

Note

In order to give effect to the Cross-border Justice Act 2009, this law must be applied with the modifications mentioned in section 13 of the Cross-border Justice Act 2009 as if this law had been altered in that way.

For modifications of this law prescribed by regulation, see Part 3, Division 6 of the Cross-border Justice Regulations 2009.

NORTHERN TERRITORY OF AUSTRALIA

DOMESTIC AND FAMILY VIOLENCE ACT 2007

As in force at 25 March 2024

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 25 March 2024

DOMESTIC AND FAMILY VIOLENCE ACT 2007

An Act to provide for the protection of persons in a domestic relationship against violence, and for related purposes

PREAMBLE:

The Legislative Assembly enacts this Act because it recognises that:

- (a) domestic violence is unacceptable behaviour that society does not condone; and
- (b) domestic violence is a fundamental violation of human rights; and
- (c) domestic violence is unacceptable in any form and in any community or culture; and
- (d) non-violence is a fundamental social value that must be promoted; and
- (e) traditional or cultural practices cannot be relied upon to minimise or excuse domestic violence; and
- (f) in responding to domestic violence and promoting the safety of persons who have experienced domestic violence, the justice system should:
 - (i) treat the views of victims of domestic violence with respect and dignity; and
 - (ii) seek to reduce the degree to which victims might be subject to re-traumatisation during court proceedings; and
 - (iii) seek to reduce disruption to the lives of victims as far as possible; and

-
- (g) domestic violence has the following features:
- (i) while anyone can be a victim or perpetrator of domestic violence, domestic violence is predominantly committed by men against women, children and other vulnerable persons;
 - (ii) children who experience the effects of domestic violence are particularly vulnerable, which may have a serious impact on a child's current and future physical, psychological and emotional wellbeing;
 - (iii) domestic violence affects the entire community and occurs in all areas of society, regardless of location, socio-economic or health status, age, culture, gender identity, sexual identity, ability or disability, ethnicity or religion;
 - (iv) domestic violence extends beyond physical and sexual violence and involves emotional or psychological abuse, economic abuse and coercive control; and
- (h) coercive control is almost always an underpinning dynamic of domestic violence and involves violent, threatening or intimidating behaviour that has the effect of isolating, controlling, monitoring, frightening, humiliating, degrading, punishing, or restricting the freedom of a person; and
- (i) complex emotional factors arising from coercive control often make it difficult for victims of domestic violence to report the domestic violence or leave a domestic relationship in which domestic violence is being committed; and
- (j) domestic violence may involve overt or subtle exploitation of power imbalances and may consist of isolated or patterns of abuse over a period of time; and
- (k) in circumstances in which there are conflicting allegations of domestic violence or indications that both persons in a relationship are committing domestic violence, including for their own protection, the person who is most in need of protection should be identified; and
- (l) perpetrators of domestic violence might seek to misuse the protections available under this Act (or through other legal processes) to further their domestic violence and that misuse should be prevented; and

- (m) domestic violence has:
 - (i) negative and long-lasting consequences for victims and others who experience it; and
 - (ii) negative consequences for the community, workplaces and the economy.

Chapter 1 Introduction

Part 1.1 Preliminary matters

1 Short title

This Act may be cited as the *Domestic and Family Violence Act 2007*.

2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

3 Objects of Act and their achievement

- (1) The objects of this Act are as follows:
 - (a) to reduce and prevent domestic violence;
 - (b) to reduce the occurrence of children experiencing domestic violence;
 - (c) to ensure the safety and protection of all persons, including children, who experience or are exposed to domestic violence or who are at risk of experiencing or being exposed to domestic violence;
 - (d) to give effect, where possible, to the National Principles as agreed and endorsed by the States, the Territories and the Commonwealth regarding the various approaches to reduce domestic violence;
 - (e) to ensure persons who commit domestic violence are held accountable for their conduct;
 - (f) to encourage persons who commit domestic violence to accept responsibility for their conduct.

- (2) The objects are to be achieved by providing for the following:
- (a) the making of domestic violence orders to protect people from domestic violence and to encourage the people committing it to change their behaviour;
 - (b) the registration of orders made in other jurisdictions;
 - (c) the enforcement of those orders;
 - (d) the enabling of particular entities to share information so that:
 - (i) assessments can be made about threats to the life, health, safety or welfare of people because of domestic violence; and
 - (ii) responses can be made to threats mentioned in subparagraph (i); and
 - (iii) people who fear or experience domestic violence, or people who commit domestic violence, can be referred to appropriate providers of domestic violence related services.

Part 1.2 Interpretation

Division 1 Defined terms

4 Definitions

In this Act:

approved form means a form approved under section 126.

audiovisual link means a facility (including closed-circuit television) that enables audio and visual communication between persons at different places.

authorised police officer means:

- (a) a police officer of or above the rank of senior sergeant; or
- (b) the officer in charge for the time being of a police station.

carers relationship, see section 12.

CEO, for Chapter 5A, see section 124B.

child means an individual who is under 18 years old.

child protection officer means an officer of an Agency who has powers and functions for the protection of children under an Act.

coercive control, see section 5B.

Commissioner means the Commissioner of Police.

complainant, for Chapter 4, Part 4.1, Division 4A, see section 21G of the *Evidence Act 1939*.

copy, for Chapter 5, see section 118.

corresponding law, for Chapter 3A, see section 102.

Court means:

- (a) the Local Court, including a person exercising the jurisdiction of the Local Court under an Act or rules made under the *Local Court Act 2015*; or
- (b) the Youth Justice Court mentioned in section 45 of the *Youth Justice Act 2005*.

court DVO means a DVO made or varied under Part 2.4, Division 3, or Parts 2.5 to 2.10.

criminal record, see section 3(1) of the *Criminal Records (Spent Convictions) Act 1992*.

domestic relationship, see section 9.

domestic violence, see section 5.

domestic violence concern, for Chapter 3A, see section 103C.

domestic violence offence, for Chapter 4, Part 4.1, Division 4A, see section 21G of the *Evidence Act 1939*.

domestic violence order:

- (a) other than for Chapter 3A – means a court DVO or police DVO; and
- (b) for Chapter 3A – see section 102.

domestic violence related service, for Chapter 5A, see section 124B.

DVO means a domestic violence order made or varied under this Act.

DVO contravention offence means:

- (a) an offence against section 120(1); or
- (b) an offence of contravening a restraining order under the repealed *Domestic Violence Act 1992* as in force from time to time before the commencement of this Act; or
- (c) an offence of contravening an external order.

economic abuse, see section 8.

electronic communication, see section 5 of the *Electronic Transactions (Northern Territory) Act 2000*.

emotional or psychological abuse, see section 5A.

exposed, for domestic violence, includes:

- (a) to see or hear the violence; and
- (b) to witness harm resulting from the violence.

external order means:

- (a) an order in the nature of a DVO made by a court of New Zealand; or
- (b) an order made by a court of a State or another Territory that is prescribed by regulation.

family law order means an order made under Part VII of the *Family Law Act 1975* (Cth).

family relationship, see section 10(1).

final DVO, for Chapter 3A, see section 102.

foreign order, for Chapter 3A, see section 102.

general violence order, for Chapter 3A, see section 102.

harm, see section 1A of the Criminal Code.

image means a moving or still image in any form.

Examples for definition image

- 1 A file stored on a computer.
- 2 A photo stored on a phone.
- 3 A video stored on a phone.

information, for Chapter 5A, see section 124B.

Information Commissioner means the person appointed under section 85 of the *Information Act 2002*.

information sharing entity, for Chapter 5A, see section 124B.

information sharing guidelines, for Chapter 5A, see section 124B.

interim DVO, for Chapter 3A, see section 102.

interstate DVO, see section 103A.

interstate law enforcement agency, for Chapter 3A, see section 102.

intimate image means an image that depicts or is altered to appear to depict:

- (a) a person engaged in a sexual act of a kind not ordinarily seen in public; or
- (b) a person in a manner or context that is sexual; or
- (c) the genital or anal region of a person, whether bare or covered by underwear; or
- (d) a breast, whether bare or covered by underwear, of a female person or of a transgender or intersex person who identifies as female.

intimate personal relationship, see section 11.

intimidation, see section 6.

issuing authority means:

- (a) for a police DVO – the authorised police officer considering making the DVO; or
- (b) for a court DVO not made under Part 2.10:
 - (i) the Court or the Youth Justice Court mentioned in section 45 of the *Youth Justice Act 2005*; or
 - (ii) a registrar deciding the application for the court DVO; or
- (c) for a court DVO made under Part 2.10 – the court considering making the DVO; or

(d) for Chapter 3A – see section 102.

issuing jurisdiction, for Chapter 3A, see section 102.

Judge means a Local Court Judge.

jurisdiction, for Chapter 3A, see section 102.

local DVO, for Chapter 3A, see section 103.

local law enforcement agency, for Chapter 3A, see section 102.

make, for an order, includes issue and confirm.

New Zealand DVO, for Chapter 3A, see section 102.

non-local DVO, for Chapter 3A, see section 102.

participating jurisdiction, for Chapter 3A, see section 102.

party, to a DVO, means each of the following:

- (a) the protected person or person acting for the protected person;
- (b) the respondent;
- (c) if the application for the DVO is not made by the protected person – the applicant;
- (d) if the DVO is a police DVO – the authorised police officer who made the DVO and the Commissioner;
- (e) any other person allowed as a party by the Court.

personal details, of a person, includes:

- (a) the person's residential address or intended residential address; and
- (b) information that identifies, or is likely to identify, the person.

personal property, in respect of a person, includes:

- (a) clothes and tools used by the person for work; and
- (b) an animal belonging to the person.

police DVO, see section 28(1).

premises exclusion order, see section 22(1).

proceeding means:

- (a) the hearing of an application for:
 - (i) a DVO; or
 - (ii) the variation or revocation of a DVO; or
 - (iii) the extension of a court DVO under Part 2.8; or
- (b) a proceeding for the confirmation of a DVO; or
- (c) a proceeding for an offence against this Act.

program facilitator means a person who:

- (a) provides a rehabilitation program or a perpetrators' program;
or
- (b) provides assessments, support or case management associated with a rehabilitation program or a perpetrators' program.

properly notified, for Chapter 3A, see section 103L.

protected person for:

- (a) a DVO – see section 13; or
- (b) an external order or interstate DVO – see section 102.

publish includes broadcast.

recognised DVO, see sections 103E and 103ZH.

recognised variation, for Chapter 3A, see section 103F.

recorded statement, for Chapter 4, Part 4.1, see section 104.

registered, for an external order, means registered under Part 3.2.

registered foreign order, for Chapter 3A, see section 103B.

registrar, see section 3 of the *Local Court Act 2015*.

rehabilitation program, means a program declared by the Minister under section 85A(1) to be a rehabilitation program.

respondent, for:

- (a) a DVO – see section 14; or

- (b) an external order or interstate DVO – means the person against whom the order is made.

restrain includes prohibit.

revoke includes cancel.

satisfied, in relation to the making, confirmation, variation or revocation of a DVO, means satisfied on the balance of probabilities.

stalking, see section 7.

vary, for a DVO, includes the following:

- (a) amend or modify the DVO;
- (b) add further conditions, restraints, prohibitions, obligations or requirements to the DVO or vary or delete conditions, restraints, prohibitions, obligations or requirements;
- (c) extend or reduce the period for which the DVO remains in force.

vulnerable witness, for Chapter 4, Part 4.1, see section 104.

young person means a person who is:

- (a) aged 14 years or older; and
- (b) under 18 years old.

Note for section 4

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

Division 2 Important concepts

Subdivision 1 Concepts relating to domestic violence

5 Domestic violence

- (1) **Domestic violence** is any conduct specified in subsection (2) if committed by a person against another person in the following circumstances:
- (a) the persons are in a domestic relationship;
- (b) the person had previously committed a sexual act against (or had sexual contact with) the other person without consent.

- (2) For subsection (1), the following conduct is specified:
- (a) physical or sexual abuse;
 - (b) emotional or psychological abuse;
 - (c) damaging real or personal property of the other person;
 - (d) intimidation;
 - (e) coercive control;
 - (f) causing the other person to fear for their safety or the safety of another person;
 - (g) stalking;
 - (h) economic abuse;
 - (i) using technology (including internet, social media and other electronic communications) as a means to commit conduct mentioned in paragraphs (a) to (h);
 - (j) attempting or threatening to commit conduct mentioned in paragraphs (a) to (i).

Examples for subsection (2)(i)

- 1 *Spying on someone using any type of surveillance device such as a tracking system or spyware.*
- 2 *Stalking someone using a GPS-enabled device such as a mobile phone.*
- 3 *Using social media to abuse the person.*

Notes for subsection (2)

- 1 *This Act uses the term domestic violence but acknowledges that term includes family violence.*
 - 2 *Under Part 2.2, a DVO may be sought, and made, against a person if the person counsels or procures someone to commit the conduct mentioned in this subsection (see section 17).*
- (3) Exposing a child with whom a person is in a domestic relationship to conduct mentioned in subsection (2), including to the effects of the conduct on another person, is also domestic violence.
- (4) To avoid doubt, conduct does not have to constitute an offence against a law of the Territory for the conduct to be domestic violence.

5A Emotional or psychological abuse

- (1) ***Emotional or psychological abuse*** is conduct that would torment, coerce, intimidate, harass or be offensive to a reasonable person and result in a reasonable person suffering emotional distress or mental harm.
- (2) Without limiting subsection (1), emotional or psychological abuse of a person may include any of the following conduct:
 - (a) making repeated derogatory taunts of the person;
 - (b) threatening to disclose sensitive information about the person to the person's friends, family or workplace;
 - (c) threatening to withhold the person's medication;
 - (d) preventing the person from maintaining social, familial or cultural connections;
 - (e) preventing the person from expressing the person's cultural identity;
 - (f) threatening to self-harm with the intention of tormenting the person;
 - (g) threatening to harm another person with the intention of tormenting the person;
 - (h) following the person in public or in the person's residence or remaining outside the person's residence or work with the intention of tormenting the person;
 - (i) repeatedly contacting the person by any means of communication without the person's consent;
 - (j) sending offensive material or communications to the person or leaving offensive material where it is likely to be found by the person;
 - (k) taking an intimate image of the person without consent;
 - (l) threatening to distribute or publish an intimate image of the person;
 - (m) publishing offensive material or communications about the person without consent;

- (n) driving a motor vehicle in a reckless or dangerous manner or acting in a reckless or dangerous manner while driving a motor vehicle when the person is a passenger in the vehicle;
 - (o) threatening to request that the person be assessed to determine whether the person is in need of treatment under the *Mental Health and Related Services Act 1998*;
 - (p) threatening to withdraw care on which the person is dependent;
 - (q) preventing the person from entering the person's place of residence.
- (3) In deciding whether a person's conduct amounts to emotional or psychological abuse, consideration may be given to a pattern of conduct.

5B Coercive control

- (1) **Coercive control**, of a person, is a pattern of conduct that causes the person to fear for their safety, or the safety of another person in a domestic relationship with the person engaging in the conduct, that results in any of the following:
- (a) controlling or subordinating the person;
 - (b) dominating, regulating or monitoring the person's daily activity;
 - (c) isolating the person from social, familial or cultural connections and support;
 - (d) depriving the person of freedom;
 - (e) frightening, humiliating, degrading or punishing the person.
- (2) In deciding whether a person's conduct amounts to coercive control of the person, consideration must be given to what is reasonable in the circumstances of the relationship between the persons.
- (3) Without limiting subsection (1), a pattern of conduct may be coercive control whether or not any of the conduct is physical behaviour.

6 Intimidation

(1) **Intimidation** of a person is:

(a) harassment of the person; or

Examples of harassment for paragraph (a)

1 Regular and unwanted contacting of the person, including by mail, phone, text messages, fax, the internet or another form of electronic communication.

2 Giving or sending offensive material to the person.

(b) any conduct that causes a reasonable apprehension of:

(i) violence to the person; or

(ii) damage to the property of the person, including the injury or death of an animal that is the person's property; or

Example of conduct for paragraph (b)(i)

Sexually coercive behaviour.

(c) any conduct that has the effect of unreasonably controlling the person or causes the person mental harm.

(2) For deciding whether a person's conduct amounts to intimidation, consideration may be given to a pattern of conduct (especially domestic violence) in the person's behaviour.

7 Stalking

Stalking, a person, includes engaging in any of the following conduct on at least 2 separate occasions with the intention of causing harm to the person or causing the person to fear harm to the person:

(a) intentionally following the person;

(b) intentionally watching or loitering in the vicinity of, or intentionally approaching, the place where the person lives, works or regularly goes for a social or leisure activity.

8 Economic abuse

(1) **Economic abuse**, of a person, is conduct that is coercive, deceptive or unreasonable and results in the person losing economic or financial autonomy or suffering economic or financial loss or damage.

- (2) Without limiting subsection (1), economic abuse includes any of the following conduct:
- (a) coercing the person to relinquish control over assets or income;
 - (b) unreasonably disposing of property owned by the person or owned jointly by the person and someone else without consent;
 - (c) without lawful excuse, preventing the person from taking part in decisions over the disposition of joint property or spending shared income;
 - (d) withholding or threatening to withhold money reasonably necessary for the maintenance of the person or a child of the person;
 - (e) creating or causing to be created a debt in the person's name without the person's consent;
 - (f) preventing or threatening to prevent the person from accessing financial assets;
 - (g) removing or threatening to remove the person's personal property from a place without permission;
 - (h) preventing or hindering the person from seeking or maintaining employment;
 - (i) coercing the person to make a claim for a payment under the *Social Security (Administration) Act 1999* (Cth);
 - (j) coercing the person to make a power of attorney in respect of an asset;
 - (k) coercing the person to sign a contract;
 - (l) coercing the person to sign a document establishing or in connection with the operation of a business.

Example for subsection (2)(a)

Using stand-over tactics to obtain the person's credit card or money.

Subdivision 2 Concepts relating to domestic relationships

9 Domestic relationship

A person is in a ***domestic relationship*** with another person if the person:

- (a) is or has been in a family relationship with the other person; or
- (b) has or had the custody or guardianship of, or right of access to, the other person; or
- (c) is or has been subject to the custody or guardianship of the other person or the other person has or has had a right of access to the person; or
- (d) ordinarily or regularly lives, or has lived, with:
 - (i) the other person; or
 - (ii) someone else who is or was in a family relationship with the other person; or
- (e) is or has been in a family relationship with a child of the other person; or
- (f) is or has been in an intimate personal relationship with the other person; or
- (fa) is in an intimate personal relationship with a person with whom the other person was in an intimate personal relationship; or
- (fb) was in an intimate personal relationship with a person with whom the other person is in an intimate relationship; or
- (fc) is in a family relationship with a person with whom the other person is in an intimate personal relationship; or
- (fd) is in an intimate personal relationship with a person with whom the other person is in a family relationship; or
- (g) is or has been in a carers relationship with the other person.

10 Family relationship

- (1) A person is in a ***family relationship*** with another person if the person:
- (a) is the spouse or de facto partner of the other person; or

(ab) is the spouse or de facto partner of the person's former spouse or de facto partner; or

(b) is otherwise a relative of the other person.

Examples of relatives for paragraph (b)

Stepchild, parent, step-parent, grandparent, aunt, nephew, cousin, half-brother, mother-in-law or aunt-in-law.

(2) A relative of a person includes someone who, according to Aboriginal tradition or contemporary social practice, is a relative of the person.

Note for section 10

*Section 19A of the Interpretation Act 1978 contains definitions of certain domestic relationships, including **spouse, de facto partner and stepchild.***

11 Intimate personal relationship

(1) An **intimate personal relationship** exists between 2 persons if:

(a) the persons are engaged to be married to each other, including being betrothed under cultural or religious tradition; or

(b) the persons have an intimate relationship, whether or not the relationship is a sexual relationship; or

(c) the persons engaged in a sexual act or sexual contact.

Example for subsection (1)(b)

The 2 persons are dating.

(3) In deciding whether an intimate personal relationship exists under subsection (1)(b), the following may be taken into account:

(a) the circumstances of the relationship, including, for example, the level of trust and commitment;

(b) the length of time the relationship has existed;

(c) the frequency of contact between the persons;

(d) the level of intimacy between the persons.

(4) An intimate personal relationship may exist whether the 2 persons are the same or the opposite sex.

12 Carers relationship

A **carers relationship** exists between 2 persons if 1 of them is dependent on the ongoing paid or unpaid care of the other.

Subdivision 3 Concepts relating to parties to domestic violence

13 Protected person

(1) A **protected person** is a person for whose protection a DVO:

- (a) is sought; or
- (b) is in force.

Note for subsection (1)

*Section 102 defines **protected person** for recognised interstate and foreign orders.*

(2) A protected person must be in a domestic relationship with the respondent.

14 Respondent

(1) The **respondent** is the person against whom a DVO:

- (a) is sought; or
- (b) is in force.

(2) Only one person may be named as the respondent in:

- (a) an application for a DVO; or
- (b) a DVO.

(3) The respondent must be at least 14 years old.

Division 3 Criminal responsibility

15 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 15

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Chapter 2 Domestic violence orders

Part 2.1 Preliminary matters

16 Objects of Chapter

The objects of this Chapter are to provide for:

- (a) the making of domestic violence orders to:
 - (i) ensure the safety and protection of persons who are experiencing or exposed to domestic violence or who are at risk of experiencing or being exposed to domestic violence; and
 - (ii) ensure persons who commit domestic violence are held accountable for their conduct; and
 - (iii) encourage persons who commit domestic violence to accept responsibility for their conduct; and
- (b) the variation and revocation of domestic violence orders.

17 When person taken to have committed domestic violence

A person who counsels or procures someone else to commit conduct that, if committed by the person would be domestic violence, is taken to have also committed the conduct.

Part 2.2 Making of domestic violence orders

18 When DVO may be made

- (1) The issuing authority may make a DVO only if satisfied there are reasonable grounds for the protected person to fear the commission of domestic violence against the person by the respondent.

Note

Because of the objective nature of the test in subsection (1), the issuing authority may be satisfied on the balance of probabilities as to the reasonable grounds even if the protected person denies, or does not give evidence about, fearing the commission of domestic violence.

- (2) In addition, if the protected person is a child, the authority may make a DVO if satisfied there are reasonable grounds to fear the child will be exposed to domestic violence committed by or against a person with whom the child is in a domestic relationship.

19 Matters to be considered in making DVO

- (1) In deciding whether to make a DVO, the issuing authority must consider the safety and protection of the protected person and each child (if any) of the protected person or who usually resides with the protected person to be of paramount consideration.
- (2) In addition to the matter required under subsection (1), the issuing authority may also consider the following:
 - (a) any family law orders in force in relation to the respondent, or any pending applications for family law orders in relation to the respondent, of which the issuing authority is informed;
 - (b) all other DVOs in force (if any) and any recognised DVO in which the respondent is named as the respondent;
 - (c) any DVO no longer in force in which the respondent was named as the respondent;
 - (d) any legal proceedings involving the protected person or respondent that are relevant to the DVO;
 - (e) any order under the *Care and Protection of Children Act 2007* or application for an order under that Act in which the protected person or respondent is named as a respondent;
 - (f) any report identifying the protected person filed under section 33 or 58;
 - (g) if the respondent is on bail – the bail conditions;
 - (h) the accommodation needs of the protected person and each child (if any) of the protected person or who usually resides with the protected person;
 - (i) the respondent's criminal record (if any);
 - (j) the respondent's previous conduct whether in relation to the protected person or someone else;
 - (k) other matters the authority considers relevant.
- (3) If the protected person or the respondent has a child usually residing with them or has regular contact with a child, the issuing authority must consider whether a separate DVO is required to be made for the protection of the child as a protected person.

- (4) If either of the following circumstances apply in relation to the DVO, the issuing authority must consider the matters mentioned in subsection (5):
- (a) more than one of the parties states domestic violence was committed or is being committed by another party;
 - (b) the issuing authority is satisfied that there are reasonable grounds for more than one of the parties to fear the commission of domestic violence.
- (5) For subsection (4), the issuing authority must consider:
- (a) whether there is a pattern of conduct constituting domestic violence over time indicating a party is the person most in need of protection; and
 - (b) without limiting paragraph (a), whether there is coercive control indicating a party is the person most in need of protection; and
 - (c) the severity and type of domestic violence and any injury resulting from the domestic violence experienced by each party.
- (6) The Court may order the applicant to provide further information to show why the DVO is required if the Court believes, after considering the matters in subsection (5), the respondent is the person most in need of protection.
- (7) The issuing authority may, in the DVO, determine which party is the protected person most in need of protection.
- (8) The issuing authority must not make a DVO against the party determined to be the protected person most in need of protection, unless the issuing authority is satisfied, having regard to the objects of this Act, that it is necessary to make a DVO against the protected person.

Note for subsection (8)

Separate DVOs may be made against more than one of the parties if the issuing authority is satisfied that there are reasonable grounds for making the DVO under section 18.

20 Presumption in favour of protected person with child remaining at home

- (1) This section applies if:
- (a) the respondent and protected person normally live in the same home with a child (whether or not the child is also a protected person); and
 - (b) in deciding the conditions of a DVO, the issuing authority imposes a restraint on the respondent having contact with the protected person or child.
- (2) The issuing authority must presume the protection of the protected person and child are best achieved by them living in the home.
- (3) To avoid doubt, this section does not prevent a DVO including a premises exclusion order.

Example of order for subsection (3)

A premises exclusion order providing for the respondent to visit the child at the home.

Part 2.3 Content of domestic violence orders

20A Mandatory prohibition

A DVO must include a provision prohibiting the respondent from committing domestic violence against each protected person.

21 What DVO may provide

- (1) A DVO may provide for any of the following:
- (a) an order imposing the restraints on the respondent stated in the DVO as the issuing authority considers are necessary or desirable to prevent the commission of domestic violence against the protected person;

Examples of DVOs for paragraph (a)

- 1 *An order restraining the respondent from contacting (directly or indirectly) the protected person.*
- 2 *An order restraining the respondent from approaching the protected person or premises stated in the DVO.*
- 3 *An order requiring the respondent to refrain from harassing, threatening, verbally abusing or assaulting the protected person.*

- (b) an order imposing the obligations on the respondent stated in the DVO as the issuing authority considers are necessary or desirable:
 - (i) to ensure the defendant accepts responsibility for the violence committed against the protected person; and
 - (ii) to encourage the respondent to change the respondent's behaviour;
- (ba) an order imposing a prohibition on the respondent locating or attempting to locate a protected person and each child (if any) of the protected person or who usually resides with the protected person;
- (bb) an order imposing a requirement on the respondent to destroy an intimate image of a protected person;
- (c) other orders the issuing authority considers are just or desirable to make in the circumstances of the particular case;

Example of other orders for paragraph (c)

An order requiring the return of personal property to the respondent or protected person.

- (d) an order (an **ancillary order**) that aims to ensure compliance by the respondent with another order under paragraph (a), (b), (ba), (bb) or (c).

(1A) An ancillary order may:

- (a) prohibit the respondent from engaging in specified conduct; or
- (b) require the respondent to take specified action.

Example for subsection (1A)(b)

An order that the respondent submit to testing to ensure compliance with an order prohibiting consumption of alcohol or certain drugs.

(1B) The Regulations may make provision about a matter relating to an ancillary order.

(1C) In determining the content of a DVO, the issuing authority must consider the protection of the protected person and each child (if any) of the protected person or who usually resides with the protected person to be of paramount consideration.

- (2) Subsection (1) is not limited by the specific orders provided in this Part.

Notes for section 21

- 1 Under sections 39 and 40 of the Firearms Act 1997, a licence, permit or certificate of registration is automatically suspended or revoked on the making of a DVO.
- 2 Under sections 208AB and 208AC of the Criminal Code it is an offence to distribute an intimate image of a person without consent or to threaten to distribute an intimate image.

22 Premises exclusion order

- (1) A DVO may include a **premises exclusion order** prohibiting the respondent from one or more of the following:
- (a) remaining at premises specified in the order;
 - (b) entering or attempting to enter premises specified in the order at any time or subject to any conditions specified in the order;
 - (c) being within a specific distance of the premises specified in the order.
- (2) Before making a premises exclusion order, the issuing authority must consider the following:
- (a) if the protected person usually resides at the premises to be specified in the order:
 - (i) whether or not the protected person and each child (if any) usually residing with the protected person can live in safety at those premises; and
 - (ii) any disruption to the protected person and each child (if any) usually residing with the protected person that would result from making the premises exclusion order; and
 - (iii) the impact of the order on the accommodation of the parties and any other persons usually residing at those premises;
 - (b) any opinion expressed by the protected person under subsection (3);
 - (c) the impact of the premises exclusion order on the relationship between the respondent and each child (if any) usually residing with the protected person;

- (d) without limiting paragraph (a)(iii), the impact of the premises exclusion order on the accommodation or employment of the respondent.
- (3) For subsection (2)(b), the issuing authority may invite the protected person to express an opinion on:
 - (a) the respondent accessing the premises to be specified in the order; and
 - (b) whether or not the DVO should exclude the respondent from those premises.
- (4) If the protected person does not express an opinion in response to an invitation under subsection (3), the issuing authority must not draw an inference that the protected person has no opinion on:
 - (a) the respondent accessing those premises; or
 - (b) whether or not the DVO should exclude the respondent from those premises.
- (5) For this section, the premises specified in the premises exclusion order may include the following:
 - (a) residential premises where the respondent and protected person live together or previously lived together;
 - (b) premises where the respondent or protected person resides, works or visits;
 - (c) premises in which the respondent has a legal or equitable interest.

23 Order regarding tenancy agreement

- (1) This section applies in relation to a tenancy agreement if:
 - (b) the respondent or protected person is a tenant of the premises; and
 - (c) either:
 - (i) a court DVO includes a premises exclusion order for the premises; or
 - (ii) the protected person no longer wishes to live in the premises.

- (2) The Court may, in the DVO, make:
- (a) an order terminating the tenancy agreement; or
 - (b) an order terminating the tenancy agreement and creating a new tenancy agreement (the **replacement agreement**) for the benefit of:
 - (i) the protected person and anyone else who was a party to the terminated agreement other than the respondent; or
 - (ii) the respondent and anyone else who was a party to the terminated agreement.
- (3) An order must not be made unless:
- (a) the Court is satisfied there is no reasonable likelihood of the respondent and the protected person living in the premises free of domestic violence; and
 - (b) the landlord consents to the order or, if the landlord refuses consent, the Court is satisfied the refusal is unreasonable; and
 - (c) the protected person consents to the order; and
 - (d) in the case of a replacement agreement – the protected person or respondent, as the case may be, would be able to comply with the replacement agreement; and
 - (e) the Court considers it appropriate in the circumstances to make the order.
- (4) The landlord and anyone else having an interest in the premises are entitled to appear and be heard in relation to the matter.
- (5) The replacement agreement must have the same conditions as the terminated agreement other than the names of the tenants.
- (6) If the terminated agreement is for a fixed term, the date of expiry of the replacement agreement must be the same as that of the terminated agreement.
- (7) Part 12 of the *Residential Tenancies Act 1999* applies to the terminated agreement as if the tenants had given up vacant possession of the premises.
- (8) In this section:

premises, see the *Residential Tenancies Act 1999*.

tenancy agreement, see the *Residential Tenancies Act 1999*.

24 Order for rehabilitation program

- (1) The Court may include in a DVO an order requiring the respondent to take part in a rehabilitation program when making or varying the DVO.
- (1A) In deciding whether to include an order under subsection (1), the safety and protection of the protected person must be the paramount consideration.
- (1B) If the Court includes an order under subsection (1) in a DVO, the Court may also include an order requiring the respondent to take part in any other program the Court considers appropriate.

Example for subsection (1B)

An alcohol rehabilitation program.

- (2) The order may be made only if:
 - (a) the Court is satisfied:
 - (i) the respondent is a suitable person to take part in the program; and
 - (ii) there is a place available in the program for the respondent; and
 - (b) the respondent consents to the order.
- (3) The order may be made subject to the conditions the Court considers appropriate.

25 Protected person's residential address not to be included in order

A protected person's residential address, or intended residential address, must not be stated in a DVO, unless the issuing authority is satisfied:

- (a) the respondent knows the address; or
- (b) it is necessary to state the address in order to achieve compliance with the DVO and by stating the address:
 - (i) the protected person's personal safety will not be seriously threatened; and

- (ii) damage is not likely to be caused to any of the protected person's property.

26 Prohibition on publication of personal details

A court DVO may include an order prohibiting the publication of personal details of a protected person or witness in a proceeding if the Court is satisfied that publication would expose the person to the risk of harm or the Court otherwise considers it appropriate in the circumstances.

Note for section 26

Under section 124 it is an offence to contravene the order.

27 Duration of court DVO

- (1) A court DVO, other than an interim court DVO made under section 64(1), is in force for the period specified in it, which may be an indefinite period.

Notes for subsection (1)

1 For the duration of a police DVO, see section 34(2).

2 For the duration of an interim court DVO, see section 64(4).

- (2) In deciding the period for which a court DVO is in force, the paramount consideration must be the safety and protection of the protected person and each child (if any) of the protected person or who usually resides with the protected person.
- (3) In deciding the period for which a court DVO is in force, the issuing authority must consider the following:
 - (a) the period necessary to protect the protected person from domestic violence, having regard to the content of the DVO;
 - (b) any information provided by the applicant about the likely duration of the risk of the respondent committing domestic violence;
 - (c) if the applicant is not the protected person – any information provided by the protected person about the likely duration of the risk of the respondent committing domestic violence;
 - (d) the duration of any sentence of imprisonment imposed on the respondent or that is likely to be imposed on the respondent (if known);
 - (e) any information provided by the respondent about the risk of the respondent committing domestic violence.

- (4) The issuing authority may make a court DVO of an indefinite period if satisfied that:
 - (a) the risk of the respondent committing domestic violence against the protected person is significant and ongoing; and
 - (b) the risk cannot be minimised if the court DVO has a specified duration.
- (5) If a court DVO is of an indefinite period, the court DVO is in force until the DVO is revoked by the Court or set aside on appeal.
- (6) If a court DVO does not specify the period when it is in force, the court DVO is in force from when it is made until:
 - (a) if the respondent is an adult – the earlier of the following:
 - (i) when the DVO is revoked by the Court;
 - (ii) when the DVO is set aside on appeal;
 - (iii) after a period of 5 years commencing on the day the DVO is made; or
 - (b) if the respondent is a young person – the earlier of the following:
 - (i) when the DVO is revoked by the Court;
 - (ii) when the DVO is set aside on appeal;
 - (iii) after a period of 12 months commencing on the day the DVO is made; or
 - (c) if the protected person is a child or young person – the earlier of the following:
 - (i) when the DVO is revoked by the Court;
 - (ii) when the DVO is set aside on appeal;
 - (iii) when the protected person attains the age of 18 years.

Part 2.4 Police DVO

Division 1 Making of police DVO

28 When authorised police officer may make DVO

- (1) An authorised police officer may make a **police DVO** under this Part if satisfied that:
 - (a) it is necessary to ensure the protected person's safety:
 - (i) because of urgent circumstances; or
 - (ii) because it is not otherwise practicable in the circumstances to obtain a court DVO; and
 - (b) a court DVO might reasonably have been made had it been applied for.
- (2) An authorised police officer may make a police DVO even if the respondent is not given an opportunity to answer any allegation made in relation to the making of the police DVO.
- (3) A police DVO must not include more than one person as the protected person, unless each additional protected person included in the police DVO is:
 - (a) a child of the protected person; or
 - (b) a person who usually resides with the protected person; or
 - (c) without limiting paragraphs (a) or (b), a person under the care of the protected person.

Notes for section 28

- 1 *An authorised police officer is an issuing authority and must consider the matters under section 19 in deciding whether to make a police DVO.*
- 2 *Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.*

29 Matters to be recorded on police DVO

- (1) An authorised police officer who makes a police DVO must record, or ensure that another police officer records, the following on the police DVO:
 - (a) the reasons for making it;

- (b) the date and place for the Court hearing for confirmation of the police DVO.
- (2) The time for the Court hearing for confirmation of the police DVO must be as soon as practicable after it is made.

30 What police officer must do after police DVO is made

- (1) As soon as practicable after a police DVO is made, a police officer must give a copy of it:
 - (a) to the parties to the police DVO; and
 - (b) to the Court.
- (2) For subsection (1)(a), the police officer must personally give a copy of the police DVO to the protected person and explain to the protected person:
 - (a) the effect of the police DVO, including any restraints, prohibitions, obligations or requirements imposed on the respondent by the police DVO; and
 - (b) the consequences that may follow if the respondent contravenes the police DVO, including that contravening a police DVO is an offence against section 120(1); and
 - (c) the duration of the police DVO under section 34; and
 - (d) that the protected person is a party to the proceedings and is entitled to attend the confirmation hearing regarding the police DVO under Division 3.
- (3) If a copy of the police DVO is to be given to the respondent personally, the police officer must explain to the respondent:
 - (a) the effect of the police DVO, including any restraints, prohibitions, obligations or requirements imposed on the respondent by the police DVO; and
 - (b) the consequences that may follow if the respondent contravenes the police DVO, including that contravening a police DVO is an offence against section 120(1); and
 - (c) the duration of the police DVO under section 34; and
 - (d) that the respondent has a right to apply for a review of the police DVO under Division 2.

- (4) As far as it is reasonably practicable to do so, the explanation given under this section must be given in a language (using an interpreter if required) or in terms that are likely to be readily understood by the protected person and respondent.
- (5) For subsection (1)(b), the police officer may give a copy of the police DVO to the Court by means of electronic communication.
- (6) A failure to comply with this section does not affect the validity of a police DVO.

31 Police DVO taken to be summons to appear before Court

The copy of a police DVO given to the respondent is taken to be a summons to the respondent to appear at a Court hearing, at the date and place shown on it, to show cause why the police DVO should not be confirmed by the Court.

Notes for section 31

- 1 *Division 3 provides for the confirmation of police DVOs by the Local Court.*
- 2 *On confirmation of a police DVO, conduct that constitutes a contravention of the DVO may still be an offence even if the Court order made on the hearing is not given to the respondent before the respondent engages in the conduct, see section 120(2).*

32 Criminal history and report of respondent

- (1) As soon as practicable after a police DVO is made, the Commissioner must file in the Court:
 - (a) the respondent's criminal history (if any); and
 - (b) a report in accordance with subsection (2).
- (2) The report filed by the Commissioner under subsection (1) must include the details of the respondent's entire DVO history, including the following:
 - (a) a list of every DVO in which the respondent is named, either as a respondent or a protected person;
 - (b) the details of any DVO contravened by the respondent;
 - (c) the details of any DVO involving the respondent and any person other than the protected person;
 - (d) if requested by the Court – any DVO nationally recognised orders involving the respondent, including any from another Territory, a State or another country.

- (3) The respondent's criminal history and report filed under subsection (1) are evidence of the matter specified for the purposes of confirmation of the police DVO.
- (4) To avoid doubt, the respondent's criminal history and report filed under subsection (1) are not to be used as evidence in the prosecution of an offence against this Act or any other law of the Territory.
- (5) If the respondent has no DVO history, the Commissioner must still file the report under subsection (1) specifying that fact.

33 Report of protected person

- (1) As soon as practicable after a police DVO is made, the Commissioner must file in the Court a report with the details of the protected person's entire DVO history, including the following:
 - (a) a list of every DVO in which the protected person is named, either as a respondent or a protected person;
 - (b) the details of any DVO contravened by the protected person;
 - (c) the details of any DVO involving the protected person and any person other than the respondent;
 - (d) if requested by the Court – any DVO nationally recognised orders involving the protected person, including any from another Territory, a State or another country.
- (2) A report filed under subsection (1) is evidence for the purposes of review or confirmation of a police DVO.
- (3) If the protected person has no DVO history, the Commissioner must still file the report under subsection (1) specifying that fact.

34 Duration of police DVO

- (1) A police DVO comes into effect when it is made.
- (2) A police DVO is in force until the earlier of the following:
 - (a) when the police DVO is confirmed, with or without variation, by the Court under Division 3;
 - (b) when the police DVO is revoked by the Court under Division 2 or 3.

Note for subsection (2)(a)

A police DVO confirmed under Division 3 becomes a court DVO, see section 48.

- (3) Despite subsection (2), a police DVO confirmed under section 48(1)(a) with a variation that results in more onerous restraints, prohibitions, obligations or requirements imposed on the respondent at a hearing at which the respondent did not appear remains in effect until the further hearing mentioned in section 49(2).

Division 2 Review of police DVO

35 Application for review

A party to a police DVO may apply to the Court for a review of the police DVO at any time before the police DVO is confirmed under Division 3.

36 How application is made

- (1) If a party wants to apply for a review of the police DVO under section 35:
- (a) the party must tell a police officer; and
 - (b) the police officer must facilitate the application.
- (2) The application may be made by telephone or electronic communication.
- (3) To facilitate the application, the police officer must:
- (a) contact the Court; and
 - (b) ensure the application complies with the rules of the Court and practice directions relating to making the application; and
 - (c) ensure the Court is given the information relied on to make the police DVO.

37 Deciding application

- (1) In reviewing the police DVO, the Court must consider the same matters required to be considered in deciding:
- (a) whether or not to make a police DVO; and
 - (b) the terms of a DVO.

Notes for subsection (1)

1 *Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.*

2 *Section 28 specifies additional matters considered in making a police DVO.*

- (2) The Court may, by order:
 - (a) confirm the police DVO (with or without variation); or
 - (b) revoke the police DVO.
- (3) The Court must:
 - (a) record the reasons for the decision; and
 - (b) inform the police officer who facilitated the application of those reasons.
- (4) For subsection (2)(a), the Court may vary the police DVO for a period specified in the order.

38 Action of police officer if police DVO confirmed with variation

- (1) If the Court makes an order confirming the police DVO with variation, the police officer who facilitated the application must:
 - (a) complete a form of order as directed by the Court, setting out the variation to the police DVO; and
 - (b) write on the order:
 - (i) the name of the Judge; and
 - (ii) the date and time it is made; and
 - (iii) the reasons for the police DVO and the variation; and
 - (iv) the date and place for the Court hearing for confirmation of the police DVO as varied.
- (2) As soon as practicable after the order is completed, the police officer must give a copy of it:
 - (a) to the parties to the police DVO; and
 - (b) to the Court.
- (3) For subsection (2)(b), the police officer may give a copy of the order to the Court by means of electronic communication.

39 Action of police officer if police DVO confirmed without variation

If the Court makes an order confirming the police DVO without variation, the police officer who facilitated the application must inform the parties to the police DVO of:

- (a) the order; and
- (b) the reasons for it.

40 Action of Court if police DVO confirmed with variation

If the Court makes an order confirming the police DVO with variation, the Court must inform the police officer who facilitated the application of:

- (a) the terms of the police DVO as varied; and
- (b) the date and place for the Court hearing for confirmation of the police DVO as varied.

41 Action of police officer if police DVO revoked

If the Court makes an order revoking the police DVO, the police officer who facilitated the application must inform the parties to the police DVO of:

- (a) the order; and
- (b) the reasons for it.

42 Explanation of police DVO

- (1) If the Court confirms the police DVO under this Division, the Court must, if practicable, explain to the protected person and respondent, for matters which the Court considers it necessary:
 - (a) the effect of the police DVO, including any restraints, prohibitions, obligations or requirements imposed on the respondent by the police DVO; and
 - (b) the consequences that may follow if the respondent contravenes the police DVO, including that contravening a police DVO is an offence against section 120(1); and
 - (c) the duration of the police DVO under section 34.

- (2) As far as it is reasonably practicable to do so, the explanation given under this section must be given in a language (using an interpreter if required) or in terms that are likely to be readily understood by the protected person and respondent.
- (3) A failure to comply with this section does not affect the validity of a police DVO.

43 Order taken to be summons to appear before Court

If the Court makes an order confirming the police DVO (with or without variation), the order given to the respondent under section 38(2) is taken to be a summons to the respondent to appear at a Court hearing, at the date and place shown on it, to show cause why the police DVO should not be confirmed by the Court.

Note for section 43

Division 3 provides for the confirmation of police DVOs by the Court.

Division 3 Confirmation of police DVO

44 Application of Division

This Division applies in relation to a police DVO if the respondent is summoned under section 31 or 43 to appear at a Court hearing to show cause why the police DVO should not be confirmed.

45 Place of hearing

- (1) Subject to subsections (2) and (3), a summons under section 31 or 43 must specify the place of the hearing to be the Court that is located closest to the place of residence of the protected person.
- (2) Despite subsection (1), if the respondent is a young person the application must be heard in the Youth Justice Court mentioned in section 45 of the *Youth Justice Act 2005*.
- (3) For subsection (1), in deciding the place of the hearing, the safety and protection of the protected person and each child (if any) of the protected person or who usually resides with the protected person must be the paramount consideration.
- (4) A failure to comply with subsection (1), (2) or (3) does not affect the validity of the application.

46 Parties to hearing

The following are also parties to the hearing:

- (a) the protected person;
- (b) the respondent;
- (c) the Commissioner;
- (d) any other party allowed by the Court.

47 Considerations at hearing

When making a decision under section 48(1), the Court must consider whether the content of the police DVO should be varied.

48 Decision at hearing

- (1) Subject to subsections (3) and (4), at the hearing the Court may, by order:
 - (a) confirm the police DVO (with or without variation); or
 - (b) revoke the police DVO.
- (2) For subsection (1)(a), the Court may vary the police DVO for a period specified in the order.
- (3) The Court must not confirm a police DVO unless the Court:
 - (a) is satisfied that the respondent was given a copy of the police DVO; and
 - (b) considers any evidence before it and submissions from the parties to the police DVO.
- (4) A police DVO must not be revoked unless the Court determines that:
 - (a) the grounds in section 18 were not satisfied; or
 - (b) the DVO is inconsistent with any of the objects of this Act.
- (5) If the Court confirms a police DVO (with or without variation) under subsection (1)(a), the Court must complete a form of order for the court DVO on the same terms as the police DVO (subject to any variation under subsection (1)(a)).

- (6) Despite subsection (5), if the Court confirms a police DVO under subsection (1)(a), at a hearing at which the respondent did not appear, with a variation that results in more onerous restraints, prohibitions, obligations or requirements imposed on the respondent, the Court must not complete the form of order until after the further hearing mentioned in section 49(2).

Notes for section 48

- 1 A police DVO confirmed under this section becomes a court DVO and can be extended, varied or revoked under Parts 2.6, 2.7, 2.8 and 2.9.
- 2 Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

49 Respondent failing to appear at hearing

- (1) If the Court confirms a police DVO under section 48(1)(a), at a hearing at which the respondent did not appear, with a variation that results in more onerous restraints, prohibitions, obligations or requirements imposed on the respondent:
- (a) the respondent has a period of 42 days after the day the varied police DVO is confirmed within which to object to the police DVO and the variation; and
 - (b) if the Court has an address for service or other fixed address for the respondent – the Court must arrange for the respondent to be personally served with an invitation (in the approved form) to express an opinion on the confirmation of the varied police DVO and give that opinion (in the approved form) to the Court; and
 - (c) the Court must set a further hearing for confirmation of the varied police DVO on a date specified by the Court; and
 - (d) the Court must notify the parties of the date and place of the further hearing; and
 - (e) to avoid doubt, the police DVO as varied remains in force during the period before the date specified by the Court for the further hearing for confirmation of the varied police DVO.
- (2) The Court must at the further hearing for confirmation of the varied police DVO:
- (a) consider any opinion expressed by the respondent in the approved form returned under subsection (1)(b); and
 - (b) if the respondent appears at the further hearing – consider any submission of the respondent given in the approved form; and

- (c) if the respondent does not appear at the further hearing – confirm the police DVO as varied under section 48; and
- (d) subject to paragraph (c), confirm the police DVO (with or without variation) or revoke the police DVO under section 48.

50 Notice of order

As soon as practicable after the Court makes an order under section 48, a registrar must give to the parties to the police DVO:

- (a) if the Court confirms the police DVO (with or without variation) – a copy of the court DVO; or
- (b) if the Court revokes the police DVO – written notice of the revocation.

Note for section 50

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Part 2.5 Court DVO

Division 1 Power to make court DVO

51 Court DVO

The Court may, by order, make a court DVO on an application under Division 2.

Notes for section 51

- 1 *The Court is an issuing authority and must consider the matters under section 19 in deciding whether to make a court DVO.*
- 2 *Part 2.2 provides for the matters to be considered in making of DVO and Part 2.3 provides for the content of a DVO.*

Division 2 Application process

52 Who may apply for court DVO

- (1) Any of the following persons may apply for a court DVO under this Part:
 - (a) an adult or young person in a domestic relationship with the respondent;
 - (b) an adult acting for a person (whether an adult or child) in a domestic relationship with the respondent;

- (c) a child protection officer;
 - (d) a police officer.
- (2) An application may be made by, or for, only one person even though more than one protected person may be named as the protected person in the application.
- (3) A young person must not apply for a court DVO without the leave of the Court.
- (4) The Court must not grant leave for a young person to apply unless satisfied that:
- (a) the young person understands:
 - (i) the nature, purpose and legal effect of the application; and
 - (ii) the legal effect of the making of a court DVO; and
 - (b) the young person has the capacity to make the application.
- (5) An application for a court DVO must not name more than one person as the protected person, unless each additional protected person named in the court DVO is:
- (a) a child of the protected person; or
 - (b) a person who usually resides with the protected person; or
 - (c) without limiting paragraphs (a) or (b), a person under the care of the protected person.

53 When application must be made for child

- (1) A police officer or child protection officer must apply for a court DVO for the protection of a child if the officer believes on reasonable grounds:
- (a) domestic violence was committed, is being committed or is likely to be committed; and
 - (b) the child's wellbeing was, is or is likely to be adversely affected by the violence.
- (2) Despite subsection (1), an application does not need to be made if the officer believes on reasonable grounds:
- (a) a DVO is already in force against the respondent for the child's protection; or

- (b) a police DVO will be made against the respondent for the child's protection; or
- (c) another application for a court DVO will be made for the child's protection; or
- (d) a court DVO is not necessary for the child's protection because an order is in force for the child's protection under another Act.

54 How application is made

- (1) An application for a court DVO must:
 - (a) be made in the approved form; and
 - (b) be filed in the Court.
- (2) The applicant for a court DVO must file the application in the Court that is located closest to the place of residence of the protected person.
- (3) Despite subsection (2), if the respondent is a young person the application must be filed in the Youth Justice Court mentioned in section 45 of the *Youth Justice Act 2005*.
- (4) A failure to comply with subsection (2) or (3) does not affect the validity of the application.
- (5) As soon as practicable after the application is filed under subsection (1), a registrar must give written notice to the parties to the court DVO of the date and place for the hearing of the application.

55 Place of hearing

- (1) The Court must hear the application at the Court that best serves the interests of justice and safety and protection of the protected person.
- (2) Despite subsection (1), if the respondent is a young person the application must be heard in the Youth Justice Court mentioned in section 45 of the *Youth Justice Act 2005*.
- (3) For subsection (1), in deciding the place of the hearing, the safety and protection of the protected person and each child (if any) of the protected person or who usually resides with the protected person must be the paramount consideration.

- (4) A failure to comply with subsection (1), (2) or (3) does not affect the validity of the application.

Division 3 Hearing process and decision

56 Dismissal if application likely to be contrary to objects of Act

- (1) The Court may dismiss or strike out an application for a court DVO if the Court is satisfied that making a court DVO is likely to be contrary to any of the objects of the Act.
- (2) A decision may be made under subsection (1) at any time after the application is filed, regardless of whether notice about the hearing of the application is given to the parties to the court DVO.
- (3) As soon as practicable after making a decision under subsection (1), the Court must give the parties written notice of the decision.

57 Criminal history and report of respondent

- (1) If an application for a court DVO is made under Division 2, the Court may request the Commissioner to file in the Court:
- (a) the respondent's criminal history (if any); and
 - (b) a report in accordance with section 32(2).
- (2) The respondent's criminal history and report filed under subsection (1) are evidence of the matter specified for the purposes of confirmation of the court DVO.
- (3) To avoid doubt, the respondent's criminal history and report filed under subsection (1) are not to be used as evidence in the prosecution of an offence against this Act or any other law of the Territory.
- (4) If the respondent has no DVO history, the Commissioner must still file the report under subsection (1) specifying that fact.

58 Report of protected person

- (1) If at any time after an application for a court DVO is made under Division 2, the Court is not satisfied that the protected person is correctly identified among the parties, the Court may request the Commissioner to file in the Court a report of the protected person with the information required under section 33(1).
- (2) A report filed under subsection (1) is evidence for the purposes of making a court DVO.

59 Court may decide application in absence of respondent

The Court may decide an application for a court DVO even if the respondent does not appear at the hearing of the application.

60 When registrar must not decide application

A registrar must not decide an application for a court DVO unless:

- (a) notice to the respondent to appear at the hearing of the application was given to the respondent before the hearing; and
- (b) the respondent does not appear at the hearing of the application.

Note for section 60

Under section 65, the registrar may make a court DVO if the respondent appears at the hearing and the parties consent to the making of the DVO.

61 Referral of application to Court

- (1) If a registrar is deciding an application, the registrar must refer the application to the Court for its decision if:
 - (a) the registrar is not satisfied that a court DVO should be made against the respondent; or
 - (b) the respondent appears at the hearing of the application and does not consent to a court DVO being made.
- (2) On the referral by the registrar, the Court may:
 - (a) make the court DVO sought; or
 - (b) direct that a further affidavit be filed; or
 - (c) give directions about the application.
- (3) If the Court directs the filing of a further affidavit, on its filing the registrar may make the court DVO.
- (4) A party must not serve documents in the proceeding on another party, unless ordered to do so by the Court.

62 Court may refuse to hear application or order stay of proceeding

- (1) If the Court is satisfied that an application for a court DVO under Division 2 is frivolous, vexatious or an abuse of the process of the Court, the Court may decide:
 - (a) to refuse to hear the application; or
 - (b) if a hearing for the application has started – to order a stay of the proceeding.
- (2) A decision may be made under subsection (1) at any time after the application is filed, regardless of whether notice about the hearing of the application is given to the parties to the court DVO.
- (3) As soon as practicable after making a decision under subsection (1), the Court must give the parties to the court DVO written notice of the decision.

63 Notice of court DVO

As soon as practicable after the Court makes a court DVO under this Part, a registrar must give a copy of it to:

- (a) the parties to the court DVO; and
- (b) the Commissioner.

Note for section 63

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Division 4 Protection during hearing process

64 Interim court DVO

- (1) At any time during the proceeding for the hearing of an application for a court DVO under this Part or for the variation or revocation of a court DVO under Part 2.6, the Court may make an interim court DVO under this section.

Note for subsection (1)

Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

- (2) The Court may make an interim court DVO:
- (a) even if the respondent does not appear at the hearing for the application for the court DVO or the variation or revocation of the court DVO; or
 - (b) if the respondent does appear at the hearing:
 - (i) before hearing the respondent's evidence; or
 - (ii) despite the respondent objecting to the interim court DVO being made; or
 - (c) before the respondent is given notice of the application for the DVO under section 54(5).
- (3) An interim court DVO comes into effect when it is made.
- (4) An interim court DVO is in force until revoked by the Court, subject to variation by the Court on an interim basis or replaced by a confirmed court DVO.

Note for subsection (4)

Under section 103H a court DVO can be superseded in certain circumstances by an interstate DVO that is a recognised DVO in the Territory.

- (5) The Court may vary the interim court DVO at any time, including before the respondent is given notice of the application for the court DVO under section 54(5).
- (6) As soon as practicable after the Court makes an interim court DVO under this section, a registrar must give a copy of it to:
- (a) the parties to the court DVO; and
 - (b) the Commissioner.

Note for subsection (6)

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Division 5 Court DVO made on consent of parties

65 When DVO may be made on consent

- (1) On an application made under Division 2 for a court DVO, the Court may make a DVO under this Division if the parties to the DVO consent to it being made.

Note for subsection (1)

The Court may vary or revoke a consent DVO under Part 2.6 on an application or on the Court's own initiative.

- (2) A court DVO may be made on consent even if the respondent did not admit or expressly denied:
 - (a) an allegation made against the respondent; or
 - (b) the grounds of the application.
- (3) To avoid doubt, a court DVO must not be made on consent unless the Court is satisfied of the grounds in section 18.

66 Referral of application to Court

- (1) If a registrar is deciding the application under this Part, the registrar must refer the application to the Court for decision if the registrar is not satisfied that a court DVO should be made on consent.
- (2) On the referral by the registrar, the Court may:
 - (a) make the court DVO sought; or
 - (b) direct that a further affidavit be filed; or
 - (c) give directions about the application.
- (3) If the Court directs the filing of a further affidavit, on its filing the registrar may make the court DVO.
- (4) A party must not serve documents in the proceeding on another party, unless ordered to do so by the Court.

67 No service of documents

A party must not serve documents in the proceeding on another party, unless ordered to do so by the Court.

68 Notice of court DVO on consent

As soon as practicable after the Court makes a DVO on consent, a registrar must give a copy of it to:

- (a) the parties to the court DVO; and
- (b) the Commissioner.

Note for section 68

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Part 2.6 Variation and revocation of court DVO

Division 1 Power to vary or revoke court DVO

69 Order to vary or revoke court DVO

- (1) The Court may, by order, vary or revoke a court DVO:
 - (a) on an application made under Division 2; or
 - (b) on its own initiative.
- (2) An order under this Part may be made in relation to a court DVO made under:
 - (a) Part 2.4, Division 3; or
 - (b) Part 2.5, Division 2 or 5.

Note for section 69

This section Part does not apply to an interim court DVO made under section 64. See Part 2.5, Division 4 for the making of interim court DVOs.

Division 2 Application to vary or revoke

70 Who may apply for variation or revocation

- (1) Any of the following persons may apply to the Court for an order varying or revoking a court DVO:
 - (a) a protected person who is an adult or young person;
 - (b) a police officer or adult acting for a protected person;

- (c) if the protected person is a child:
 - (i) a child protection officer; or
 - (ii) a parent of the child, unless any parent is the respondent;
 - (d) the respondent;
 - (e) a person granted leave by the Court to make the application.
- (2) An application may be made by, or for, only one person even though more than one protected person is named as the protected person in the court DVO.
- (3) The respondent must not apply for the order without the leave of the Court.
- (4) The Court must not grant leave to the respondent unless satisfied that there is a substantial change in the circumstances related to the commission of domestic violence since the court DVO was made or last varied.
- (5) Without limiting subsection (4), a change in the circumstances related to the commission of domestic violence arises if:
- (a) there is a change in circumstances relating to affected children, including their care arrangements; or
 - (b) the respondent satisfactorily completes a rehabilitation program or a perpetrators' program.

71 Filing application

An application under section 70 must:

- (a) be made in the approved form; and
- (b) be filed in the Court.

72 Notice of hearing of application

As soon as practicable after the application is filed under section 71, a registrar must give written notice of the date and place for the hearing of the application to:

- (a) the parties to the court DVO; and
- (b) for a court DVO that was a police DVO confirmed by the Court under Part 2.4, Division 3 – the Commissioner.

Division 3 Court hearings for variation and revocation

73 Right to be heard before decision is made

The Court must not vary or revoke the court DVO unless the following persons have an opportunity to be heard on the matter of the variation or revocation:

- (a) persons who, in the Court's opinion, have a direct interest in the outcome;
- (b) for an application relating to a court DVO that was a police DVO confirmed by the Court under Part 2.4, Division 3 – the Commissioner.

74 Interim variation of court DVO

The Court may, during the hearing of an application for an order to vary or revoke a court DVO, make an interim order to vary the court DVO until the application is finally decided.

75 What must be considered before making order

In deciding whether to make an order to vary or revoke a court DVO under section 69 or to make an interim court order to vary a court DVO under section 74, the Court must consider the same matters required to be considered in deciding:

- (a) whether or not to make a DVO; and
- (b) the terms of a DVO.

Note for section 75

Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

76 Notice of order

As soon as practicable after the Court makes an order under section 69 or 74, a registrar must give to the parties to the court DVO and the Commissioner:

- (a) a copy of the order; and
- (b) if the court DVO is varied – a copy of the court DVO as varied.

Note for section 76

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Division 4 Special provisions for variation and revocation without hearing

77 Application of Division

This Division applies in relation to an application made under Division 2 for an order to vary or revoke a court DVO if:

- (a) the Court is satisfied that it is not practicable to comply with section 73; and
- (b) the protected person had an opportunity to be heard on the matter of the variation or revocation.

78 Deciding application

- (1) In deciding whether to make an order under this Division to vary or revoke a court DVO, the Court must consider the same matters required to be considered in deciding:

- (a) whether to make a DVO; and
- (b) the terms of a DVO.

Note for subsection (1)

Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

- (2) The Court may decide the application even if:
 - (a) the respondent was not given an opportunity to answer any allegation in it; and
 - (b) another person, other than a protected person who is an adult or a young person, has a direct interest in the outcome and did not have an opportunity to be heard on the matter.
- (3) Despite subsection (1), the Court may make an order varying or revoking the court DVO without complying with that subsection if the Court is satisfied that exceptional circumstances justify making the order.

79 Referral of application to Court

- (1) If a registrar is deciding an application under this Part, the registrar must refer the application to the Court for decision if:
 - (a) the registrar is not satisfied that an order should be made to vary or revoke the court DVO; or

- (b) the respondent appears at the hearing of the application and does not consent to an order being made.
- (2) On the referral by the registrar, the Court may:
 - (a) make the order sought; or
 - (b) direct that a further affidavit be filed; or
 - (c) give directions about the application.
- (3) If the Court directs the filing of a further affidavit, on its filing the registrar may make an order varying or revoking the court DVO.
- (4) A party must not serve documents in the proceeding on another party, unless ordered to do so by the Court.

80 Notice of order

As soon as practicable after making an order under this Division, a registrar must give the parties to the court DVO and the Commissioner:

- (a) a copy of the order; and
- (b) if the court DVO is varied – a copy of the court DVO as varied.

81 Order taken to be summons to appear before Court

The copy of the court DVO as varied given to the respondent under section 80 is taken to be a summons to the respondent to appear at a Court hearing, at the date and place shown on it, to show cause why the court DVO as varied should not be confirmed by the Court.

Note for section 81

Part 2.7 provides for the confirmation of court DVOs.

Division 5 Variation and revocation with consent of parties

82 Application of Division

This Division applies in relation to an application made under Division 2 for an order to vary or revoke a court DVO if the parties to the court DVO consent to the order.

82A When order may be made

The Court may make the order even if another person who has a direct interest in the outcome did not have an opportunity to be heard on the matter.

82B Referral of application to Court

- (1) If a registrar is deciding the application under this Division, the registrar must refer the application to the Court for decision if the registrar is not satisfied that an order should be made to vary or revoke the court DVO.
- (2) On the referral by the registrar, the Court may:
 - (a) make the order sought; or
 - (b) direct that a further affidavit be filed; or
 - (c) give directions about the application.
- (3) If the Court directs the filing of a further affidavit, on its filing the registrar may make an order varying or revoking the court DVO.
- (4) A party must not serve documents in the proceeding on another party, unless ordered to do so by the Court.

82C Notice of order

As soon as practicable after the Court makes an order varying or revoking the court DVO on consent, a registrar must give to the parties to the court DVO and the Commissioner:

- (a) a copy of order; and
- (b) if the court DVO is varied – a copy of the court DVO as varied.

Note for section 82C

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Part 2.7 Finalising court DVO on summons

82D Application of Part

This Part applies in relation to a court DVO if the respondent is summoned to appear before the Court under section 81 or 82Y to show cause why the court DVO should not be confirmed.

Note for section 82D

Section 81 deals with a summons to the respondent for court DVOs made without a hearing. Section 82Y deals with a summons to the respondent for court DVOs varied in urgent circumstances.

82E Parties to hearing

The following are parties to the hearing:

- (a) the protected person;
- (b) the respondent;
- (c) the Commissioner;
- (d) any other party allowed by the Court.

82F Decision at hearing

- (1) Subject to subsection (2), at the hearing, the Court may, by order:
 - (a) confirm the court DVO (with or without variation); or
 - (b) revoke the court DVO.
- (2) The Court must not confirm the court DVO unless:
 - (a) satisfied that the respondent was given a copy of the court DVO; and
 - (b) the Court considered any evidence before it and submissions from the parties to the court DVO.

82G Notice of order

As soon as practicable after the Court makes an order under section 82F, a registrar must give to the parties to the court DVO:

- (a) a copy of order; and
- (b) if the court DVO is varied – a copy of the court DVO as varied.

Note for section 82G

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Part 2.8 Extension of court DVO

82H When Court may extend court DVO

Despite section 27, the Court may, by order, extend a court DVO:

- (a) on an application made under section 82J(1); or
- (b) on its own initiative.

82J Application to extend duration of court DVO

- (1) A party may apply to the Court to extend the duration of a court DVO:
 - (a) for an interim period; or
 - (b) for a period specified in the application.
- (2) Despite section 27, within 6 months after the date of expiry specified in a court DVO, a party may apply to extend the duration of the court DVO for a period specified in the application.

82K How application is made

An application under section 82J(1) must:

- (a) be made in the approved form; and
- (b) be filed in the Court.

82L Notice of hearing of application

- (1) As soon as practicable after the application is filed under section 82J(1), a registrar must give written notice of the date and place for the hearing of the application to:
 - (a) the parties to the court DVO or each person who was a party to the expired court DVO; and
 - (b) for a court DVO that was a police DVO confirmed by the Court under Part 2.4, Division 3 – the Commissioner.
- (2) If the Court extends a court DVO on its own initiative, a registrar must give written notice of extension to:
 - (a) the parties to the court DVO or each person who was a party to the expired court DVO; and
 - (b) for a court DVO that was a police DVO confirmed by the Court under Part 2.4, Division 3 – the Commissioner.

82M What must be considered before extending court DVO

In deciding whether to extend the court DVO, the Court must consider the same matters that are required to be considered in deciding:

- (a) whether or not to make a DVO; and

- (b) the terms of a DVO.

Note for section 82M

Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

82N Decision of extension

- (1) Subject to subsection (2), the Court may extend a court DVO for a period specified in the application only if satisfied that there are reasonable grounds for the protected person to fear the respondent committing domestic violence:
- (a) when the court DVO expires; or
 - (b) if the court DVO is expired – while the court DVO is expired.
- (2) The order must specify a period of extension that commences on or after the day the Court makes the order.
- (3) The Court must not consider the following as indicating the absence of reasonable grounds for the protected person to fear the respondent committing domestic violence:
- (a) the respondent does not commit domestic violence while the court DVO is in force;
 - (b) without limiting paragraph (a), the respondent complies with the court DVO.

82P Interim extension of court DVO

- (1) At any time after an application is made under section 82J(1) the Court may extend the court DVO for an interim period.
- (2) The Court may extend the court DVO for an interim period:
- (a) even if the respondent does not appear at the hearing; or
 - (b) if the respondent appears at the hearing:
 - (i) before hearing the respondent's evidence; or
 - (ii) despite the respondent objecting to the order being made.
- (3) The interim extension of the court DVO is in force until the earlier of the following:
- (a) when it is revoked by the Court;

- (b) when a decision on the application is made under section 82N.

Note for subsection (3)

Under section 103H a court DVO can be superseded in certain circumstances by an interstate DVO that is a recognised DVO in the Territory.

82Q Notice of order

As soon as practicable after the Court extends the court DVO, a registrar must give the persons who received notice of the hearing under section 82L:

- (a) a copy of order; and
- (b) if the court DVO is extended – a copy of the court DVO as extended.

Note for section 82Q

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Part 2.9 Variation of court DVO or police DVO in urgent circumstances

82R DVOs to which Part applies

This Part applies in relation to the following DVOs:

- (a) a court DVO made under Part 2.4, Division 3, Part 2.5, Division 2 or 5 or Part 2.7;
- (b) a police DVO.

82S When application may be made

- (1) A police officer may apply to the Court for an order varying a DVO if:
- (a) in the case of a court DVO – it is not practicable to obtain an order varying the court DVO under Part 2.6 because of urgent circumstances; or
- (b) in the case of a police DVO – the terms of the police DVO should be varied before the hearing of the proceeding for the confirmation of the police DVO because of urgent circumstances.

- (2) For subsection (1), the police officer must not make the application unless satisfied that there is a substantial change in the circumstances related to the commission of domestic violence since the DVO was made or last varied.
- (3) Without limiting subsection (2), a change in the circumstances related to the commission of domestic violence arises if:
 - (a) there is a change in circumstances relating to affected children, including their care arrangements; or
 - (b) the respondent satisfactorily completes a rehabilitation program or a perpetrators' program.

82T How application is made

- (1) An application under section 82S may be made by telephone or any form of electronic communication.
- (2) The police officer must:
 - (a) before making the application, complete the approved form by stating the grounds on which the variation of the DVO is sought; and
 - (b) subsequently record on the form any additional information given to the Court orally.

82U Deciding application

- (1) In deciding whether to make an order varying a DVO, the Court must consider the same matters required to be considered in deciding:
 - (a) whether to make a DVO; and
 - (b) the terms of a DVO.

Note for subsection (1)(a)

Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

- (2) The Court may by order:
 - (a) vary the DVO; or
 - (b) refuse to vary the DVO.

- (3) The Court may decide the application even if:
 - (a) the respondent was not given an opportunity to answer any allegation in it; or
 - (b) another person who has a direct interest in the outcome did not have an opportunity to be heard on the matter.

82V What Court must do if application is refused

If the Court refuses to make an order varying the DVO, the Court must:

- (a) record the reasons for the decision; and
- (b) inform the police officer who applied for the order of those reasons.

82W What Court must do if variation order is made

- (1) If the Court makes an order varying the DVO, the Court must record on the order:
 - (a) the reasons for making it; and
 - (b) the date and place for the Court hearing for confirmation of the DVO as varied.
- (2) The time for the Court hearing for confirmation of the DVO as varied must be as soon as practicable after the variation order is made.
- (3) The Court must inform the police officer who applied for the order:
 - (a) of the terms of the order; and
 - (b) of the reasons for making it; and
 - (c) the date and place for the Court hearing for confirmation of the DVO as varied.

82X What police officer must do when variation order is made

- (1) If the Court makes an order varying the DVO, the police officer who applied for the order must:
 - (a) complete a form of order as directed by the Court, setting out the variation to the DVO; and

- (b) write on the order:
 - (i) the name of the Judge; and
 - (ii) the date and time it is made.
- (2) As soon as practicable after completion of the order, the police officer must:
 - (a) give a copy of the DVO as varied to the parties to the DVO; and
 - (b) give a copy of it to the Court.

Note for subsection (2)(a)

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

- (3) For subsection (2)(b), the police officer may give a copy of the order to the Court by means of electronic communication.

82Y Order taken to be summons to appear before Court

If the Court makes an order varying the DVO under section 82U(2)(a), the copy of the order given to the respondent is taken to be a summons to the respondent to appear at a Court hearing, at the date and place shown on it, to show cause why the DVO should not be confirmed by the Court.

Note for section 82Y

Part 2.4, Division 3 provides for the confirmation of police DVOs and Part 2.7 provides for the confirmation of court DVOs.

Part 2.10 DVOs made by courts in criminal proceedings

83 Power of court if person guilty of related offence

- (1) If a person before a court pleads guilty to, or is found guilty of, an offence that involves committing domestic violence, the court must consider whether or not to make a DVO against the person.
- (2) The court may make a DVO against the person if satisfied that a court DVO could be made against the person under Part 2.5.
- (3) In considering whether or not to make a DVO under subsection (2), the court may invite submissions from the parties and the prosecutor.
- (4) Despite section 48(3)(a), if the person is summoned to appear before the Court to show cause why a police DVO should not be

confirmed and the court decides to make a DVO under subsection (2), the court may confirm the police DVO (with or without variation) without complying with section 48.

- (5) If a DVO is already in force against the person, the court:
- (a) must consider the DVO and whether, in the circumstances, the DVO should be varied, including by varying the date the DVO ends; and
 - (b) may vary the DVO if the court considers it necessary.
- (6) As soon as practicable after a DVO is made under subsection (2), confirmed under subsection (4) or varied under subsection (5)(b), the court must give a copy of it to:
- (a) the parties to the DVO; and
 - (b) the Commissioner.

Note for subsection (6)

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Part 2.11 Special police powers

84 Power to remove and detain

- (1) This section applies if:
- (a) a police officer reasonably believes:
 - (i) grounds exist for making a DVO against a person; and
 - (ii) it is necessary to remove the person to prevent an imminent risk of harm to another person or damage to property, including the injury or death of an animal; or
 - (b) a DVO has been made against a person and a police officer reasonably believes it is necessary to detain the person to give the person a copy of the DVO; or
 - (c) a DVO has been made against a person and a police officer reasonably believes it is necessary to detain the person until an application for the variation of the DVO can be made and decided under Part 2.9.

- (2) The police officer may, using reasonable force or assistance, do the following:
 - (a) enter premises on or in which the officer reasonably believes the person to be;
 - (b) take the person into custody;
 - (c) remove the person to the nearest police station or other place where the person can be conveniently detained to facilitate:
 - (i) if subsection (1)(a) applies – the making of a DVO and, if made, the giving of a copy of the DVO to the respondent; or
 - (ii) if subsection (1)(b) applies – the giving of a copy of the DVO to the respondent; or
 - (iii) if subsection (1)(c) applies – the making of an application for a variation of the DVO and, if varied, the giving of a copy of the varied DVO to the respondent.
- (3) Subject to subsection (4), the person must not be detained for more than 4 hours after being taken into custody.
- (4) The person may be detained for a longer time if a police officer is satisfied it is necessary to do so to enable a police officer to properly give a copy of the DVO to the person because of the person's apparent intoxication.
- (5) However, the person may be detained for more than 6 hours after being taken into custody only if a police officer:
 - (a) is satisfied the person is still intoxicated; and
 - (b) informs a senior police officer of the need to continue to detain the person; and
 - (c) records the following information about the person's continued detention in the custody log (however described):
 - (i) the time and way the officer informed the senior police officer;
 - (ii) the details of the information given to the senior police officer; and
 - (d) arranges for a health practitioner (the **examining health practitioner**) to examine the person as soon as practicable.

- (6) The senior police officer must ensure the person is released from custody:
- (a) into the care of a health practitioner if, on examination, the examining health practitioner is satisfied the person's condition requires medical treatment; or
 - (b) on the earlier of the following:
 - (i) the person ceases to be intoxicated;
 - (ii) 10 hours after being taken into custody.

- (7) In this section:

health practitioner means:

- (a) a medical practitioner; or
- (b) a person registered under the Health Practitioner Regulation National Law to practise in the nursing profession (other than as a student); or
- (c) a person registered under the Health Practitioner Regulation National Law to practise in the Aboriginal and Torres Strait Islander health practice profession (other than as a student).

intoxication means intoxication because of the influence of alcohol, a drug or another substance or any combination of them.

senior police officer means a police officer of or above the rank of superintendent.

85 Retrieval of respondent's personal property

- (1) This section applies if:
- (a) a DVO includes a premises exclusion order; and
 - (b) personal property of the respondent is located on the premises the subject of the order.
- (2) The respondent may, if accompanied by a police officer:
- (a) enter the premises at any reasonable time; and
 - (b) retrieve the property.
- (3) The respondent is not in contravention of the DVO merely because of entry of the premises and retrieval of the property under subsection (2).

- (4) The police officer may use reasonable force or assistance for the entry of the premises and retrieval of the property.

85AA Retrieval of protected person's personal property

- (1) If personal property of the protected person or a child of the protected person or child usually residing with the protected person is located on premises occupied by the respondent, the respondent must permit the protected person to:
 - (a) enter the premises at any reasonable time; and
 - (b) retrieve the property.
- (2) The protected person must be accompanied by a police officer.
- (3) To avoid doubt, the respondent is not in contravention of the DVO merely because of entry of the premises and retrieval of the property under subsection (1).
- (4) The police officer may use reasonable force and assistance for the entry of the premises and retrieval of the property.

Part 2.11A Rehabilitation programs

85A Declaration of rehabilitation program

- (1) The Minister may, by *Gazette* notice, declare a program to be a rehabilitation program for this Act if the primary objective of the program is to change the behaviour of a person who commits domestic violence to:
 - (a) reduce and prevent the person committing domestic violence; and
 - (b) increase the safety and protection of persons with whom the person is or may be in a domestic relationship; and
 - (c) ensure the person accepts responsibility for the person's behaviour.
- (2) The notice must specify the requirements of the program.

Examples for subsection (2)

- 1 *That the respondent attend 16 weekly group sessions during a 5 month period.*
- 2 *That the respondent attend individual meetings with the program facilitator on request.*

3 *That the respondent agree to independent checks on the safety of the protected person while the respondent is participating in the program.*

85B Satisfactory completion of rehabilitation program

- (1) A respondent who is ordered to attend a rehabilitation program is considered to have satisfactorily completed the program if:
 - (a) the respondent did not breach a DVO in force; and
 - (b) the respondent did not commit any further domestic violence; and
 - (c) the respondent did not commit an offence specified in Schedule 2 or 3 to the *Sentencing Act 1995* after the order was made; and
 - (d) the Court receives a completion notice under section 85D(3)(a).
- (2) Despite subsection (1), the Court has discretion to find that a respondent did satisfactorily complete a rehabilitation program if the Court is of the opinion that to find that the respondent did not satisfactorily complete the program would be unjust in the circumstances.
- (3) The Court may make a finding under subsection (2) despite receiving one or more non-compliance notices regarding the respondent under section 85D(3)(b).
- (4) The Court must state its reasons for any finding made under subsection (2).

85C Failure to comply with rehabilitation program

If a respondent who is ordered to attend a rehabilitation program fails to comply with a requirement of the program, the failure does not constitute a contravention of the DVO under section 120.

85D Notification obligations of program facilitator

- (1) A program facilitator must notify both the police and the Court if the facilitator:
 - (a) becomes aware of a respondent committing domestic violence while the respondent is subject to an order to attend a rehabilitation program; or
 - (b) becomes aware of a respondent engaging in conduct that contravenes a DVO while the respondent is subject to an order to attend a rehabilitation program; or

- (c) believes on reasonable grounds that a respondent who is subject to an order to attend a rehabilitation program may present an unacceptable risk to the safety or welfare of the protected person or any other person.
- (2) The notice must be in writing and include the particulars of the respondent's conduct of which the program facilitator is aware.
- (3) A program facilitator must provide the following to the Court:
 - (a) if a respondent satisfactorily completes the requirements of a rehabilitation program – a completion notice;
 - (b) if a respondent fails to comply with a requirement of a rehabilitation program – a non-compliance notice;
 - (c) if requested by the Court – a participation notice summarising the respondent's participation in a rehabilitation program.

85E Bringing respondent before Court for review

- (1) The Court may require a respondent who is ordered to attend a rehabilitation program to appear before it from time to time for a review of the respondent's progress in the program.
- (2) The Court may request the program facilitator to provide a participation notice under section 85D(3)(c) for a respondent prior to a review under subsection (1).
- (3) If the Court receives a non-compliance notice from a program facilitator under section 85D(3)(b), the Court must require the respondent to appear before it for a review of the respondent's progress in a rehabilitation program.

85F Additional power to bring respondent before Court

- (1) The Court may issue a summons or warrant under subsection (2) if:
 - (a) the Court is satisfied that the respondent significantly failed to comply with the requirements of a rehabilitation program; or
 - (b) the respondent fails to attend a review under section 85E; or
 - (c) the Court believes that the respondent may present a risk to the safety of the protected person or any other person.
- (2) The Court may:
 - (a) issue a summons for the respondent to appear before the Court; or

- (b) if satisfied the respondent may not appear – issue a warrant for the arrest of the respondent.
- (3) The summons or warrant may be issued on the Court's initiative or on application.

85G Revocation of order for rehabilitation program

The Court may revoke an order under section 24(1) requiring a respondent to attend a rehabilitation program if satisfied on the balance of probabilities that:

- (a) the respondent is unlikely or unable to make any further progress under the order; or
- (b) there is an unacceptable risk to the safety or welfare of the protected person or any other person.

Part 2.12 Miscellaneous matters

86 DVO may be made regardless of criminal proceeding

A DVO may be made even if a criminal proceeding has been started against the respondent in relation to the domestic violence to which the DVO relates.

87 DVO not to affect other liability

The making of a DVO does not affect the civil or criminal liability of the respondent in relation to the domestic violence to which the DVO relates.

88 Requirement to give documents to protected person

- (1) This section applies if, under this Part, a court, a registrar or a police officer is required to give a document or information to the protected person named in a DVO.
- (2) If there is more than 1 protected person, the document or information must be given to each of them.
- (3) However, the requirement applies only if the protected person is an adult or young person.

Example for section 88

Under section 63, a registrar is required to give a copy of a court DVO to the parties to the DVO. Accordingly, the registrar must give a copy of the DVO to each of the protected persons named in the DVO or the person acting for them if they are adults or young persons.

89 Explanation of court DVO

- (1) If a court confirms a police DVO under Part 2.4, Division 2 or 3 or makes or varies a court DVO under Parts 2.5 to 2.10, an explanation of the DVO must be given to any protected person and respondent present, in matters for which the Court considers it necessary.
- (1A) As far as it is reasonably practicable to do so, the explanation given under this section must be given in a language (using an interpreter if required) or in terms that are likely to be readily understood by the protected person and respondent.
- (2) The issuing authority must explain to the protected person or respondent:
 - (a) the effect of the DVO, including:
 - (i) any restraints, prohibitions, obligations or requirements imposed by the DVO; and
 - (ii) the DVO may be registered and enforced, without notice to the respondent, in New Zealand; and
 - (iii) the DVO may be enforced, without notice to the respondent, in a State or another Territory that is a participating jurisdiction; and
 - (b) the consequences that may follow if the respondent contravenes the DVO, including that contravening a DVO is an offence against section 120(1); and
 - (ba) the duration of the DVO; and
 - (c) the way the DVO may be varied or revoked.
- (3) As far as it is reasonably practicable to do so, the explanation must be given in a language or in terms that are likely to be readily understood by the person being given the explanation.
- (4) A failure to comply with this section for a DVO does not affect its validity.

90 Family law orders

- (1) The applicant for a DVO must inform the issuing authority of:
 - (a) any family law orders the person knows to be in force in relation to the respondent; and

- (b) any applications for family law orders in relation to the respondent the person knows are pending.
- (2) If a police officer is considering making a police DVO:
- (a) the officer must make reasonable inquiries about the existence or otherwise of:
 - (i) any family law orders in force in relation to the respondent; and
 - (ii) any pending applications for family law orders in relation to the respondent; and
 - (b) a person must, if asked to do so by the officer, inform the officer of any such family law orders or applications.
- (3) A decision of an issuing authority is not invalid merely because of the failure of a person to give information under subsection (1) or (2)(b).

91 Costs

If the Court refuses an application to make a DVO or an order varying a DVO, it must not award costs against the applicant unless it is satisfied the application for the DVO or variation was unreasonable and in bad faith.

91B Registrar exercises powers as delegate of Court

- (1) This section applies in relation to the exercise, by a registrar, of a power under this Act to make, vary or revoke a DVO.
- (2) In exercising the power the registrar is acting as a delegate of the Court.
- (3) The decision of the registrar is a decision of the Court.

Chapter 3 External orders

Part 3.1 Preliminary matters

92 Objects of Chapter

The objects of this Chapter are to provide for:

- (a) the registration of external orders, and the variation of registered external orders, for their effective operation in the Territory; and
- (b) the revocation of registered external orders.

Part 3.2 Registration of orders

93 Application for registration

- (1) Any of the following persons may apply to the Court for the registration of an external order:
 - (a) the protected person named in the order;
 - (b) a police officer or adult on behalf of the protected person.
- (2) The application must:
 - (a) be made in the approved form; and
 - (b) be accompanied by:
 - (i) a copy of the order; and
 - (ii) evidence the order has been given to the respondent.

94 Registration

- (1) On receipt of the application, a registrar must:
 - (a) register the external order; or
 - (b) refer the order to the Court for modification.
- (2) On the referral, the Court may make the modifications to the order the Court considers necessary or desirable for its effective operation in the Territory.
- (3) The registrar must register the modified external order.

95 Notice of registration

- (1) On registering the order, the registrar must:
 - (a) give notice of registration of the order or modified order to:
 - (i) the protected person; and
 - (ii) the applicant if the application was not made by the protected person or a police officer; and
 - (iii) the registrar of the court that made the order; and
 - (b) give the Commissioner a copy of the registered order.
- (2) The registrar must not give notice of the registration of the order or a copy of the registered order to the respondent without the consent of the applicant.

96 Period of registration

The external order is registered for the period during which it is in force in the jurisdiction in which it was made.

97 Effect of registration

- (1) The registered external order is taken to be a court DVO that has been properly given to the respondent on the date it is registered.
- (2) Subsection (1) does not apply to a variation or revocation of a registered external order if the order is a recognised DVO under Chapter 3A and the variation or revocation is recognised in the Territory under that Chapter.

Part 3.3 Variation and cancellation of registered external orders

98 Application for variation or cancellation of order

Any of the following persons may apply to the Court for the registration of the variation or cancellation of a registered external order:

- (a) the protected person named in the order;
- (b) a police officer or adult on behalf of the protected person;
- (c) the respondent.

99 How application is dealt with

- (1) Part 3.2 applies (with the necessary changes) in relation to the application as if it were an application under the Part.
- (2) Subsection (1) has effect subject to section 100.

100 Notice of registration

A registrar must give notice of the registration of the order to the respondent if the respondent made the application.

Chapter 3A National recognition of domestic violence orders

Part 3A.1 Preliminary matters

101 Objects of Chapter

The object of this Chapter is to establish, in conjunction with the corresponding laws, a national recognition scheme for DVOs (domestic violence orders).

102 Definitions

In this Chapter:

corresponding law means:

- (a) a law of another jurisdiction that contains provisions that substantially correspond with this Chapter; or
- (b) a law of another jurisdiction prescribed by regulation to be a corresponding law for the purposes of this Chapter.

domestic violence concern, see section 103C.

domestic violence order means a local DVO, an interstate DVO or a foreign order.

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

foreign order means a New Zealand DVO.

general violence order means:

- (a) an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* (SA); or
- (b) a violence restraining order made under the *Restraining Orders Act 1997* (WA), other than:
 - (i) a violence restraining order made under section 11B of that Act; or
 - (ii) a police order under that Act.

interim DVO, means a DVO that is of an interim or provisional nature and, to avoid doubt, includes the following:

- (a) any DVO made by a police officer;

(b) any order declared by the regulations to be an interim DVO.

interstate DVO, see section 103A.

interstate law enforcement agency means:

- (a) the police force of another jurisdiction; or
- (b) any other agency of another jurisdiction responsible for the enforcement of DVO's in that jurisdiction; or
- (c) any other agency of another jurisdiction or the Commonwealth approved by the Minister and responsible for managing information for law enforcement purposes.

issuing authority also includes a court or person with power to make, vary or revoke a DVO under the law of a participating jurisdiction.

issuing jurisdiction, for a DVO, means the jurisdiction in which the DVO is made.

jurisdiction means a State or Territory.

local DVO, see section 103.

local law enforcement agency means:

- (a) the Police Force; or
- (b) any other agency of the Territory responsible for the enforcement of DVOs in the Territory.

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

non-local DVO means an interstate DVO or a foreign order.

participating jurisdiction means the following jurisdictions:

- (a) the Territory;
- (b) a jurisdiction in which a corresponding law is enacted.

properly notified, see section 103L.

protected person means a person for whose protection or benefit a DVO is made.

recognised DVO, see sections 103E and 103ZH.

recognised variation, see section 103F.

registered foreign order, see section 103B.

103 Local DVO

- (1) A **local DVO** means a court DVO or police DVO.
- (2) A registered foreign order is not a local DVO.

103A Interstate DVO

- (1) Each of the following is an **interstate DVO**:
 - (a) a family violence order under the *Family Violence Act 2016* (ACT);
 - (b) an apprehended domestic violence order or an interim apprehended domestic violence order under the *Crimes (Domestic and Personal Violence) Act 2007* (NSW);
 - (c) a domestic violence order or police protection notice under the *Domestic and Family Violence Protection Act 2012* (Qld);
 - (d) an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) that addresses a domestic violence concern;
 - (e) a family violence order (FVO), interim FVO or police family violence order (PFVO) under the *Family Violence Act 2004* (Tas);
 - (f) a family violence intervention order or a family violence safety notice under the *Family Violence Protection Act 2008* (Vic);
 - (g) the following orders under the *Restraining Orders Act 1997* (WA):
 - (i) a violence restraining order that addresses a domestic violence concern;
 - (ii) any violence restraining order made under section 11B of that Act;
 - (iii) a police order;
 - (h) an order of a State or another Territory prescribed by regulation;

- (i) an order under a law of a State or another Territory repealed by a law mentioned in paragraphs (a) to (h) if the repealed law provided for an order to protect a person in a relationship corresponding to a domestic relationship.
- (2) A registered foreign order is not an interstate DVO.

103B Registered foreign order

A **registered foreign order** means a foreign order that is:

- (a) a registered external order under this Act; or
- (b) a registered external protection order under Part 13 of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW); or
- (c) a registered interstate order under the *Domestic and Family Violence Protection Act 2012* (Qld); or
- (d) a foreign intervention order registered under Part 4 of the *Intervention Orders (Prevention of Abuse) Act 2009* (SA); or
- (e) an external family violence order registered under section 27 of the *Family Violence Act 2004* (Tas); or
- (f) a corresponding New Zealand order registered under Part 10 of the *Family Violence Protection Act 2008* (Vic); or
- (g) a foreign restraining order registered under Part 7A of the *Restraining Orders Act 1997* (WA); or
- (h) an order under a law of a State or another Territory prescribed by regulation; or
- (i) an order of a law of a State, another Territory or New Zealand repealed by a law mentioned in paragraphs (a) to (g) if the repealed law provided for registration of an order to protect a person in a relationship corresponding to a domestic relationship.

103C Domestic violence concerns – SA and WA orders

- (1) An intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) addresses a **domestic violence concern** if the order is made because it is reasonable to suspect that the respondent will, without intervention, commit an act of domestic violence (within the meaning of that Act).
- (2) A violence restraining order under the *Restraining Orders Act 1997* (WA) addresses a **domestic violence concern** if the order is made

because the respondent has committed, or because it is feared the defendant will commit, an act of family and domestic violence (within the meaning of section 6 of that Act).

- (3) For this Chapter, a general violence order is taken to be an order that addresses a **domestic violence concern** if:
- (a) it is declared to be an order that addresses a **domestic violence concern** by the issuing authority that makes the order; or
 - (b) a registrar of a court of the jurisdiction in which the order was made makes an order declaring the DVO to be a recognised DVO in that jurisdiction.
- (4) For this Chapter, the regulations may prescribe circumstances in which an order made in a participating jurisdiction is taken to be an order that addresses a **domestic violence concern**.

103D Special provisions for foreign orders

- (1) For this Chapter, a registered foreign order:
- (a) is taken to be made in the jurisdiction in which it is registered as a registered foreign order; and
 - (b) is taken to be made when it becomes a registered foreign order in that jurisdiction.
- (2) For this Chapter, a registered foreign order is varied or revoked if its registration as a registered foreign order is varied or revoked.
- (3) A power conferred by this Chapter to vary or revoke a registered foreign order is a power to vary or revoke registration of the order as a registered foreign order.

Part 3A.2 National recognition of DVOs

Division 1 General principles

103E Recognition of DVOs

- (1) Each of the following DVOs is a **recognised DVO** in the Territory:
- (a) a local DVO;
 - (b) an interstate DVO made in a participating jurisdiction;

- (c) a foreign order that is a registered foreign order in any participating jurisdiction.

Notes for subsection (1)

- 1 *Recognition by way of a declaration by a registrar can also extend to DVOs made in jurisdictions that are not, or are not yet, participating jurisdictions. See Part 3A.6.*
- 2 *An interstate DVO made after commencement will be recognised in the Territory if it is made in a participating jurisdiction. Additionally, an interstate DVO made before commencement will be recognised in the Territory if, under the law of a participating jurisdiction, it is a recognised DVO.*

- (2) Subject to this Chapter, a DVO becomes a recognised DVO when it is made.

Note for subsection (2)

- 1 *Under section 97, a foreign order is taken to be made when it is registered as a registered foreign order.*
- 2 *Under section 103J, a police DVO made where there is a recognised DVO in force in relation to the same respondent and protected person does not become recognised until it is confirmed by a court under section 82.*

- (3) Subject to this Chapter, a DVO is a recognised DVO for the period for which it remains in force in the jurisdiction in which it is made.

103F Variations to DVO

- (1) A variation to a recognised DVO that is done in the Territory or another jurisdiction is a **recognised variation** in the Territory in the circumstances provided for by this section.
- (2) A variation to a local DVO is a recognised variation in the Territory if the variation is done:
 - (a) in the Territory by a court or any other person authorised to do so under this Act; or
 - (b) in another participating jurisdiction by a court under a corresponding law.
- (3) A variation to an interstate DVO or foreign order is a recognised variation in the Territory if the variation is done:
 - (a) in the issuing jurisdiction by a court or any other person authorised to do so under the law of the issuing jurisdiction; or

- (b) in any participating jurisdiction by a court under this Chapter or a corresponding law.

Note for subsection (3)

Under section 103D, the issuing jurisdiction for a foreign order is taken to be the jurisdiction in which the order is registered.

- (4) A variation is recognised from the time it is done.

103G Revocation of recognised DVO

- (1) A DVO ceases to be a recognised DVO if the DVO is revoked in the Territory or another jurisdiction and that revocation is recognised in the Territory.
- (2) A revocation of a local DVO is recognised in the Territory if the revocation is done:
- (a) in the Territory by a court or any other person authorised to do so under this Act; or
 - (b) in another participating jurisdiction by a court under a corresponding law.
- (3) A revocation of an interstate DVO or foreign order is recognised in the Territory if the revocation is done:
- (a) in the issuing jurisdiction by a court or any other person authorised to do so under the law of the issuing jurisdiction; or
 - (b) in any participating jurisdiction by a court under this Chapter or a corresponding law.
- (4) The DVO ceases to be a recognised DVO from the time it is revoked.

103H Recognised DVO prevails over earlier comparable DVOs

- (1) A recognised DVO that is enforceable against a defendant in the Territory (a **new DVO**) supersedes:
- (a) any comparable recognised DVO made earlier than the new DVO; and
 - (b) any comparable local DVO made earlier than the new DVO (whether or not the local DVO is a recognised DVO).
- (2) The earlier comparable DVO is superseded from the time the recognised DVO becomes enforceable against the defendant.

- (3) A recognised DVO that is superseded ceases to be a recognised DVO.
- (4) A local DVO that is superseded is revoked.
- (5) A DVO is not superseded to the extent that it relates to a protected person who is not a protected person under the new DVO.
- (6) Accordingly, a DVO continues to be a recognised DVO, and to have effect, to the extent that it relates to a person who is not a protected person under the new DVO.
- (7) A DVO made by a police officer does not supersede a comparable DVO made by a court (of any jurisdiction).
- (8) 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 one or more of the same protected persons.

103J Making of new orders

- (1) Nothing in this Chapter prevents a person from applying for, or an issuing authority from making, a local DVO even though there is a recognised DVO in force that applies to the same respondent.
- (2) However, if a police officer makes a police DVO that applies to a respondent and protected person and there is a recognised DVO in force that applies to the same respondent and protected person (**existing comparable DVO**), the police DVO is not a recognised DVO for section 103E until it is confirmed under section 82.
- (3) If a police officer makes a police DVO that provides additional protections for a protected person over and above the protections provided for the person by an existing comparable DVO, the police DVO can be enforced in the Territory to the extent of the additional protections.
- (4) Subsection (3) applies until one of the following occurs:
 - (a) a later recognised DVO that applies to the same respondent and protected person comes into force;
 - (b) the police DVO is confirmed (with or without variations);
 - (c) the police DVO is revoked.

Division 2 Enforcement of recognised DVOs

103K Recognised DVOs and variations are enforceable against respondent

- (1) A recognised DVO, or a recognised variation to a recognised DVO, is enforceable against the respondent in the Territory.
- (2) A recognised DVO that is a local DVO becomes enforceable against the respondent in the Territory when the respondent is properly notified of the making of the DVO under the law of the Territory.
- (3) A recognised DVO that is a non-local DVO (other than a foreign order) becomes enforceable against a respondent in the Territory when the respondent is properly notified of the making of the DVO under the law of the jurisdiction in which the DVO was made.
- (4) A recognised DVO that is a foreign order becomes enforceable against a respondent in the Territory from the time it becomes a recognised DVO.
- (5) A recognised variation to a recognised DVO becomes enforceable against the respondent in the Territory when the respondent is properly notified of the variation under the law of the jurisdiction in which the variation is done.

103L Meaning of *properly notified*

- (1) The making of a local DVO is ***properly notified*** under the law of the Territory if:
 - (a) the respondent is given a copy of the DVO; or
 - (b) the DVO is made by a court and the respondent is present in court when the DVO is made.
- (2) The making of an interstate DVO is ***properly notified*** under the law of the jurisdiction in which it is made in the circumstances provided for by the corresponding law of that jurisdiction.
- (3) A variation to a recognised DVO that is done in the Territory is ***properly notified*** under the law of the Territory if:
 - (a) the respondent is given a copy of the variation; or
 - (b) the variation is done by a court and the respondent is present in court when the DVO is varied.

- (4) A variation to a recognised DVO that is done in another jurisdiction is **properly notified** under the law of that jurisdiction in the circumstances provided for by the corresponding law of that jurisdiction.

103M Contravention of enforceable recognised DVO

- (1) A non-local DVO that is a recognised DVO and which is enforceable against a respondent in the Territory may be enforced in the Territory:
- (a) as if it were a local DVO; and
 - (b) as if the respondent had been properly notified of the making of the DVO under the law of the Territory.
- (2) A recognised variation to a non-local DVO that is a recognised DVO and which is enforceable in the Territory may be enforced in the Territory as if it were a variation to a local DVO.
- (3) A recognised variation to a recognised DVO made in another jurisdiction that is enforceable against the respondent in the Territory may be enforced as if the respondent had been properly notified of the variation under the law of the Territory.
- (4) This section does not affect any law of the Territory that requires a geographical nexus to exist between the Territory and an offence for a person to be guilty of an offence under the law of the Territory.

Division 3 Enforcement of non-local DVOs

103N Non-local DVO to be treated as local DVO

- (1) A recognised DVO that is a non-local DVO has the same effect in the Territory as a local DVO.
- (2) A prohibition, restriction or condition imposed by a non-local DVO has the same meaning as it would have in the jurisdiction in which the DVO was made, but may be enforced in the Territory as if it were a prohibition, restriction or condition of a local DVO.

103P Licences, permits and other authorisations

- (1) A law of the Territory (a **relevant law**) that restricts the grant of an authorisation, or that authorises or requires an authorisation to be suspended or revoked, if a person is or has been subject to a local DVO extends to a person who is or has been subject to any non-local DVO that is a recognised DVO (as if the non-local DVO were a local DVO).

- (2) For the purposes of a relevant law:
- (a) a non-local DVO that is a final DVO is to be treated in the same way as a local DVO that is a final DVO; and
 - (b) a non-local DVO that is an interim DVO is to be treated in the same way as a local DVO that is an interim DVO.

- (3) In this section:

authorisation includes a licence or permit.

grant includes issue.

103Q Recognition of disqualification to hold firearms licence

- (1) If a non-local DVO that is a recognised DVO disqualifies a person from holding a non-local firearms licence, or type of non-local firearms licence, the person is also disqualified from holding a local firearms licence or local firearms licence of the same type (as the case requires).
- (2) The Commissioner of Police must revoke any local firearms licence held by a person, or refuse to issue a local firearms licence to a person, if the person is disqualified from holding the firearms licence by a recognised DVO.
- (3) A recognised DVO disqualifies a person from holding a non-local firearms licence if the DVO expressly:
- (a) disqualifies the person from holding a non-local firearms licence or type of non-local firearms licence; or
 - (b) revokes or requires the person to surrender a non-local firearms licence or type of non-local firearms licence held by the person.
- (4) In this section:

local firearms licence means a licence, permit or authorisation under the *Firearms Act 1997*.

non-local firearms licence means a licence, permit or other authorisation to possess a firearm (within the meaning of the *Firearms Act 1997*) issued under the law of another jurisdiction or country.

103R Recognition of disqualification to hold weapons licence

- (1) If a non-local DVO that is a recognised DVO disqualifies a person from holding a non-local weapons licence or type of non-local weapons licence, the person is also disqualified from holding a local weapons licence or local weapons licence of the same type (as the case requires).
- (2) The Commissioner of Police must revoke any local weapons licence held by a person, or refuse to issue a local weapons licence to a person, if the person is disqualified from holding the weapons licence by a recognised DVO.
- (3) A recognised DVO disqualifies a person from holding a non-local weapons licence or type of non-local weapons licence if the DVO expressly:
 - (a) disqualifies the person from holding a non-local weapons licence or type of non-local weapons licence; or
 - (b) revokes or requires the person to surrender a non-local weapons licence or type of non-local weapons licence held by the person.
- (4) In this section:

local weapons licence means a licence, permit or other authorisation under the *Weapons Control Act 2001*.

non-local weapons licence means a licence, permit or other authorisation to possess a prohibited weapon (within the meaning of the *Weapons Control Act 2001*) issued under the law of another jurisdiction or country.

103S Orders for costs

- (1) A non-local DVO, to the extent that it requires the payment of money, cannot be enforced in the Territory.
- (2) The recognition of a DVO made in another jurisdiction does not confer power on a court or tribunal of the Territory to award costs in respect of any proceedings relating to the DVO that occurred in another jurisdiction.
- (3) This section does not prevent a court or tribunal awarding costs in respect of any proceedings in the Territory relating to the variation or revocation of a recognised DVO.

Part 3A.3 Variation and revocation of recognised non-local DVOs

103T Definition

In this Part:

court means the Local Court, as constituted by a Local Court Judge, or the Supreme Court.

103U Power of court to vary or revoke recognised non-local DVOs

- (1) A court may vary or revoke a recognised DVO that is a non-local DVO in accordance with this Part as if the DVO were a local DVO.
- (2) A court cannot vary or revoke a non-local DVO if it is a kind of DVO that cannot be varied or revoked by a court in the jurisdiction in which the DVO was made.
- (3) A variation to, or revocation of, a recognised DVO that is done under this Part is not limited in its operation to the Territory.
- (4) This Part does not apply to the variation or revocation of a foreign order that is registered as a registered foreign order in the Territory.

Note for subsection (4)

Foreign orders registered in the Territory (referred to as registered external orders in Chapter 3) can be varied or cancelled under Part 3.3.

- (5) To avoid doubt, if a court varies a recognised DVO that was made in another jurisdiction, the other jurisdiction continues to be treated, for the purpose of this Chapter, as the jurisdiction in which the DVO was made.

103V Application for variation or revocation of recognised non-local DVO

- (1) An application for the variation or revocation of a recognised DVO that is a non-local DVO may be made to a court as if it were an application for variation or revocation of a local DVO by any person who would be able to make the application if the DVO were a local DVO.
- (2) An application:
 - (a) is to be made to a court that would have power to hear the application if the DVO were a local DVO; and
 - (b) is to be made in accordance with any requirements that would apply if the DVO were a local DVO; and

- (c) may be dealt with (subject to this Part) as if the DVO were a local DVO.

103W Decision about hearing an application

- (1) A court that deals with an application for variation or revocation of a non-local DVO may decide to hear the application or decline to hear the application.
- (2) In making that decision, the court may consider the following matters (to the extent relevant):
- (a) the jurisdiction in which the respondent and the protected person or persons under the DVO generally reside or are employed;
 - (b) any difficulty another party to the proceedings may have in attending the proceedings;
 - (c) whether there is sufficient information available to the court in relation to the DVO and the basis on which it was made;
 - (d) whether any proceedings are being taken in respect of an alleged contravention of the DVO and the jurisdiction in which those proceedings are being taken;
 - (e) the practicality of the applicant (if not the respondent under the DVO) applying for and obtaining a local DVO against the respondent 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 decline to hear an application, the court may decline to hear the application if the court is satisfied that there has been no material change in the circumstances on which the making of the order was based and that the application is in the nature of an appeal against the order.
- (4) For the purposes of exercising its functions under this Part, a court may have regard to any information that the court considers relevant about the making or variation of a DVO that is provided by an issuing authority of any other jurisdiction.

Note for subsection (4)

Part 3A.4 enables the court to obtain information about DVOs from other jurisdictions.

- (5) A court must refuse to hear an application made by the respondent during any period in which, under the law of the issuing jurisdiction for the DVO, the respondent is not entitled to apply for the variation or revocation of the DVO in the issuing jurisdiction.

Part 3A.4 Exchange of information

103X Issuing authorities may obtain DVO information

An issuing authority of the Territory may obtain information about a DVO from an issuing authority of another jurisdiction, or from a local or interstate law enforcement agency, and use that information for the purposes of exercising functions under this Chapter.

103Y Issuing authorities must provide DVO information

- (1) An issuing authority of the Territory that makes, varies or revokes a DVO must provide to a court of any other participating jurisdiction any information about the DVO that the court reasonably requests for the purposes of exercising its functions under a corresponding law.
- (2) An issuing authority of the Territory that makes, varies or revokes a DVO must provide to a local or interstate law enforcement agency any information about the DVO that the law enforcement agency reasonably requests for the purpose of exercising its law enforcement functions.

103Z Law enforcement agencies may obtain DVO information

A local law enforcement agency may obtain information about a DVO from an issuing authority of this or another jurisdiction, or from an interstate law enforcement agency, and use that information for the purpose of exercising its law enforcement functions.

103ZA Information to be provided to law enforcement agencies

A local law enforcement agency must provide to an interstate law enforcement agency any information it holds about a DVO that the interstate law enforcement agency reasonably requests for the purpose of exercising its law enforcement functions.

Part 3A.5 Miscellaneous

103ZB Certificate evidence – notification

- (1) An authorised officer of the Territory may issue a certificate in writing certifying any of the following matters:
 - (a) that the making of a local DVO has been properly notified under the law of the Territory;
 - (b) that a variation of a DVO that was done in the Territory has been properly notified under the law of the Territory.
- (2) The certificate is admissible in evidence in any proceedings and is evidence of the matters certified.
- (3) A certificate in writing purporting to be signed by an authorised officer of another jurisdiction and certifying any of the following matters is admissible in evidence in any proceedings and is evidence of the matters certified:
 - (a) that the making of a DVO in that jurisdiction has been properly notified under the law of that jurisdiction;
 - (b) that a variation to a DVO that was done in that jurisdiction has been properly notified under the law of that jurisdiction.
- (4) In any document, the words "authorised officer" after a signature are evidence that the person whose signature it purports to be is in fact an authorised officer.
- (5) In this section:

authorised officer means:

- (a) of another jurisdiction – a person (whether or not designated as an authorised officer) who is authorised under the law of another jurisdiction to issue a certificate certifying that the making or variation of a DVO has been properly notified under the law of that jurisdiction; or
- (b) of the Territory:
 - (i) a registrar of a court of the Territory; or
 - (ii) a police officer of or above the rank of sergeant.

103ZC Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
 - (a) an issuing authority;
 - (b) a person assisting an issuing authority;
 - (c) a member of a local law enforcement agency.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) To avoid doubt, subsection (1) applies to acts done or omitted to be done as a result of a failure by a person mentioned in that subsection to obtain current information about a DVO or an order in the nature of a DVO.
- (4) This section has effect subject to:
 - (a) Part VIIA of the *Police Administration Act 1978* to the extent it relates to the civil liability of a person who is or has been a police officer; and
 - (b) the *Courts and Administrative Tribunals (Immunities) Act 2008* to the extent that it relates to the liability of a person who is a member of a court or tribunal within the meaning of that Act.
- (5) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

Chapter 3A	National recognition of domestic violence orders
Part 3A.6	Provisions consequential on enactment of Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2017
Division 2	DVOs to which scheme applies

Part 3A.6 Provisions consequential on enactment of Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2017

Division 1 Preliminary matters

103ZD Definition

In this Part:

commencement date means the day on which the *Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2017* commences.

103ZE Enforcement of DVOs under other provisions

- (1) This Chapter does not affect the enforceability in the Territory, otherwise than under this Chapter, of any local DVO made before the commencement date.
- (2) This Chapter does not affect the enforceability in the Territory otherwise than under this Chapter, of any external order registered in the Territory, before the commencement date, under Chapter 3.
- (3) However, a DVO made in the Territory before the commencement date can be superseded under section 103H, on or after the commencement date, by a recognised DVO that is made later.

Division 2 DVOs to which scheme applies

103ZF DVOs made in the Territory

Part 3A.2 applies to any local DVO or foreign order that is made in the Territory on or after the commencement date, or an earlier date prescribed by regulation.

103ZG DVOs made in other jurisdictions

- (1) Part 3A.2 applies to any DVOs made in another participating jurisdiction that are recognised DVOs in that jurisdiction under the corresponding law for that jurisdiction.

Chapter 3A	National recognition of domestic violence orders
Part 3A.6	Provisions consequential on enactment of Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2017
Division 3	Extension of scheme to older DVOs

- (2) To avoid doubt, section 103E extends to the following DVOs:
- (a) any interstate DVO that was made in another participating jurisdiction before the commencement date that is a recognised DVO in that jurisdiction; and
 - (b) any foreign order that became a registered foreign order in another participating jurisdiction before the commencement date that is a recognised DVO in that jurisdiction.
- (3) Sections 103F and 103G extend to any variation or revocation of a DVO mentioned in subsection (2), that was done in a participating jurisdiction before the commencement date, as if the DVO were a recognised DVO.
- (4) However, a non-local DVO, and any variation to a non-local DVO, does not become enforceable against the respondent in the Territory, under this Chapter, until the commencement date (even if the making of the DVO, or variation, was properly notified before that date).

Division 3 Extension of scheme to older DVOs

103ZH DVOs declared to be recognised DVOs

- (1) Each of the following DVOs is also taken to be a ***recognised DVO***:
- (a) any DVO that is declared by a registrar of a court of the Territory to be a recognised DVO in the Territory under Division 4;
 - (b) any DVO that is declared by a registrar of a court of another participating jurisdiction to be a recognised DVO in that jurisdiction under a corresponding law.
- (2) A recognised DVO referred to in subsection (1) becomes enforceable against the respondent in the Territory, under this Chapter, when the declaration is made (despite section 103K).

103ZI DVOs declared to be recognised in other jurisdictions before commencement date

- (1) To avoid doubt, section 103ZH extends to a DVO declared by a registrar of a court of another participating jurisdiction to be a recognised DVO before the commencement date.

Chapter 3A	National recognition of domestic violence orders
Part 3A.6	Provisions consequential on enactment of Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2017
Division 4	Power to declare DVO to be recognised

- (2) Sections 103F and 103G extend to any variation or revocation of a DVO mentioned in subsection (1), that was done in a participating jurisdiction before the commencement date, as if the DVO were a recognised DVO.
- (3) However, the DVO, and any variation to the DVO, does not become enforceable against the respondent in the Territory, under this Chapter, until the commencement date.

Division 4 Power to declare DVO to be recognised

103ZJ Definition

In this Part:

registrar means a registrar of a court of the Territory that has power to make a local DVO.

103ZK Power to declare DVO to be recognised

- (1) A registrar may, by order, declare any DVO made in any jurisdiction to be a recognised DVO in the Territory.
- (2) A declaration may be made in relation to any DVO made in any jurisdiction that is in force in the issuing jurisdiction and is not a recognised DVO in the Territory.
- (3) The jurisdiction in which the DVO was made does not have to be a participating jurisdiction.
- (4) A registrar must make a declaration under this section if an application for the declaration is made in accordance with this Part, unless the registrar decides to refuse to make the declaration in the interests of justice.
- (5) Without limiting subsection (4), the registrar may refuse to make the declaration if the registrar is not satisfied that the respondent has been properly notified of the making of the DVO under the law of the jurisdiction in which the DVO was made.

Note for subsection (5)

Under section 103ZH, the DVO becomes enforceable against the respondent when the declaration is made. Subsection (7) specifies that notice of the declaration is not to be served on the respondent unless the person making the application consents to service.

- (6) However, a registrar cannot declare a general violence order to be a recognised DVO in the Territory.

Chapter 3A	National recognition of domestic violence orders
Part 3A.6	Provisions consequential on enactment of Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2017
Division 4	Power to declare DVO to be recognised

- (7) Notice of a declaration is not to be served on the respondent unless the person who makes the application consents to service.

Note for section 103ZK

Under section 103D, a foreign order is taken to be made in any jurisdiction in which it is registered as a registered foreign order. Accordingly, this section extends to registered foreign orders.

103ZL Application for order

- (1) An application for a declaration that a DVO is a recognised DVO in the Territory may be made by any person who would be able to make an application for variation of the DVO if the DVO were a recognised DVO.
- (2) The application must:
- (a) be made in a form approved by the registrar; and
 - (b) be accompanied by any information or evidence the registrar requires.

Note for section 103ZL

It is only necessary to make an application in one participating jurisdiction. Under section 103ZH, once a declaration is made in any participating jurisdiction the DVO will be treated as a recognised DVO in all participating jurisdictions.

103ZM Functions of registrar may be exercised by court

A court with power to make a local DVO may exercise any of the functions of a registrar of the court under this Part.

Chapter 4 Legal proceedings and evidentiary matters

Part 4.1 Evidence in proceedings for domestic violence orders

Division 1 Preliminary matters

104 Definitions

In this Part:

recorded statement:

- (a) for Division 3, see section 21AA of the *Evidence Act 1939*; and
- (b) for Division 4A, see section 21G of the *Evidence Act 1939*.

vulnerable witness means:

- (a) an adult who is a protected person; or
- (b) a vulnerable witness as defined in section 21AB of the *Evidence Act 1939*.

105 Application of Part

This Part applies only to the following proceedings:

- (a) a proceeding for the hearing of an application for:
 - (i) a DVO; or
 - (ii) the variation or revocation of a DVO;
- (b) a proceeding for the confirmation of a DVO.

Division 2 Closure of Court in certain cases

106 When Court to be closed

- (1) The Court must be closed to the public for the proceeding:
 - (a) at all times if the only protected person is a child; or
 - (b) while a vulnerable witness gives evidence, including in cross-examination.

- (2) However, the Court may order a proceeding, or part of it, be open to the public if it considers it is in the interests of justice to do so.
- (3) Even if the proceeding, or part of it, is open to the public, the Court may order a person (other than a party to the proceeding) to leave the courtroom where the proceeding is being conducted while a witness gives evidence, including in cross-examination.

Division 3 Evidence of children

107 How evidence of child given

- (1) The evidence of a child must be given by written or recorded statement.
- (2) When making the statement, the child is entitled to be accompanied by 1 of the following persons to provide emotional support:
 - (a) a relative;
 - (b) an adult friend;
 - (c) someone else whom:
 - (i) the child asks to accompany them; and
 - (ii) the Court considers is appropriate to provide the support.

108 Admission of child's evidence

- (1) A child's written statement may be admitted in evidence only if:
 - (a) it states the child's age; and
 - (b) it states that, before signing it:
 - (i) the child read it; or
 - (ii) someone else read it to the child and the reason why the child did not read it.
- (2) A child's recorded statement may be admitted in evidence only if a transcript of the statement complying with subsection (3) is produced to the defendant or defendant's lawyer.
- (3) The transcript must:
 - (a) state how, when and by whom the statement was recorded; and

- (b) be certified as correct by the party seeking to have the statement admitted in evidence.

109 No cross-examination of child

- (1) A child who gives evidence by written or recorded statement need not appear at the hearing and cannot be cross-examined in relation to the child's evidence.
- (2) The prohibition against cross-examination of a child in subsection (1) applies whether or not a defendant is represented by a legal practitioner.

Division 4 Evidence of vulnerable witnesses

110 How evidence of vulnerable witness given

- (1) A vulnerable witness is entitled to give evidence at a place outside the courtroom using an audiovisual link.
- (2) If an audiovisual link is not available, or the vulnerable witness chooses to give evidence in the courtroom, the witness is entitled to give evidence without the defendant being in the witness's line of sight.
- (3) If the vulnerable witness elects to give evidence without the defendant being in the witness's line of sight, to ensure the defendant is not in the witness's line of sight a screen, a partition or a panel of one-way glass must be placed so that the witness's view of the defendant is obscured, but not the view of the witness by the Judge or counsel.

111 Vulnerable witness entitled to support

- (1) When giving evidence, a vulnerable witness is entitled to be accompanied by 1 of the following persons to provide emotional support:
 - (a) a relative;
 - (b) a friend;
 - (c) someone else whom:
 - (i) the witness asks to accompany them; and
 - (ii) the Court considers is appropriate to provide support.
- (2) The person must be placed so that the person can be seen by the Judge.

112 Court's power relating to vulnerable witness giving evidence

- (1) The Court may make an order that the vulnerable witness is not entitled to give evidence in a particular way or be provided with support if satisfied:
 - (a) it is not in the interests of justice; or
 - (b) it is inappropriate because of the urgency of the proceeding.
- (2) In deciding whether or not it is in the interests of justice, the Court must have regard to the following:
 - (a) the need to minimise the harm that may be caused to the witness by giving evidence;
 - (b) whether the witness may be able to give evidence effectively.
- (3) The Court must state its reasons for making the order.
- (4) This section applies despite sections 110 and 111.

113 Evidence given outside courtroom

If evidence of a vulnerable witness is given outside the courtroom using an audiovisual link, the following provisions apply:

- (a) the place where the witness gives the evidence is taken to be in the courtroom;
- (b) the Court must decide who is to be present in the same room as the witness while the evidence is given;
- (c) the Court may give directions:
 - (i) to ensure necessary communication between persons in the courtroom and the witness; and
 - (ii) to ensure images of the defendant are not transmitted to the place where the witness is giving evidence; and
 - (iii) to ensure the witness's evidence can be heard in the courtroom and the Judge can adequately observe the demeanour of the witness while giving evidence; and
 - (iv) to deal with any incidental matter.

Division 4A Recorded statements

113A Definitions

In this Division:

complainant, see section 21G of the *Evidence Act 1939*.

domestic violence offence, see section 21G of the *Evidence Act 1939*.

recorded statement, see section 21G of the *Evidence Act 1939*.

113B Application of Division

This Division applies if:

- (a) a recorded statement is made in relation to an alleged domestic violence offence; and
- (b) the protected person in relation to an application for a domestic violence order is the complainant from whom the recorded statement was taken; and
- (c) the defendant against whom a domestic violence order is sought is the person against whom the domestic violence offence is alleged.

113C Use of recorded statement

Part 3A of the *Evidence Act 1939* applies in proceedings to which this Part applies as if a reference in that Part:

- (a) to a domestic violence offence proceeding were a reference to a proceeding for a domestic violence order; and
- (b) to a hearing of a charge, or a trial in respect of a domestic violence offence were a reference to proceedings for a domestic violence order; and
- (c) to the prosecution were a reference to the applicant.

Division 5 General matters

114 Leave required for unrepresented defendant to cross-examine certain witnesses

- (1) This section applies if, in an examination of witnesses or a trial, a defendant is not represented by a legal practitioner and the defendant wishes to cross-examine:
 - (a) a vulnerable witness; or
 - (b) any other witness who is in a domestic relationship with the defendant.
- (2) The defendant is not entitled to cross-examine the witness directly unless the court grants leave.
- (3) The court cannot grant leave under subsection (2) if the witness is a child or has a cognitive impairment or an intellectual disability.
- (4) The court must not grant leave under subsection (2) unless satisfied that the witness's ability to testify under cross-examination will not be adversely affected if the defendant conducts the cross-examination.
- (5) In considering whether the witness's ability to testify will be adversely affected, the court must have regard to any trauma or distress that could be caused if the defendant conducts the cross-examination.
- (6) In considering whether to grant leave under subsection (2), the court must not require the witness to give evidence about the matters mentioned in subsections (4) and (5).

114A Leave not given to directly cross-examine witness

- (1) This section applies if the court does not grant leave under section 114(2).
- (2) The court must, as soon as practicable, explain to the defendant:
 - (a) the prohibition against directly cross-examining the witness and the effect of the prohibition; and
 - (b) that if the defendant does not cross-examine the witness, the defendant will not be permitted to adduce evidence in relation to a fact in issue in order to contradict the evidence of the witness; and

- (c) that the defendant can arrange for a legal practitioner to cross-examine the witness on the defendant's behalf; and
 - (d) that the defendant must notify the court of the name of the arranged legal practitioner by a date specified by the court; and
 - (e) that if the defendant does not wish to make such an arrangement, or if the defendant fails to notify the court of the name of a legal practitioner by the date specified:
 - (i) the court will decide whether it is necessary in the interests of justice to appoint a legal practitioner to cross-examine the witness for the defendant; and
 - (ii) if the court decides that it is necessary – the court may appoint a legal practitioner to cross-examine the witness for the defendant, or make any other order the court considers necessary.
- (3) If the defendant does not wish to make such an arrangement, or if the defendant fails to notify the court of the name of a legal practitioner by the date specified:
- (a) the court must decide whether it is necessary in the interests of justice to appoint a legal practitioner to cross-examine the witness for the defendant; and
 - (b) if the court decides that it is necessary – the court may appoint a legal practitioner (the **appointed person**) to cross-examine the witness for the defendant, or make any other order the court considers necessary.
- (4) If the defendant wishes to cross-examine a witness mentioned in section 114(1), the defendant must put any question to the appointed person and the appointed person must put the question to the witness, unless the appointed person considers the question to be improper.

Notes for subsection (4)

- 1 *The appointed person need not use the exact same words as the defendant when putting a question.*
- 2 *The court can also rule that a question is improper and need not be answered – see section 41(2) of the Evidence (National Uniform Legislation) Act 2011.*
- 3 *See section 41(3) of the Evidence (National Uniform Legislation) Act 2011 for the meaning of **improper question**.*

- (5) If the defendant does not give any instructions to an appointed person, the appointed person must act in the best interests of the defendant.
- (6) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith as an appointed person for this section.

114B Warning

If a defendant cross-examines a witness through an appointed person, the court must issue a warning to the jury (if any) to the effect that:

- (a) the procedure is a routine practice of the court; and
- (b) no adverse inference is to be drawn against the defendant as a result of the use of the arrangement; and
- (c) the evidence of the witness is not to be given any greater or lesser weight because of the use of the arrangement.

Part 4.2 Hearing procedures

115 Procedural directions

- (1) Subject to sections 114A and 114B, the Court may give the procedural directions it considers necessary to ensure the fair and expeditious hearing of a proceeding for the hearing of an application under this Act.
- (2) Without limiting subsection (1), directions may be given about the right of a party to the proceeding, other than the respondent, to appear at the hearing.

Part 4.3 Other evidentiary matters

116 Hearsay evidence

In making, confirming, varying or revoking a DVO the issuing authority may admit and act on hearsay evidence.

117 Evidentiary value of endorsement on court file

- (1) In a legal proceeding, an endorsement on a court file relating to a DVO signed by a registrar stating the following is evidence of the matter stated:
 - (a) the respondent was before the court when the DVO was made;
 - (b) the court explained to the respondent the matters mentioned in section 89(2).
- (2) Subsection (1) does not limit the ways the matter may be proved.

Chapter 5 Enforcement

Part 5.1 Interpretation

118 Definition

In this Chapter:

copy, of a DVO, includes a copy of a form of order completed under Part 2.4, Division 2 or Part 2.6, Division 2.

119 When DVO is given to respondent

A copy of a DVO is given to the respondent if:

- (a) for a court DVO – the respondent was before the issuing authority, whether physically or by audiovisual link, when it was made; or
- (b) it is served in a way mentioned in section 25 of the *Interpretation Act 1978*; or
- (c) a police officer informs the respondent, orally or in writing, of its making and terms; or
- (ca) it is given to the respondent by means of electronic communication; or
- (d) it is given to the respondent in another way the Court or a Judge orders.

Note for paragraph (ca)

The Electronic Transactions (Northern Territory) Act 2000 provides for the requirements of transactions by means of electronic communication.

Part 5.2 Offences

120 Contravention of DVO by defendant

- (1) A person commits an offence if:
 - (a) a DVO is in force against the person; and
 - (b) the person engages in conduct that results in a contravention of the DVO.

- (2) Subsection (1) does not apply unless:
- (a) the person has been given a copy of the DVO; or
 - (b) for a DVO that has been varied under Part 2.6, Division 3, 4 or 5, Part 2.8 or 2.9 or confirmed with variation under Part 2.4, Division 3 or Part 2.7:
 - (i) the person has been given a copy of the DVO as varied or confirmed; or
 - (ii) the person's conduct also constitutes a contravention of the DVO last given to the person.
- (3) An offence against subsection (1) is an offence of strict liability.

121 Penalties for contravention of DVO

- (1) Subject to this section, a person is liable to a maximum penalty of imprisonment for 2 years if the person is found guilty of an offence against section 120(1).
- (2) A person is liable to an aggregated maximum penalty of imprisonment for 3 years if:
- (a) the person is found guilty of at least 3 offences against section 120(1); and
 - (b) the conduct constituting these offences took place within a period of 28 days; and
 - (c) the person is being sentenced for these offences at the same time; and
 - (d) the conduct constituting these offences did not involve harm or a threat to commit harm to the protected person under the relevant DVOs.

Example of harm for subsection (2)(d)

Sexual or other assault.

- (3) Despite any provision to the contrary in the *Local Court (Criminal Procedure) Act 1928*, for subsection (2) the maximum penalty under that subsection may be imposed whether or not the offences against section 120(1) are laid on complaint, information or indictment or any combination of them.

- (4) A person found guilty of an offence against section 120(1) is taken to have committed a level 1 aggravated offence and is liable to a maximum penalty of imprisonment for 3 years if the person was previously found guilty of an offence against section 120(1).
- (5) A person found guilty of an offence against section 120(1) is taken to have committed a level 2 aggravated offence and is liable to a maximum penalty of imprisonment for 5 years if the conduct constituting the offence involved harm or a threat to commit harm to the protected person under the DVO.

Example of harm for subsection (5)

Sexual or other assault.

123 Publication of names and identifying information about children

- (1) A person commits an offence if the person publishes the name of a child:
 - (a) who is a protected person named in a DVO; or
 - (b) who appears, or is reasonably likely to appear, as a witness in a proceeding; or
 - (c) who is, or is reasonably likely to be, mentioned or otherwise involved in a proceeding.

Maximum penalty: Imprisonment for 1 year.

- (3) An offence against subsection (1) is an offence of strict liability.
- (3A) Despite subsection (1), it is not an offence to publish the name of a child mentioned in subsection (1)(a), (b) or (c) if:
 - (a) the publication is in an official report of the proceeding; or
 - (b) the publication is in the course of giving:
 - (i) information to an information sharing entity under Chapter 5A; or
 - (ii) information to an information sharing authority (as defined in section 293C(1) of the *Care and Protection of Children Act 2007*) under Part 5.1A of that Act; or
 - (c) the publication is permitted or authorised under this Act or any other law of the Territory; or
 - (d) the Court consents to the publication of the child's name.

(4) In this section:

name, of a child, includes any information, picture or other material that:

- (a) identifies the child; or
- (b) is likely to lead to the child's identification.

proceeding means:

- (a) a proceeding for the hearing of an application for:
 - (i) a DVO; or
 - (ii) the variation or revocation of a DVO; or
- (b) a proceeding for the confirmation of a DVO.

124 Publication of personal details

(1) A person commits an offence if:

- (a) a recognised DVO made by a court includes an order prohibiting publication of a person's personal details; and
- (b) the person publishes the details.

Maximum penalty: Imprisonment for 1 year.

(2) An offence against subsection (1) is an offence of strict liability.

(3) Despite subsection (1), it is not an offence to publish a person's personal details if:

- (a) the publication is in an official report of the proceeding; or
- (b) the publication is in the course of:
 - (i) giving information to an information sharing entity under Chapter 5A; or
 - (ii) giving information to an information sharing authority (as defined in section 293C(1) of the *Care and Protection of Children Act 2007*) under Part 5.1A of that Act; or
- (c) the publication is permitted or authorised under this Act or any other law of the Territory.

(4) In this section:

proceeding means:

- (a) a proceeding for the hearing of an application for:
 - (i) a DVO; or
 - (ii) the variation or revocation of a DVO; or
- (b) a proceeding for the confirmation of a DVO.

124A Reporting domestic violence

(1) An adult commits an offence if he or she:

- (a) believes on reasonable grounds either or both of the following circumstances exist:
 - (i) another person has caused, or is likely to cause, harm to someone else (the ***victim***) with whom the other person is in a domestic relationship;
 - (ii) the life or safety of another person (also the ***victim***) is under serious or imminent threat because domestic violence has been, is being or is about to be committed; and
- (b) as soon as practicable after forming the belief, does not report to a police officer (either orally or in writing):
 - (i) the belief; and
 - (ii) any knowledge forming the grounds for the belief; and
 - (iii) any factual circumstances on which that knowledge is based.

Maximum penalty: 200 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.
- (3) Without limiting subsection (2), it is a reasonable excuse if the defendant establishes 1 or more of the following:
 - (a) the defendant reasonably believed someone else had, under subsection (1), reported the same belief about the circumstances mentioned in subsection (1);

- (b) the defendant was engaged in planning for the removal of the victim from the circumstances mentioned in subsection (1) and intended to report his or her belief as soon as practicable after the removal;
 - (c) in relation to the circumstances mentioned in subsection (1)(a)(i) – the defendant reasonably believed that, if the report of his or her belief about the circumstances were made as soon as practicable after the belief was formed as mentioned in subsection (1)(b), a serious or imminent threat to the life or safety of any person may result.
- (4) On receipt of the report, the police officer must take reasonable steps to ensure the report is investigated.
 - (5) This section has effect despite another law of the Territory.
 - (6) In this section:

belief means a belief mentioned in subsection (1)(a).

harm means physical harm that is serious harm.

physical harm, see section 1A of the Criminal Code.

serious harm, see section 1 of the Criminal Code.

Chapter 5A Information sharing

Part 5A.1 Preliminary matters

124B Definitions

In this Chapter:

CEO means the Chief Executive Officer of the Agency.

domestic violence related service means an assistance or support service provided to any of the following:

- (a) persons who fear or experience domestic violence;
- (b) other persons affected by that domestic violence;
- (c) persons who commit domestic violence.

Examples for definition domestic violence related service

Alcohol and other drug treatment services, allied health services, counselling, disability services, health services, housing and homelessness services, legal services and sexual assault services.

information includes facts and opinions.

information sharing entity means each of the following:

- (a) the CEO;
- (b) the Chief Executive Officer of an Agency that is responsible for the following:
 - (i) adult correctional services;
 - (ii) child protection services;
 - (iii) community services;
 - (iv) disability services;
 - (v) education services;
 - (vi) housing services;
 - (vii) public health services;
 - (viii) youth justice services;

- (c) the Chief Executive Officer of any other Agency that provides a domestic violence related service;
- (d) the Commissioner;
- (e) the principal, as defined in section 5 of the *Education Act 2015*, of a non-government school registered under that Act;
- (f) a court or tribunal;
- (g) any other person who, or entity that:
 - (i) provides a domestic violence related service; and
 - (ii) is approved by the Minister under section 124DA(1).

information sharing guidelines means the guidelines made under section 124N.

124C Information sharing principles

- (1) The principles set out in this section should be used for guidance in relation to the collection, use or disclosure of information that is authorised or required to be collected, used or disclosed under this Chapter.
- (2) An information sharing entity should obtain the consent of a person who fears or experiences domestic violence before sharing information about the person unless it is not safe, possible or practical to do so.
- (3) However, the safety, protection and wellbeing of a person who fears or experiences domestic violence are paramount.
- (4) In disclosing information about a person, an information sharing entity should consider whether disclosing the information is likely to adversely affect the safety of the person or another person.
- (5) An information sharing entity should only collect, use or disclose information to the extent that it is necessary to assess and manage risk to a person's safety because of domestic violence.
- (6) An information sharing entity that collects, uses or discloses the information of an Aboriginal person should do so in a manner that:
 - (a) promotes cultural safety; and
 - (b) is culturally sensitive; and
 - (c) considers the person's familial and community connections.

- (7) An information sharing entity should have regard to a person's:
- (a) cultural, sexual and gender identity; and
 - (b) religious faith (if any).
- (8) These principles are not intended to:
- (a) create in any person any legal right or give rise to any civil cause of action; or
 - (b) affect in any way the interpretation of any Act or other law in force in the Territory.

124D Application of this Chapter to courts

If any of the following persons or bodies is an information sharing entity, nothing in this Chapter applies to the disclosure of information by that person or body in relation to, or for the purposes of, its judicial or quasi-judicial functions:

- (a) a court or tribunal;
- (b) the holder of a judicial or quasi-judicial office or other office pertaining to a court or tribunal in their capacity as the holder of that office;
- (c) a registry or other office of a court or tribunal;
- (d) the staff of such a registry or other office in their capacity as members of that staff.

124DA Approval of information sharing entity

- (1) The Minister may, by *Gazette* notice, approve a person or entity as an information sharing entity.
- (2) An approval of a person under subsection (1) may be made for:
- (a) a person by name; or
 - (b) a person by reference to the office, position or designation held or occupied by the person; or
 - (c) a person from time to time holding, acting in or performing the duties of a named office, designation or position.

124DB Collection of information

For the purposes of sharing information under Part 5A.2 an information sharing entity may collect and use information reasonably necessary for performing a function under that Part.

Part 5A.2 Information sharing

124E Sharing information for assessing or preventing domestic violence threat

- (1) An information sharing entity may give information to another information sharing entity if the entity that holds that information believes on reasonable grounds that:
 - (a) a person fears or is experiencing domestic violence; and
 - (b) the information may help the entity receiving the information to:
 - (i) assess whether there is a serious threat to a person's life, health, safety or welfare because of domestic violence; or
 - (ii) lessen or prevent a serious threat to a person's life, health, safety or welfare because of domestic violence, including by providing or arranging a domestic violence related service to or for a person.
- (2) Without limiting subsection (1)(b), information given in a case management meeting of a domestic violence related service is information that may help the entity receiving the information to perform functions mentioned in subsection (1)(b)(i) and (ii).

124F Police may share certain information with information sharing entities

- (1) A police officer may give the information about a person that is mentioned in subsection (2) to an information sharing entity that provides a domestic violence related service if the police officer believes on reasonable grounds that:
 - (a) the person fears or is experiencing domestic violence and there is a threat to the person's life, health, safety or welfare because of domestic violence; or
 - (b) the person has committed domestic violence against another person.

- (2) The information a police officer may give an information sharing entity is the following:
- (a) the person's name;
 - (b) the person's contact details;
 - (c) details of the basis for the belief;
 - (d) any other information that is, in the police officer's opinion, reasonably necessary to assist the information sharing entity to provide a domestic violence related service to the person.

124G Limits on information that may be shared

- (1) Despite sections 124E and 124F, information must not be shared under this Chapter if:
- (a) the information sharing entity that holds the information believes on reasonable grounds that giving the information could:
 - (i) prejudice the investigation of a contravention (or possible contravention) of a law in force in the Territory; or
 - (ii) prejudice a coronial inquest or inquiry; or
 - (iii) prejudice any proceeding in a court or tribunal; or
 - (iv) contravene any legal professional or client legal privilege; or
 - (v) enable the existence or identity of a confidential source of information in relation to the enforcement or administration of a law to be ascertained; or
 - (vi) endanger a person's life or physical safety; or
 - (vii) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law of the Territory; or
 - (b) sharing of the information is prohibited by or under:
 - (i) the *Criminal Records (Spent Convictions) Act 1992*; or
 - (ii) any other Act prescribed by regulation.

- (2) The *Information Act 2002* must not be prescribed under subsection (1)(b)(ii).

124H Obligation to disclose for domestic violence assessment or protection purpose

An information sharing entity must disclose any information that is permitted to be disclosed under this Chapter to another information sharing entity that has requested the information in order to help the requesting entity to:

- (a) assess whether there is a serious threat to a person's life, health, safety or welfare because of domestic violence; or
- (b) lessen or prevent a serious threat to a person's life, health, safety or welfare because of domestic violence.

Part 5A.3 Confidentiality protections

124J Permitted uses of shared information

Information shared under this Chapter may be used to do the following:

- (a) assess whether there is a serious threat to a person's life, health, safety or welfare because of domestic violence;
- (b) lessen or prevent a serious threat to a person's life, health, safety or welfare because of domestic violence, including by:
 - (i) contacting, or attempting to contact, the person or another person; or
 - (ii) providing assistance or a domestic violence related service to a person.

124K Who may give or receive information on behalf of information sharing entity

A requirement of this Chapter for an information sharing entity to give, receive or use information may only be carried out by:

- (a) a person (who may be a police officer) who is employed, engaged or appointed by that entity or provider and whose duties include:
 - (i) assessing threats to life, health, safety or welfare because of domestic violence; or

- (ii) taking action to lessen or prevent threats to life, health, safety or welfare because of domestic violence, including by providing or arranging a domestic violence related service to or for a person;
- (b) a person otherwise authorised by the entity or provider to give, receive or use the information.

124L Unauthorised disclosure of confidential information

- (1) A person commits an offence if:
 - (a) the person acquires information under this Chapter; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in the disclosure of the information and the disclosure is not:
 - (i) required or authorised by this Chapter; or
 - (ii) for any of the following purposes authorised by the Minister:
 - (A) research relating to the purpose of this Chapter;
 - (B) an inquiry or investigation conducted by a coroner, the police force or another law enforcement agency;
 - (C) any other purpose prescribed by regulation; or
 - (iii) to a court or tribunal; or
 - (iv) in compliance with the Australian Privacy Principles, whether or not the person, or the entity that employs or engages the person, is bound by those Principles; or
 - (v) in any other way required or authorised by law; and
 - (d) the person is reckless in relation to that result.

Maximum penalty: Imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (4) A failure to comply with the information sharing guidelines does not of itself constitute an offence against subsection (1).

(5) In this section:

Australian Privacy Principles means the principles set out in Schedule 1 to the *Privacy Act 1988* (Cth).

124M Police use of confidential information

(1) A police officer who receives information under this Chapter, and any other police officer to whom the information is disclosed, may:

- (a) subject to subsection (2), use the information to the extent necessary to perform the officer's functions as a police officer; or
- (b) use the information immediately to the extent necessary and without complying with subsection (2) because, in the opinion of the police officer, urgent circumstances require immediate use of the information in order to perform the officer's functions as a police officer.

(2) A police officer must not use information received under this Chapter for an investigation or for a proceeding for an offence unless:

- (a) the police officer, or another police officer, has consulted with the information sharing entity that gave the information about the proposed use; and
- (b) taking that consultation in account, the police officer has determined that the proposed use of the information is in the best interests of a person who is experiencing domestic violence.

(3) In this section:

use, in relation to information, includes:

- (a) disclose the information to someone else; and
- (b) give someone else access to the information.

Part 5A.4 Guidelines

124N Minister to make and publish guidelines

(1) The Minister must make administrative guidelines for the operation of this Chapter.

- (2) Before making or amending the guidelines, the Minister must consult with the following:
 - (a) the Information Commissioner;
 - (b) information sharing entities;
 - (c) any other Agency affected by the guidelines.
- (3) Without limiting subsection (1), the guidelines may provide for the following:
 - (a) procedures for the requesting, sharing and use of, and the refusal to share or disclose, information under this Chapter;
 - (b) procedures for the storage of information under this Chapter;
 - (c) circumstances under which an information sharing entity should obtain the consent of a person before sharing information about that person;
 - (d) processes for ensuring that confidential information shared is accurate and complete.
- (4) The guidelines:
 - (a) must be published on the Agency's website; and
 - (b) may be published in any other manner decided by the Minister.

124P Information sharing entities to comply with guidelines

An information sharing entity must comply with the information sharing guidelines.

Part 5A.5 Risk assessment and risk management framework

124Q CEO may approve framework

- (1) The CEO may approve a framework for family violence risk assessment and family violence risk management.
- (2) The CEO may approve an amendment to an approved framework.
- (3) The framework:
 - (a) must be published on the Agency's website; and

(b) may be published in any other manner decided by the CEO.

124R Obligation to align with approved framework

An information sharing entity must ensure that its policies, procedures, practice guidance and tools relevant to the sharing of information under this Chapter align with the framework approved under section 124Q.

Part 5A.6 Miscellaneous

124S Protection of persons giving information

- (1) A person is not civilly or criminally liable for the act of giving information in good faith in the exercise of a power or function as an information sharing entity.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act.

124T Interaction with other laws

- (1) This Chapter has effect despite the operation of any provision of the *Information Act 2002* or any other law of the Territory that:
 - (a) contains a power or obligation to give information; or
 - (b) prohibits or restricts the disclosure of information.
- (2) This Chapter does not limit any power or obligation under another Act to give information.
- (3) Disclosure of information under this Chapter does not waive, or otherwise affect, a privilege a person may claim in relation to the information under any other law of the Territory.

Part 5A.7 Review

124U Reviews of operation of Chapter

- (1) The Information Commissioner must review:
 - (a) the first 2 years of operation of this Chapter; and
 - (b) the 3rd to 5th years of operation of this Chapter.

- (2) In conducting the reviews, the Information Commissioner must consult with:
 - (a) the Minister; and
 - (b) information sharing entities.
- (3) The reviews must include consideration of any adverse effects of this Chapter.
- (4) The report of the reviews may include any recommendations on any matter addressed in the reviews.
- (5) The Information Commissioner must give a copy of the report to the Minister within 6 months after the end of each period of operation being reviewed.
- (6) The Minister must table a copy of the report in the Legislative Assembly within 7 sitting days after the Minister receives the copy.

Chapter 6 Miscellaneous matters

125 Protection for reporting domestic violence

- (1) A person acting in good faith in making a report under section 124A is not civilly or criminally liable, or in breach of any professional code of conduct:
 - (a) for making the report; or
 - (b) for disclosing any information in the report.
- (2) In any proceeding before a court, except with the court's leave:
 - (a) the report or evidence of its contents is not admissible; and
 - (b) a person cannot be compelled to give evidence, or to produce a record, about the report or the identity of the maker of the report.
- (3) The leave may be granted only if:
 - (a) the report, evidence or record is of critical importance to the proceeding; and
 - (b) failure to grant the leave would prejudice the proper administration of justice.

126 Approved forms

- (1) The Chief Judge:
 - (a) must approve forms for a provision of this Act if the provision requires a document to be made in the approved form; and
 - (b) may approve forms for another document required for this Act.

Examples of forms for subsection (1)

1 Application form for a DVO.

2 Form for a DVO.

- (2) If a form is approved for a document under subsection (1)(b), the document must be made in the approved form.
- (3) An approved form for a document must be consistent with any other requirements stated for the document in this Act.

- (4) An approved form must not require the insertion of the address of a protected person, other than a non-residential address (or electronic address) that is an address for service.

127 Regulations

- (1) The Administrator may make regulations under this Act.
- (2) Without limiting subsection (1), the regulations may provide for the following:
- (a) compliance conditions for information sharing entities under Chapter 5A;
 - (b) appropriate information sharing policies that information sharing entities under Chapter 5A are required to have in place;
 - (c) in relation to the framework under section 124Q, the following:
 - (i) entities that are required to comply with the framework and entities that are not;
 - (ii) any prescribed forms or templates relevant to it;
 - (d) record keeping requirements for Chapter 5A.
- (3) Before a regulation is made prescribing a person or body to be an information sharing entity under paragraph (g)(ii) of the definition of **information sharing entity**, the Minister must:
- (a) consult with the person or body; and
 - (b) be satisfied that the person or body would comply with the information sharing guidelines.

Chapter 7 Repeals and transitional matters

Part 7.1 Repeals

128 Acts repealed

The Acts specified in Schedule 1 are repealed.

Part 7.2 Transitional matters for Domestic and Family Violence Act 2007

129 Definitions

In this Part:

commencement date means the date on which Part 7.1 commences.

repealed Act means the *Domestic Violence Act 1992* as in force immediately before the commencement date.

130 Restraining orders

- (1) This section applies to each of the following orders:
 - (a) a restraining order in force under the repealed Act immediately before the commencement date;
 - (b) a restraining order made under the repealed Act after the commencement date under section 132 or 134 (including an order varying a restraining order);
 - (c) an order confirming or varying a restraining order under the repealed Act after the commencement date under section 133.
- (2) The order is taken to be a DVO and, for an order mentioned in subsection (1)(a), ends when it would have ended under the repealed Act unless it is earlier revoked:
 - (a) under this Act; or
 - (b) for an order to which section 133 applies – under the repealed Act as applying to it under that section.

131 Registered external restraining orders

- (1) This section applies to each of the following orders:
 - (a) a registered external restraining order in force under the repealed Act immediately before the commencement date;
 - (b) an external restraining order registered under the repealed Act after the commencement date under section 132;
 - (c) an external restraining order registered under the repealed Act after the commencement date under section 134.
- (2) The order is taken to be a registered external order under this Act and, for an order mentioned in subsection (1)(a), is in force for the period it would have been in force under the repealed Act.

132 Pending applications for restraining orders

- (1) This section applies to each of the following applications under the repealed Act that had not been decided immediately before the commencement date:
 - (a) an application for a restraining order;
 - (b) an application for the variation or revocation of a restraining order;
 - (c) an application for the registration of an external restraining order;
 - (d) an application for the variation or revocation of an external restraining order.
- (2) Despite its repeal, the repealed Act applies to the application.

133 Confirmation hearings

- (1) This section applies if:
 - (a) under the repealed Act, a defendant was summoned to appear before the Court to show cause why a restraining order or variation of a restraining order should not be confirmed; and
 - (b) the proceeding had not been finally decided immediately before the commencement date.
- (2) Despite its repeal, the repealed Act applies to the proceeding.

134 Pending referrals to Court

- (1) This section applies if:
 - (a) under the repealed Act, the clerk had:
 - (i) referred an application for a restraining order, or the variation or revocation of a restraining order, to the Court; or
 - (ii) referred an application for the registration of an external restraining order to the Court; and
 - (b) the application had not been finally decided immediately before the commencement date.
- (2) Despite its repeal, the repealed Act applies to the application.

135 Interpretation Act not affected

This Part does not limit Part III of the *Interpretation Act 1978*.

Part 7.3 Transitional matters for Justice Legislation Amendment (Vulnerable Witnesses) Act 2016

136 Proceedings already commenced

- (1) This section applies in relation to a proceeding mentioned in section 105 of this Act that started before the commencement of this section.
- (2) The provisions of this Act, as in force immediately before the commencement of this section, continue to apply to the proceeding.

Part 7.4 Transitional matters for Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2017

137 Definitions

In this Part:

amending Act means the *Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2017*.

commencement date means the day on which the amending Act commences.

pre-commencement Act means this Act in force immediately before the commencement date.

138 Interim court DVO

An interim DVO under section 35, as in force immediately before the commencement date, is taken to be an interim court DVO under section 35 and may be enforced, varied or revoked as if it were an interim court DVO.

139 Interim court variation order

An interim variation order under section 52A, as in force immediately before the commencement date, is taken to be an interim court variation order under section 52A and may be enforced, varied or revoked as if it were an interim court variation order.

140 Registered interstate DVOs

- (1) The registration of an external order under section 94, as in force immediately before the commencement date, is not affected by the commencement of the amending Act and this Act continues to apply in respect of the order as if the amending Act had not commenced.
- (2) The declaration of an unregistered external order under section 101, as in force immediately before the commencement date, is not affected by the commencement of the amending Act and this Act continues to apply in respect of the declaration as if the amending Act had not commenced.
- (3) An order mentioned in subsection (1) or (2) is not a local DVO for the purposes of Chapter 3 (despite section 97(1)).
- (4) An order mentioned in subsection (1) or (2) ceases to be registered or declared under Chapter 3 if the order becomes a recognised DVO in the Territory and Chapter 3A applies to the order in the same way as it applies to any other recognised DVO that is a non-local DVO.

Note for section 140

Under this section, an interstate order registered under Chapter 3 under the pre-commencement Act will continue to be enforceable in the Territory as provided for by that Chapter. If the interstate order becomes a recognised DVO by operation of section 103ZG or by declaration under section 103ZK, the order ceases to be registered under Chapter 3 and the order will then be enforceable in

the Territory as provided under Chapter 3A.

141 Enforcement of non-recognised interstate DVOs

- (1) A regulation may provide for the enforcement in the Territory of an interstate DVO or type of interstate DVO that is not a recognised DVO if the DVO was made:
 - (a) in a jurisdiction that is not a participating jurisdiction; or
 - (b) in a jurisdiction prior to the jurisdiction becoming a participating jurisdiction.
- (2) To avoid doubt, subsection (1) extends to an interstate DVO made before the commencement date.

Part 7.5 Transitional matters for Evidence and Other Legislation Amendment Act 2020

142 Proceeding already commenced

- (1) This section applies in relation to a proceeding mentioned in Part 4.1 of this Act that started before the commencement.
- (2) The provisions of this Act, as in force immediately before the commencement, continue to apply to the proceeding.
- (3) In this section:

commencement means the commencement of section 5 of the *Evidence and Other Legislation Amendment Act 2020*.

Part 7.6 Transitional matters for Justice Legislation Amendment (Electronic Documents) Act 2022

143 Definition

In this Part:

commencement means the commencement of Part 2 of the *Justice Legislation Amendment (Electronic Documents) Act 2022*.

144 DVO made but not given to parties or Court before commencement

Section 43, as in force immediately before the commencement, continues to apply in relation to a DVO that was made but had not been given to the parties or the Court before the commencement.

145 DVO varied but not given to parties or Court before commencement

Section 70, as in force immediately before the commencement, continues to apply in relation to a DVO that was varied but had not been given to the parties or the Court before the commencement.

146 DVO confirmed with variations but not given to parties or Court before commencement

Section 78, as in force immediately before the commencement, continues to apply in relation to a DVO that was confirmed with variations but had not been given to the parties or the Court before the commencement.

Part 7.7 Transitional matters for Justice Legislation Amendment (Domestic and Family Violence) Act 2023

147 Definitions

In this Part:

amending Act means the *Justice Legislation Amendment (Domestic and Family Violence) Act 2023*.

commencement means the commencement of Part 2 of the amending Act.

148 Saving of DVOs

- (1) Despite the repeal of Parts 2.4 to 2.10 by the amending Act:
 - (a) a court DVO, as defined in section 4 as in force immediately before the commencement, continues in force for the period specified in the DVO; and
 - (b) a police DVO, as defined in section 4 as in force immediately before the commencement, continues in force for the period specified in the DVO.
- (2) A police DVO made under section 41, as in force immediately before the commencement, is taken to be a police DVO made under section 28.
- (3) A court DVO made under section 82, as in force immediately before the commencement, is taken to be a court DVO made under section 48.

- (4) For subsections (1) and (3), a reference to a court DVO includes a DVO as varied under Part 2.7 or 2.8, as in force immediately before the commencement.
- (5) For subsections (1) and (2), a reference to a police DVO includes a police DVO as varied under Part 2.8, Division 2, or confirmed under Part 2.9, as in force immediately before the commencement.

149 Application of sections 123, 124 and 124L

- (1) Sections 123, 124 and 124L, as amended by the amending Act, apply only in relation to offences committed after the commencement.
- (2) Sections 123, 124 and 124L, as in force before the commencement, continue to apply in relation to offences committed before the commencement.
- (3) For this section:
 - (a) an offence is taken to be committed after the commencement only if all of the conduct constituting the offence occurred after the commencement; and
 - (b) any other offence is taken to be committed before the commencement.

150 Proceeding already started

Despite the repeal of Parts 2.4 to 2.10 by the amending Act, Parts 2.4 to 2.10, as in force immediately before the commencement, continue to apply in relation to a proceeding started before the commencement.

Schedule 1 Repealed Acts

section 128

<i>Domestic Violence Act 1992</i>	Act No. 67 of 1992
<i>Domestic Violence Amendment Act 1993</i>	Act No. 36 of 1993
<i>Domestic Violence Amendment Act 1994</i>	Act No. 60 of 1994
<i>Domestic Violence Amendment Act 1996</i>	Act No. 57 of 1996
<i>Domestic Violence Amendment Act 1998</i>	Act No. 90 of 1998
<i>Domestic Violence Amendment Act 1999</i>	Act No. 40 of 1999
<i>Domestic Violence Amendment (Police Orders) Act 2005</i>	Act No. 38 of 2005

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Domestic and Family Violence Act 2007 (Act No. 34, 2007)***

Assent date	12 December 2007
Commenced	1 July 2008 (<i>Gaz</i> G25, 25 June 2008, p 4)

Domestic and Family Violence Amendment Act 2009 (Act No. 2, 2009)

Assent date	12 March 2009
Commenced	12 March 2009

Domestic and Family Violence Amendment Act 2010 (Act No. 47, 2010)

Assent date	13 December 2010
Commenced	2 February 2011 (<i>Gaz</i> S7, 2 February 2011)

Health Practitioner (National Uniform Legislation) Implementation Act 2012 (Act No. 17, 2012)

Assent date	22 May 2012
Commenced	1 July 2012 (s 2)

Domestic and Family Violence Amendment Act 2013 (Act No. 7, 2013)

Assent date	15 March 2013
Commenced	5 February 2014 (<i>Gaz</i> G5, 5 February 2014, p 5)

Domestic and Family Violence Amendment Act 2015 (Act No. 23, 2015)

Assent date	18 September 2015
Commenced	14 October 2015 (<i>Gaz</i> G41, 14 October 2015, p 3)

Justice Legislation Amendment (Vulnerable Witnesses) Act 2016 (Act No. 2, 2016)

Assent date	2 March 2016
Commenced	23 March 2016 (<i>Gaz</i> G12, 23 March 2016, p 6)

Local Court (Repeals and Related Amendments) Act 2016 (Act No. 9, 2016)

Assent date	6 April 2016
Commenced	1 May 2016 (<i>Gaz</i> S34, 29 April 2016)

Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2017 (Act No. 2, 2017)

Assent date 10 March 2017
Commenced 25 November 2017 (*Gaz S86*, 24 November 2017)

Statute Law Revision Act 2017 (Act No. 4, 2017)

Assent date 10 March 2017
Commenced 12 April 2017 (*Gaz G15*, 12 April 2017, p 3)

Domestic and Family Violence Amendment (Information Sharing) Act 2018 (Act No. 21, 2018)

Assent date 8 November 2018
Commenced 30 August 2019 (*Gaz G33*, 14 August 2019, p 2)

Health Practitioner Regulation (National Uniform Legislation) and Other Legislation Amendment Act 2018 (Act No. 28, 2018)

Assent date 30 November 2018
Commenced 1 December 2018 (s 2)

Evidence and Other Legislation Amendment Act 2020 (Act No. 3, 2020)

Assent date 9 March 2020
Commenced 29 July 2020 (*Gaz G28*, 15 July 2020, p 1)

Justice Legislation Amendment (Domestic and Family Violence) Act 2020 (Act No. 18, 2020)

Assent date 1 July 2020
Commenced 29 July 2020 (*Gaz G29*, 22 July 2020, p 1)

Territory Families Legislation Amendment Act 2021 (Act No. 25, 2021)

Assent date 15 December 2021
Commenced pt 4: 13 January 2022 (*Gaz S2*, 13 January 2022);
rem: 1 February 2022 (*Gaz S3*, 31 January 2022)

Justice Legislation Amendment (Electronic Documents) Act 2022 (Act No. 2, 2022)

Assent date 1 March 2022
Commenced 2 March 2022 (s 2)

Justice Legislation Amendment (Domestic and Family Violence) Act 2023 (Act No. 33, 2023)

Assent date 6 December 2023
Commenced 25 March 2024 (*Gaz S18*, 22 March 2024)

Amending Legislation

Justice and Other Legislation Amendment Act 2024 (Act No. 4, 2024)

Assent date 14 March 2024
Commenced pt 5, div 1: 30 October 2023 (s 2(2));
pt 3, div 2: 25 March 2024 (s 2(3), s 2 *Sentencing and Other Legislation Amendment Act 2022* (Act No. 28, 2022) and *Gaz S19*, 22 March 2024);
pt 4: 25 March 2024 (s 2(4), s 2 *Criminal Justice Legislation Amendment (Sexual Offences) Act 2023* (Act No. 20, 2023) and *Gaz S20*, 22 March 2024);
rem: 15 March 2024 (s 2(1))

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 4, 10, 19, 21, 23, 33, 103Q, 103R, 103ZC, 104, 119, 121, 124B, 124G, 124L, 129 and 135.

4 LIST OF AMENDMENTS

preamble	sub No. 33, 2023, s 4
s 3	amd No. 21, 2018, s 4; No. 33, 2023, s 5
s 4	amd No. 2, 2009, s 3; No. 47, 2010, s 4; No. 9, 2016, s 93; No. 2, 2017, s 4; No. 21, 2018, s 5; No. 3, 2020, s 6; No. 18, 2020, s 9; No. 2, 2022, s 4; No. 33, 2023, s 6 as amd No. 4, 2024, s 4
s 5	sub No. 33, 2023, s 7
ss 5A – 5B	ins No. 33, 2023, s 7
s 8	sub No. 33, 2023, s 8
s 9	amd No. 33, 2023, s 9
s 10	amd No. 33, 2023, s 10
s 11	amd No. 33, 2023, s 11
s 13	amd No. 2, 2017, s 5; No. 33, 2023, s 12
s 14	sub No. 33, 2023, s 13
s 15	sub No. 4, 2017, s 7
s 16	sub No. 33, 2023, s 14
s 18	amd No. 33, 2023, s 39
s 19	sub No. 33, 2023, s 15
s 20	amd No. 33, 2023, s 39
s 20A	ins No. 33, 2023, s 16
s 21	amd No. 7, 2013, 4; No. 33, 2023, s 17
s 22	amd No. 47, 2010, s 5 sub No. 33, 2023, s 18
s 23	amd No. 47, 2010, s 6; No. 18, 2020, s 10; No. 33, 2023, s 19
s 24	amd No. 18, 2020, s 11; No. 33, 2023, s 39
s 25	amd No. 33, 2023, s 39
s 26	amd No. 33, 2023, s 20 as amd No. 4, 2024, s 5
s 27	amd No. 2, 2017, s 6
s 26	sub No. 33, 2023, s 21
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ss 28 – 34	amd No. 9, 2016, s 95 sub No. 33, 2023, s 22
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div 2 hdg	sub No. 33, 2023, s 22
s 35	amd No. 9, 2016, s 95; No. 2, 2017, s 7 sub No. 33, 2023, s 22
s 35A	ins No. 47, 2010, s 7 rep No. 33, 2023, s 22
s 36	amd No. 47, 2010, s 8; No. 9, 2016, s 95; No. 2, 2017, s 8 sub No. 33, 2023, s 22
ss 37 – 39	amd No. 9, 2016, s 95 sub No. 33, 2023, s 22

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s 40	amd No. 47, 2010, s 9; No. 9, 2016, s 95 sub No. 33, 2023, s 22
s 41	amd No. 47, 2010, s 10; No. 9, 2016, s 95 sub No. 33, 2023, s 22
s 42	amd No. 23, 2015, s 4 sub No. 33, 2023, s 22
s 43	amd No. 2, 2009, s 4; No. 2, 2022, s 5 sub No. 33, 2023, s 22
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div 3 hdg	sub No. 33, 2023, s 22
s 44	sub No. 33, 2023, s 22
s 45	amd No. 9, 2016, s 95 sub No. 33, 2023, s 22 as amd No. 4, 2024, s 6(1)
s 46	amd No. 47, 2010, s 11 sub No. 33, 2023, s 22
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s 47	amd No. 2, 2017, s 9 sub No. 33, 2023, s 22
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s 48	amd No. 18, 2020, s 12 sub No. 33, 2023, s 22
s 50	amd No. 9, 2016, s 95 sub No. 33, 2023, s 22
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s 51	sub No. 33, 2023, s 22
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s 52	sub No. 33, 2023, s 22
s 52A	ins No. 47, 2010, s 12 amd No. 2, 2017, s 10 rep No. 33, 2023, s 22
s 53	amd No. 47, 2010, s 13; No. 2, 2017, s 11 sub No. 33, 2023, s 22
s 54	amd No. 47, 2010, s 14; No. 9, 2016, s 95; No. 2, 2017, s 12 sub No. 33, 2023, s 22
s 55	amd No. 9, 2016, s 95 sub No. 33, 2023, s 22

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s 57 amd No. 9, 2016, s 95
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s 58 amd No. 47, 2010, s 15; No. 9, 2016, s 95
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s 59 amd No. 2, 2022, s 6
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s 60 sub No. 33, 2023, s 22
s 61 amd No. 9, 2016, s 95
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s 62 amd No. 9, 2016, s 95
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s 63 amd No. 47, 2010, s 16; No. 9, 2016, s 95
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s 65 amd No. 47, 2010, s 18; No. 9, 2016, s 95; No. 18, 2020, s 13
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s 66 amd No. 9, 2016, s 95
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s 67 amd No. 47, 2010, s 19; No. 9, 2016, s 95
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s 68 amd No. 47, 2010, s 20; No. 9, 2016, s 95
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pt 2.6 hdg sub No. 33, 2023, s 22
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div 1 hdg ins No. 33, 2023, s 22
s 69 amd No. 47, 2010, s 21; No. 9, 2016, s 95
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s 70 amd No. 47, 2010, s 22; No. 9, 2016, s 95; No. 2, 2022, s 7
 sub No. 33, 2023, s 22

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ss 71 – 72	amd No. 9, 2016, s 95 sub No. 33, 2023, s 22
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ss 73 – 76	amd No. 9, 2016, s 95 sub No. 33, 2023, s 22
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s 77	amd No. 9, 2016, s 95 sub No. 33, 2023, s 22 as amd No. 4, 2024, s 6(6)
s 78	amd No. 47, 2010, s 23; No. 9, 2016, s 95; No. 2, 2022, s 8 sub No. 33, 2023, s 22
s 79	amd No. 9, 2016, s 95; No. 2, 2022, s 9 sub No. 33, 2023, s 22
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s 82	sub No. 33, 2023, s 22
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ss 82D – 82G	ins No. 33, 2023, s 22
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ss 82H – 82Q	ins No. 33, 2023, s 22
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pt 2.9 hdg	sub No. 33, 2023, s 22
ss 82R – 82Y	ins No. 33, 2023, s 22
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pt 2.10 hdg	sub No. 33, 2023, s 22
s 83	amd No. 47, 2010, s 24; No. 9, 2016, s 95 sub No. 33, 2023, s 22
s 84	sub No. 47, 2010, s 25 amd No. 17, 2012, s 55; No. 28, 2018, s 25; No. 33, 2023, s 39
s 85	amd No. 33, 2023, s 23
s 85AA	ins No. 33, 2023, s 24
pt 2.11A hdg	ins No. 18, 2020, s 14
ss 85A – 85G	ins No. 18, 2020, s 14 amd No. 33, 2023, s 39
ss 86 – 87	amd No. 33, 2023, s 39
s 88	amd No. 9, 2016, s 95; No. 33, 2023, s 39
s 89	amd No. 2, 2017, s 14; No. 33, 2023, s 25
s 90	amd No. 33, 2023, s 39
s 91B	ins No. 9, 2016, s 94
s 92	amd No. 2, 2017, s 15
s 93	amd No. 33, 2023, s 39
s 94	amd No. 9, 2016, s 95
s 95	amd No. 9, 2016, s 95; No. 33, 2023, s 39
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