



I hereby certify that this PUBLIC BILL has finally passed the Legislative Assembly of Queensland.

*Legislative Assembly Chamber,
Brisbane,*

The Clerk of the Parliament.

20 OCTOBER

2016

In the name and on behalf of the Queen, I assent to this Bill.

Paul de Grey
Government House,

Brisbane,

20 October

2016



Queensland

No. 51 of 2016
A BILL for

An Act to amend the Domestic and Family Violence Protection Act 2012, the Police Powers and Responsibilities Act 2000 and the Weapons Act 1990, and to amend the Acts mentioned in schedule 1, for particular purposes



Queensland

Domestic and Family Violence Protection and Other Legislation Amendment Bill 2016

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2016

A Bill

for

An Act to amend the Domestic and Family Violence Protection Act 2012, the Police Powers and Responsibilities Act 2000 and the Weapons Act 1990, and to amend the Acts mentioned in schedule 1, for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Domestic and Family Violence Protection and Other Legislation Amendment Act 2016*.

2 Commencement

This Act commenced on a day to be fixed by proclamation.

Part 2 Amendment of Domestic and Family Violence Protection Act 2012

Division 1 Preliminary

3 Act amended

This part amends the *Domestic and Family Violence Protection Act 2012*.

Note—

See also the amendments in schedule 1.

Division 2 Amendments to enhance domestic and family violence protection system

4 Amendment of s 37 (When court may make protection order)

(1) Section 37(1)(b)—

insert—

Note—

See the examples of the type of behaviour that constitutes domestic violence in sections 8, 11 and 12, which define the terms *domestic violence*, *emotional or psychological abuse* and *economic abuse*.

(2) Section 37(2)—

omit, insert—

(2) In deciding whether a protection order is necessary or desirable to protect the aggrieved from domestic violence—

(a) the court must consider—

(i) the principles mentioned in section 4; and

(ii) if an intervention order has previously been made against the respondent and the respondent has failed to comply with the order—the respondent's failure to comply with the order; and

(b) if an intervention order has previously been made against the respondent and the respondent has complied with the order—the court may consider the respondent's compliance with the order.

(3) Section 37(3)—

renumber as section 37(4).

[s 5]

(4) Section 37—

insert—

- (3) However, the court must not refuse to make a protection order merely because the respondent has complied with an intervention order previously made against the respondent.

5 Amendment of s 44 (When court may make temporary protection order)

Section 44—

insert—

- (2) For subsection (1)(a), if the application is a police protection notice taken to be an application for a protection order under section 112, it does not matter whether or not the nature of the protection order sought and the grounds on which the order is sought—
- (a) are stated in the police protection notice; or
 - (b) are stated in a statement mentioned in section 111(3) that has been filed under that section; or
 - (c) have otherwise been made known to the court.

6 Amendment of s 56 (Domestic violence order must include standard conditions)

- (1) Section 56(1)(a), (b)(i) and (c)(i), before ‘be of’—

insert—

must

- (2) Section 56(1)(b)(ii) and (c)(ii) and (iii), before ‘not’—

insert—

must

7 Amendment of s 57 (Court may impose other conditions)

Section 57(1)—

omit, insert—

- (1) A court making or varying a domestic violence order must consider whether imposing any other condition is necessary or desirable to protect—
 - (a) the aggrieved from domestic violence; or
 - (b) a named person from associated domestic violence; or
 - (c) a named person who is a child from being exposed to domestic violence.

8 Replacement of pt 3, div 6, hdg (Voluntary intervention orders)

Part 3, division 6, heading—

omit, insert—

Division 6 Intervention orders

9 Amendment of s 69 (Court may make voluntary intervention order)

- (1) Section 69, heading, ‘voluntary’—

omit.

- (2) Section 69(1), ‘(a *voluntary intervention order*)’—

omit, insert—

(an ***intervention order***), with the agreement of the respondent mentioned in section 71(b) and (c),

- (3) Section 69(2), ‘a voluntary’—

omit, insert—

an

- (4) Section 69(3), ‘voluntary’—

[s 10]

omit.

10 Omission of s 76 (Definition for div 7)

Section 76—

omit.

11 Amendment of s 78 (Court may consider family law order)

(1) Section 78, heading, ‘may’—

omit, insert—

must

(2) Section 78(1), ‘court may’—

omit, insert—

court must

12 Amendment of s 83 (No exemption under Weapons Act)

(1) Section 83(2), after ‘domestic violence order,’—

insert—

police protection notice or release conditions,

(2) Section 83(2), after ‘the order’—

insert—

, notice or conditions

(3) Section 83(3)—

omit, insert—

(3) However, the respondent can not be convicted of an offence against the Weapons Act, because of the operation of subsection (2), unless the act or omission that constitutes the offence happens after the domestic violence order, police protection notice or release conditions are served on the respondent.

- (4) Subsection (3) does not apply if—
 - (a) the respondent is present in court when the court makes the domestic violence order; or
 - (b) the respondent is present when a police officer issues the police protection notice and explains the notice.

13 Amendment of s 84 (Court to ensure respondent and aggrieved understand domestic violence order)

- (1) Section 84(2)(b) and (c)—

renumber as section 84(2)(c) and (d).

- (2) Section 84(2)—

insert—

- (b) the type of behaviour that constitutes domestic violence; and

Note—

See the examples of the type of behaviour that constitutes domestic violence in sections 8, 11 and 12, which define the terms *domestic violence*, *emotional or psychological abuse* and *economic abuse*.

- (3) Section 84(3)(b) and (c)—

renumber as section 84(3)(c) and (d).

- (4) Section 84(3)—

insert—

- (b) the type of behaviour that constitutes domestic violence; and

Note—

See the examples of the type of behaviour that constitutes domestic violence in sections 8, 11 and 12, which define the terms *domestic violence*, *emotional or psychological abuse* and *economic abuse*.

[s 14]

14 Amendment of s 85 (Domestic violence order to include written explanation)

Section 85—

insert—

- (4) A reference in subsection (1) or (2) to a copy of a domestic violence order served on the respondent includes a copy of a domestic violence order given to the respondent, or the respondent's appointee, or sent to the respondent under section 184(4).

15 Amendment of s 91 (When court can vary domestic violence order)

- (1) Section 91(2)(c)—

omit.

- (2) Section 91(3) and (4)—

renumber as section 91(5) and (6).

- (3) Section 91—

insert—

- (3) Also, before the court varies a domestic violence order—
 - (a) if an intervention order has previously been made against the respondent and the respondent has failed to comply with the order—the court must consider the respondent's failure to comply with the order; or
 - (b) if an intervention order has previously been made against the respondent and the respondent has complied with the order—the court may consider the respondent's compliance with the order.

- (4) However, the court must not decide to vary a

domestic violence order merely because the respondent has complied with an intervention order previously made against the respondent.

- (4) Section 91(6), as renumbered by this section, ‘subsection (3)’—

omit, insert—

subsection (5)

16 Amendment of s 92 (Considerations of court when variation may adversely affect aggrieved or named person)

- (1) Section 92(2)(d)—

renumber as section 92(2)(e).

- (2) Section 92(2)—

insert—

- (d) the principle that the safety, protection and wellbeing of people who fear or experience domestic violence, including children, are paramount; and

- (3) Section 92(3), from ‘considers’—

omit, insert—

considers—

- (a) the safety, protection or wellbeing of the aggrieved or the named person would not be adversely affected by the variation; and
(b) if the variation is to reduce the duration of the order—there are reasons for doing so.

17 Replacement of s 97 (End of protection order)

Section 97—

omit, insert—

[s 18]

97 End of protection order

- (1) A protection order continues in force until—
 - (a) the day stated by the court in the protection order; or
 - (b) if no day is stated, the day that is 5 years after the day the protection order is made.
- (2) The court may order that a protection order continues in force—
 - (a) for any period the court considers is necessary or desirable to protect the aggrieved from domestic violence or a named person from associated domestic violence; but
 - (b) for a period of less than 5 years only if the court is satisfied there are reasons for doing so.
- (3) In deciding the period for which a protection order is to continue in force, the principle of paramount importance to the court must be the principle that the safety, protection and wellbeing of people who fear or experience domestic violence, including children, are paramount.
- (4) If the court orders that a protection order continues in force for a period of less than 5 years, the court must give reasons for making the order.

18 Amendment of s 100 (Police officer must investigate domestic violence)

- (1) Section 100—

insert—

- (1A) If, after the investigation, the police officer reasonably believes domestic violence has been committed, the police officer must consider whether it is necessary or desirable—

- (a) to take any action under subsection (3) to protect a person from further domestic violence; and
 - (b) for the person to be protected immediately from further domestic violence and, if so, what is the most effective action to take to immediately protect the person.
- (2) Section 100(2), from ‘If’ to ‘committed, the’—
omit, insert—
The
- (3) Section 100(2)(b), ‘protection’—
omit, insert—
domestic violence
- (4) Section 100(1A) to (5)—
renumber as section 100(2) to (6).

19 Replacement of s 101 (Police officer may issue police protection notice)

Section 101—
omit, insert—

101 Police officer may issue police protection notice

- (1) A police officer may issue a notice (a ***police protection notice***) against a person (the ***respondent***) if the police officer—
 - (a) reasonably believes the respondent has committed domestic violence; and
 - (b) if the respondent is not present at the same location as the police officer—has made a reasonable attempt to locate and talk to the respondent, including by telephone, to afford the respondent natural justice in

[s 19]

relation to the issuing of a police protection notice; and

- (c) reasonably believes that no domestic violence order has been made or police protection notice issued that—
 - (i) names the respondent as a respondent and another person involved in the domestic violence mentioned in paragraph (a) as the aggrieved; or
 - (ii) names the respondent as the aggrieved and another person involved in the domestic violence mentioned in paragraph (a) as a respondent; and
 - (d) reasonably believes a police protection notice is necessary or desirable to protect the aggrieved from domestic violence; and
 - (e) reasonably believes the respondent should not be taken into custody under division 3.
- (2) This section is subject to sections 102 and 103.

101A When police officer must issue police protection notice

- (1) If a person has been taken into custody under division 3, the releasing police officer must issue a notice (also a ***police protection notice***) against the person (also the ***respondent***) if—
 - (a) it is not reasonably practicable, as mentioned in section 118(2), to bring the respondent before the court for the hearing of an application for a protection order while the respondent is still in lawful custody; and
 - (b) a temporary protection order has not been made under division 4 against the respondent; and

- (c) section 125 does not apply.
- (2) This section is subject to sections 102 and 103.

101B Naming persons in police protection notice

- (1) This section applies if a police officer issuing a police protection notice reasonably believes—
 - (a) naming a child of the aggrieved, or a child who usually lives with the aggrieved, in the notice is necessary or desirable to protect the child from—
 - (i) associated domestic violence; or
 - (ii) being exposed to domestic violence committed by the respondent; or
 - (b) naming another relative, or an associate, of the aggrieved in the notice is necessary or desirable to protect the relative or associate from associated domestic violence.
- (2) The police officer may name the child, relative or associate (each a *named person*) in the police protection notice.

20 Amendment of s 102 (Approval of supervising police officer required)

- (1) Section 102—
insert—

- (1A) However, if the police officer proposes to issue a police protection notice under section 101A, the supervising police officer—
 - (a) may give or refuse approval for—
 - (i) a person to be named in the notice; or
 - (ii) a condition to be imposed under section 106A; but

[s 21]

(b) may not otherwise refuse to give the approval to issue the notice.

(2) Section 102(2)(b)—

omit, insert—

(b) who is not involved in investigating—

(i) for a notice being issued under section 101—the domestic violence mentioned in section 101(1)(a); or

(ii) for a notice being issued under section 101A —the domestic violence for which the respondent was taken into custody.

(3) Section 102(2)—

insert—

Note—

Section 106A(2)(d) also requires the supervising police officer to be of at least a particular rank if the police protection notice includes a condition under section 106A.

(4) Section 102(6), ‘subsection (4)’—

omit, insert—

subsection (5)

(5) Section 102(1A) to (6)—

renumber as section 102(2) to (7).

21 Amendment of s 103 (Cross-notice not permitted)

(1) Section 103(2), ‘While the first notice is in force’—

omit, insert—

Until the first notice stops having effect

(2) Section 103(2)—

insert—

Note—

See section 113(3) for when a police protection notice stops having effect.

22 Amendment of s 104 (Contact details and address for service)

(1) Section 104, before subsection (1)—

insert—

(1A) Subsection (2) applies in relation to a police protection notice—

(a) if the respondent is present when a police officer issues the notice—when the police officer issues the notice; or

(b) if a police officer talks to the respondent in relation to the issuing of the notice in the circumstances mentioned in section 101(1)(b)—when the police officer talks to the respondent; or

(c) otherwise—when a police officer personally serves the notice on the respondent.

(2) Section 104(1), from ‘If’ to ‘notice, the’—

omit, insert—

The

(3) Section 104(2) and (3), ‘subsection (1)(b)’—

omit, insert—

subsection (2)(b)

(4) Section 104(4), ‘subsection (1)’—

omit, insert—

subsection (2)

(5) Section 104(5), editor’s note—

omit, insert—

[s 23]

Note—

Under the *Police Powers and Responsibilities Act 2000*, section 40, a police officer may require a person to state the person's correct name and address in particular circumstances.

- (6) Section 104(1A) to (5)—
renumber as section 104(1) to (6).

23 Amendment of s 105 (Form of police protection notice)

- (1) Section 105(1)(d), after 'the aggrieved'—
insert—
and any named person
- (2) Section 105(1)(f)—
omit, insert—
(f) state that the police officer is satisfied the grounds for issuing a police protection notice under section 101 or 101A have been met; and
- (3) Section 105(1)(g), 'condition'—
omit, insert—
conditions
- (4) Section 105(1)(h)—
omit, insert—
(h) state any condition imposed under section 106A, including, for a cool-down condition, the date and time when the condition ends; and
- (5) Section 105—
insert—
(3) A police protection notice may also state—

- (a) the nature of the protection order sought by the application for a protection order mentioned in subsection (1)(i); and
- (b) the grounds on which the order is sought.

24 Replacement of s 106 (Standard condition)

Section 106—

omit, insert—

106 Standard conditions

A police protection notice must include a condition that the respondent—

- (a) must be of good behaviour towards the aggrieved and must not commit domestic violence against the aggrieved; and
- (b) if the notice includes a named person who is an adult—
 - (i) must be of good behaviour towards the named person; and
 - (ii) must not commit associated domestic violence against the named person; and
- (c) if the notice includes a named person who is a child—
 - (i) must be of good behaviour towards the child; and
 - (ii) must not commit associated domestic violence against the child; and
 - (iii) must not expose the child to domestic violence.

106A Other conditions

- (1) A police protection notice may include any or all of the following conditions—

[s 24]

- (a) a cool-down condition;
 - (b) a no-contact condition;
 - (c) an ouster condition;
 - (d) if the notice includes an ouster condition—a return condition.
- (2) The police officer issuing the police protection notice may impose a condition mentioned in subsection (1) if—
 - (a) the police officer reasonably believes the condition is necessary or desirable to—
 - (i) protect the aggrieved from domestic violence; or
 - (ii) protect a named person from associated domestic violence; or
 - (iii) protect a named person who is a child from being exposed to domestic violence committed by the respondent; and
 - (b) for an ouster condition in relation to the aggrieved’s usual place of residence—the police officer has considered the matters mentioned in section 64(1)(a) to (h) and (2); and
 - (c) for an ouster condition—the police officer has considered imposing a return condition; and
 - (d) the supervising police officer who approves, under section 102, the issuing of the notice including the condition is—
 - (i) for a cool-down condition—of at least the rank of sergeant; or
 - (ii) for an ouster condition or no-contact condition—of at least the rank of senior sergeant.

- (3) To remove any doubt, it is declared that the premises that may be stated in a cool-down condition or ouster condition include—
- (a) premises in which the respondent has a legal or equitable interest; and
 - (b) premises where the aggrieved and respondent live together or have previously lived together; and
 - (c) premises where the aggrieved or a named person lives, works or frequents.

25 Amendment of s 107 (Cool-down condition)

- (1) Section 107(1), from ‘A police’ to ‘*condition*’—
omit, insert—

*A **cool-down condition** is a condition*

- (2) Section 107(1)(b) and (c), after ‘the aggrieved’—
insert—

or a named person

- (3) Section 107(2) and (5)—
omit.

- (4) Section 107(3), from ‘starts when’ to ‘respondent and’—
omit.

- (5) Section 107(3) and (4)—
renumber as section 107(2) and (3).

26 Insertion of new ss 107A–107D

After section 107—

insert—

107A No-contact condition

- (1) A *no-contact condition* is a condition that

[s 26]

prohibits the respondent from doing any or all of the following—

- (a) approaching, or attempting to approach, within a stated distance of the aggrieved or a named person;
 - (b) contacting, attempting to contact, or asking someone else to contact, the aggrieved or a named person;
 - (c) locating, attempting to locate, or asking someone else to locate, the aggrieved or a named person if the aggrieved's or named person's whereabouts are not known to the respondent.
- (2) However, a no-contact condition does not prohibit the respondent from asking—
- (a) a lawyer to contact the aggrieved or a named person; or
 - (b) another person, including a lawyer, to contact or locate the aggrieved or a named person for a purpose authorised under an Act.
- (3) Also, a no-contact condition does not prohibit a victim advocate from contacting or locating the aggrieved or a named person in the circumstances mentioned in section 61(1)(a) to (c).
- (4) In this section—

lawyer means a lawyer who is representing the respondent in relation to a proceeding.

victim advocate means a person engaged by an approved provider to provide advocacy for, and support of, an aggrieved or named person.

107B Ouster condition

An ***ouster condition*** is a condition that prohibits

the respondent from doing any or all of the following in relation to stated premises—

- (a) entering, attempting to enter, or remaining at, the premises;
- (b) approaching within a stated distance of the premises.

107C Return condition

- (1) A *return condition* is a condition—
 - (a) included in a police protection notice that also includes an ouster condition; and
 - (b) that allows the respondent, under the supervision of a police officer—
 - (i) if the respondent is no longer at the premises stated in the ouster condition—to return to the premises to recover stated personal property; or
 - (ii) if the respondent is at the premises stated in the ouster condition—to remain at the premises to remove stated personal property.
- (2) However, a return condition may not allow the respondent to recover or remove personal property required to meet the daily needs of any person who continues to live in the premises stated in the ouster condition.

Examples of personal property required to meet daily needs—

household furniture, kitchen appliances

- (3) A return condition may state either of the following, based on the time of service of the police protection notice on the respondent—
 - (a) the time at which, without contravening the police protection notice, the respondent may

[s 26]

return to the premises and must leave the premises;

- (b) for how long the respondent may, without contravening the police protection notice, remain at the premises.

107D Relationship between police protection notice and family law order

- (1) If a police officer issuing a police protection notice is considering imposing a condition that would prevent or limit contact between the respondent and a child of the respondent, the police officer must ask the respondent and the aggrieved—
 - (a) whether a family law order that allows contact between the respondent and the child is in effect; and
 - (b) if the answer to the question in paragraph (a) is yes—to provide details of the terms of the order that allow contact between the respondent and the child.
- (2) If the police officer knows, or reasonably believes, the condition being considered is inconsistent with a family law order, the police officer—
 - (a) must not impose the condition; and
 - (b) must consider whether, in the circumstances, it is necessary or desirable to apply to a magistrate, under division 4, for a temporary protection order that prevents or limits contact between the respondent and a child in a way that is inconsistent with the family law order.
- (3) If a condition included in a police protection notice is inconsistent with a family law order—

- (a) the condition is of no effect to the extent of the inconsistency; and
- (b) the inconsistency does not invalidate or otherwise affect the police protection notice.

27 Amendment of s 108 (Police officer must consider accommodation needs)

- (1) Section 108(1) to (3)—
renumber as section 108(2) to (4).
- (2) Section 108—
insert—
 - (1) This section applies if—
 - (a) a police protection notice includes a cool-down condition or ouster condition; and
 - (b) a police officer serves the notice on the respondent or tells the respondent about the notice as mentioned in section 113(1)(b).
- (3) Section 108(2), as renumbered, from ‘If’ to ‘condition, the’—
omit, insert—
The
- (4) Section 108(3)(a), as renumbered, ‘subsection (1)(b)’—
omit, insert—
subsection (2)(b)
- (5) Section 108(3)(b), as renumbered, ‘subsection (1)(b) or (2)’—
omit, insert—
subsection (2)(b) or (3)

28 Replacement of s 109 (Service)

Section 109—

[s 29]

omit, insert—

109 Service of notice on respondent

- (1) A police officer must personally serve a police protection notice on the respondent.
- (2) However, a police protection notice can not be served on a respondent after an event mentioned in section 113(3)(a), (b), (c) or (d) has happened.
- (3) To remove any doubt, it is declared that this section applies even if the police protection notice has taken effect under section 113(1)(b).

109A Giving copy of notice to aggrieved

- (1) A police officer must give a copy of a police protection notice to the aggrieved and each named person.
- (2) A police officer is not required to comply with subsection (1) if the police officer reasonably believes—
 - (a) the named person is a child; and
 - (b) a copy of the police protection notice has already been given to a parent of the child because the parent is an aggrieved or named person.
- (3) Failure to comply with subsection (1) does not invalidate or otherwise affect the notice.

29 Amendment of s 110 (Explanation)

- (1) Section 110(1)(b) and (c)—
renumber as section 110(1)(c) and (d).
- (2) Section 110(1)—
insert—

- (b) tells a respondent about a police protection notice as mentioned in section 113(1)(b); or

(3) Section 110(2)(a)—

omit, insert—

- (a) explain to the person—
 - (i) the police protection notice; and
 - (ii) the grounds on which the police officer who issued the notice reasonably believed that domestic violence has been committed; and
 - (iii) the reasons the police officer who issued the notice imposed the conditions of the notice; and

(4) Section 110(3)(a)—

omit, insert—

- (a) the purpose and effect of the notice, including, for example, that—
 - (i) if the respondent has a weapons licence, or is a body's representative as mentioned in the Weapons Act, section 10(3), the licence or endorsement as the body's representative is dealt with by the Weapons Act, section 27A or 28A; and
 - (ii) under section 83(2), a person against whom a police protection notice is issued is not exempt from the Weapons Act, despite the Weapons Act, section 2; and

(5) Section 110(3)(c), after 'the notice'—

insert—

, including the behaviour the respondent is prohibited from engaging in under the conditions

[s 30]

(6) Section 110(3)(d) to (i)—

renumber as section 110(3)(e) to (j).

(7) Section 110(3)—

insert—

(d) the type of behaviour that constitutes domestic violence; and

Note—

See the examples of the type of behaviour that constitutes domestic violence in sections 8, 11 and 12, which define the terms *domestic violence*, *emotional or psychological abuse* and *economic abuse*.

30 Amendment of s 111 (Filing)

(1) Section 111(2)—

renumber as section 111(6).

(2) Section 111—

insert—

(2) Subsection (3) applies if the police protection notice does not state—

(a) the nature of the protection order sought by the application for a protection order; and

(b) the grounds on which the order is sought.

(3) A statement about the matters mentioned in subsection (2)(a) and (b) must be filed in the local Magistrates Court for the respondent before the earlier of the following—

(a) the date and time stated in the police protection notice for the hearing of the application for the protection order;

(b) the day that is 14 days after the day the notice was issued.

Note—

Section 153 provides that a police officer may file a document in a proceeding under this Act by electronic or computer-based means.

- (4) The statement must be—
 - (a) made and signed by the police officer who issued the police protection notice; and
 - (b) served on the respondent—
 - (i) if the police protection notice has been personally served on the respondent and an address for service for the respondent is known—in any way; or
 - (ii) otherwise—personally by a police officer.
- (5) Subsection (3) does not limit—
 - (a) the way in which the court may be informed, or inform itself, about the matters mentioned in subsection (2)(a) and (b); or
 - (b) the documents or evidence a party may file or give in the proceeding.

(3) Section 111—

insert—

- (7) The reference in subsection (2)(a) to the application for a protection order is a reference to the application for a protection order the police protection notice is taken to be under section 112.
- (8) To remove any doubt, it is declared that subsection (1) applies whether or not the police protection notice has been served on the respondent.

[s 31]

31 Amendment of s 112 (Police protection notice taken to be application for protection order)

(1) Section 112, note—

omit.

(2) Section 112—

insert—

(2) This section does not apply if—

- (a) the police protection notice was issued against the respondent under section 101A when the respondent was released from custody; and
- (b) a police officer prepared an application for a protection order against the respondent while the respondent was in custody as required under section 118.

32 Replacement of s 113 (Duration)

Section 113—

omit, insert—

113 Duration

(1) A police protection notice takes effect when—

- (a) the notice is personally served on the respondent; or
- (b) a police officer tells the respondent about the existence of the notice and the conditions of the notice.

(2) For subsection (1)(b), the respondent may be told by a police officer about the existence of the police protection notice in any way, including, for example, by telephone, email, SMS message, a social networking site or other electronic means.

(3) A police protection notice continues in force

until—

- (a) if, on an application for a temporary protection order made under section 129(2), a magistrate decides to make a temporary protection order—the temporary protection order is served on the respondent or otherwise becomes enforceable under section 177; or
 - (b) if, upon the hearing of the application for a protection order, the court decides to make a domestic violence order—the domestic violence order is served on the respondent or otherwise becomes enforceable under section 177; or
 - (c) if the court adjourns the application for a protection order and does not make a domestic violence order—the proceeding is adjourned; or
 - (d) if the court dismisses the application for a protection order—the application is dismissed.
- (4) In this section, a reference to the application for a protection order is a reference to—
- (a) the application for a protection order a police protection notice is taken to be under section 112; or
 - (b) if a police protection notice was issued against the respondent under section 101A when the respondent was released from custody—the application for a protection order against the respondent prepared while the respondent was in custody as required under section 118.

[s 33]

33 Amendment of s 124 (Release of person from custody)

- (1) Section 124(c), ‘section 184’—

omit, insert—

section 133(1)(a)

- (2) Section 124(d)—

renumber as section 124(e).

- (3) Section 124—

insert—

- (d) if a police protection notice is issued under section 101A —personally serve the notice on the person and explain the notice to the person in compliance with sections 109 and 110; and

- (4) Section 124—

insert—

- (2) However, subsection (1) and sections 101A, 118 and 125 do not apply if—

- (a) the person is named as a respondent in a domestic violence order made, or police protection notice issued, before the person was taken into custody; and
- (b) the person named as the aggrieved in the order or notice is also another person involved in the domestic violence for which the person was taken into custody.

34 Replacement of s 125 (When police officer must release person on conditions)

Section 125—

omit, insert—

125 When police officer must release person on conditions

- (1) This section applies if—
 - (a) it is not reasonably practicable, as mentioned in section 118(2), to bring a person before the court for the hearing of the application for a protection order; and
 - (b) a police officer has not obtained a temporary protection order under division 4 naming the person as a respondent; and
 - (c) the releasing police officer reasonably believes a domestic violence order has been made, or a police protection notice has been issued, that names the person as the aggrieved and another person involved in the domestic violence for which the person was taken into custody as a respondent.
- (2) The releasing police officer must release the person (the ***respondent***) from custody on the conditions (the ***release conditions***) that the releasing police officer considers are necessary or desirable to—
 - (a) protect the aggrieved from domestic violence; or
 - (b) protect a named person from associated domestic violence; or
 - (c) protect a named person who is a child from being exposed to domestic violence committed by the respondent.
- (3) Without limiting subsection (2), release conditions—
 - (a) must include the standard conditions for a police protection notice stated in section 106; and
 - (b) may include any or all of the following—

[s 34]

- (i) a no-contact condition;
 - (ii) an ouster condition;
 - (iii) if the release conditions include an ouster condition—a return condition;
 - (iv) another condition the releasing police officer considers is necessary or desirable in the circumstances.
- (4) Sections 101B, 102, 106, 106A (other than to the extent that section refers to cool-down conditions) and 107D apply for releasing the respondent on release conditions as though a reference in the section to a police protection notice issued under section 101A was a reference to release conditions imposed under this section.
- (5) The release conditions continue in force until—
 - (a) if, on an application for a temporary protection order made under section 129(2), a magistrate decides to make a temporary protection order—the temporary protection order is served on the respondent or otherwise becomes enforceable under section 177; or
 - (b) if, upon the hearing of the application for the protection order, the court decides to make a domestic violence order—the domestic violence order is served on the respondent or otherwise becomes enforceable under section 177; or
 - (c) if the court adjourns the application for the protection order and does not make a domestic violence order—the proceeding is adjourned; or
 - (d) if the court dismisses the application for the protection order—the application is dismissed.

35 Amendment of s 127 (When person may be taken to place for treatment)

Section 127(2)(b), after ‘sections’—

insert—

101A,

36 Amendment of s 128 (When intoxicated person may be taken to place of safety)

Section 128(7), after ‘sections’—

insert—

101A,

37 Amendment of s 129 (When police officer may apply for temporary protection order)

Section 129(2)—

omit, insert—

- (2) A police officer must apply for a temporary protection order against a person taken into custody under division 3 if—
 - (a) an application for a protection order against the person has been prepared as required under section 118(1); and
 - (b) it is not reasonably practicable, as mentioned in section 118(2), to bring the person before the court for the hearing of the application while the respondent is still in lawful custody; and
 - (c) the date for the hearing of the application for the protection order, as stated on the copy of the application prepared under section 118(1), is more than 5 business days after the day the person is to be released.

[s 38]

38 Amendment of s 130 (Making of application)

Section 130(3) and (4)(b), after ‘section 129(1)(a)’—

insert—

or (2)(a)

39 Replacement of pt 4, div 5, hdg (Other police powers)

Part 4, division 5, heading—

omit, insert—

**Division 5 Power to direct person to
remain, or move to and
remain, at place**

40 Replacement of s 134 (Power to direct person to remain at place)

Section 134—

omit, insert—

134 Application of division

This division applies if—

- (a) a police officer reasonably suspects a person is named as a respondent in—
 - (i) an application for a protection order that has not been served on the person; or
 - (ii) a domestic violence order that has not been served on the person; or
 - (iii) a police protection notice that has been issued but not served on the person; or
- (b) a police officer intends to issue a police protection notice against a person.

134A Power to give direction

- (1) The police officer may give the person a direction under subsection (2) or (4) to enable the police officer to—
 - (a) if the police officer has a copy of the application—serve the person with the application; or
 - (b) if the police officer has a copy of the order—serve the person with the order; or
 - (c) if the police officer does not have a copy of the order—arrange for the person to be told about the existence of the order and the conditions imposed by the order; or
 - (d) if the police officer has a copy of the issued police protection notice—serve the person with the notice and explain the notice to the person; or
 - (e) if the police officer does not have a copy of the issued police protection notice—arrange for the person to be told about the existence of the notice and the conditions imposed by the notice; or
 - (f) if the police officer intends to issue a police protection notice to the person—issue the notice against the person, serve the person with the notice and explain the notice to the person.
- (2) The police officer may direct the person to remain at an appropriate place in the person's current location.
- (3) Subsection (4) applies if, in the police officer's opinion, it is contrary to the interests of the person or another person for the person to remain at the person's current location while the police officer does a thing mentioned in subsection (1).

[s 40]

- (4) The police officer may direct the person to move to another stated location and remain at an appropriate place at the other location.

Examples of locations a police officer may direct a person to move to—

- a police station or police beat
 - a courthouse
 - the premises of a community organisation that provides support services to respondents
- (5) In giving a direction under subsection (2) or (4), the police officer must tell the person the following—
- (a) why the person is being given the direction;
 - (b) if the direction includes a direction to move to another location—
 - (i) where the other location is; and
 - (ii) how the person is to move to the other location, including whether a police officer will take the person to the other location;
 - (c) the place, at the person's current location or the other location, where the person is to remain;
 - (d) how long the person may be required to remain at the place;
 - (e) that the person is not under arrest or in custody while complying with the direction.
- (6) The police officer giving the direction must also make reasonable efforts to tell the aggrieved the matters mentioned in subsection (5).
- (7) Failure to comply with subsection (6) does not invalidate or otherwise affect the direction.

134B Limits on direction

- (1) The time for which the person may be directed to remain at the appropriate place is—
 - (a) 1 hour; or
 - (b) a longer time, not more than 2 hours, that is reasonably necessary having regard to the particular circumstances.
- (2) The location to which the person may be directed to move must be within a reasonable distance of the person's current location, having regard to the particular circumstances.

134C Offence warning

- (1) The police officer giving the direction must warn the person—
 - (a) it is an offence not to comply with the direction unless the person has a reasonable excuse; and
 - (b) the person may be arrested for the offence.
- (2) The police officer must give the person a reasonable opportunity to comply with the direction.
- (3) If the person fails to comply with the direction, a police officer must, if practicable—
 - (a) repeat the warning mentioned in subsection (1); and
 - (b) give the person a further reasonable opportunity to comply with the direction.

134D Person not to be questioned about offence

A police officer must not question the person about the person's involvement in the commission of an offence or suspected offence

[s 40]

while the person, under the direction—

- (a) moves to another location; or
- (b) remains at a place.

134E Responsibilities of police officer in relation to direction

- (1) The police officer giving the direction must do a thing mentioned in section 134A(1)(a) to (f) without unreasonable delay after giving the direction.
- (2) Without limiting section 134A(1)(c) or (e), the police officer may arrange for the person to be told about the existence of the order or police protection notice, and the conditions imposed by the order or notice, by—
 - (a) arranging for a copy of the order or notice to be sent electronically to the police officer so the police officer can read the conditions of the order or notice to the person; or
 - (b) arranging for another police officer to read the conditions of the order or notice to the person over a radio, telephone or other communication device.
- (3) A police officer must remain in the presence of the person while the person, under the direction—
 - (a) moves to another location; or
 - (b) remains at a place.

134F Offence to contravene direction

- (1) The person must comply with the direction unless the person has a reasonable excuse.
Maximum penalty—40 penalty units.
- (2) A person does not commit an offence against

subsection (1) if—

- (a) the person is not proved to be named as a respondent in an application for a protection order, or a domestic violence order or police protection notice, that has not been served on the person; or
- (b) the warning mentioned in section 134C(1) is not proved to have been given to the person.

41 Insertion of new pt 4, div 6, hdg

Before section 135—

insert—

**Division 6 Acting in aid of police
powers**

42 Amendment of s 153 (Electronic documents)

- (1) Section 153(1), ‘in a proceeding’—

omit, insert—

to start a proceeding, or in a proceeding,

- (2) Section 153(1) to (3)—

renumber as section 153(2) to (4).

- (3) Section 153—

insert—

- (1) A court may make a domestic violence order, and a magistrate may make a temporary protection order, under this Act by electronic or computer-based means.

[s 43]

43 Amendment of s 160 (Prohibition on obtaining copies of documents for proceeding)

Section 160(2)—

insert—

- (g) a police officer, if—
 - (i) the court considers an offence may have been committed, an investigation into whether the offence has been committed is warranted, and the copy of the record is relevant to the investigation; or
 - (ii) the copy of the record is otherwise relevant to the investigation or prosecution of an offence, or another proceeding related to an offence; or
- (h) the director under the *Director of Public Prosecutions Act 1984* or a police prosecutor, if the copy of the record is relevant to the prosecution of an offence or another proceeding related to an offence.

44 Insertion of new pt 5A

After part 5—

insert—

Part 5A Information sharing

Division 1 Preliminary

169A Purpose of part

The purpose of this part is to enable particular entities to share information, while protecting the confidentiality of the information, to—

- (a) assess whether there is a serious threat to the life, health or safety of people because of domestic violence; and
- (b) respond to serious threats to the life, health or safety of people because of domestic violence; and
- (c) refer people who fear or experience domestic violence, or who commit domestic violence, to specialist DFV service providers.

169B Principles for sharing information

The principles underlying this part are—

- (a) whenever safe, possible and practical, a person's consent should be obtained before—
 - (i) providing, or planning to provide, a service to the person; or
 - (ii) disclosing personal information about the person to someone else; and
- (b) because the safety, protection and wellbeing of people who fear or experience domestic violence are paramount, their safety and protection take precedence over the principle mentioned in paragraph (a); and
- (c) before disclosing information about a person to someone else, an entity should consider whether disclosing the information is likely to adversely affect the safety of the person or another person.

169C Definitions for part

- (1) In this part—
information includes a document.

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prescribed entity means each of the following—

- (a) the chief executive of a department that is mainly responsible for any of the following matters—
 - (i) adult corrective services;
 - (ii) child protection services;
 - (iii) community services;
 - (iv) court services;
 - (v) disability services;
 - (vi) education;
 - (vii) housing services;
 - (viii) public health services;
 - (ix) youth justice services;
- (b) the chief executive of another department that provides services to persons who fear or experience domestic violence or who commit domestic violence;
- (c) the commissioner under the *Ambulance Service Act 1991*;
- (d) the police commissioner;
- (e) the chief executive officer of Mater Misericordiae Ltd (ACN 096 708 922);
- (f) a health service chief executive under the *Hospital and Health Boards Act 2011*;
- (g) the principal of a school that is accredited, or provisionally accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*;
- (h) another entity prescribed by regulation.

specialist DFV service provider means a non-government entity funded by the State or

Commonwealth to provide services to persons who fear or experience domestic violence or who commit domestic violence.

support service provider means a non-government entity, other than a specialist DFV service provider, that provides assistance or support services to persons who may include persons who fear or experience domestic violence or who commit domestic violence.

Examples of assistance or support services—

- counselling
- disability services
- health services
- housing and homelessness services
- legal services
- sexual assault services

- (2) In this part, a reference to domestic violence includes a reference to associated domestic violence.

Division 2 Information sharing

169D Sharing information for assessing domestic violence threat

- (1) A prescribed entity or specialist DFV service provider (each the **holder**) may give information to another prescribed entity or specialist DFV service provider if the holder reasonably believes—
- (a) a person fears or is experiencing domestic violence; and
 - (b) the information may help the entity receiving the information to assess whether there is a serious threat to the person's life,

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health or safety because of the domestic violence.

- (2) Also, a support service provider (the **holder**) may give information to a prescribed entity or specialist DFV service provider if the holder reasonably believes—
- (a) a person fears or is experiencing domestic violence; and
 - (b) the information may help the entity receiving the information to assess whether there is a serious threat to the person's life, health or safety because of the domestic violence.

169E Sharing information for responding to serious domestic violence threat

A prescribed entity, specialist DFV service provider or support service provider (each the **holder**) may give information to another prescribed entity, specialist DFV service provider or support service provider if the holder reasonably believes—

- (a) a person fears or is experiencing domestic violence; and
- (b) the information may help the entity receiving the information to lessen or prevent a serious threat to the person's life, health or safety because of the domestic violence.

169F Police officer may refer person to specialist DFV service provider

- (1) A police officer may give referral information about a person to a specialist DFV service provider if the police officer reasonably

believes—

- (a) the person fears or is experiencing domestic violence and there is a threat to the person's life, health or safety because of the domestic violence; or
 - (b) the person has committed domestic violence against another person.
- (2) The following information about a person is ***referral information***—
- (a) the person's name;
 - (b) the person's contact details, including, for example, the person's telephone number or email address;
 - (c) details of the basis for the reasonable belief;
 - (d) any other information that is, in the police officer's opinion, reasonably necessary to assist the entity receiving the information to offer to provide a service to the person.

Example for paragraph (d)—

whether the person is the primary carer of children

169G Permitted uses of shared information

- (1) A prescribed entity or specialist DFV service provider may use information given to it under this division to the extent necessary to do the following—
- (a) assess whether there is a serious threat to a person's life, health or safety because of domestic violence;
 - (b) lessen or prevent a serious threat to a person's life, health or safety because of domestic violence, including by—

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- (i) contacting, or attempting to contact, the person or another person involved in the domestic violence; or
 - (ii) offering to provide assistance or a service to the person or another person involved in the domestic violence.
- (2) A support service provider may use information given to it under this division to the extent necessary to lessen or prevent a serious threat to a person's life, health or safety because of domestic violence, including by—
 - (a) contacting, or attempting to contact, the person or another person involved in the domestic violence; or
 - (b) offering to provide assistance or a service to the person or another person involved in the domestic violence.

169H Who may give or receive information on behalf of entity

- (1) This section applies if an entity, including a prescribed entity, specialist DFV service provider or support service provider, may give, receive or use information under this division.
- (2) A person mentioned in subsection (3) may give, receive or use the information for the entity if—
 - (a) the person's duties for the entity include—
 - (i) assessing threats to life, health or safety because of domestic violence; or
 - (ii) taking action to lessen or prevent threats to life, health or safety because of domestic violence, including by providing assistance or a service to a person involved in the domestic violence; or

- (b) the person is otherwise authorised by the entity to give, receive or use the information.
- (3) For subsection (2), the persons are the following—
 - (a) a person employed or engaged by the entity;
 - (b) if the entity is the police commissioner—a police officer.

169I Facts or opinion may be shared

Information that may be given to an entity under this division may be comprised of facts or opinion.

169J Limits on information that may be shared

Despite sections 169D , 169E and 169F , information may not be given to an entity under this division if—

- (a) the information is about a person’s criminal history to the extent it relates to a conviction, other than a conviction for a domestic violence offence, and—
 - (i) the rehabilitation period for the conviction under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
 - (ii) the conviction is not revived as prescribed by section 11 of that Act; or
- (b) the information must not be disclosed under the *Child Protection Act 1999*, section 186; or
- (c) the information is confidential information within the meaning of the *Director of Public Prosecutions Act 1984*, section 24A known

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- by a person and acquired in the circumstances mentioned in section 24A(1) and (2) of that Act; or
- (d) the information is—
 - (i) sensitive evidence within the meaning of the Criminal Code, section 590AF; or
 - (ii) a recording within the meaning of the *Evidence Act 1977*, section 21AY; or
 - (iii) a section 93A criminal statement or a section 93A transcript within the meaning of the *Evidence Act 1977*, section 93AA; or
- (e) giving the information would be contrary to an order of a court or tribunal.

Division 3 Confidentiality of shared information

169K Confidentiality of information obtained under this part

- (1) This section applies to a person (the *receiver*) who—
 - (a) is or has been a person employed or engaged by a prescribed entity, specialist DFV service provider or support service provider; and
 - (b) in that capacity was given, or given access to, information under this part about another person.
- (2) This section also applies to a person (also the *receiver*) who is given, or is given access to, information about another person by a person

mentioned in subsection (1)(a).

- (3) The receiver must not use the information, or disclose or give access to the information to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

- (4) However, the receiver may use the information, or disclose or give access to the information to someone else, if the use, disclosure or giving of access—

- (a) is permitted under this part; or
- (b) if the entity that employs or engages the receiver is required to comply, under the *Information Privacy Act 2009*, with the information privacy principles—complies with the information privacy principles; or
- (c) is otherwise required or permitted by law.

- (5) Subsection (4)(b) applies despite the operation of the *Information Privacy Act 2009*, section 7(2).

- (6) In this section—

information privacy principles means—

- (a) the information privacy principles set out in the *Information Privacy Act 2009*, schedule 3; or
- (b) the national privacy principles set out in the *Information Privacy Act 2009*, schedule 4.

169L Police use of confidential information

- (1) This section applies if a police officer receives information from a prescribed entity, specialist DFV service provider or support service provider under section 169D or 169E .
- (2) The police officer, and any other police officer to

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whom the information is disclosed under this section, may use the information to the extent necessary to perform the officer's functions as a police officer.

- (3) A police officer must not use the information under this section for an investigation or for a proceeding for an offence unless—
 - (a) the police officer, or another police officer, has consulted with the entity that gave the information about the proposed use; and
 - (b) in consultation with the entity, the police officer has considered whether the proposed use of the information for the investigation or proceeding would be in the best interests of a person experiencing domestic violence.
- (4) Subsection (3) does not apply to the extent that the police officer needs to use the information immediately in the performance of the officer's functions as a police officer.
- (5) In this section—
use, in relation to information, includes disclose, or give access to, the information to someone else.

Division 4 Guidelines for sharing and dealing with information

169M Chief executive must make guidelines

- (1) The chief executive must make guidelines, consistent with this Act and the *Information Privacy Act 2009*, for sharing and dealing with information under this part.
- (2) The purposes of the guidelines are to ensure—

- (a) information is shared under this part for proper purposes; and
 - (b) to the greatest extent possible, the privacy of individuals is respected when sharing information under this part, having regard to the paramount principle stated in section 4(1); and
 - (c) information shared under this part is properly used, stored, retained and disposed of.
- (3) In preparing the guidelines, the chief executive must consult with the privacy commissioner under the *Information Privacy Act 2009*.
- (4) The chief executive must publish the guidelines on the department's website.

Division 5 Protection from liability for giving information

169N Protection from liability for giving information

- (1) This section applies if a person, acting honestly, gives information in compliance with this part.
- (2) Subject to section 169O, the person is not liable, civilly, criminally or under an administrative process, for giving the information.
- (3) Also, merely because the person gives the information, the person can not be held to have—
 - (a) breached any code of professional etiquette or ethics; or
 - (b) departed from accepted standards of professional conduct.
- (4) Without limiting subsections (2) and (3)—

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- (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
- (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
 - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
 - (ii) is not liable to disciplinary action for giving the information.

1690 Interaction with other laws

- (1) This part does not limit a power or obligation under another Act or law to give information.
- (2) Also, disclosure of information under this part does not waive, or otherwise affect, a privilege a person may claim in relation to the information under another Act or law.
- (3) Subject to subsection (4), this part applies to information despite any other law that would otherwise prohibit or restrict the giving of the information.

Examples of other laws—

- *Child Protection Act 1999*, section 188
- *Education (General Provisions) Act 2006*, section 426
- *Hospital and Health Boards Act 2011*, section 142(1)
- *Police Service Administration Act 1990*, section 10.1
- *Youth Justice Act 1992*, section 288

- (4) This part applies subject to the following provisions—

- (a) the *Child Protection Act 1999*, section 186;
- (b) the Criminal Code, section 590AX;
- (c) the *Director of Public Prosecutions Act 1984*, section 24A;
- (d) the *Evidence Act 1977*, sections 21AZB, 21AZC and 93AA.

45 Replacement of s 178 (Contravention of police protection notice)

Section 178—

omit, insert—

178 Contravention of police protection notice

- (1) This section applies to a respondent in relation to whom a police protection notice is in force.

Note—

See section 113(1) for when a police protection notice takes effect.

- (2) The respondent must not contravene the police protection notice.

Maximum penalty—120 penalty units or 3 years imprisonment.

- (3) A court hearing proceedings for the prosecution of an offence against subsection (2) must consider whether the police protection notice was issued in substantial compliance with part 4, division 2.
- (4) If the police protection notice took effect under section 113(1)(b), the prosecution bears the onus of proving, beyond a reasonable doubt, that the respondent has been told by a police officer about the existence of a police protection notice or about a condition of the notice the respondent is alleged to have contravened.

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46 Amendment of s 179 (Contravention of release conditions)

Section 179(2), penalty—

omit, insert—

Maximum penalty—120 penalty units or 3 years imprisonment.

47 Amendment of s 184 (Service of order on respondent)

(1) Section 184(1)(c) and (6), ‘a voluntary’—

omit, insert—

an

(2) Section 184(6) to (8)—

renumber as section 184(8) to (10).

(3) Section 184(5)—

omit, insert—

(5) Also, subsection (2) does not apply—

(a) if—

(i) a police officer has told the respondent, as mentioned in section 177(1)(c), about the existence of a domestic violence order made or varied by the court; and

(ii) the order, or the varied order, has been served on the respondent other than by being personally served on the respondent; or

(b) the order is a temporary protection order that—

(i) names the same aggrieved and named persons as a police protection notice that is, or release conditions that are, in force against the respondent; and

- (ii) imposes the same conditions as the notice or conditions.
- (6) A temporary protection order mentioned in subsection (5)(b) is taken to have been served on the respondent when it was made.
- (7) For subsection (5)(b), in deciding whether a temporary protection order imposes the same conditions as a police protection notice, a cool-down condition included in the notice is not to be taken into account.
- (4) Section 184, note, '(Domestic violence order to include written explanation)'—
omit, insert—
for the requirement for a copy of a domestic violence order served on, or given or sent to, the respondent under this section to include a written explanation of the order

48 Amendment of s 192 (Review of Act)

- (1) Section 192(1), 'commencement of this section'—
omit, insert—
relevant day
- (2) Section 192—
insert—
 - (4) In this section—
relevant day means the day the *Domestic and Family Violence Protection and Other Legislation Amendment Act 2016*, section 48 commenced.

49 Insertion of new pt 10, div 3

After section 215—

[s 49]

insert—

**Division 3 Transitional provisions for
Domestic and Family
Violence Protection and
Other Legislation
Amendment Act 2016**

Subdivision 1 Preliminary

216 Definitions for division

In this division—

amended Act means this Act as amended by the amendment Act.

amendment Act means the *Domestic and Family Violence Protection and Other Legislation Amendment Act 2016*.

**Subdivision 2 Transitional provisions for
amendment Act, part 2,
division 2**

217 Application to make or vary domestic violence order

- (1) The amended Act applies to a proceeding for an application to make or vary a domestic violence order whether the proceeding was started before or after the commencement.
- (2) Without limiting subsection (1), if an intervention order has previously been made against the respondent, the respondent's compliance with the order must not be the only reason the court decides—

- (a) for an application to make a protection order—to refuse to make a protection order; or
- (b) for an application to vary a domestic violence order—to vary a protection order.

218 Obligation for domestic violence order to include written explanation

- (1) This section applies in relation to a domestic violence order made before the commencement.
- (2) Section 85, as in force immediately before the commencement, continues to apply in relation to the domestic violence order.
- (3) Without limiting subsection (2)—
 - (a) the information a written explanation of the domestic violence order is required to include is the information mentioned in section 84(2) or (3) as in force immediately before the commencement; and
 - (b) section 85, as amended by the amendment Act, does not apply to a copy of the domestic violence order given to the respondent, or the respondent's appointee, or sent to the respondent under section 184(4).

219 Duration of existing protection orders

- (1) This section applies to a protection order made before the commencement if the protection order—
 - (a) was in force immediately before the commencement; and
 - (b) did not state a day on which it ends.
- (2) Section 97, as in force immediately before the

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commencement, continues to apply to the protection order unless the protection order is varied to change its duration.

- (3) Section 97, as amended by the amendment Act, applies in relation to an application to vary the duration of the protection order.

220 Existing voluntary intervention orders

- (1) A voluntary intervention order in force immediately before the commencement is taken to be an intervention order under the amended Act.
- (2) A reference in this Act to an intervention order includes a reference to a voluntary intervention order made before the commencement.

221 Police protection notices

A police officer may issue a police protection notice against a person under the amended Act—

- (a) whether the person's behaviour that the police officer reasonably believes is domestic violence occurred before or after the commencement; and
- (b) whether the person was taken into custody under part 4, division 3 before or after the commencement.

222 Release conditions

A releasing police officer may release a person from custody on release conditions under section 125, as amended by the amendment Act, whether the person was taken into custody under part 4, division 3 before or after the commencement.

50 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *family law order*, *named person*, *offence involving domestic violence*, *ouster condition*, *return condition* and *voluntary intervention order*—

omit.

- (2) Schedule—

insert—

cool-down condition see section 107(1).

domestic violence offence means—

- (a) a domestic violence offence within the meaning of the Criminal Code, section 1; or
- (b) an offence under part 7.

family law order means either of the following that relates to a child of a respondent or an aggrieved—

- (a) an order, injunction, undertaking, plan or recognisance mentioned in the *Family Law Act 1975* (Cwlth), section 68R;
- (b) an order, injunction, undertaking, plan or bond mentioned in the *Family Court Act 1997* (WA), section 176.

information, for part 5A, see section 169C .

intervention order see section 69(1).

named person—

- (a) in relation to a domestic violence order, see section 24(6); or
- (b) in relation to a police protection notice, see section 101B (2).

no-contact condition see section 107A(1).

ouster condition—

- (a) in relation to a domestic violence order, see section 63; or

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- (b) in relation to a police protection notice, see section 107B.

police prosecutor means a police officer or service legal officer whose duties include acting or appearing for the prosecution in a proceeding.

prescribed entity, for part 5A, see section 169C .

release conditions see section 125(2).

return condition—

- (a) in relation to a domestic violence order, see section 65;
or
(b) in relation to a police protection notice, see section 107C(1).

specialist DFV service provider, for part 5A, see section 169C .

support service provider, for part 5A, see section 169C .

- (3) Schedule, definition *police protection notice*, ‘section 101’—
omit, insert—
sections 101(1) and 101A(1)
- (4) Schedule, definition *varied order*, ‘91(4)’
omit, insert—
91(6)

Division 3 Amendments to implement national domestic violence orders scheme

51 Amendment of s 22 (Child as aggrieved or respondent)

Section 22(3)—

omit, insert—

- (3) Subsection (2) does not limit—

- (a) the interstate orders that are recognised interstate orders under part 6; or
- (b) the New Zealand orders that may be registered under part 6, division 4.

52 Amendment of s 30 (What can happen if a respondent does not comply with a domestic violence order)

Section 30(1), ‘registered’—

omit, insert—

recognised

53 Replacement of s 31 (What is the effect of an interstate order)

Section 31—

omit, insert—

31 What is the effect of an order made in another State or New Zealand

- (1) If a person has obtained an interstate order in another State, the interstate order is a recognised interstate order under part 6 and enforceable under this Act.
- (2) If a person has obtained a New Zealand order, the New Zealand order—
 - (a) may be registrable in Queensland under part 6 or in another State under a corresponding law; and
 - (b) if registered in Queensland or another State, is a recognised interstate order under part 6 and enforceable under this Act.

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54 Amendment of s 101 (Police officer may issue police protection notice)

Section 101(1)(c), after ‘domestic violence order’—

insert—

or recognised interstate order

55 Amendment of s 110 (Explanation)

(1) Section 110(3)(a)(i) and (ii)—

renumber as section 110(a)(ii) and (iii).

(2) Section 110(3)(a)—

insert—

- (i) the notice may be enforceable in other States and New Zealand without further notice to the respondent; and

56 Amendment of s 162 (Notification of police commissioner)

Section 162(1)(c)(i) and (ii)—

omit, insert—

- (i) variation of a recognised interstate order; or
- (ii) registration of a New Zealand order; or
- (iii) variation of a New Zealand order as it is registered in Queensland or the period for which the order has effect in Queensland; or
- (iv) revocation of the registration of a New Zealand order;

57 Replacement of pt 6 (Registration of interstate orders)

Part 6—

omit, insert—

Part 6 National recognition of domestic violence orders

Note—

To ensure the greatest possible harmonisation for national recognition of domestic violence orders, this part closely follows corresponding legislation enacted in other Australian jurisdictions. Accordingly, this part is not entirely consistent with Queensland's current drafting style.

Division 1 Preliminary

170 Object of part

This part establishes, in conjunction with the corresponding laws, a national recognition scheme for DVOs (or domestic violence orders).

171 Definitions for part

In this part—

corresponding law means a law of another State that contains provisions that substantially correspond with this part.

DVO means a local order, an interstate order or a New Zealand order.

final order means a DVO that is not an interim order.

interim order—

- (a) means a DVO of an interim or provisional nature; and
- (b) includes the following—

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- (i) a temporary protection order;
- (ii) a police protection notice;
- (iii) release conditions;
- (iv) another DVO made by a police officer;
- (v) another DVO declared by regulation to be an interim order.

interstate order see section 173.

interstate law enforcement agency means—

- (a) the police force of another State; or
- (b) another agency of another State responsible for the enforcement of DVOs in that State.

issuing authority means—

- (a) generally—a court or person with power to make, vary or revoke a DVO under the law of a participating jurisdiction; or
- (b) for a DVO—the court that, or person who, made the DVO.

local order see section 172.

make includes issue.

New Zealand order means an order made under the *Domestic Violence Act 1995* (NZ) or under an Act repealed by that Act.

participating jurisdiction means the following jurisdictions—

- (a) Queensland;
- (b) another State in which a corresponding law is enacted.

properly notified see section 175.

protected person means—

- (a) in relation to a local order—the aggrieved and each named person; or

- (b) otherwise—a person for whose protection or benefit a DVO is made.

recognised interstate order see section 176A(1).

registered foreign order see section 174.

registered New Zealand order means a New Zealand order registered under division 4.

respondent means the person against whom a DVO is made.

revoke includes cancel.

variation application see section 176I(1).

172 Meaning of *local order*

A ***local order*** means a domestic violence order, police protection notice or release conditions.

Note—

A registered New Zealand order is not a local order even though, under section 176 (1)(a), it is taken to have been made in Queensland.

173 Meaning of *interstate order*

An ***interstate order*** is an order made by a court or a police officer of another State that is declared by regulation to be an interstate order.

Note—

A registered foreign order is not an interstate order even though, under section 176 (1)(a), it is taken to have been made in the State in which it is registered as a registered foreign order.

174 Meaning of *registered foreign order*

A ***registered foreign order*** means a New Zealand order that is—

- (a) a registered New Zealand order; or

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- (b) declared by regulation to be a registered foreign order.

175 Meaning of *properly notified*

- (1) The making of a local order is ***properly notified*** under this Act if—

- (a) for a local order that is a domestic violence order—the respondent is served with a copy of the order under section 133(1)(a) or 184 or otherwise becomes enforceable against the respondent under section 177(1); or

Note—

A domestic violence order becomes enforceable against a respondent under section 177(1) when it is made (if the respondent is present in court), when it is served on the respondent or when a police office tells the respondent about the existence of the order and its conditions.

- (b) for a local order that is a police protection notice—the respondent is served with the notice under section 109 or the notice otherwise takes effect under section 113(1); or

Note—

A police protection notice takes effect under section 113(1) when it is served on the respondent or when a police officer tells the respondent about the existence of the notice and its conditions.

- (c) for a local order that is release conditions—the conditions are served on the respondent under section 124(1)(e).

Note—

See section 188 for additional requirements that apply if a document is required to be served on a child.

- (2) The making of an interstate order is ***properly notified*** under the law of the State in which it is made in the circumstances provided for by the

corresponding law of that State.

- (3) A variation to a recognised interstate order that is done in Queensland is ***properly notified*** under this Act if—

- (a) the respondent is served with a copy of the variation under section 184; or

Notes—

- 1 Under section 91(5), a court that varies a local order must make a copy of the order that states the details and conditions of the order after the variation. This is referred to in the Act as the *varied order*.

- 2 Section 184 sets out the requirements for service of a varied order on the respondent.

- (b) the variation otherwise takes effect under section 99.

- (4) A variation to a recognised interstate order or local order that is done in another State is ***properly notified*** under the law of that State in the circumstances provided for by the corresponding law of that State.

- (5) Despite subsections (1) and (2), a registered foreign order is ***properly notified***—

- (a) under this Act when it is registered under division 4; or

- (b) under the law of another State when it is registered in that State.

176 Special provisions for registered foreign orders

- (1) For the purpose of this part, a registered foreign order—

- (a) is taken to be made in the State in which it is registered as a registered foreign order; and

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- (b) is taken to be made when it becomes a registered foreign order in that State.
- (2) A registered foreign order is varied or revoked, for the purpose of this part, if its registration as a registered foreign order is varied or revoked.

Division 2 National recognition of DVOs

Subdivision 1 General principles

176A Interstate and foreign DVOs are *recognised interstate orders*

- (1) Each of the following is a *recognised interstate order*—
 - (a) an interstate order made in a participating jurisdiction;
 - (b) a registered foreign order registered in a participating jurisdiction.

Note—

The corresponding laws of other participating jurisdictions treat domestic violence orders made, and police protection notices and release conditions issued, in Queensland as *recognised interstate orders* for the purposes of those laws. See also section 223.

- (2) An interstate order or registered foreign order—
 - (a) becomes a recognised interstate order when it is made in a participating State; and
 - (b) subject to this part, remains a recognised interstate order while it remains in force in the State in which it was made.

176B Recognised interstate order prevails over earlier comparable DVOs

- (1) A recognised interstate order (a *new order*) prevails over either of the following made before the new order (each an *earlier comparable DVO*)—
 - (a) a comparable recognised interstate order; or
 - (b) a comparable local order.
- (2) When the new order becomes enforceable against the respondent—
 - (a) the earlier comparable DVO stops being a recognised interstate order; or
 - (b) the earlier comparable local order stops having effect.
- (3) A local order that stops having effect under subsection (2) is taken to have ended under section 97.
- (4) However, an earlier comparable DVO continues to be a recognised interstate order or local order, and to have effect, to the extent it relates to a person who is not a protected person under the new order.
- (5) A DVO made by a police officer does not prevail over a comparable DVO made by a court of any State.
- (6) A DVO is *comparable* with another DVO if—
 - (a) the DVOs are made against the same respondent; and
 - (b) the DVOs are made for the protection of 1 or more of the same protected persons.

176C Making of new orders

Nothing in this part stops a person applying for, or

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a court making, a domestic violence order even though a recognised interstate order applies to the same respondent.

Subdivision 2 Enforcement of recognised interstate orders

176D Recognised interstate order may be enforced

- (1) A recognised interstate order that has been properly notified under the law of the State in which it was made—
 - (a) has the same effect as a local order; and
 - (b) may be enforced against a respondent as if it were a local order that had been properly notified under this Act.
- (2) A recognised interstate order mentioned in subsection (1) includes a recognised interstate order as varied by a variation—
 - (a) done in a participating jurisdiction by a court under this part or a corresponding law; and
 - (b) of which the respondent has been properly notified under the law of the State in which the variation was done.
- (3) A variation to a local order done in another jurisdiction may be enforced against a respondent as if the respondent had been properly notified of the variation under this Act if—
 - (a) the variation was done by a court under a corresponding law; and
 - (b) the respondent was properly notified of the variation under the law of the State in which the variation was done.

- (4) A prohibition, restriction or condition imposed by a recognised interstate order—
 - (a) has the same meaning as it would have in the State in which the order was made; and
 - (b) may be enforced as if it were a prohibition, restriction or condition of a local order.

176E Penalty for contravention

- (1) This section applies for the purpose of working out the maximum penalty for an offence of contravening a recognised interstate order.
- (2) A previous contravention of a recognised interstate order that constituted an offence is to be treated as a previous offence of contravening a local order.

176F Licences, permits and other authorisations

- (1) This section applies if a law of Queensland (a *relevant law*) restricts the grant of an authorisation, or authorises or requires an authorisation to be suspended or revoked, if a person is or has been named as a respondent in a local order.
- (2) The relevant law applies to a person who is or has been named as a respondent in a recognised interstate order as if it were a local order.
- (3) For the purposes of a relevant law—
 - (a) a recognised interstate order that is a final order is to be treated in the same way as a local order that is a final order; and
 - (b) a recognised interstate order that is an interim order is to be treated in the same way as a local order that is an interim order.
- (4) This section applies subject to the Weapons Act.

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Notes—

- 1 See the Weapons Act, sections 27A, 28A, 29A, 29B and 34AA which provide for the impact on a person's weapons licence, including the suspension or revocation of the licence, if the person is named as the respondent in a DVO, whether or not the DVO is a recognised interstate order.
- 2 See also the Weapons Act, sections 10B and 10C for how a DVO naming a person as a respondent affects whether the person is a fit and proper person to hold a weapon's licence or to be a licensed dealer's associate, whether or not the DVO is a recognised interstate order.

(5) In this section—

authorisation includes a licence or permit.

grant includes issue.

176G Orders for costs

- (1) A recognised interstate order, to the extent it requires the payment of money, can not be enforced.
- (2) The recognition of a DVO made in another State does not confer power on a court in Queensland to award costs in respect of any proceedings relating to the DVO that occurred in another State.
- (3) This section does not prevent a court awarding costs in respect of proceedings in Queensland relating to the variation of a recognised interstate order.

Division 3

Variation and revocation of recognised interstate orders

Note—

A local order is revoked under this Act by varying the order to state an earlier date on which the order ends. See section 176K for when a recognised interstate order is taken to have been revoked under this part.

176H Power of court to vary recognised interstate orders

- (1) A court may vary a recognised interstate order under this division as if the order were a local order.
- (2) A court can not vary a recognised interstate order if it is a kind of order that can not be varied by a court in the State in which the order was made.
- (3) A variation to a recognised interstate order under this division is not limited in its operation to Queensland.
- (4) This division does not apply to the variation of a New Zealand order that is registered in Queensland under division 4.

Note—

Section 176P provides for the variation of a New Zealand order that is registered in Queensland under division 4.

- (5) If a court varies a recognised interstate order under this division, the State in which the order was made continues to be, for the purpose of this part, the State in which the order was made.

176I Application for variation of recognised interstate order

- (1) An application (a *variation application*) to vary a recognised interstate order may be made to a court—
 - (a) as if it were an application under section 86 for a variation of a local order; and

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- (b) by a person who would be able to make the application under that section if the recognised interstate order were a local order.
- (2) An application—
 - (a) must be made to a court that would have power to hear the application if the recognised interstate order were a local order; and
 - (b) must comply with any requirements that would apply if the recognised interstate order were a local order; and
 - (c) may be dealt with (subject to this division) as if the recognised interstate order were a local order.

176J Decision about hearing of application

- (1) A court may decide to hear or refuse to hear the variation application.
- (2) In deciding whether to hear the variation application the court may consider the following matters—
 - (a) the State in which the respondent and each protected person under the recognised interstate order usually live or work;
 - (b) any difficulty a party to the proceedings, other than the applicant, may have in attending the proceedings;
 - (c) whether there is sufficient information available to the court in relation to the recognised interstate order and the basis on which it was made;
 - (d) whether proceedings are being taken for an alleged contravention of the recognised

- interstate order and the State in which those proceedings are being taken;
- (e) the practicality of the applicant (if not the respondent under the recognised interstate order) applying for and obtaining a local order against the respondent under the order with similar prohibitions or restrictions;
 - (f) the impact of the application on children;
 - (g) any other matters the court considers relevant.
- (3) Without limiting the court's power to refuse to hear a variation application, the court may refuse to hear the application if the court is satisfied—
- (a) the circumstances in which the recognised interstate order was made have not materially changed; and
 - (b) the application is in the nature of an appeal against the recognised interstate order.
- (4) For the purpose of exercising its functions under this division, a court may consider any information the court considers relevant about the making or variation of a recognised interstate order that is provided by an issuing authority of any other State.

Note—

Division 5 enables the court to obtain information about DVOs from other States.

- (5) A court must refuse to hear a variation application made by the respondent to the recognised interstate order during any period in which, under the law of the State in which the order was made, the respondent is not entitled to apply to vary or revoke the order of that State.
- (6) In this section—
- party***, to a proceeding for a variation application,

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means each of the following—

- (a) a protected person under the recognised interstate order; and
- (b) the respondent under the recognised interstate order.

176K When recognised interstate order is taken to be revoked

- (1) This section applies if a court varies a recognised interstate order under this part to—
 - (a) if a recognised interstate order does not state a date on which it ends—state a date on which the order ends; or
 - (b) otherwise—state an earlier date on which the order ends.
- (2) The court is taken to have revoked the recognised interstate order under this part from the stated date.

Division 4 Registration, and variation and revocation of registration, of New Zealand orders

176L Application to register New Zealand order in Queensland

- (1) A person may apply to the clerk of a Magistrates Court for the registration of a New Zealand order.
- (2) The application must be in the approved form.

176M Clerk of court to obtain copies of order and proof of service

- (1) The clerk of the court must be satisfied—
 - (a) the New Zealand order is in force by obtaining a certified copy of it; and
 - (b) the order was served, or was taken to be served, on the respondent under the *Domestic Violence Act 1995* (NZ).
- (2) The clerk of the court must try to obtain the copy and proof quickly, for example, by fax, email or other electronic means.

176N Registration of New Zealand order

- (1) If the clerk of the court is satisfied about the matters mentioned in section 176M(1), the clerk must register the New Zealand order.
- (2) However, the clerk of the court may refer the New Zealand order to the court for adaptation or modification if—
 - (a) the clerk believes it necessary to do so; or
 - (b) the applicant asks the clerk of the court to do so.
- (3) The court may adapt or modify the New Zealand order for the purposes of its registration in a way that the court considers necessary or desirable for its effective operation in Queensland.
- (4) The clerk of the court must register the New Zealand order as adapted or modified.
- (5) A registered New Zealand order is registered for the period during which the order, as originally made, is in force.
- (6) A regulation may prescribe the way that the clerk of the court is to register a New Zealand order.

[s 57]

176O Duty of clerk of court after order is registered

- (1) The clerk of the court must, within 2 business days after the registration of a New Zealand order, give the applicant and the police commissioner a certificate of the registration with a copy of the registered New Zealand order attached.
- (2) Notice of the registration of a New Zealand order is not to be given to the person against whom the order was made unless the aggrieved consents.
- (3) The consent must be given in writing.
- (4) The clerk of the court must not ask the applicant for any fee, or reimbursement for any expenses incurred, under this division.

176P Variation or revocation of registered New Zealand order

- (1) An application may be made to a court for—
 - (a) a variation of the New Zealand order as it is registered in Queensland; or
 - (b) a variation of the period during which a registered New Zealand order has effect in its operation in Queensland; or
 - (c) the revocation of the registration of a New Zealand order.
- (2) Any of the following persons may apply to a court for an order under subsection (1)—
 - (a) the person who applied for the registration of the New Zealand order;
 - (b) a protected person under the New Zealand order;
 - (c) the respondent under the New Zealand order;
 - (d) an authorised person for an aggrieved;

- (e) a police officer.
- (3) The court may decide the application—
 - (a) by varying it as it applies in Queensland; or
 - (b) by varying the period during which it has effect in its operation in Queensland; or
 - (c) by revoking the registration.

176Q Applicant need not notify respondent to New Zealand order

- (1) An applicant under this division need not give notice of an application for registration of a New Zealand order, or an application for a variation of a registered New Zealand order, to the respondent.
- (2) When an application for which notice has not been given comes before a court, the court—
 - (a) may hear and decide the application in the absence of the respondent; and
 - (b) must not refuse to hear and decide the application merely because the respondent has not been given notice of the application.
- (3) A registered New Zealand order that is adapted or modified under section 176N (3) is enforceable in Queensland without notice of the adaptation or modification being given to the respondent.
- (4) This section does not prevent an applicant giving notice of the application, or an order made because of the application, to the respondent.

Division 5 Exchange of information

[s 57]

176R Obtaining information about interstate orders

- (1) The following may obtain information about a DVO from an issuing authority of another State or from an interstate law enforcement agency—
 - (a) the court;
 - (b) the clerk of the court;
 - (c) the police commissioner;
 - (d) the director under the *Director of Public Prosecutions Act 1984*;
 - (e) a police prosecutor.
- (2) The court or clerk of the court may use information mentioned in subsection (1) for the purpose of exercising the court's or the clerk's functions under this part.
- (3) The police commissioner, director of public prosecutions or a police prosecutor may use information mentioned in subsection (1) for a law enforcement purpose, including for the prosecution of an offence.

176S Clerk of court must provide DVO information

- (1) The clerk of the court must provide a court of another participating jurisdiction information about a DVO that the court reasonably requests for the purpose of exercising its functions under a corresponding law.
- (2) If a court makes or varies a DVO, the clerk of the court must provide an interstate law enforcement agency with information about the DVO that the law enforcement agency reasonably requests for the purpose of exercising its law enforcement functions.

176T Information to be provided to law enforcement agencies

The police commissioner must provide an interstate law enforcement agency information the police commissioner holds about a DVO that the interstate law enforcement agency reasonably requests for the purpose of exercising its law enforcement functions.

Division 6 Miscellaneous

176U Certificate evidence—notification

- (1) A certificate signed by the police commissioner or the clerk of the court and stating the following is evidence of what it says—
 - (a) the making of a local order has been properly notified under this Act;
 - (b) a variation to a DVO that was done in Queensland has been properly notified under this Act.
- (2) A certificate signed by an authorised officer of another State and stating the following matters is evidence of what it says—
 - (a) the making of a DVO in that State has been properly notified under the law of that State;
 - (b) a variation to a DVO that was done in that State has been properly notified under the law of that State.
- (3) In a document, the words “authorised officer” after a signature are evidence that the person whose signature it purports to be is an authorised officer.
- (4) If, in a criminal proceeding, the prosecuting authority intends to rely on a certificate under

[s 58]

subsection (1) or (2), it must, at least 20 business days before the hearing day, give a copy of the certificate to the defendant or the defendant's lawyer.

- (5) If the defendant intends to challenge a matter stated in the certificate, the defendant must, at least 15 business days before the hearing day, give the prosecuting authority notice, in the approved form, of the matter to be challenged.
- (6) If the defendant acts under subsection (5), the certificate stops being evidence of the matter to be challenged.
- (7) In this section—

authorised officer, of another State, means a person (whether or not designated as an authorised officer) who is authorised under the law of that State to issue a certificate certifying a matter mentioned in subsection (2)(a) or (b).

58 Amendment of s 177 (Contravention of domestic violence order)

Section 177(6)—

omit, insert—

- (6) It is not a defence in proceedings for an offence involving a recognised interstate order that a person did not know—
 - (a) it is an offence to contravene the recognised interstate order in Queensland; or
 - (b) the recognised interstate order could be varied in Queensland; or
 - (c) if the recognised interstate order is a registered New Zealand order—that the New Zealand order could be registered or varied in Queensland.

59 Amendment of s 216 (Definitions for division)

- (1) Section 216, as inserted by this Act—

insert—

amended part 6 means part 6 as amended by the amendment Act.

- (2) Section 216, as inserted by this Act—

insert—

- (2) Terms used in subdivision 3 have the same meaning they have in part 6.

60 Insertion of new pt 10, div 3, sdivs 3 and 4

Part 10, division 3, as inserted by this Act—

insert—

Subdivision 3 Transitional provisions for national recognition of domestic violence orders scheme

Note—

To ensure the greatest possible harmonisation for national recognition of domestic violence orders, this subdivision closely follows corresponding legislation enacted in other Australian jurisdictions. Accordingly, this subdivision is not entirely consistent with Queensland's current drafting style.

223 Local orders

- (1) Amended part 6 applies to each of the following—
- (a) a domestic violence order, police protection notice or release conditions made after the commencement;

[s 60]

- (b) a domestic violence order, police protection notice or release conditions made before the commencement that are declared, under section 225, to be a recognised interstate order for the purposes of the corresponding laws of other participating jurisdictions;
 - (c) a domestic violence order, police protection notice or release conditions that are declared to be a recognised interstate order under the corresponding law of another participating jurisdiction, whether the order, notice, conditions or declaration was made before or after the commencement.
- (2) A domestic violence order, police protection notice or release conditions mentioned in subsection (1)(a) are taken to be, for the purposes of the corresponding law of another State, a recognised interstate order under amended part 6.

Note—

Under the national domestic violence order scheme, participating jurisdictions agreed to recognise and enforce the DVOs made in another participating jurisdiction that are recognised interstate orders under the corresponding law of that other jurisdiction.

224 Interstate orders

- (1) Amended part 6 applies to an interstate order—
- (a) that is a recognised interstate order under the corresponding law of the State in which the order was made; or
 - (b) declared to be a recognised interstate order under section 225 or the corresponding law of another participating jurisdiction.
- (2) For subsection (1), it does not matter—
- (a) whether the interstate order was made before or after the commencement; or

- (b) if the interstate order is a registered foreign order registered in that jurisdiction—whether the order was registered before or after the commencement; or
- (c) if the interstate order has been varied or revoked in the State in which it was made or in another participating jurisdiction—whether the variation or revocation was done before or after the commencement; or
- (d) if the interstate order was declared to be a recognised interstate order under the corresponding law of another participating jurisdiction—whether the declaration was made before or after the commencement.

Note—

While amended part 6 may apply for an interstate order even if the interstate order was made before the commencement, a person will not commit an offence in Queensland for contravening the order unless the person's act or omission that contravenes the order occurs after the commencement. See the *Acts Interpretation Act 1954*, section 20C.

225 Court may declare DVO to be recognised interstate order

- (1) A court may declare a domestic violence order, police protection notice or release conditions to be a recognised interstate order to which amended part 6 applies for the purposes of the corresponding laws of other participating jurisdictions.
- (2) Also, a court may declare an interstate order to be a recognised interstate order to which amended part 6 applies if, in the State in which it was made, the order—

[s 60]

- (a) is in force; and
- (b) is not a recognised interstate order.
- (3) The jurisdiction in which the DVO was made does not have to be a participating jurisdiction.
- (4) If an application for a declaration under subsection (1) or (2) is made under section 226, the court must make the declaration unless it is not in the interests of justice to do so.
- (5) Without limiting subsection (4), the court may refuse to make the declaration if the court is not satisfied the respondent has been properly notified of the making of the interstate order under the law of the State in which the order was made.
- (6) However, the court may not declare a general violence order to be a recognised interstate order to which amended part 6 applies.
- (7) Notice of a declaration made under this section is to be given to the respondent only if the person who applied for the declaration consents.
- (8) In this section—
general violence order means an order made under the corresponding law of another State that is declared by regulation to be a general violence order.
interstate order, of a jurisdiction, includes a registered foreign order registered in the jurisdiction.

226 Application for declaration

- (1) A person may apply for a declaration under section 225 for a DVO if the person would be able to apply to vary the DVO—

- (a) if the DVO is a domestic violence order—under section 86; or
 - (b) if the DVO is an interstate order—under section 176I if the DVO were a recognised interstate order.
- (2) The application must be in the approved form.

Subdivision 4 Transitional provisions for previous part 6

227 Existing registered interstate orders

- (1) This section applies to an interstate order (a *registered interstate order*) that, immediately before the commencement—
 - (a) was in force in the State in which it was made; and
 - (b) was registered under previous part 6.
- (2) The registered interstate order—
 - (a) continues to have the same effect as a protection order; and
 - (b) may continue to be enforced against a person as if it were a protection order that had been personally served on the person as a respondent.
- (3) Subsection (2) applies for the period during which the registered interstate order, as originally made, is in force in the State in which it was made.
- (4) Amended part 6, division 4 applies to a registered interstate order as though a reference in that division to a registered New Zealand order is a reference to a registered interstate order.
- (5) Without limiting subsection (4), an application may be made and decided under section 176P

[s 61]

for—

- (a) a variation of the interstate order as it is registered in Queensland; or
 - (b) a variation of the period during which a registered interstate order has effect in its operation in Queensland; or
 - (c) the revocation of the registration of an interstate order.
- (6) This section applies subject to section 176B.
- (7) In this section—

interstate order means an order made by a court of another State under a law of the other State that was, immediately before the commencement, prescribed by regulation for previous part 6.

previous part 6 means part 6 as in force from time to time before the commencement.

State includes New Zealand.

228 Application to register New Zealand order as interstate order

- (1) This section applies to an application to register a New Zealand order as an interstate order under previous section 170 if, immediately before the commencement, the application had not been finally dealt with.
- (2) The application is taken to be an application to register the order under section 176L .

61 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *interstate order*, *registered interstate order*, *respondent* and *variation application*—
omit.

(2) Schedule—

insert—

corresponding law, for part 6, see section 171.

DVO, for part 6, see section 171.

final order, for part 6, see section 171.

interim order, for part 6, see section 171.

interstate order see section 173.

interstate law enforcement agency, for part 6, see section 171.

issuing authority, for part 6, see section 171.

local order, for part 6, see section 172.

make, for part 6, see section 171.

New Zealand order see section 171.

participating jurisdiction, for part 6, see section 171.

properly notified, for part 6, see section 175.

protected person, for part 6, see section 171.

recognised interstate order see section 176A(1).

registered foreign order, for part 6, see section 174.

registered New Zealand order, for part 6, see section 171.

respondent means—

(a) for part 6, see section 171; and

(b) otherwise—see section 21(3).

revoke, for part 6, see section 171.

variation application—

(a) for part 3, division 1A, see section 41A(3)(b); and

[s 62]

(b) for part 6, see section 176I(1).

- (3) Schedule, definition *variation*, after ‘domestic violence order’—

insert—

or recognised interstate order

Part 3 Amendment of Police Powers and Responsibilities Act 2000

62 Act amended

This part amends the *Police Powers and Responsibilities Act 2000*.

Note—

See also the amendments in schedule 1.

63 Amendment of s 610 (Police actions after domestic violence order is made)

- (1) Section 610, heading, ‘is’

omit, insert—

, police protection notice or release conditions are

- (2) Section 610(1), ‘(the *respondent*)’—

omit, insert—

, police protection notice or release conditions

- (3) Section 610(2) and (3)—

omit.

- (4) Section 610(4), ‘gives the order to’—

omit, insert—

serves the order, notice or conditions on

- (5) Section 610(4)(a), ‘is given to’—

omit, insert—

or notice is served on

- (6) Section 610(4)—

insert—

Note—

A police officer must personally serve a domestic violence order, police protection notice or release conditions on the respondent. Also, the clerk of the court must, as soon as reasonably practicable after a domestic violence order is made, give a copy of the order to the officer in charge of the police station nearest the place where the respondent lives or was last known to live. See the *Domestic and Family Violence Protection Act 2012*, sections 109(1), 124 and 184(2) and (3).

- (7) Section 610(5), ‘subsection (4)(a)’—

omit, insert—

subsection (2)(a)

- (8) Section 610(5), example 1—

omit, insert—

1 In making a domestic violence order or police protection notice, the court or police officer includes information about a weapons licence or weapon in the respondent’s possession.

- (9) Section 610(6)(a), ‘domestic violence order’—

omit, insert—

order, notice or conditions

- (10) Section 610(4) to (6)—

renumber as section 610(2) to (4).

[s 64]

64 Amendment of s 715 (What is the appointed day for disposal of weapons under s 714)

Section 715(b)—

omit, insert—

- (b) for a weapon given to a police officer under the *Weapons Act 1990*, section 29B because a domestic violence order was made, a police protection notice was issued or release conditions were imposed—3 months after the day the order is made, the notice is issued or conditions are imposed; or

65 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definition *interstate domestic violence order*—

omit.

- (2) Schedule 6—

insert—

interstate domestic violence order means an interstate order or registered foreign order under the *Domestic and Family Violence Protection Act 2012*, part 6, whether or not the order is a recognised interstate order under that Act.

police protection notice see the *Domestic and Family Violence Protection Act 2012*.

release conditions see the *Domestic and Family Violence Protection Act 2012*.

- (3) Schedule 6, definition *enforcement act*—

insert—

- (lb) the giving of a direction to a person to move to and remain at another location under the *Domestic and Family Violence Protection Act 2012*, part 4, division 5;

Part 4 **Amendment of Weapons Act 1990**

66 Act amended

This part amends the *Weapons Act 1990*.

67 Amendment of s 10B (Fit and proper person—licensees)

Section 10B(1)(b), after ‘been made’—

insert—

, police protection notice issued or release
conditions imposed

68 Amendment of s 27A (Suspension of licence and related matters after temporary protection order is made)

(1) Section 27A, heading—

omit, insert—

**27A Effect of temporary protection order, police
protection notice or release conditions on
licence**

(2) Section 27A(1)—

omit, insert—

(1) If a person is a licensee and is named as the
respondent in a temporary protection order, police
protection notice or release conditions, the licence
is suspended while the order, notice or conditions
are in force.

(3) Section 27A(2), after ‘in a temporary protection order’—

insert—

, police protection notice or release conditions

(4) Section 27A(2)(a), (4)(b) and (5), ‘temporary protection order
is’—

[s 69]

omit, insert—

order, notice or conditions are

- (5) Section 27A(2)(b) and (3)(b), ‘temporary protection order’—

omit, insert—

order, notice or conditions

69 Amendment of s 29A (Action by court if respondent has access to weapons through employment)

- (1) Section 29A(1)(a), after ‘domestic violence order’—

insert—

, police protection notice or release conditions

- (2) Section 29A(2)(c) and (d), ‘domestic violence order’—

omit, insert—

order, notice or conditions

- (3) Section 29A(3) and (4), after ‘order’—

insert—

, notice or conditions

70 Amendment of s 29B (Arrangements for surrender of suspended or revoked licences and weapons)

- (1) Section 29B(1), from ‘a court’—

omit, insert—

the person is named as the respondent in a domestic violence order, police protection notice or release conditions.

- (2) Section 29B(2) and (3)—

omit, insert—

- (2) Subsection (3) applies—

- (a) if the respondent is present—

- (i) in court when the court makes the order; or
 - (ii) when a police officer issues and explains the notice; or
 - (b) when a police officer gives the order or notice to the respondent at a place other than the respondent's place of residence; or
 - (c) when a police officer gives the conditions to the respondent.
- (3) The respondent must immediately do the following—
- (a) if the respondent's licence is in the respondent's possession—give the licence to a police officer;
 - (b) if the respondent's licence is not in the respondent's possession—arrange with a police officer to give the licence to a police officer no later than 1 day after—
 - (i) for subsection (2)(a)—the order is made or notice is issued;
 - (ii) otherwise—the order, notice or conditions are given to the respondent;
 - (c) arrange with a police officer to give to a police officer any weapon the respondent possesses, or to otherwise surrender the weapon, as soon as practicable, but no later than 1 day, after—
 - (i) for subsection (2)(a)—the order is made or notice is issued;
 - (ii) otherwise—the order, notice or conditions are given to the respondent.

Maximum penalty—10 penalty units.

- (3) Section 29B(4), after 'the order'—

[s 71]

insert—

or notice

- (4) Section 29B(5)(a), ‘subsection (2)’—

omit, insert—

subsection (3)

- (5) Section 29B(7), ‘order is’—

omit, insert—

order, police protection notice or release
conditions are

- (6) Section 29B(8)—

insert—

made includes issued or imposed.

71 Amendment of s 53 (An unlicensed person may use a weapon at an approved range)

Section 53(7), definition *excluded person*, paragraph (d), after ‘order’—

insert—

, police protection notice or release conditions

72 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *interstate domestic violence order*—

omit.

- (2) Schedule 2—

insert—

interstate domestic violence order means an interstate order or registered foreign order under the *Domestic and Family Violence Protection Act 2012*, part 6, whether or not the order is a recognised interstate order under that Act.

police protection notice means a police protection notice under the *Domestic and Family Violence Protection Act 2012*, and includes an interstate domestic violence order issued by a police officer.

release conditions see the *Domestic and Family Violence Protection Act 2012*.

Part 5 Amendment of Acts

73 Amendment of Acts

Schedule 1 amends the Acts it mentions.

Schedule 1 Acts amended

section 73

Births, Deaths and Marriages Registration Act 2003

1 Section 44(6), example 1, from ‘Domestic and Family Violence Protection Act 1989’—

omit, insert—

Domestic and Family Violence Protection Act 2012 or an interstate order or registered New Zealand order under part 6 of that Act.

Corrective Services Act 2006

1 Section 320(2)(d)(i), example, ‘Domestic and Family Violence Protection Act 1989’—

omit, insert—

Domestic and Family Violence Protection Act 2012

Dispute Resolution Centres Act 1990

1 Section 35(3) definition *offence*, ‘Domestic and Family Violence Protection Act 1989’—

omit, insert—

Domestic and Family Violence Protection Act 2012

Domestic and Family Violence Protection Act 2012

1 Section 6(c), ‘an offence involving domestic violence’—

omit, insert—

a domestic violence offence

2 Section 26(b), ‘an offence involving domestic violence’—

omit, insert—

a domestic violence offence

3 Section 28, note, ‘(Conditions of domestic violence orders)’—

omit, insert—

for provisions about the other conditions a court can impose on the respondent

4 Section 34(3)—

insert—

Note—

Section 153 provides that a police officer may file a document in a proceeding under this Act by electronic or computer-based means.

5 Section 42(1), ‘an offence involving domestic violence’—

omit, insert—

a domestic violence offence

6 Section 63(1), notes, from ‘See sections 139’—

omit, insert—

Sections 139 and 140 allow particular applications made under the *Residential Tenancies and Rooming*

Accommodation Act 2008 to be made to a Magistrates Court, or removed to a Magistrates Court, if an application for a protection order or a variation of a domestic violence order has been made to the court.

7 Section 70, heading, ‘Voluntary intervention’—

omit, insert—

Intervention

8 Section 70, ‘a voluntary’—

omit, insert—

an

9 Section 70(b), notes—

omit, insert—

Note—

Under sections 37(2)(a)(ii) and 91(3)(a), a contravention of an intervention order is relevant to the making or a protection order and the variation of a domestic violence order.

10 Section 71, heading, ‘voluntary’—

omit.

11 Section 71, ‘a voluntary’—

omit, insert—

an

12 Section 72(1), ‘a voluntary’—

omit, insert—

an

13 Section 73, heading, ‘voluntary’—

omit.

14 Section 73(1), ‘a voluntary’—

omit, insert—

an

15 Section 73(1)(a) and (3)(b), ‘voluntary’—

omit.

16 Part 3, division 8, heading, note—

omit, insert—

Note—

See the Weapons Act, sections 27A, 28A, 29A, 29B and 34AA which provide for the impact on a person’s weapons licence, including the suspension or revocation of the licence, if the person is named as the respondent in a domestic violence order, police protection notice or release conditions.

17 Section 86(3), after ‘for example’—

insert—

, the following

18 Section 88(4)—

insert—

Note—

Section 153 provides that a police officer may file a document in a proceeding under this Act by electronic or computer-based means.

19 Section 116, note—

omit, insert—

Note—

The *Police Powers and Responsibilities Act 2000*, section 615 provides that it is lawful for a police officer exercising or attempting to exercise a power under an Act to use reasonably necessary force to exercise the power.

20 Section 117, note, ‘(Particular safeguards for detention of child)’

omit, insert—

for safeguards that apply if a person taken into custody under section 116 is a child

21 Section 119(1)(a)(i), ‘section 124(b)’—

omit, insert—

section 124(1)(b)

22 Section 119(1)(b), ‘section 124(d)’—

omit, insert—

section 124(1)(d) or (e)

23 Section 119(1)(c), ‘section 124(c)’—

omit, insert—

section 124(1)(c)

24 Section 132(1)—

insert—

Note—

Section 153 provides that a police officer may file a document in a proceeding under this Act by electronic or computer-based means.

25 Section 137(4), ‘an offence involving domestic violence’—

omit, insert—

a domestic violence offence

26 Section 139(1), ‘the’—

omit, insert—

a

27 Section 152, editor’s note—

omit, insert—

Note—

The *Evidence Act 1977*, section 21A allows a court to make orders or directions that apply when a special witness is giving evidence.

28 Section 177(7)—

omit.

29 Section 186, heading, ‘voluntary’—

omit.

30 Section 186(1) and (5), ‘a voluntary’—

omit, insert—

an

31 Section 186(2), ‘voluntary’—

omit.

Schedule 1

32 Section 189(2)(d), ‘a voluntary’—

omit, insert—

an

33 Section 189(3)(d), after ‘section’—

omit, insert—

101A or

Explosives Act 1999

1 Schedule 2, definition *domestic violence order*, from ‘Domestic and Family Violence Protection Act 1989’—

omit, insert—

Domestic and Family Violence Protection Act 2012, and includes an interstate order or registered New Zealand order under part 6 of that Act.

Police Powers and Responsibilities Act 2000

1 Section 378(1)(b), example 4, after ‘domestic violence order’—

insert—

, police protection notice or release conditions

2 Section 604(2), example 3, after ‘domestic violence order’—

insert—

, police protection notice or release conditions

3 Schedule 1, entry for *Domestic and Family Violence Protection Act 1989*—

omit, insert—

*Domestic and Family Violence Protection Act
2012*

4 Schedule 4, entry for *Domestic and Family Violence Protection Act 1989*—

omit.

Tow Truck Act 1973

1 Section 4C(1)(h), ‘or an interstate order’—

omit, insert—

, an interstate order or registered New Zealand
order

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