



Australian Capital Territory

Protection Orders (Consequential Amendments) Act 2001

2001 No 90

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Australian Capital Territory

Protection Orders (Consequential Amendments) Act 2001

2001 No 90

An Act to amend various Acts and regulations because of the enactment of the *Protection Orders Act 2001*, and for other purposes

*Notified under the Legislation Act 2001 on 27 September 2001
(see www.legislation.act.gov.au)*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Protection Orders (Consequential Amendments) Act 2001*.

2 Commencement

This Act commences on the day the *Protection Orders Act 2001*, section 3 (Dictionary) commences.

3 Schedule 1

Schedule 1 amends the Acts and regulations mentioned in that schedule.

4 Protection Orders (Reciprocal Arrangements) Act

The *Protection Orders (Reciprocal Arrangements) Act 1992* No 36 is repealed.

Schedule 1 Amendments

(see s 3)

Part 1 Bail Act 1992

[1.1] Section 3 (1), definition of *domestic violence offence*

substitute

domestic violence offence means behaviour directed at a relevant person that is or was an offence against—

- (a) the *Protection Orders Act 2001*, section 34 (which is about contravening protection orders); or
- (b) a provision of the *Crimes Act 1900* mentioned in schedule 1 (which deals with domestic violence crimes); or
- (c) a provision of the *Crimes Act 1900*, part 8 (Aiding and abetting, accessories, attempts, incitement and conspiracy) in relation to an offence against a provision mentioned in schedule 1; or
- (d) any of the following provisions of the *Road Transport (Safety and Traffic Management) Act 1999*:
 - (i) section 6 (1) (which is about negligent driving);
 - (ii) section 7 (1) (which is about furious, reckless or dangerous driving);
 - (iii) section 8 (1) or (2) (which are about menacing driving);
or
- (e) the *Motor Traffic Act 1936*, section 129 (which is about reckless, dangerous or negligent driving).

[1.2] Section 3 (1), definition of *household member*

omit

[1.3] Section 3 (1), definition of *relative*

substitute

relative, of a person (the *original person*)—

- (a) means the original person's—
 - (i) father, mother, grandfather, grandmother, stepfather, stepmother, father-in-law or mother-in-law; or
 - (ii) son, daughter, grandson, granddaughter, stepson, stepdaughter, son-in-law or daughter-in-law; or
 - (iii) brother, sister, half-brother, half-sister, stepbrother, stepsister, brother-in-law or sister-in-law; or
 - (iv) uncle, aunt, uncle-in-law or aunt-in-law; or
 - (v) nephew, niece or cousin; and
- (b) includes someone who would have been a relative of a kind mentioned in paragraph (a) if the original person had been legally married to the original person's de facto spouse (if any); and
- (c) includes someone who has been a relative of a kind mentioned in paragraph (a) or (b) of the original person.

[1.4] Section 3 (1), new definition of *relevant person*

insert

relevant person, in relation to a person (the *original person*), means—

- (a) a spouse of the original person; or
- (b) a relative of the original person; or

- (c) a child of a spouse of the original person; or
- (d) someone who normally lives, or normally lived, in the same household as the original person (other than as a tenant or boarder).

[1.5] Section 7 (3) (e)

substitute

- (e) a person charged with—
 - (i) an offence against the *Protection Orders Act 2001*, section 34 (which is about contravening protection orders); or
 - (ii) an offence against the *Crimes Act 1900*, section 493 (which is about possession of offensive weapons); or

[1.6] Sections 7A to 8A

substitute

7A Bail following arrest for breach of peace

- (1) This section applies to someone arrested for a breach of the peace or an apprehended breach of the peace.
- (2) The person—
 - (a) is entitled to be granted bail—
 - (i) without a condition being imposed; or
 - (ii) on condition that the person keeps the peace; and
 - (b) must be released from custody as soon as the person—
 - (i) gives an undertaking to appear; and
 - (ii) if a condition to keep the peace is imposed—enters into an agreement under section 25 (1) (a).

- (3) However, the person is not entitled to be granted bail under subsection (2) if—
- (a) because of the behaviour that resulted in the person being arrested, someone else would be likely to make application for a protection order under the *Protection Orders Act 2001* against the person; or
 - (b) the person failed to comply with an undertaking to appear given, or bail condition imposed, in relation to a previous breach of the peace or apprehended breach of the peace.

8 Bail for other than minor offences

- (1) This section applies to—
- (a) anyone in relation to an offence other than an offence mentioned in section 7 (1) (which is about minor offences and breaches of the peace); and
 - (b) someone who is not entitled to bail because of section 7 (3); and
 - (c) someone who is not entitled to bail because of section 7A (3).
- (2) However, this section does not apply to the grant of bail—
- (a) by an authorised officer to a person accused of a domestic violence offence (see section 8A); or
 - (b) by a court or an authorised officer to a person accused of a serious offence that is alleged to have been committed while the person was on bail for another serious offence (see section 9A).
- (3) If this section applies to a person, the person is entitled to be granted bail in accordance with this Act unless—
- (a) the court or authorised officer is satisfied that refusal is justified having regard to—

- (i) if the accused person is an adult—the matters mentioned in section 22 (Criteria for granting bail to adults); or
 - (ii) if the accused is a child—the matters mentioned in section 23 (Criteria for granting bail to children); or
- (b) the requirement for bail is dispensed with under section 10 (Dispensing with bail).

8A Bail by authorised officer—domestic violence offences

- (1) This section applies if someone (the *accused*) is accused of a domestic violence offence.
- (2) An authorised officer must not grant bail to the accused unless satisfied that the accused poses no danger to a protected person during the period of bail.
- (3) However, even if the authorised officer is satisfied under subsection (2), the officer must refuse bail if satisfied that refusal is justified having regard to—
 - (a) if the accused person is an adult—the matters mentioned in section 22 (Criteria for granting bail to adults); or
 - (b) if the accused is a child—the matters mentioned in section 23 (Criteria for granting bail to children).
- (4) If an authorised officer grants bail to the accused under this section, the officer must, in the record of the decision made under section 27 (Recording of certain bail decisions), state why, in the officer's opinion, the accused poses no danger to the protected person.
- (5) The accused must not be released on bail under this section unless the accused has given an undertaking under section 28 (Undertaking to appear) to appear before the stated court within 48 hours of being released.

(6) For this section:

protected person—

- (a) means a person against whom the alleged behaviour constituting the domestic violence offence was directed; and
- (b) includes a relevant person in relation to a person mentioned in paragraph (a).

[1.7] Section 16 (3)

substitute

- (3) If an authorised officer decides to grant bail to an accused person in relation to a domestic violence offence, the officer must take reasonable steps to tell each protected person, as soon as practicable, about the decision and, if the accused person is granted bail subject to a bail condition, about the condition.
- (4) If an authorised officer decides not to grant bail to an accused person in relation to a domestic violence offence, the officer must tell each protected person about the decision.
- (5) For this section:

protected person means—

- (a) if the person against whom the alleged behaviour constituting the domestic violence offence was directed is a child—the person with care and control of the child; and
- (b) if anyone else is a person whom the alleged behaviour constituting the domestic violence offence was directed—that person.

[1.8] Section 16

renumber subsections when next republished under Legislation Act 2001

[1.9] Section 25 (2) (e)

substitute

- (e) for a person (the *accused person*) charged with a domestic violence offence—
- (i) a requirement that the accused person not contact, harass, threaten or intimidate, or cause someone else to contact, harass, threaten or intimidate, a stated person; or
 - (ii) a requirement that the accused person not be on premises where a stated person lives or works; or
 - (iii) a requirement that the accused person not be on or near premises where a stated person is likely to be; or
 - (iv) a requirement that the accused person not be in a stated place; or
 - (v) a requirement that the accused person not be within a stated distance of a stated person; or
 - (vi) if the accused person lives with someone—a requirement that the accused person not enter or remain at the home if the accused person is under the influence of alcohol or another drug.

[1.10] Section 39, pt 8

substitute

59 Expiry—Motor Traffic Act reference

Section 3 (1), definition of *domestic violence offence*, paragraph (e) and this section expire on 1 January 2002.

[1.11] Schedule

substitute

**Schedule 1 Domestic violence offences
against the *Crimes Act 1900***

(see s 3)

column 1 item	column 2 provision	column 3 description of offence
1	12	murder
2	15	manslaughter
3	19	intentionally inflicting grievous bodily harm
4	20	recklessly inflicting grievous bodily harm
5	21	wounding
6	22	assault with intent to commit certain indictable offences
7	23	inflicting actual bodily harm
8	24	assault occasioning actual bodily harm
9	25	causing grievous bodily harm
10	26	common assault
11	27	acts endangering life etc
12	28	acts endangering health etc
13	29	culpable driving of motor vehicle
14	30	threat to kill
15	31	threat to inflict grievous bodily harm
16	32 (1) (a)	make demand with threat to kill or inflict grievous bodily harm
17	32 (2) (a)	make demand with threat to endanger health etc
18	33	possession of object with intent to kill etc
19	34	forcible confinement
20	34A	stalking
21	36	abduction of young person
22	37	kidnapping
23	92A	sexual assault in the first degree
24	92B	sexual assault in the second degree

column 1 item	column 2 provision	column 3 description of offence
25	92C	sexual assault in the third degree
26	92D	sexual intercourse without consent
27	92E	sexual intercourse with young person
28	92F	act of indecency in the first degree
29	92G	act of indecency in the second degree
30	92H	act of indecency in the third degree
31	92J	act of indecency without consent
32	92K	acts of indecency with young people
33	92L	incest or similar offences
34	92M	abduction
35	128	destroying or damaging property
36	129	arson
37	133	possession of article with intent to destroy property
38	145 (1) (a)	being armed with weapon etc with intent to commit offence
39	146	forcible entry on land
40	493	possession of an offensive weapons
41	494	possession of an offensive weapon with intent
42	546A	offensive behaviour

[1.12] Divisions

renumber divisions when next republished under Legislation Act 2001

Part 2 Children and Young People Act 1999

[1.13] Part 6.2, division 1 to Part 7.1, division 1

renumber as division 6.2.1 to division 7.1.1

[1.14] Section 151 (1), definition of *abuse*, paragraph (c) (ii)

substitute

- (ii) has been, is being or is likely to be exposed to behaviour that is a domestic violence offence within the meaning of the *Protection Orders Act 2001*, dictionary, and that has caused, is causing or is likely to cause significant harm to the child or young person's wellbeing or development.

[1.15] Part 7.2, division 1 to part 7.3, division 1

renumber as divisions 7.2.1 to 7.3.1

[1.16] Section 194, definition of *final care and protection order*

substitute

final care and protection order means an order under division 7.3.7 (Final care and protection orders) (other than a protection order or interim order), or a contact order, residence order or therapeutic protection order made as a final care and protection order.

[1.17] Section 194, new definitions of final protection order and interim protection order

insert

final protection order—see the *Protection Orders Act 2001*, dictionary, definition of *final order*.

interim protection order—see the *Protection Orders Act 2001*, dictionary, definition of *interim order*.

[1.18] Section 205

substitute

205 When may the court make an interim protection order?

- (1) The court may make an interim protection order in relation to a child or young person at any time on an application (the *care and protection application*) for a care and protection order in relation to the child or young person—

- (a) on its own initiative, on further application by a party to the care and protection application or on application by the community advocate; and
- (b) if the court is satisfied that it is necessary to make the interim protection order to ensure the safety of the child or young person until the care and protection application is decided.

Note The grounds for making an interim protection order are intended to mirror the grounds mentioned in the *Protection Orders Act 2001*, s 49.

- (2) To remove doubt, the court may not make an interim protection order that the Magistrates Court could not make on an application for a final protection order made in accordance with the *Protection Orders Act 2001*.

Example

The court could not make an interim protection order for a period longer than that allowed for interim protection orders under the *Protection Orders Act 2001*.

205A When may the court make a final protection order?

- (1) The court may make a final protection order in relation to a child or young person on an application (the *care and protection application*) for a care and protection order in relation to the child or young person—
 - (a) on its own initiative, on further application by a party to the care and protection application or on application by the community advocate; and
 - (b) if the person against whom the final protection order is proposed to be made—
 - (i) has engaged in domestic violence in relation to the child or young person; or
 - (ii) has engaged in personal violence towards the child or young person and may engage in personal violence

towards the child or young person during the time the order is proposed to be made if the order is not made.

Note The grounds for making a final protection order are intended to mirror the grounds mentioned in the *Protection Orders Act 2001*, s 40.

(2) To remove doubt, the court may not make a final protection order that the Magistrates Court could not make on an application for a final protection order made in accordance with the *Protection Orders Act 2001*.

(3) In this section:

domestic violence—see the *Protection Orders Act 2001*, dictionary.

personal violence—see the *Protection Orders Act 2001*, dictionary.

205B Can someone apply for a protection order if no care and protection proceedings?

(1) This section applies if—

- (a) someone wants to apply for a protection order in relation to a child or young person; and
- (b) no application for a final care and protection order has been made in relation to the child or young person.

Note A *final care and protection order* does not include a protection order (see s 194, def of *final care and protection order*).

(2) The person may not apply for a protection order under this Act.

(3) To remove doubt, this section does not stop the person from applying for a protection order under the *Protection Orders Act 2001*.

205C What is the affect of making a protection order under this Act?

- (1) A protection order made under this Act is taken to have been made under the *Protection Orders Act 2001*.

Examples of consequences of protection order being taken to have been made under Protection Orders Act

- 1 The protection order can be amended (including by extension) or revoked under that Act
- 2 The provisions about consent orders under that Act apply to the amendment (including by extension) or revocation of the protection order
- 3 The provisions dealing with the end of protection orders under that Act apply to the order.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 (3), s 132).

- (2) The making of the protection order on an application for a care and protection order does not affect the validity of the protection order.
- (3) In applying the *Protection Orders Act 2001*, section 13 (Who may apply to amend or revoke a protection order?) to the protection order, the community advocate is taken to have been a party to the application for the protection order.
- (4) In applying the *Protection Orders Act 2001* to an interim protection order made under this Act—
- (a) a reference in that Act to a ***final order*** is taken to be a reference to a final care and protection order; and
 - (b) a reference in that Act to the ***application*** or ***proceeding*** is taken to be a reference to the application or proceeding under this Act in relation to which the interim protection order was made.

Example for par (a)

The *Protection Orders Act 2001*, s 53 (c) provides that an interim order ends in certain circumstances when the final order is made. Applying par (a), the interim

protection order ends when the final care and protection order is made in those circumstances.

[1.19] Part 7.3, divisions 2 to 7

renumber as divisions 7.3.2 to 7.3.7

[1.20] Section 255 (7)

substitute

- (7) The court does not need to make a declaration that a child or young person is in need of care and protection before it may make a contact order, or a protection order, on an application for a final care and protection order.

[1.21] Part 7.3, division 8 to part 9.2, division 4

renumber as divisions 7.3.8 to 9.2.4

[1.22] Section 380 (4) (b)

substitute

- (b) in relation to a protection order made by the Childrens Court in relation to a child or young person in need of care and protection—in accordance with the *Protection Orders Act 2001*; or

[1.23] Dictionary, definition of *domestic violence order*

omit

[1.24] Dictionary, new definition of *final protection order*

insert

final protection order, for chapter 7 (Children and young people in need of care and protection)—see section 194 (Definitions for ch 7).

[1.25] Dictionary, definition of *interim order* for chapter 8

substitute

interim order—

- (a) for part 7.3 (Care and protection orders and emergency action), means an order under section 251 (1) (e); and
- (b) for chapter 8 (Transfer of child care and protection orders and proceedings)—see section 299.

[1.26] Dictionary, definition of *interim order* for chapter 7

omit

[1.27] Dictionary, new definition of *interim protection order*

insert

interim protection order, for chapter 7 (Children and young people in need of care and protection)—see section 194 (Definitions for ch 7).

[1.28] Dictionary, new definition of *protection order*

insert

protection order—see the *Protection Orders Act 2001*, dictionary.

[1.29] Dictionary, definition of *restraining order*

omit

Part 3 Crimes Act 1900

[1.30] Section 349D (2B), (2C) and (3)

substitute

- (2B) A firearm, ammunition or licence seized under subsection (1) must be returned to the licensee at the end of 60 days after the seizure if, before the end of that period—

- (a) a prosecution for an offence arising out of circumstances in which a police officer has entered premises under section 349A (Police powers of entry), section 349B (Issue of warrant) or section 349C (Entry in emergencies) has not been instituted; or
 - (b) an application for a protection order that is a domestic violence order (other than an emergency order) under the *Protection Orders Act 2001* has not been made.
- (2C) However, a firearm, ammunition or licence seized under subsection (1) must not be returned if the registrar would otherwise be entitled under the *Firearms Act 1996* to be in possession of the firearm, ammunition or licence.
- (3) A word or expression used in the *Firearms Act 1996* has the same meaning in this section.

[1.31] Section 349D

renumber subsections when next republished under Legislation Act 2001

[1.32] Section 349DA, heading

substitute

349DA Seizure of firearms—protection orders

[1.33] Section 349DA (1)

substitute

- (1) In enforcing an order under the *Protection Orders Act 2001*, section 38 (5) (Firearms and final orders), section 56 (4) (Firearms and interim orders) or section 72 (2) (Firearms and emergency orders), a police officer may—
- (a) enter premises where the respondent named in the order is reasonably believed to be living or staying; and

- (b) seize any firearm, any ammunition and any licence to possess or use a firearm—
- (i) in or on the premises; or
 - (ii) in or on a motor vehicle under the control of someone who ordinarily lives on the premises or is apparently connected with the circumstances giving rise to the entry of the police officer onto the premises.

[1.34] Part 17

substitute

Part 17 Transitional**579 Expiry—Motor Traffic Act**

The definition of *domestic violence offence* in the dictionary, paragraph (e) and this section expire on 1 January 2002.

[1.35] Schedule 2

substitute

Schedule 2 Domestic violence offences

(see dict)

column 1 item	column 2 provision	column 3 description of offence
1	12	murder
2	15	manslaughter
3	19	intentionally inflicting grievous bodily harm
4	20	recklessly inflicting grievous bodily harm
5	21	wounding
6	22	assault with intent to commit certain indictable offences
7	23	inflicting actual bodily harm
8	24	assault occasioning actual bodily harm

Schedule 1 Amendments
Part 10 Prohibited Weapons Regulations

Amendment [1.87]

column 1 item	column 2 provision	column 3 description of offence
9	25	causing grievous bodily harm
10	26	common assault
11	27	acts endangering life etc
12	28	acts endangering health etc
13	29	culpable driving of motor vehicle
14	30	threat to kill
15	31	threat to inflict grievous bodily harm
16	32 (1) (a)	make demand with threat to kill or inflict grievous bodily harm
17	32 (2) (a)	make demand with threat to endanger health etc
18	33	possession of object with intent to kill etc
19	34	forcible confinement
20	34A	stalking
21	36	abduction of young person
22	37	kidnapping
23	92A	sexual assault in the first degree
24	92B	sexual assault in the second degree
25	92C	sexual assault in the third degree
26	92D	sexual intercourse without consent
27	92E	sexual intercourse with young person
28	92F	act of indecency in the first degree
29	92G	act of indecency in the second degree
30	92H	act of indecency in the third degree
31	92J	act of indecency without consent
32	92K	acts of indecency with young people
33	92L	incest or similar offences
34	92M	abduction
35	128	destroying or damaging property
36	129	arson
37	133	possession of article with intent to destroy property
38	145 (1) (a)	being armed with weapon etc with intent to commit offence

column 1 item	column 2 provision	column 3 description of offence
39	146	forcible entry on land
40	493	possession of an offensive weapons
41	494	possession of an offensive weapon with intent
42	546A	offensive behaviour

[1.36] Dictionary, definition of *domestic violence offence*

substitute

domestic violence offence means behaviour directed at a relevant person that is or was an offence against—

- (a) the *Protection Orders Act 2001*, section 34 (which is about contravening protection orders) in relation to a domestic violence order; or
- (b) a provision of this Act mentioned in Schedule 2 (which deals with domestic violence crimes); or
- (c) a provision of part 8 (Aiding and abetting, accessories, attempts, incitement and conspiracy) of this Act in relation to an offence against a provision mentioned in Schedule 2; or
- (d) any of the following provisions of the *Road Transport (Safety and Traffic Management) Act 1999*:
 - (i) section 6 (1) (which is about negligent driving);
 - (ii) section 7 (1) (which is about furious, reckless or dangerous driving);
 - (iii) section 8 (1) or (2) (which are about menacing driving);
or
- (e) the *Motor Traffic Act 1936*, section 129 (which is about reckless, dangerous or negligent driving).

[1.37] Dictionary, definition of *household member*

omit

[1.38] Dictionary, definition of *relative*

substitute

relative, of a person (the ***original person***)—

- (a) means the original person's—
 - (i) father, mother, grandfather, grandmother, stepfather, stepmother, father-in-law or mother-in-law; or
 - (ii) son, daughter, grandson, granddaughter, stepson, stepdaughter, son-in-law or daughter-in-law; or
 - (iii) brother, sister, half-brother, half-sister, stepbrother, stepsister, brother-in-law or sister-in-law; or
 - (iv) uncle, aunt, uncle-in-law or aunt-in-law; or
 - (v) nephew, niece or cousin; and
- (b) includes someone who would have been a relative of a kind mentioned in paragraph (a) if the original person had been legally married to the original person's de facto spouse (if any); and
- (c) includes someone who has been a relative of a kind mentioned in paragraph (a) or (b) of the original person.

[1.39] Dictionary, new definition of *relevant person*

insert

relevant person, in relation to a person (the ***original person***), means—

- (a) a spouse of the original person; or
- (b) a relative of the original person; or
- (c) a child of a spouse of the original person; or

- (d) someone who normally lives, or normally lived, in the same household as the original person (other than as a tenant or boarder).

[1.40] Divisions

renumber divisions when next republished under Legislation Act 2001

Part 4 Domestic Violence Act 1986

[1.41] Section 1

substitute

1 Name of Act

This Act is the *Domestic Violence Agencies Act 1986*.

[1.42] Section 3

substitute

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition ‘domestic violence—see the Protection Orders Act 2001, section 8 (What is domestic violence?).’ means that the expression ‘domestic violence’ is defined in that section and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Interpretation Act 1967*, s 11F and s 11G).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See *Interpretation Act 1967*, s 12 (1), (4) and (5) for the legal status of notes.

[1.43] Parts II and IIA

omit

[1.44] Section 20

omit

[1.45] Section 23 (4) (b)

substitute

- (b) other statutory office holders chosen in writing by the Minister;
or

[1.46] Section 23 (5)

substitute

- (5) The Minister may choose a statutory office holder for subsection (4) (b) only if satisfied that the exercise of the functions of the office requires its holder to have experience and expertise that would assist the council in the exercise of its functions.

[1.47] Section 23 (7)

omit

[1.48] Sections 24 and 25

substitute

24 Terms of appointment

- (1) The chairperson holds office for the period of up to 2 years stated in the instrument of appointment.

- (2) If a person is a member because the person is a statutory office holder, the person stops being a member if the person stops being the statutory office holder.
- (3) A member mentioned in section 23 (3) holds office for the period of up to 2 years stated in the instrument of appointment.
- (4) A person who is a member mentioned in section 23 (4) (c) holds office as a member while the person occupies an office mentioned in section 23 (4) (c) (i).

Note 1 A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Interpretation Act 1967*, s 28 (3) (c) and dict, def of **appoint**).

Note 2 A member's appointment also ends if the member resigns (see *Interpretation Act 1967*, s 28 (8) and (9)).

[1.49] Section 26B

omit

[1.50] Section 26E

omit

[1.51] Section 26F (a)

omit

, but is eligible for reappointment

[1.52] Section 26F, new notes

insert

Note 1 A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Interpretation Act 1967*, s 28 (3) (c) and dict, def of **appoint**).

Note 2 The coordinator's appointment also ends if the coordinator resigns (see *Interpretation Act 1967*, s 28 (8) and (9)).

[1.53] Section 26G

omit

[1.54] Section 26I

substitute

26I Acting coordinator

The Minister may appoint a person to act as coordinator.

[1.55] Sections 28 to 32

omit

[1.56] Section 35

omit

[1.57] Schedules 1A and 1

substitute

Dictionary

(see s 3)

appointed member means a member appointed under section 23 (6).

approved crisis support organisation means an organisation approved under section 33.

child, of a person, includes—

- (a) a child who normally lives with the person; and
- (b) a child for whom the person is a guardian.

coordinator means the Domestic Violence Project Coordinator appointed under section 26C.

council means the Domestic Violence Prevention Council established by section 21.

domestic violence—see the *Protection Orders Act 2001*, dictionary.

domestic violence offence—see the *Protection Orders Act 2001*, dictionary.

member means a member of the council, and includes the chairperson.

[1.58] The Act

renumber Act when next republished under Legislation Act 2001

Part 5 Evidence Act 1971

[1.59] Section 66

omit

Part 6 Evidence (Miscellaneous Provisions) Act 1991

[1.60] Section 5 (1)

omit

(1)

[1.61] Section 5 (c)

substitute

(c) proceedings under the *Protection Orders Act 2001*;

[1.62] Section 5 (e)

omit

[1.63] Section 5

renumber paragraphs when Act next republished under Legislation Act 2001

Part 7 Firearms Act 1996

[1.64] Section 4, definition of *corresponding order*

substitute

corresponding order, in relation to a protection order or interim protection order, means an order under a law of a State, another Territory or New Zealand that has the same effect or substantially the same effect as a protection order or interim protection order.

[1.65] Section 4, new definition of *interim protection order*

insert

interim protection order—

- (a) see the *Protection Orders Act 2001*, dictionary, definition of *interim order*; and
- (b) includes an interim protection order made under the *Domestic Violence Act 1986* and an interim restraining order made under the *Magistrates Court Act 1930*.

[1.66] Section 4, new definition of *protection order*

insert

protection order—

- (a) see the *Protection Orders Act 2001*, dictionary, definition of *final order*; and
- (b) includes a protection order made under the *Domestic Violence Act 1986* and a restraining order made under the *Magistrates Court Act 1930*.

[1.67] Section 21 (5) (d)

substitute

- (d) the applicant—

- (i) was, within the 10 years before the day the application was made, subject to an interim protection order or corresponding order; or
- (ii) has, within the 10 years before the day the application was made—
 - (A) given an undertaking, in the ACT or elsewhere, to keep the peace or to be of good behaviour; or
 - (B) had his or her licence suspended or cancelled.

[1.68] Section 22 (1) (a)

substitute

- (a) if the applicant has, within the 10 years before the day the application was made, been subject to a protection order or corresponding order, other than a protection order or corresponding order that has been successfully appealed against; or

Note See s (4) for when an order has been successfully appealed against.

[1.69] Section 22 (4)

renumber as section 22 (5)

[1.70] New section 22 (4)

insert

- (4) For subsection (1) (a), a protection order or corresponding order has been successfully appealed against if an appeal against the making of the order has been upheld.

[1.71] Section 39 (2)

substitute

- (2) The registrar must suspend a licence in accordance with this section if the registrar has reasonable grounds for believing that the licensee

has been charged with, committed, or threatened to commit, a domestic violence offence.

[1.72] New section 39 (4)

insert

(4) In this section:

domestic violence offence—see *Protection Orders Act 2001*, dictionary.

Note 1 A licence is automatically suspended under the *Protection Orders Act 2001*, s 56 (Firearms and interim orders) if the Magistrates Court makes an interim protection order unless the court orders otherwise. Under that section, the Magistrates Court may also order seizure of the licence, and seizure and detention of firearms and ammunition, for the period of the interim order.

Note 2 A licence is also automatically suspended under the *Protection Orders Act 2001*, s 72 (Firearms and emergency orders) if a judicial officer makes an emergency order. Under that section, the officer may also order seizure of the licence, and seizure and detention of firearms and ammunition, for the period of the emergency order.

[1.73] Section 40

omit

[1.74] Section 41 (1)

substitute

(1) A licence that authorises a person to possess or use a firearm is automatically cancelled if the licensee becomes subject to a firearm prohibition order.

Note A licence is automatically cancelled under the *Protection Orders Act 2001*, s 38 (Firearms and final orders) if the Magistrates Court makes a final protection order unless the court orders otherwise. Under that section, the Magistrates Court may also order seizure of the licence, firearms and ammunition.

[1.75] Section 46 (3) (b)

substitute

- (b) is subject to a protection order that is a domestic violence order, or has been subject to a protection order that is a domestic violence order within the 10 years before the application for the permit was made; or

[1.76] New section 46 (3A)

insert

- (3A) For subsection (3) (b):

protection order does not include a protection order that has been revoked.

[1.77] Section 46

renumber subsections when Act next republished under Legislation Act 2001

[1.78] Divisions

renumber divisions when Act next republished under Legislation Act 2001

Part 8 Magistrates Court Act 1930

[1.79] Part 10

omit

[1.80] Section 207

omit

(other than a decision under Part 10)

[1.81] Part 16

omit

Part 9 Magistrates Court (Civil Jurisdiction) Act 1982

[1.82] Section 4, new paragraph (a)

insert

- (a) proceedings under the *Protection Orders Act 2001*; and

[1.83] Section 4

renumber paragraphs when next republished under Legislation Act 2001

Part 10 Prohibited Weapons Regulations

[1.84] Regulation 1

substitute

1 Name of regulations

These regulations are the *Prohibited Weapons Regulations 1997*.

[1.85] Regulation 3, definition of *Registrar*

substitute

registrar means the registrar of firearms.

[1.86] Regulation 5 (3)

substitute

- (3) The registrar must not issue a permit to someone if—
- (a) the person has been convicted within the relevant period in the ACT, or elsewhere, of a prescribed offence, whether or not the offence is an offence against Territory law; or

- (b) the person is, or has been within the relevant period, subject to a protection order or corresponding order; or
 - (c) the person is subject to an interim protection order or a corresponding order; or
 - (d) the person is subject to an undertaking to keep the peace (whether or not the undertaking was given in the ACT); or
 - (e) a permit issued to the person under the Act, or a licence or permit issued to the person under the *Firearms Act 1996*, has been cancelled.
- (3A) For subsection (3) (b):
- protection order* does not include a protection order that has been revoked.

[1.87] Regulation 5 (5) and (6)

substitute

- (5) In this regulation:

corresponding order, in relation to a protection order or interim protection order, means an order under a law of a State, another Territory or New Zealand that has the same effect or substantially the same effect as a protection order or interim protection order.

interim protection order—

- (a) see the *Protection Orders Act 2001*, dictionary, definition of *interim order*; and
- (b) includes an interim protection order made under the *Domestic Violence Act 1986* and an interim restraining order made under the *Magistrates Court Act 1930*.

prescribed offence means an indictable offence involving actual or threatened violence or the use of a firearm, prohibited weapon or prohibited article.

protection order—

- (a) see the *Protection Orders Act 2001*, dictionary, definition of ***final order***; and
- (b) includes a protection order made under the *Domestic Violence Act 1986* and a restraining order made under the *Magistrates Court Act 1930*.

relevant period, in relation to an application for a permit, means the 10 years before the day the application was made.

[Presentation speech made in Assembly on 15 June 2001]

I certify that the above is a true copy of the Protection Orders (Consequential Amendments) Bill 2001 which was passed by the Legislative Assembly on 30 August 2001.

M J McRae
Clerk of the Legislative Assembly

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