick leave and bereavement leave)

In section 71(2) and (3)(a), replace “Injury Prevention, Rehabilitation, and Compensation Act 2001” with “Accident Compensation Act 2001”.

New subpart 5 of Part 2 inserted

31 New subpart 5 of Part 2 inserted

After section 72, insert:

Subpart 5—Domestic violence leave

72A Purpose of this subpart

The purpose of this subpart is to provide employees who are people affected by domestic violence with a minimum entitlement to paid leave for the purpose of assisting the employees to deal with the effects on the employees of being people affected by domestic violence.

72B Meaning of person affected by domestic violence

- (1) In this subpart, a **person affected by domestic violence** means a person who is 1 or both of the following:

- (a) a person against whom any other person is inflicting, or has inflicted, domestic violence;
 - (b) a person with whom there ordinarily or periodically resides a child against whom any other person is inflicting, or has inflicted, domestic violence.
- (2) In this section, **child** has the meaning given to it in section 2 of the Domestic Violence Act 1995.

Entitlement to domestic violence leave

72C Entitlement to domestic violence leave

An employee may take domestic violence leave—

- (a) if the employee is a person affected by domestic violence (regardless of how long ago the domestic violence occurred, and even if the domestic violence occurred before the person became an employee); and
- (b) in accordance with sections 72D and 72H.

72D When entitlement to domestic violence leave arises

- (1) An employee is entitled to domestic violence leave—
- (a) after the employee has completed 6 months’ current continuous employment with the employer; or
 - (b) if, in the case of an employee to whom subsection (1)(a) does not apply, the employee has, over a period of 6 months, worked for the employer for—
 - (i) at least an average of 10 hours a week during that period; and
 - (ii) no less than 1 hour in every week during that period or no less than 40 hours in every month during that period.
- (2) Domestic violence leave must be provided—
- (a) to an employee to whom subsection (1)(a) applies, for—
 - (i) the 12-month period of continuous employment beginning at the end of the 6-month period specified in that subsection; and
 - (ii) each subsequent 12 months of current continuous employment;
 - (b) to an employee to whom subsection (1)(b) applies, for—
 - (i) the 12-month period of employment beginning at the end of the 6-month period specified in that subsection; and
 - (ii) each subsequent 12-month period of employment as long as the circumstances referred to in subparagraphs (i) and (ii) of that subsection continue to apply.
- (3) However, an employer and employee may agree that—
- (a) the employee may take domestic violence leave in advance; and

- (b) in the case of domestic violence leave taken in advance, the amount of leave taken is to be deducted from the employee's entitlement under this section.

72E Employee must notify employer of intention to take domestic violence leave

An employee who intends to take domestic violence leave must notify the employer of that intention—

- (a) as early as possible before the employee is due to start work on the day that is intended to be taken as domestic violence leave; or
- (b) if that is not practicable, as early as possible after that time.

72F Domestic violence leave need not be paid out

An employee is not entitled to be paid for any domestic violence leave that has not been taken before the date on which the employee's employment ends.

72G Proof of domestic violence

An employer may require proof that an employee is a person affected by domestic violence to be produced for domestic violence leave taken under section 72C.

72H Duration of domestic violence leave

An employee—

- (a) may take up to 10 days' domestic violence leave in each of the 12-month periods specified in section 72D(2); and
- (b) cannot carry forward any domestic violence leave not taken in any of those 12-month periods.

Payment for domestic violence leave

72I Payment for domestic violence leave

- (1) An employer must pay an employee an amount that is equivalent to the employee's relevant daily pay or average daily pay for each day of domestic violence leave taken by the employee that would otherwise be a working day for the employee.
- (2) Despite subsection (1), an employer is not required to pay an employee for any time for which the employee is paid weekly compensation under the Accident Compensation Act 2001 or former Act.
- (3) An employer must not require an employee to take as domestic violence leave any time for which the employee is being paid—
 - (a) first week compensation by the employer under section 97 of the Accident Compensation Act 2001 or former Act; or

- (b) weekly compensation for a work-related injury within the meaning of that Act or former Act.
- (4) However, if an employer pays the difference between the employee’s first week compensation or weekly compensation and ordinary weekly pay, the employer may agree with the employee that the employer may deduct from the employee’s domestic violence leave entitlement 1 day for every 5 whole days that the employer makes that payment.

72J When payment for domestic violence leave must be made

- (1) An employer must pay an employee for domestic violence leave in the pay that relates to the pay period in which the leave is taken.
- (2) However, if an employee is required to provide proof under section 72G and fails, without reasonable excuse, to do so, the employer is not required to pay the employee for any domestic violence leave in respect of which the proof is required until the employee complies with that requirement.

Consequential amendments

32 Section 74 amended (Who can enforce Act)

In section 74(2), replace “or bereavement leave” with “bereavement leave, or domestic violence leave”.

33 Section 75 amended (Penalty for non-compliance)

After section 75(2)(d), insert:

(da) sections 72C and 72H to 72J (which relate to an employee’s entitlement to, and payment for, domestic violence leave):

34 Section 81 amended (Holiday and leave record)

In section 81(2)(g) and (h), replace “or bereavement leave” with “bereavement leave, or domestic violence leave”.

35 Section 83 amended (Failure to keep or provide access to holiday and leave record)

In section 83(1)(b) and (4)(b), replace “or bereavement leave” with “bereavement leave, or domestic violence leave”.

Transitional, savings, and related provisions

36 Schedule 1AA amended

- (1) In Schedule 1AA, before clause 1, insert the Part heading set out in Part 3 of the Schedule of this Act.
- (2) In Schedule 1AA, clause 1, replace “schedule” with “Part”.

- (3) In Schedule 1AA, after clause 2, insert the Part 2 set out in Part 4 of the Schedule of this Act.

Part 3 Human Rights Act 1993

37 Principal Act

This Part amends the Human Rights Act 1993 (the **principal Act**).

Consequential amendment

38 Section 21A amended (Application of this Part limited if section 3 of New Zealand Bill of Rights Act 1990 applies)

In section 21A(1)(a), replace “and social and racial harassment” with “sexual harassment, adverse treatment in employment of people affected by domestic violence, and racial harassment”.

New section 62A inserted

39 New section 62A inserted (Adverse treatment in employment of people affected by domestic violence)

After section 62, insert:

62A Adverse treatment in employment of people affected by domestic violence

- (1) It is unlawful for a person (in the course of that person’s involvement in any of the areas to which this subsection is applied by subsection (2)) to treat adversely any other person, or to make an implied or overt threat to treat adversely any other person, on the ground that the other person is, or is suspected or assumed or believed to be, a person affected by domestic violence.
- (2) The areas to which subsection (1) applies are—
 - (a) the making of an application for employment;
 - (b) employment, which term includes unpaid work.
- (3) In this section, an employer **treats adversely** an employee if the employer—
 - (a) dismisses that employee, in circumstances in which other employees employed by that employer on work of that description are not or would not be dismissed or subjected to such detriment; or
 - (b) refuses or omits to offer or afford to that employee the same terms of employment, conditions of work, fringe benefits, or opportunities for training, promotion, and transfer as are made available for other employees of the same or substantially the same qualifications, experience, or skills employed in the same or substantially similar circumstances; or

- (c) subjects that employee to any detriment, in circumstances in which other employees employed by that employer on work of that description are not or would not be subjected to such detriment; or
 - (d) retires that employee, or requires or causes that employee to retire or resign.
- (4) For the purposes of this section,—
- child** has the meaning given to it in section 2 of the Domestic Violence Act 1995
- domestic violence** has the meaning given to it in section 3 of the Domestic Violence Act 1995
- person affected by domestic violence** means a person who is 1 or both of the following:
- (a) a person against whom any other person is inflicting, or has inflicted, domestic violence:
 - (b) a person with whom there ordinarily or periodically resides a child against whom any other person is inflicting, or has inflicted, domestic violence.
- (5) Subsection (1) applies regardless of how long ago the domestic violence occurred or is suspected or assumed or believed to have occurred, and even if the domestic violence occurred or is suspected or assumed or believed to have occurred before the person became an employee.

Transitional, savings, and related provisions

40 Schedule 1AA amended

- (1) In Schedule 1AA, repeal the cross-heading above clause 1.
- (2) In Schedule 1AA, before clause 1, insert the Part heading set out in Part 5 of the Schedule of this Act.
- (3) In Schedule 1AA, after clause 1, insert the Part 2 set out in Part 6 of the Schedule of this Act.

Schedule
Transitional, savings, and related provisions

ss 16, 36, 40

Part 1
New Part 1 heading inserted into Schedule 1AA

Part 1
**Provisions relating to Employment Relations Amendment Act 2014,
Employment Relations Amendment Act 2016, and Employment
Relations Amendment Act (No 2) 2016**

Part 2
New Part 2 inserted into Schedule 1AA

Part 2
**Provisions relating to Part 1 of Domestic Violence—Victims’
Protection Act 2018**

5 Interpretation

In this Part, **2018 Part** means Part 1 of the Domestic Violence—Victims’ Protection Act 2018.

*Provisions relating to flexible working short-term for people affected by
domestic violence*

6 Application to pre-commencement domestic violence

Part 6AB applies even if all or any of the domestic violence occurred before the commencement of the 2018 Part.

*Provisions relating to adverse treatment in employment of people affected by
domestic violence*

7 Application to pre-commencement domestic violence

Sections 103(1)(da), 108A, 111, and 123(1)(d) apply even if all or any of the domestic violence occurred before the commencement of the 2018 Part.

Part 3**New Part 1 heading inserted into Schedule 1AA****Part 1****Provisions relating to Holidays Amendment Act 2016****Part 4****New Part 2 inserted into Schedule 1AA****Part 2****Provisions relating to Part 2 of Domestic Violence—Victims’ Protection Act 2018****3 Interpretation**

In this Part, **2018 Part** means Part 2 of the Domestic Violence—Victims’ Protection Act 2018.

Provisions relating to domestic violence leave

4 Application to pre-commencement domestic violence

Subpart 5 of Part 2 applies even if all or any of the domestic violence occurred before the commencement of the 2018 Part.

Part 5**New Part 1 heading inserted into Schedule 1AA****Part 1****Provisions relating to Human Rights Amendment Act 2016**

Part 6
New Part 2 inserted into Schedule 1AA

Part 2
**Provisions relating to Part 3 of Domestic Violence—Victims’
Protection Act 2018**

2 Interpretation

In this Part, **2018 Part** means Part 3 of the Domestic Violence—Victims’ Protection Act 2018.

*Provisions relating to adverse treatment in employment of people affected by
domestic violence*

3 Application to pre-commencement domestic violence

Section 62A applies even if all or any of the domestic violence occurred before the commencement of the 2018 Part.

Legislative history

1 December 2016	Introduction (Bill 215–1)
8 March 2017	First reading and referral to Justice and Electoral Committee
8 November 2017	Reinstated before Justice Committee
10 May 2018	Reported from Justice Committee
13 June 2018	Second reading
27 June 2018	Committee of the whole House (Bill 215–2)
25 July 2018	Third reading
30 July 2018	Royal assent

This Act is administered by the Ministry of Business, Innovation, and Employment and the Ministry of Justice.