

OXFORD



BLACKSTONE'S GUIDE TO
The Domestic Violence,
Crime and Victims Act 2004

ELIZABETH LAWSON QC

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Includes
a copy of
the Act

BLACKSTONE'S GUIDE TO

The Domestic Violence, Crime and Victims Act 2004

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Foreword

The Criminal Justice Act 2003 is one of the most far-reaching statutes affecting the administration of criminal justice ever enacted. Judges are currently learning to master some of its most important and difficult provisions in a series of residential seminars run by the Judicial Studies Board. While we were still anticipating the implementation of the 2003 Act, the Domestic Violence, Crime and Victims Act 2004 received Royal Assent in November. We must hope that the respective implementation dates for both Acts will not follow the haphazard and uncertain arrangements which have made it so difficult for the practical application of legislation in this field to be rapidly appreciated and understood.

Perhaps the most significant long-term feature of the 2004 Act is that it will have an impact on both family and criminal courts. As the authors explain, breach of a non-molestation order will be prosecuted as a criminal offence. Family practitioners will therefore need to give unequivocal advice to their clients about the possible consequences of such breaches. Criminal practitioners will need to learn more about the process which has led up to the non-molestation order, and the courts themselves will have to appreciate the distinction between a non-molestation order and an undertaking to desist from conduct which would justify such an order. I welcome sensible steps which will reduce what can sometimes be the over-compartmentalization of criminal and family justice. It will be interesting to watch further developments.

The Domestic Violence, Crime and Victims Act 2004 is a significant, major criminal justice statute, perhaps illustrated by its range. For example, it covers both murder and common assault. In relation to murder, a new offence addresses the evidential difficulty of establishing which of two adults responsible for the care of a child caused its death, when one did, and it has not hitherto been possible to establish by admissible evidence which of them was responsible. This will link with the reforms of the rules relating to hearsay evidence in Chapter 2 of the Criminal Justice Act. At the other extreme, common assault becomes an arrestable offence, and it will be open to a jury to convict of common assault on an indictment alleging more serious offences of violence. These are two highlights among many, which are neatly identified in the Contents page and carefully summarized in the Introduction.

This Guide has been written for practitioners with backgrounds and experience in both family and criminal law, who will shortly have to grapple with the new provisions, and their impact on both substantive and procedural law. The text is clear and easily assimilated, and the authors have been at pains to identify

or illustrate, as appropriate, the links between this legislation and the earlier provisions which it either replaces, or amends, or extends. They have also drawn attention to aspects of the legislation where express provisions are absent, and the relevant law will have to be analysed and developed by judicial decision.

At a time when the relentless pace of legislation relating to the criminal justice system in particular shows no sign of abating, this Guide will prove invaluable, and those who use it will, I am confident, discover a stimulating and highly practical analysis of the 2004 Act.

Right Hon Lord Justice Igor Judge
February 2005

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