

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 30 August 2019

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 30 August 2019

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:

- (a) domestic violence is unacceptable behaviour that society does not condone; and
- (b) domestic violence has:
 - (i) negative and long-lasting consequences for victims and others exposed to it; and
 - (ii) negative consequences for the community, the workplace 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:
- (a) to ensure the safety and protection of all persons, including children, who experience or are exposed to domestic violence; and

- (b) to ensure people who commit domestic violence accept responsibility for their conduct; and
 - (c) to reduce and prevent domestic violence.
- (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.

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.

Commissioner means the Commissioner of Police.

consent DVO, see section 38(1).

copy, for Chapter 5, see section 118.

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

Court means the Local Court.

court DVO means:

- (a) a Local Court DVO; or
- (b) an interim court DVO; or
- (c) a consent DVO; or
- (d) a DVO made by a court under Part 2.7; or
- (e) a DVO confirmed by the Court under Part 2.10.

defendant, for:

- (a) a DVO – see section 14; or
- (b) an external order or interstate DVO – means the person against whom the order is made.

domestic relationship, see section 9.

domestic violence, see section 5.

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

domestic violence order:

- (a) other than for Chapter 3A – means a court DVO or police DVO, and includes:
 - (i) a DVO as varied under Part 2.7 or 2.8; and
 - (ii) a police DVO as varied under Part 2.8, Division 2, or confirmed under Part 2.9; and
- (b) for Chapter 3A – see section 102.

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

DVO is an acronym for domestic violence order.

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.

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.

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 court DVO, see section 35(1).

interim court variation order, see section 52A.

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

interstate DVO, see section 103A.

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

intimate personal relationship, see section 11.

intimidation, see section 6.

issuing authority, means:

- (a) for a Local Court DVO:
 - (i) the Court; or
 - (ii) a registrar deciding the application for the DVO; or
- (b) for a police DVO – the authorised police officer considering making the DVO; or
- (c) for a court DVO made under Part 2.7 – 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 Court DVO, see section 28(1).

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, for a DVO, means:

- (a) the protected person or person acting for the protected person; or
- (b) the defendant.

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.

police DVO, see section 41(1).

premises access 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
- (b) a proceeding for the confirmation of a DVO; or
- (c) a proceeding for an offence against this Act.

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.

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) a perpetrators' program as defined in section 78H(1) of the *Sentencing Act 1995*; or
- (b) another program to facilitate a defendant's rehabilitation.

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, prohibitions or restrictions to the DVO or vary or delete conditions, prohibitions or restrictions;
- (c) extend or reduce the period for which the DVO remains in force.

young person means an individual who is between 15 and 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

Domestic violence is any of the following conduct committed by a person against someone with whom the person is in a domestic relationship:

- (a) conduct causing harm;

Example of harm for paragraph (a)

Sexual or other assault.

- (b) damaging property, including the injury or death of an animal;

- (c) intimidation;
- (d) stalking;
- (e) economic abuse;
- (f) attempting or threatening to commit conduct mentioned in paragraphs (a) to (e).

Note

Under Part 2.2, a DVO may be sought, and made, against a person if the person counsels or procures someone to commit the domestic violence, see section 17.

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

Economic abuse, of a person, includes any of the following conduct (or any combination of them):

- (a) coercing the person to relinquish control over assets or income;

Example of coercion for paragraph (a)

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

- (b) unreasonably disposing of property (whether owned by the person or owned jointly with the person or someone else) without consent;
- (c) unreasonably preventing the person from taking part in decisions over household expenditure or the disposition of joint property;
- (d) withholding money reasonably necessary for the maintenance of the person or a child of the person.

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 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
- (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
 - (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

*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 the persons are engaged to be married to each other, including a betrothal under cultural or religious tradition.
- (2) In addition, an **intimate personal relationship** exists between 2 persons, whether or not the relationship involves a sexual relationship, if the persons date each other.
- (3) In deciding whether an intimate personal relationship exists under subsection (2), 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 defendant.
- (3) More than 1 person may be named as a protected person in:
- (a) an application for a DVO; or
 - (b) a DVO.

Example of protected persons for subsection (3)

The spouse of the defendant and children exposed to the domestic violence committed by the defendant against the spouse.

14 Defendant

- (1) The **defendant** is the person against whom a DVO:
- (a) is sought; or
 - (b) is in force.
- (2) Only 1 person may be named as the defendant in:
- (a) an application for a DVO; or
 - (b) a DVO.
- (3) The defendant must be at least 15 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 object of this Chapter are to provide for:

- (a) the making of domestic violence orders to protect people from domestic violence; 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 defendant.

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 to be of paramount importance.

- (2) In addition, the issuing authority must consider the following:
- (a) any family law orders in force in relation to the defendant, or any pending applications for family law orders in relation to the defendant, of which the issuing authority has been informed;
 - (b) the accommodation needs of the protected person;
 - (c) the defendant's criminal record as defined in the *Criminal Records (Spent Convictions) Act 1992*;
 - (d) the defendant's previous conduct whether in relation to the protected person or someone else;
 - (e) other matters the authority considers relevant.

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

- (1) This section applies if:
- (a) the defendant 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 defendant 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 access order.

Example of order for subsection (3)

A premises access order providing for the defendant to visit the child at the home.

Part 2.3 Content of domestic violence orders

21 What DVO may provide

(1) A DVO may provide for any of the following:

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

- (b) an order imposing the obligations on the defendant 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 defendant to change his or her behaviour;

- (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 defendant or protected person.

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

(1A) An ancillary order may:

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

Example for subsection (1A)(b)

An order that the defendant 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.

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

Note

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.

22 Premises access order

(1) A DVO may include an order (a **premises access order**):

(a) requiring the defendant to vacate stated premises where the defendant and protected person live together or previously lived together; or

(b) restraining the defendant from entering such premises except on stated conditions.

(2) Before making a premises access order, the issuing authority must consider the effect of making the order on the accommodation of the persons affected by it.

(3) The order applies regardless of whether the defendant has a legal or equitable interest in the premises.

23 Order for replacement tenancy agreement

(1) This section applies if:

(a) the defendant and protected person live together or previously lived together in premises; and

(b) the defendant or protected person is a tenant of the premises or both of them are tenants of the premises (regardless of whether anyone else is a tenant of the premises); and

(c) either:

(i) a court DVO includes a premises access order for the premises; or

(ii) the protected person no longer wishes to live in the premises.

(2) The court may make the following orders in the DVO:

(a) an order terminating the tenancy agreement;

- (b) an order creating a new tenancy agreement (the **replacement agreement**):
 - (i) for the benefit of the protected person and anyone else who was a party to the terminated agreement other than the defendant; or
 - (ii) with the agreement of the protected person, for the benefit of the defendant and anyone else who was a party to the terminated agreement.
- (3) The orders may be made only if:
 - (a) the court is satisfied:
 - (i) the domestic relationship between the protected person and defendant has broken down permanently; and
 - (ii) there is no reasonable likelihood of them living in the premises free of domestic violence; and
 - (iii) the protected person or defendant (as appropriate) will be able to comply with the replacement agreement; and
 - (iv) it is appropriate in the circumstances to make the order; and
 - (c) the landlord consents to the orders or, if the landlord refuses consent, the court is satisfied the refusal is unreasonable; and
 - (d) the protected person consents to the orders.
- (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) A court DVO may include an order requiring the defendant to take part in a rehabilitation program.
- (2) The order may be made only if:
 - (a) the court is satisfied:
 - (i) the defendant is a suitable person to take part in the program; and
 - (ii) there is a place available in the program for the defendant; and
 - (b) the defendant 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 defendant 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 satisfied publication would expose the person to the risk of harm.

Note

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

27 Duration of DVO

A DVO (other than an interim court DVO) is in force for the period stated in it.

Note

For the duration of an interim court DVO, see section 35(3).

Part 2.4 Domestic violence orders made by Local Court

Division 1 Application process

28 Who may apply for DVO

- (1) Any of the following persons may apply for a domestic violence order under this Part (a **Local Court DVO**):
 - (a) an adult or young person in a domestic relationship with the defendant;
 - (b) an adult acting for a person (whether an adult or child) in a domestic relationship with the defendant;
 - (c) a police officer.
- (2) An application may be made by, or for, only 1 person even though more than 1 protected person may be named in it.
- (3) A young person may apply for a DVO only with the leave of the Court.
- (4) The Court may grant leave only if satisfied:
 - (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 DVO; and
 - (b) the young person has the capacity to make the application.

29 When application must be made for child

- (1) A police officer or child protection officer must apply for a Local Court DVO for the protection of a child if the officer reasonably believes:
 - (a) domestic violence has been committed or is being committed, or is likely to be committed; and
 - (b) the child's wellbeing has or is likely to be adversely affected by the violence.
- (2) However, an application need not be made if the officer reasonably believes:
 - (a) a DVO is already in force against the defendant for the child's protection; or
 - (b) a police DVO is to be made against the defendant for the child's protection; or
 - (c) an application for a Local Court DVO is to be made for the child's protection; or
 - (d) a DVO is not necessary for the child's protection because an order is in force for the child's protection under another Act.

30 How application is made

An application for a Local Court DVO must:

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

31 Notice of hearing of application

As soon as practicable after the application is filed, a registrar must give written notice to the parties to the DVO of the time and place for the hearing of the application.

Division 2 Hearing process

32 Court may decide application in absence of defendant

- (1) The Court may decide an application for a Local Court DVO even if the defendant does not appear at the hearing of the application.

- (2) Subsection (1) applies regardless of whether notice to the defendant to appear at the hearing is given to the defendant before the hearing.

33 When registrar may decide application for order

- (1) A registrar may decide an application for a Local Court DVO only if:
- (a) notice to the defendant to appear at the hearing of the application is not given to the defendant before the hearing; and
 - (b) the defendant does not appear at the hearing of the application.

Note for subsection (1)

Under section 38, the registrar may make a consent DVO if the defendant appears at the hearing and consents to the making of the DVO.

- (2) In addition, the hearing of an application for a Local Court DVO by a registrar is subject to applicable rules and practice directions made under the *Local Court Act 2015*.

34 Referral of application to Court

- (1) This section applies if, on an application for a Local Court DVO:
- (a) a registrar is not satisfied a DVO should be made against the defendant; or
 - (b) the defendant appears at the hearing of the application and does not consent to a DVO being made.
- (2) The registrar must refer the application to the Court for decision.
- (3) On the referral, the Court may:
- (a) make the DVO sought; or
 - (b) direct a further affidavit be filed; or
 - (c) give directions about the application.
- (4) On the filing of the further affidavit, the registrar may make a DVO.

35 Interim court DVO

- (1) At any time during the proceeding for the hearing of an application for a Local Court DVO, the Court may make a domestic violence order under this section (an *interim court DVO*).

Note

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 the interim court DVO:
- (a) even if the defendant does not appear at the hearing; or
 - (b) if the defendant appears at the hearing:
 - (i) before hearing the defendant's evidence; or
 - (ii) even if the defendant objects to the order being made.
- (3) The interim court DVO is in force until the earlier of the following:
- (a) it is revoked by the Court;
 - (b) if a Local Court DVO is made for the same parties and the defendant is before the Court:
 - (i) on the making of the Local Court DVO; or
 - (ii) on the later date ordered by the Court;
 - (c) if a Local Court DVO is made for the same parties and the defendant is not before the Court:
 - (i) when the Local Court DVO is given to the defendant; or
 - (ii) on the later date ordered by the Court.

Note for subsection (3)

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

Division 3 Miscellaneous matters

35A Court may refuse to hear application or order stay of proceeding

- (1) This section applies if the Court is satisfied an application for a DVO is frivolous, vexatious or an abuse of the process of the Court.

- (2) The Court may, 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 DVO), 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.
- (3) The Court must immediately give the parties notice of the decision.

36 Notice of DVO

As soon as practicable after a Local Court DVO or interim court DVO is made, a registrar must give a copy of it to:

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

Note for section 36

Under section 119, a copy of a DVO is given to the defendant if the defendant is before the Court when it is made. Otherwise a copy of a DVO is given to the defendant if it is given in any of the ways mentioned in that section.

37 DVO taken to be summons to appear before Court

If:

- (a) notice to the defendant to appear at the hearing of the application is not given to the defendant before the hearing; and
- (b) a Local Court DVO is made in the absence of the defendant;

the copy of the DVO given to the defendant is taken to be a summons to the defendant to appear before the Court, at the time and place shown on it for its return, to show cause why the DVO should not be confirmed by the Court.

Note

Part 2.10 deals with the confirmation of DVOs.

Part 2.5 Domestic violence orders made with consent of parties

38 When consent DVO may be made

- (1) On an application made under Part 2.4, Division 1, for a DVO, the Court or a registrar may make a domestic violence order under this Part (a **consent DVO**) if the parties to the DVO consent to it being made.
- (2) The DVO may be made even if the defendant has not admitted or has expressly denied:
 - (a) an allegation made against him or her; or
 - (b) the grounds of the application.

39 When registrar must refer application to Court

- (1) If the registrar is not satisfied a DVO should be made, the registrar must refer the application to the Court for decision.
- (2) On the referral, the Court may:
 - (a) make the DVO sought; or
 - (b) direct a further affidavit be filed; or
 - (c) give directions about the application.
- (3) On the filing of the further affidavit, the registrar may make the DVO sought.

40 Notice of DVO

As soon as practicable after a consent DVO is made, a registrar must give a copy of it to:

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

Note for section 40

Under section 119, a copy of a DVO is given to the defendant if the defendant is before the Court or registrar when it is made. Otherwise a copy of a DVO is given to the defendant if it is given in any of the ways mentioned in that section.

Part 2.6 Domestic violence orders made by authorised police officers

41 When authorised police officer may make DVO

- (1) An authorised police officer may make a domestic violence order under this Part (a **police DVO**) if satisfied:
 - (a) it is necessary to ensure a person's safety:
 - (i) because of urgent circumstances; or
 - (ii) because it is not otherwise practicable in the circumstances to obtain a Local Court DVO; and
 - (b) a Local Court DVO might reasonably have been made had it been practicable to apply for one.
- (2) The police DVO may be made even if the defendant has not been given an opportunity to answer any allegation made in relation to the making of the DVO.

Note

For provisions about the content of DVOs, see Part 2.3.

42 Matters to be recorded on DVO

- (1) The authorised police officer must record, or ensure that another police officer records, the following on the police DVO:
 - (a) the reasons for making it;
 - (b) the time and place for its return.
- (2) The time for the return of the DVO must be as soon as practicable after it is made.

43 What police officer must do after DVO is made

- (1) As soon as practicable after the police DVO is made, a police officer must:
 - (a) give a copy of it to the parties to the DVO; and
 - (b) send the original of it to the Court.

- (2) If giving a copy of the DVO to the defendant personally, the officer must explain to the defendant:
 - (a) the effect of the DVO, including any restrictions and obligations imposed by the DVO; and
 - (b) the consequences that may follow if the defendant contravenes the DVO; and
 - (c) the defendant has a right to apply for a review of the DVO under Part 2.9.
- (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 defendant.
- (4) A failure to comply with this section for a DVO does not affect its validity.

44 DVO taken to be summons to appear before Court

The copy of the police DVO given to the defendant is taken to be a summons to the defendant to appear before the Court, at the time and place shown on it for its return, to show cause why the DVO should not be confirmed by the Court.

Notes

- 1 *Part 2.10 deals with the confirmation of DVOs.*
- 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 defendant before the defendant engages in the conduct, see section 120(2).*

Part 2.7 Domestic violence orders made by courts in criminal proceedings

45 Power of court if person guilty of related offence

- (1) A court before which a person pleads guilty to, or is found guilty of, an offence that involves domestic violence may make a domestic violence order under this Part against the person if it is satisfied a Local Court DVO could be made against the person.
- (2) The court may make the order on its own initiative or on application by the prosecutor.

- (3) If a DVO is already in force against the person, the court:
- (a) must consider the DVO and whether, in the circumstances, the DVO needs to be varied, including, for example, by varying the date the DVO ends; and
 - (b) may vary the DVO if the court considers it needs to be varied.
- (4) This section applies whether or not the court makes another order in relation to the person.

46 Notice of DVO

As soon as practicable after the DVO is made, the court must give a copy of it to:

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

Note for section 46

Under section 119, a copy of a DVO is given to the defendant if the defendant is before the court when it is made. Otherwise a copy of a DVO is given to the defendant if it is given in any of the ways mentioned in that section.

Part 2.8 Variation and revocation of domestic violence orders

Division 1 Variation and revocation by Court

Subdivision 1 Application of Division

47 DVOs to which Division applies

This Division applies to a court DVO other than an interim court DVO.

Subdivision 2 Application for variation or revocation

48 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 DVO:
- (a) a protected person if the person is an adult or young person;
 - (b) a police officer or adult acting for a protected person;
 - (c) the defendant;

- (d) a person granted leave by the Court to make the application.
- (2) An application may be made by, or for, only 1 person even though more than 1 protected person is named in the DVO.
- (3) The defendant may apply for the order only with the leave of the Court.
- (4) The Court may grant leave to the defendant only if satisfied there has been a substantial change in the relevant circumstances since the DVO was made or last varied.
- (5) Without limiting subsection (4), a substantial change in the relevant circumstances may arise if:
- (a) there has been a change in circumstances relating to affected children including, for example, their care arrangements; or
 - (b) the defendant satisfactorily completes a rehabilitation program.

49 How application is made

The application must:

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

50 Notice of hearing of application

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

- (a) the parties to the DVO; and
- (b) for a court DVO that is a police DVO confirmed by the Court under Part 2.10 – the Commissioner.

Subdivision 3 Court hearings for variation and revocation

51 When Court may vary or revoke DVO

The Court may, by order, vary or revoke a DVO:

- (a) on an application made under Subdivision 2; or
- (b) on its own initiative.

52 Right of persons to be heard before decision is made

The Court may vary or revoke the DVO only if the following persons have had an opportunity to be heard on the matter:

- (a) persons who, in its opinion, have a direct interest in the outcome;
- (b) for an application relating to a court DVO that is a police DVO confirmed by the Court under Part 2.10 – the Commissioner.

52A Interim court variation order

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

53 What must be considered before making order

In deciding whether to make an interim court variation order or order varying or revoking the DVO, 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

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.

54 Notice of order

As soon as practicable after the Court makes an interim court variation order or order varying or revoking the DVO, a registrar must give a copy of the DVO as varied or written notice of the revocation to:

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

Note for section 54

Under section 119, a copy of a DVO is given to the defendant if the defendant is before the Court when it is made. Otherwise a copy of a DVO is given to the defendant if it is given in any of the ways mentioned in that section.

Subdivision 4 Special provisions for variation ex parte

55 Application of Subdivision

This Subdivision applies if:

- (a) an application is made under Subdivision 2 for an order to vary a DVO; and
- (b) the Court or a registrar is satisfied it is not practicable to comply with section 52.

56 Deciding application

- (1) In deciding whether to make an order varying a DVO, the Court or registrar 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

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 or registrar may decide the application even if:
 - (a) the defendant has not been given an opportunity to answer any allegation in it; and
 - (b) another person who has a direct interest in the outcome has not had an opportunity to be heard on the matter.

57 Referral of application to Court

- (1) This section applies if:
 - (a) the registrar is not satisfied an order should be made to vary the DVO; or
 - (b) the defendant appears at the hearing of the application and does not consent to an order being made.
- (2) The registrar must refer the application to the Court for decision.
- (3) On the referral, the Court may:
 - (a) make the order sought; or
 - (b) direct a further affidavit be filed; or

- (c) give directions about the application.
- (4) On the filing of the further affidavit, the registrar may make an order varying the DVO.

58 Notice of decision

As soon as practicable after a decision is made on the application, a registrar must give a copy of the DVO as varied or, if the application is refused, written notice of the decision and the reasons for it, to:

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

59 Order taken to be summons to appear before Court

The copy of the order given to the defendant is taken to be a summons to the defendant to appear before the Court, at the time and place shown on it for its return, to show cause why the DVO should not be confirmed by the Court.

Note

Part 2.10 deals with the confirmation of DVOs.

Subdivision 5 Variation and revocation with consent of parties

60 Application of Subdivision

This Subdivision applies if:

- (a) an application is made under Subdivision 2 for an order to vary or revoke a DVO; and
- (b) the parties to the DVO consent to the making of the order.

61 When order may be made

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

62 When registrar must refer application to Court

- (1) If the registrar is not satisfied an order should be made to vary or revoke the DVO, the registrar must refer the application to the Court for decision.

- (2) On the referral, the Court may:
 - (a) make the order sought; or
 - (b) direct a further affidavit be filed; or
 - (c) give directions about the application.
- (3) On the filing of the further affidavit, the registrar may make an order varying or revoking the DVO.

63 Notice of order

As soon as practicable after the Court or clerk makes an order varying or revoking the DVO, a registrar must give a copy of the DVO as varied or written notice of the revocation to:

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

Note for section 63

Under section 119, a copy of a DVO is given to the defendant if the defendant is before the Court or registrar when it is made. Otherwise a copy of a DVO is given to the defendant if it is given in any of the ways mentioned in that section.

Division 2 Variation of domestic violence orders in urgent circumstances

64 DVOs to which Division applies

This Division applies to the following DVOs:

- (a) a court DVO other than an interim court DVO;
- (b) a police DVO.

65 When application may be made

- (1) If, because of urgent circumstances, it is not practicable to obtain an order varying a court DVO under Division 1, a police officer may apply to a Judge for an order varying the DVO.
- (1A) In addition, a police officer may apply to a Judge for an order varying a police DVO if, because of urgent circumstances, the terms of the DVO should be varied before the hearing of the proceeding for the confirmation of the DVO.

- (2) However, the police officer may make the application only if satisfied there has been a substantial change in the relevant circumstances since the DVO was made or last varied.
- (3) Without limiting subsection (2), a substantial change in the relevant circumstances may arise if:
 - (a) there has been a change in circumstances relating to affected children including, for example, their care arrangements; or
 - (b) the defendant satisfactorily completes a rehabilitation program.

66 How application is made

- (1) The application may be made by phone, fax or another 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 Judge orally.

67 Deciding application

- (1) In deciding whether to make an order varying or revoking a DVO, the Judge must consider the same matters required to be considered in deciding:
 - (a) whether or not to make a DVO; and
 - (b) by order vary the DVO; or
 - (c) for a police DVO – revoke the DVO.

Note

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 Judge may:
 - (a) refuse to make an order varying the DVO; or
 - (b) by order vary the DVO.

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

68 What Judge must do if variation order is refused

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

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

69 What Judge must do if variation order is made

- (1) This section applies if the Judge makes an order varying the DVO.
- (2) The Judge must record on the order:
 - (a) the reasons for making it; and
 - (b) the time and place for its return.
- (3) The time for the return of the order must be as soon as practicable after it is made.
- (4) The Judge must inform the police officer of:
 - (a) the terms of the order; and
 - (b) the reasons for making it; and
 - (c) the time and place for its return.

70 What police officer must do when variation order is made

- (1) The police officer must:
 - (a) complete a form of order as directed by the Judge ; and
 - (b) write on it:
 - (i) the Judge's name; and
 - (ii) the date and time it is made.

- (2) As soon as practicable after completion of the form of order, a police officer must:
- (a) give a copy of it to the parties to the DVO; and
 - (b) send the original of it to the Court.

Note for subsection (2)(a)

A DVO is given to the defendant if it is given in any of the ways mentioned in section 119.

71 Order taken to be summons to appear before Court

If the Judge makes an order varying the DVO, the copy of the form of order given to the defendant is taken to be a summons to the defendant to appear before the Court, at the time and place shown on it for its return, to show cause why the DVO should not be confirmed by the Court.

Note

Part 2.10 deals with the confirmation of DVOs.

Part 2.9 Review of police domestic violence orders

72 Application for review

A party to a police DVO may apply to a Judge for a review of the DVO.

73 How application is made

- (1) The application may be made by phone, fax or another form of electronic communication.
- (2) If a party wants to apply for a review of the DVO:
 - (a) the party must tell a police officer; and
 - (b) the police officer must facilitate the application.
- (3) To facilitate the application, the police officer must:
 - (a) contact a Judge ; and
 - (b) ensure the application complies with applicable rules and practice directions relating to making the application; and
 - (c) ensure the Judge is given the information required for the application.

74 Deciding application

(1) In reviewing the DVO, the Judge 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

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 Judge may, by order:

- (a) confirm the DVO (with or without variations); or
- (b) revoke the DVO.

(3) The Judge must:

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

75 What police officer must do if DVO is revoked

If the Judge makes an order revoking the DVO, a police officer must inform the parties to the DVO of:

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

76 What police officer must do if DVO is confirmed without variations

If the Judge makes an order confirming the DVO without variations, the police officer must inform the parties to the DVO of:

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

77 What Judge must do if DVO is confirmed with variations

If the Judge makes an order confirming the DVO with variations, the Judge must inform the police officer of:

- (a) the terms of the DVO as varied; and

(b) the time and place for the return of the DVO as varied.

78 What police officer must do if DVO is confirmed with variations

(1) If the Judge makes an order confirming the DVO with variations, the police officer must:

(a) complete a form of order as directed by the Judge; and

(b) write on it:

(i) the Judge's name; and

(ii) the date and time it is made.

(2) As soon as practicable after the form of order is completed, a police officer must:

(a) give a copy of it to the parties to the DVO; and

(b) send the original of it to the Court.

Note for subsection (2)(a)

A DVO is given to the defendant if it is given in any of the ways mentioned in section 119.

79 Order taken to be summons to appear before Court

If the Judge makes an order confirming the DVO (with or without variations), the form of order given to the defendant is taken to be a summons to the defendant to appear before the Court, at the time and place shown on it for its return, to show cause why the DVO as varied should not be confirmed by the Court.

Note

Part 2.10 deals with the confirmation of DVOs.

Part 2.10 Confirmation of domestic violence orders

80 Application of Part

This Part applies if the defendant is summoned to appear before the Court to show cause why a DVO should not be confirmed.

Note

Sections 37, 44, 59, 71 and 79 provide for a summons to the defendant.

81 Appearing at hearing

- (1) Subject to applicable procedural directions, a protected person may appear at the hearing of the proceeding.
- (2) If the defendant has been summoned under section 44 or 71, the Commissioner is a party to the proceeding.

82 Decision at hearing

- (1) At the hearing, the Court may, by order:
 - (a) confirm the DVO (with or without variations); or
 - (b) revoke the DVO.
- (2) The Court must not confirm the DVO unless:
 - (a) it is satisfied the defendant has been given a copy of the DVO; and
 - (b) it has considered any evidence before it and submissions from the parties to the DVO.

83 Notice of order

As soon as practicable after the Court makes its order, a registrar must give to the parties to the DVO and the Commissioner:

- (a) if it confirms the DVO without variations or revokes it – written notice of the order; or
- (b) if it confirms the DVO with variations – a copy of the DVO as varied.

Note for section 83

Under section 119, a copy of a DVO is given to the defendant if the defendant is before the Court when it is made. Otherwise a copy of a DVO is given to the defendant if it is given in any of the ways 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 2.8, Division 2.
- (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 defendant; or
 - (ii) if subsection (1)(b) applies – the giving of a copy of the DVO to the defendant; 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 defendant.
- (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 defendant's personal property

- (1) This section applies if:
- (a) a DVO includes a premises access order; and

- (b) personal property of the defendant is located on the premises the subject of the order.
- (2) The defendant may, if accompanied by a police officer:
 - (a) enter the premises at any reasonable time; and
 - (b) retrieve the property.
- (3) The defendant 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.
- (5) In this section:

personal property includes clothes, tools of trade, personal documents and other items of personal effect.

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 defendant 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 defendant 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 36, a registrar is required to give a copy of a Local 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) This section applies if a protected person who is an adult or young person, or the defendant, is present when a court DVO is made, confirmed or varied.
- (2) The issuing authority must explain to the protected person or defendant:
- (a) the effect of the DVO, including:
 - (i) any restrictions and obligations imposed by the DVO; and
 - (ii) the DVO may be registered and enforced, without notice to the defendant, in New Zealand; and
 - (iii) the DVO may be enforced, without notice to the defendant, in a State or another Territory that is a participating jurisdiction; and
 - (b) the consequences that may follow if the defendant contravenes 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 defendant; and
 - (b) any applications for family law orders in relation to the defendant 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 defendant; and
 - (ii) any pending applications for family law orders in relation to the defendant; 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 defendant.

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 defendant 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 defendant 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 defendant.

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 defendant if the defendant 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 defendant 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 defendant 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 defendant 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 defendant; 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 defendant.
- (2) However, if a police officer makes a police DVO that applies to a defendant and protected person and there is a recognised DVO in force that applies to the same defendant 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 defendant 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 defendant

- (1) A recognised DVO, or a recognised variation to a recognised DVO, is enforceable against the defendant in the Territory.
- (2) A recognised DVO that is a local DVO becomes enforceable against the defendant in the Territory when the defendant 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 defendant in the Territory when the defendant 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 defendant in the Territory from the time it becomes a recognised DVO.
- (5) A recognised variation to a recognised DVO becomes enforceable against the defendant in the Territory when the defendant 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 defendant is given a copy of the DVO; or
 - (b) the DVO is made by a court and the defendant 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 defendant is given a copy of the variation; or
 - (b) the variation is done by a court and the defendant 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 defendant in the Territory may be enforced in the Territory:
- (a) as if it were a local DVO; and
 - (b) as if the defendant 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 defendant in the Territory may be enforced as if the defendant 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 defendant and the protected person or persons under the DVO generally reside or are employed;
 - (b) any difficulty the respondent 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 defendant under the DVO) applying for and obtaining a local DVO against the defendant 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 defendant during any period in which, under the law of the issuing jurisdiction for the DVO, the defendant is not entitled to apply for the variation or revocation of the DVO in the issuing jurisdiction.

(6) In this section:

respondent to an application for variation or revocation of a DVO means:

- (a) in the case of an application made by the defendant under the recognised DVO – the protected person or persons under the recognised DVO; or
- (b) in any other case – the defendant under the recognised DVO.

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 defendant 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 defendant 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 defendant 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 defendant 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 defendant when the declaration is made. Subsection (7) specifies that notice of the declaration is not to be served on the defendant 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 defendant 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 Division:

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

recorded statement, see section 21A(1) 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 21A(1) 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.
- (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.

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 him or her; 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

A child who gives evidence by written or recorded statement need not appear at the hearing and cannot be cross-examined in relation to his or her evidence.

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 witness chooses to give evidence in the courtroom, a screen, partition or 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.

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 him or her; 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 5 General matters

114 Cross-examination by unrepresented defendant

- (1) This section applies if the defendant is not represented by a legal practitioner.
- (2) The Court may make an order that the defendant may only put a question to a person (the **witness**) who is in a domestic relationship with the defendant in the way provided by subsection (3).

- (3) A question is put to the witness as follows:
- (a) the defendant must state the question (a **stated question**) to an appointed person for the defendant;
 - (b) the appointed person must repeat the stated question accurately to the person.
- (3A) For subsection (3), the appointed person for a defendant is a person appointed by the Court for the purpose of a defendant's questioning of a witness.
- (3B) However, the appointed person for a defendant must not do either of the following:
- (a) ask the witness any other question except a stated question;
 - (b) give the defendant legal or other advice.
- (3C) If a defendant who is not represented by a legal practitioner does not question the witness, the Court must warn the defendant that 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.
- (4) The Court may make the order mentioned in subsection (2) on its own initiative or on application by a party to the proceeding.
- (5) This section applies despite another law of the Territory.

Part 4.2 Hearing procedures

115 Procedural directions

- (1) 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 defendant, 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 defendant was before the court when the DVO was made;
 - (b) the court explained to the defendant 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 2.8, Division 2, or Part 2.9.

119 When DVO is given to defendant

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

- (a) for a court DVO – the defendant was before the issuing authority 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 defendant, orally or in writing, of its making and terms; or
- (d) it is given to the defendant in another way the Court or a Judge orders.

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 2.7 or 2.8 or confirmed with variations under Part 2.9 or 2.10:
 - (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 Penalty for contravention of DVO – adult

- (1) If an adult is found guilty of an offence against section 120(1), the person is liable to a penalty of 400 penalty units or imprisonment for 2 years.
- (2) The court must record a conviction and sentence the person to imprisonment for at least 7 days if the person has previously been found guilty of a DVO contravention offence.
- (3) Subsection (2) does not apply if:
 - (a) the offence does not result in harm being caused to a protected person; and
 - (b) the court is satisfied it is not appropriate to record a conviction and sentence the person under the subsection in the particular circumstances of the offence.
- (4) In addition, subsection (2) does not apply to a police DVO that has not been confirmed by the Court under Part 2.10.
- (5) The court must not make an order for a person who has previously been found guilty of a DVO contravention offence if the order would result in the release of the person from the requirement to actually serve the term of imprisonment imposed.
- (6) Subsection (7) applies if, when the person is sentenced under this section to serve a term of imprisonment for the offence, the person:
 - (a) is serving a term of imprisonment for another offence; or
 - (b) has been sentenced to serve a term of imprisonment for another offence.
- (7) Despite section 50 of the *Sentencing Act 1995*, the court must not direct the term of imprisonment to be served concurrently with the other term of imprisonment mentioned in subsection (6)(a) or (b).

122 Penalty for contravention of DVO – young person

- (1) If a young person is found guilty of an offence against section 120(1), the person is liable to a penalty of 400 penalty units or detention or imprisonment for 2 years.

- (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 prescribed by regulation for this definition.

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.

Part 5A.2 Information sharing

124E Sharing information for assessing or preventing domestic violence threat

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.

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 that results in the disclosure of the information and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) However, a person does not commit an offence against subsection (1) by:
 - (a) disclosing or using the information as required or authorised by this Chapter; or

- (b) disclosing or using the information for any of the following purposes authorised by the Minister:
 - (i) research relating to the purpose of this Chapter;
 - (ii) an inquiry or investigation conducted by a coroner, the police force or another law enforcement agency;
 - (iii) any other purpose prescribed by regulation; or
 - (c) disclosing the information to a court or tribunal; or
 - (d) disclosing or using the information in compliance with the Information Privacy Principles or the National Privacy Principles, whether or not the person, or the entity that employs or engages the person, is bound by those Principles; or
 - (e) making a disclosure or use that is otherwise required or authorised by law.
- (4) A failure to comply with the information sharing guidelines does not of itself constitute an offence against subsection (1).
- (5) In this section:

Information Privacy Principles means the principles set out in Schedule 2 to the *Information Act 2002*.

National Privacy Principles means the principles set out in Schedule 3 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 Internet; 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 Internet; 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 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.

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 (f)(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.

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
 app = appendix
 bl = by-law
 ch = Chapter
 cl = clause
 div = Division
 exp = expires/expired
 f = forms
 Gaz = Gazette
 hdg = heading
 ins = inserted
 lt = long title
 nc = not commenced

od = order
 om = omitted
 pt = Part
 r = regulation/rule
 rem = remainder
 renum = renumbered
 rep = repealed
 s = section
 sch = Schedule
 sdiv = Subdivision
 SL = Subordinate Legislation
 sub = substituted

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

Assent date 12 December 2007
 Commenced 1 July 2008 (*Gaz* 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 (*Gaz* 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 (*Gaz* 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 (*Gaz* 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 (*Gaz* 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 (*Gaz* 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)

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

s 3	amd No. 21, 2018, s 4
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
s 13	amd No. 2, 2017, s 5
s 15	sub No. 4, 2017, s 7
s 21	amd No. 7, 2013, 4
s 22	amd No. 47, 2010, s 5
s 23	amd No. 47, 2010, s 6
s 27	amd No. 2, 2017, s 6
ch 2	
pt 2.4 hdg	amd No. 9, 2016, s 95
ss 28 – 34	amd No. 9, 2016, s 95
s 35	amd No. 9, 2016, s 95; No. 2, 2017, s 7
s 35A	ins No. 47, 2010, s 7
s 36	amd No. 47, 2010, s 8; No. 9, 2016, s 95; No. 2, 2017, s 8
ss 37 – 39	amd No. 9, 2016, s 95
s 40	amd No. 47, 2010, s 9; No. 9, 2016, s 95
s 41	amd No. 47, 2010, s 10; No. 9, 2016, s 95
s 42	amd No. 23, 2015, s 4
s 43	amd No. 2, 2009, s 4
s 45	amd No. 9, 2016, s 95
s 46	amd No. 47, 2010, s 11
s 47	amd No. 2, 2017, s 9
s 50	amd No. 9, 2016, s 95
s 52A	ins No. 47, 2010, s 12 amd No. 2, 2017, s 10
s 53	amd No. 47, 2010, s 13; No. 2, 2017, s 11

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s 54	amd No. 47, 2010, s 14; No. 9, 2016, s 95; No. 2, 2017, s 12
ss 55 – 57	amd No. 9, 2016, s 95
s 58	amd No. 47, 2010, s 15; No. 9, 2016, s 95
ss 61 – 62	amd No. 9, 2016, s 95
s 63	amd No. 47, 2010, s 16; No. 9, 2016, s 95
s 64	sub No. 47, 2010, s 17 amd No. 2, 2017, s 13
s 65	amd No. 47, 2010, s 18; No. 9, 2016, s 95
s 66	amd No. 9, 2016, s 95
s 67	amd No. 47, 2010, s 19; No. 9, 2016, s 95
s 68	amd No. 47, 2010, s 20; No. 9, 2016, s 95
s 69	amd No. 47, 2010, s 21; No. 9, 2016, s 95
s 70	amd No. 47, 2010, s 22; No. 9, 2016, s 95
ss 71 – 77	amd No. 9, 2016, s 95
s 78	amd No. 47, 2010, s 23; No. 9, 2016, s 95
s 79	amd No. 9, 2016, s 95
s 83	amd No. 47, 2010, s 24; No. 9, 2016, s 95
s 84	sub No. 47, 2010, s 25 amd No. 17, 2012, s 55; No. 28, 2018, s 25
s 88	amd No. 9, 2016, s 95
s 89	amd No. 2, 2017, s 14
s 91B	ins No. 9, 2016, s 94
s 92	amd No. 2, 2017, s 15
ss 94 – 95	amd No. 9, 2016, s 95
s 97	amd No. 2, 2017, s 16
s 100	amd No. 9, 2016, s 95
pt 3.4 hdg	rep No. 2, 2017, s 17
ch 3A hdg	ins No. 2, 2017, s 17
ch 3A	
pt 3A.1 hdg	ins No. 2, 2017, s 17
ss 101 – 103	sub No. 2, 2017, s 17
ss 103A – 103D	ins No. 2, 2017, s 17
ch 3A	
pt 3A.2 hdg	ins No. 2, 2017, s 17
ch 3A	
pt 3A.2	
div 1 hdg	ins No. 2, 2017, s 17
ss 103E – 103J	ins No. 2, 2017, s 17
ch 3A	
pt 3A.2	
div 2 hdg	ins No. 2, 2017, s 17
ss 103K – 103M	ins No. 2, 2017, s 17
ch 3A	
pt 3A.2	
div 3 hdg	ins No. 2, 2017, s 17
ss 103N – 103S	ins No. 2, 2017, s 17
ch 3A	
pt 3A.3 hdg	ins No. 2, 2017, s 17
ss 103T – 103W	ins No. 2, 2017, s 17
ch 3A	
pt 3A.4 hdg	ins No. 2, 2017, s 17
ss 103X – 103ZA	ins No. 2, 2017, s 17

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ch 3A	
pt 3A.5 hdg	ins No. 2, 2017, s 17
ss 103ZB –	
103ZC	ins No. 2, 2017, s 17
ch 3A	
pt 3A.6 hdg	ins No. 2, 2017, s 17
ch 3A	
pt 3A.6	
div 1 hdg	ins No. 2, 2017, s 17
ss 103ZD –	
103ZE	ins No. 2, 2017, s 17
ch 3A	
pt 3A.6	
div 2 hdg	ins No. 2, 2017, s 17
ss 103ZF –	
103ZG	ins No. 2, 2017, s 17
ch 3A	
pt 3A.6	
div 3 hdg	ins No. 2, 2017, s 17
ss 103ZH –	
103ZI	ins No. 2, 2017, s 17
ch 3A	
pt 3A.6	
div 4 hdg	ins No. 2, 2017, s 17
ss 103ZJ –	
103ZM	ins No. 2, 2017, s 17
s 104	amd No. 2, 2016, s 4
s 105	sub No. 47, 2010, s 26
ss 110 – 111	amd No. 9, 2016, s 95
s 113	amd No. 9, 2016, s 95
s 114	amd No. 2, 2016, s 5
ss 116 – 117	amd No. 9, 2016, s 95
s 119	amd No. 47, 2010, s 27; No. 9, 2016, s 95
s 121	amd No. 2, 2009, s 5; No. 47, 2010, s 28
s 122	amd No. 2, 2009, s 6
s 123	amd No. 47, 2010, s 29
s 124	amd No. 2, 2017, s 18
s 124A	ins No. 2, 2009, s 7
ch 5A hdg	ins No. 21, 2018, s 6
ch 5A	
pt 5A.1 hdg	ins No. 21, 2018, s 6
ss 124B –	
124D	ins No. 21, 2018, s 6
ch 5A	
pt 5A.2 hdg	ins No. 21, 2018, s 6
ss 124E –	
124H	ins No. 21, 2018, s 6
ch 5A	
pt 5A.3 hdg	ins No. 21, 2018, s 6
ss 124J –	
124M	ins No. 21, 2018, s 6
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pt 5A.4 hdg	ins No. 21, 2018, s 6
ss 124N –	
124P	ins No. 21, 2018, s 6
ch 5A	
pt 5A.5 hdg	ins No. 21, 2018, s 6

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ss 124Q – 124R	ins No. 21, 2018, s 6
ch 5A	
pt 5A.6 hdg	ins No. 21, 2018, s 6
ss 124T – 124U	ins No. 21, 2018, s 6
s 125	sub No. 2, 2009, s 8
s 126	amd No. 9, 2016, s 95
s 127	amd No. 21, 2018, s 7
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pt 7.2 hdg	amd No. 2, 2016, s 6
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pt 7.3 hdg	ins No. 2, 2016, s 7
s 136	exp No. 34, 2007, s 136 ins No. 2, 2016, s 7
ch 7	
pt 7.4 hdg	ins No. 2, 2016, s 19
ch 8 hdg	exp No. 34, 2007, s 147
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s 146	exp No. 34, 2007, s 147
ch 8	
pt 8.4 hdg	exp No. 34, 2007, s 147
s 147	exp No. 34, 2007, s 147
sch 2	exp No. 34, 2007, s 147