

RESTRAINING ORDERS ACT 1997

**874. Hon GIZ WATSON to the Attorney General:**

- (1) Will the Attorney General introduce legislation amending the Restraining Orders Act 1997 —
  - (a) to resolve the statutory interpretation issue that has arisen regarding section 25(3), which has resulted in some magistrates requiring applicants who seek a restraining order to protect both themselves and their children to apply separately to both the Magistrates Court and the Children's Court; and
  - (b) to implement recommendation 8 of the 2008 review of part 2, division 3A of the act, which provides for a final violence restraining order to be made upon conviction of a domestic violence offence if required by the victim?
- (2) If yes to (1)(a) and/or (b), when?
- (3) If no to (1)(a) and/or (b), why not?

**Hon MICHAEL MISCHIN replied:**

I thank the honourable member for some notice of the question.

- (1)
  - (a) It was not the intention of the government that the recent amendments to the Restraining Orders Act 1997 would preclude a parent who is seeking a violence restraining order in the Magistrates Court from having a child or children joined on the order through the provisions of section 68. The circumstances in which some magistrates who require applicants who seek a restraining order to protect both themselves and their children to apply separately to both the Magistrates Court and the Children's Court are not clear. Accordingly, the Department of the Attorney General is undertaking an analysis into whether there is a need for legislative amendment or whether any administrative arrangements are required.
  - (b) Recommendation 8 of the 2008 review was not included in the recent amendments to the act on the basis that the act already contained a mandatory requirement for the court to issue a lifetime VRO under section 63A in cases of "violent personal offences" and also that, under section 63, a VRO could be made any time during criminal proceedings for other offences. In some cases it appears VROs are not being granted under section 63 when they are warranted. There may be a number of contributing factors unique to specific cases that require further analysis.
- (2) If analysis of the circumstances surrounding section 25(3) and/or section 63 suggests that amendments are necessary, the amending legislation will be introduced.
- (3) See above.