

NORTHERN TERRITORY OF AUSTRALIA
DOMESTIC VIOLENCE AMENDMENT ACT 1999

No. 40 of 1999

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. 40 of 1999

AN ACT

to amend the *Domestic Violence Act*

[Assented to 31 August 1999]

[Second reading 3 June 1999]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Domestic Violence Amendment Act 1999*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Domestic Violence Act* is in this Act referred to as the Principal Act.

4. Interpretation

Section 3 of the Principal Act is amended—

- (a) by inserting after the definition of "Court" in subsection (1) the following:

"'external restraining order' includes an interstate restraining order and a New Zealand restraining order;"

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- (b) by inserting after the definition of "interstate restraining order" in subsection (1) the following:

"New Zealand restraining order" means an order made under section 14 of the *Domestic Violence Act 1995* of New Zealand;;

- (c) by inserting after the definition of "registered interstate restraining order" in subsection (1) the following:

"registered New Zealand restraining order" means a New Zealand restraining order registered under Part 3;; and

- (d) by inserting in the definition of "restraining order" in subsection (1) "and a registered New Zealand restraining order" after "order" (last occurring).

5. Repeal and substitution

Section 11 of the Principal Act is repealed and the following substituted:

"11. Enforcement of unregistered external restraining order

"(1) This section applies if a member of the Police Force forms the opinion, on reasonable grounds, that a person in the Territory is a person against whom an external restraining order (not registered under section 18) is in force –

- (a) in the case of an interstate restraining order – in the State or Territory in which the order was made; or
- (b) in the case of a New Zealand restraining order – in New Zealand.

"(2) A member of the Police Force who forms the opinion referred to in subsection (1) must, as soon as practicable –

- (a) make a declaration of the opinion in accordance with the prescribed form; and
- (b) forward the declaration to the Commissioner of Police.

"(3) Not later than 72 hours after a member of the Police Force makes a declaration under subsection (2), the member may exercise his or her powers in relation to the person against whom the external restraining order is in force as if the external restraining order were a restraining order made under Part 2.

"(4) In relation to the exercise of powers under subsection (3), section 10(1) has effect for all purposes as if the external restraining order were a restraining order referred to in section 10(1)."

6. New section

The Principal Act is amended by inserting after section 12 the following:

"12A. Court to explain enforcement of restraining order outside Territory

"If the Court or Clerk makes or varies a restraining order –

- (a) in the presence of the defendant; or
- (b) in the absence of the defendant but in the presence of the defendant's legal representative,

the Court or Clerk must explain to the defendant or legal representative (as applicable) that the restraining order may be registered and enforced, without notice to the defendant, in a State or another Territory of the Commonwealth or in New Zealand if there is a law in force in the relevant jurisdiction to provide for the registration and enforcement of restraining orders made under this Act."

7. New sections

The Principal Act is amended by inserting after section 19 the following:

"19A. Court not to vary registered New Zealand restraining order

"The Court must not vary –

- (a) a registered New Zealand restraining order as it applies in the Territory; or
- (b) the period during which a registered New Zealand restraining order has effect in its operation in the Territory.

"19B. Variation of New Zealand restraining order of no effect in Territory

"(1) In this section –

'original order' means a New Zealand restraining order that is registered under section 18; and

'subsequent order' means, in relation to an original order, the original order as varied by a court in New Zealand after the original order has been registered under section 18.

"(2) A subsequent order has no effect in the Territory unless it is registered under section 18 following an application made under section 17.

"(3) The registration of a subsequent order has the effect of revoking the original order.

"(4) An original order remains in force until –

- (a) the expiry of the period during which it has effect in its operation in the Territory;
- (b) it is revoked by virtue of subsection (3); or
- (c) the cancellation of the registration of the original order under section 19C(1)(a) or (c).

"19C. Cancellation of registration of New Zealand restraining order

"(1) The Court must cancel the registration of a registered New Zealand restraining order if the Court is satisfied that –

- (a) the New Zealand restraining order has ceased to have effect in New Zealand;
- (b) the registered New Zealand restraining order has been revoked by virtue of section 19B(3); or
- (c) a restraining order (other than an interim restraining order) has been made under section 4(1) or 6(3) in relation to –
 - (i) the person for whose benefit the registered New Zealand restraining order was made; and
 - (ii) the person against whom the registered New Zealand restraining order was made.

"(2) The Court may cancel the registration of a registered New Zealand restraining order on receipt of an application for its cancellation made by any of the following persons:

- (a) a person who applied for the registration of the New Zealand restraining order;
- (b) a person for whose benefit the registered New Zealand restraining order was made;
- (c) a person against whom the registered New Zealand restraining order was made;
- (d) a person granted leave by the Court to make the application.

"(3) An application by a person referred to in subsection 2(a), (b) or (d) may be heard and determined in the absence of the person against whom the registered New Zealand restraining order was made.

"(4) On the cancellation under this section of the registration of a registered New Zealand restraining order, the Clerk must give notice of the cancellation to the Commissioner of Police and the Registrar of the court that made the New Zealand restraining order."

8. Variation etc. of registered interstate restraining order

Section 20 of the Principal Act is amended –

(a) by inserting after subsection (1) the following:

"(1A) If–

- (a) an interstate restraining order is registered under section 18; and
- (b) a court in the State or Territory in which the interstate restraining order was made varies or revokes the interstate restraining order,

the variation or revocation has no effect in the Territory."; and

(b) by omitting subsection (6) and substituting the following:

"(6) On the variation of a registered interstate restraining order or the cancellation of the registration of an interstate restraining order under this section, the Clerk must give notice of the variation or cancellation to the Commissioner of Police and the Registrar of the court that made the interstate restraining order."

9. Heading to Part 3A

The heading to Part 3A of the Principal Act is omitted.

10. New Part heading

The Principal Act is amended by inserting after section 20 the following:

"PART 3A – MISCELLANEOUS".

11. Further amendments

The Principal Act is amended as set out in the Schedule.

12. Application to order made in New Zealand before commencement

Part 3 of the Principal Act, as amended by this Act, applies in relation to a New Zealand restraining order in force in New Zealand despite the order having been made before the commencement of this Act.

SCHEDULE

Section 11

Provision	Amendment	
	omit	substitute
section 7(1)	"section 4"	"section 6"
Heading to Part 3	"INTERSTATE"	"EXTERNAL"
sections 17, 18 and 19	"interstate" (wherever occurring)	"external"

ALTERATION TO SECTION HEADINGS

On the day on which the *Domestic Violence Act* is amended by this Act, in addition to any alterations to the section headings indicated in the text of this Act, the headings to sections 17, 18 and 19 of the *Domestic Violence Act* are altered by omitting "INTERSTATE" and substituting "EXTERNAL".