



Australian Capital Territory

# Personal Violence Act 2016

A2016-43

## Contents

---

	Page	
<b>Part 1</b>	<b>Preliminary</b>	
1	Name of Act	2
2	Commencement	2
3	Dictionary	2
4	Notes	2
5	Offences against Act—application of Criminal Code etc	3
<b>Part 2</b>	<b>Objects and important concepts</b>	
<b>Division 2.1</b>	<b>Objects</b>	
6	Objects of Act	4
7	How objects are to be achieved	4
<b>Division 2.2</b>	<b>Important concepts</b>	
8	Meaning of <i>personal violence</i>	5
9	Principle about procedures	6

---

J2015-695

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

---

	Page
10	6
<b>Part 3</b>	<b>Protection orders</b>
<b>Division 3.1</b>	<b>Matters to be considered when making protection orders</b>
11	7
<b>Division 3.2</b>	<b>Applications for protection orders</b>
12	8
13	9
14	9
15	9
16	10
<b>Division 3.3</b>	<b>Interim orders</b>
17	11
18	11
19	12
20	12
21	12
22	13
23	13
24	13
<b>Division 3.4</b>	<b>Consent orders</b>
25	14
<b>Division 3.5</b>	<b>Final orders</b>
26	15
27	16
<b>Division 3.6</b>	<b>Conditions of protection orders</b>
28	16
29	16
30	17
31	18
32	19
33	20
34	20

---

	Page
<b>Division 3.7</b>	<b>Effect of protection orders</b>
35	Offence—contravention of protection order 20
36	Interim orders—respondent’s firearms 21
37	Final orders—respondent’s firearms 21
38	Firearm licences—other conditions and orders 22
<b>Part 4</b>	<b>Procedural matters</b>
<b>Division 4.1</b>	<b>Service of applications</b>
39	Service of applications 23
40	If personal service of application impracticable 24
41	Service of documents by police 24
<b>Division 4.2</b>	<b>Pre-hearing procedures</b>
42	Registrar sets return date 24
43	Adjournment of proceedings for non-service 25
44	Preliminary conferences—objects 26
45	Preliminary conferences 26
46	Referrals to mediation 27
47	Preparation for hearing in Magistrates Court 28
48	Interim orders—return date for hearing to decide final order 28
49	Interim orders—endorsement of consent or objection 29
<b>Division 4.3</b>	<b>Hearings</b>
50	Applicant not present at return of application 31
51	Respondent not present at return of application 31
52	Neither party present at return of application 32
53	Hearings usually in public 32
54	Public hearing not required 32
55	Closed hearings in special circumstances 33
56	Discontinuance 34
57	Admissibility of preliminary conference evidence 34
58	Undertakings by respondent 35
59	Court may inform itself 35
<b>Division 4.4</b>	<b>Making of protection orders</b>
60	Explaining orders if respondent present 35
61	Explaining orders if protected person present 36

## Contents

---

	Page
62	37
63	37
64	38
<b>Division 4.5</b>	<b>Other procedural matters</b>
65	39
66	39
67	39
<b>Division 4.6</b>	<b>Party with impaired decision-making ability</b>
68	40
69	41
70	41
71	43
<b>Division 4.7</b>	<b>Appointment etc of litigation guardian</b>
72	43
73	44
74	44
75	44
<b>Part 5</b>	<b>Amendment of protection orders</b>
76	46
77	46
78	47
79	48
80	48
<b>Part 6</b>	<b>Review of orders</b>
81	49
82	50
83	50
84	51
85	51
86	52
87	52
88	52

---

	Page
89 Effect of filing appeal	52
<b>Part 7 Reciprocal arrangements</b>	
90 Definitions—pt 7	53
91 Recognised orders—applications for registration	53
92 Recognised orders—registration	53
93 Effect of registration	54
94 Registered orders—amendment	54
95 Registered orders—revocation	54
96 Recognised orders—amendment	54
97 Notification by interstate court of registration	55
<b>Part 8 Miscellaneous</b>	
<b>Division 8.1 Public access and publication</b>	
98 Publication of reports about proceedings—offence	56
99 Publication of reports about proceedings—exceptions to offence	57
<b>Division 8.2 Other matters</b>	
100 Effect of availability of workplace protection orders	57
101 Deciding application if criminal proceedings	57
102 Criminal and civil liability not affected by protection orders	58
103 Crimes Act, s 397 (1)	58
104 Working out time if less than 5 days	58
105 Regulation-making power	58
<b>Part 20 Transitional</b>	
200 Existing registered orders under repealed Act	59
201 Transitional regulations	59
202 Expiry—pt 20	59
<b>Part 21 Amendments</b>	
203 Legislation amended—sch 2	60
<b>Schedule 1 Permitted publication about proceedings</b>	61
1.1 Definitions—sch 1	61

Contents

---

1.2	Permitted publication about proceedings	Page 61
<b>Schedule 2</b>	<b>Firearms Act 1996</b>	63
<b>Dictionary</b>		72



Australian Capital Territory

# Personal Violence Act 2016

**A2016-43**

---

An Act to protect people from personal violence (other than family violence) including personal violence in the workplace, and for other purposes

---

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Personal Violence Act 2016*.

### 2 Commencement

This Act commences on the commencement of the *Family Violence Act 2016*, section 3.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

### 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 terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*firearm*—see the [Firearms Act 1996](#), section 6.' means that the term 'firearm' 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 [Legislation Act](#), s 155 and s 156 (1)).

### 4 Notes

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

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.



## 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Objects and important concepts

### Division 2.1 Objects

#### 6 Objects of Act

The objects of this Act include—

- (a) to prevent and reduce personal violence (other than family violence); and
- (b) to facilitate the safety and protection of people who fear or experience personal violence by—
  - (i) providing a legally enforceable mechanism to prevent personal violence; and
  - (ii) allowing for the resolution of conflict without the need to resort to adjudication; and
- (c) to encourage perpetrators of personal violence to be accountable for their conduct.

*Note* The *Family Violence Act 2016* deals with protection orders etc for family violence.

#### 7 How objects are to be achieved

This Act aims to achieve its objects by—

- (a) giving the courts power to make protection orders to protect people from personal violence; and
- (b) creating offences to enforce protection orders; and
- (c) ensuring that access to the courts is as simple, quick and inexpensive as is consistent with justice; and
- (d) recognising registered orders made elsewhere in Australia and in New Zealand.

## **Division 2.2                      Important concepts**

### **8                      Meaning of *personal violence***

(1) In this Act:

*personal violence* means any of the following behaviour by a person in relation to another person:

- (a) physical violence or abuse;
- (b) sexual violence or abuse;
- (c) threatening behaviour;
- (d) stalking;
- (e) harassing, intimidating or offensive behaviour;
- (f) damaging property.

(2) For this Act, a reference to *personal violence* by a person in relation to a workplace means behaviour by the person of a kind mentioned in—

- (a) subsection (1) (a) to (e) in relation to a person at the workplace; or
- (b) subsection (1) (f) in relation to property at the workplace that causes reasonable fear to a person at the workplace.

*Note*        A workplace protection order is only available in relation to an employee, an employer or another person at a workplace and only the employer at the workplace may apply for the order (see s 13 and dict, def *affected person*).

(3) However, a person's conduct is not *personal violence* if it is family violence.

*Note*        The *Family Violence Act 2016* deals with protection orders etc for family violence.

**9 Principle about procedures**

Procedures under this Act are to be as simple, quick and inexpensive as is consistent with achieving justice.

**10 Balance of probabilities**

If a court is required to be satisfied about something under this Act, the court must be satisfied on the balance of probabilities.

## **Part 3**                      **Protection orders**

### **Division 3.1**                **Matters to be considered when making protection orders**

#### **11**                      **Matters to be considered—protection orders**

- (1) In deciding whether to make a protection order, the Magistrates Court must consider the following:
  - (a) the objects of this Act in section 6;
  - (b) any hardship that may be caused to the respondent or anyone else by the making of the order;
  - (c) any previous family violence or personal violence by the respondent in relation to the affected person or anyone else;
  - (d) any previous protection order made in relation to the respondent;
  - (e) any previous contravention of a protection order by the respondent;
  - (f) if the respondent objected to the making of an interim order—the respondent's objection;
  - (g) the need to ensure that property is protected from damage.
- (2) The Magistrates Court may also consider anything else the court considers relevant.
- (3) In this section:

*protection order*—

  - (a) means a protection order under this Act; and
  - (b) includes the following:
    - (i) a family violence order under the *Family Violence Act 2016*;

- (ii) a protection order under the *Domestic Violence Agencies Act 1986* as in force at any time;
- (iii) a protection order under the *Domestic Violence and Protection Orders Act 2001* as in force at any time;
- (iv) a protection order under the *Domestic Violence and Protection Orders Act 2008* as in force at any time;
- (v) a restraining order under the *Magistrates Court Act 1930* before 27 March 2002;
- (vi) an order under a law of a State, another Territory or New Zealand that has or had the same effect, or substantially the same effect, as a protection order under this Act or a family violence order under the *Family Violence Act 2016*.

## Division 3.2 Applications for protection orders

### 12 Who may apply for personal protection orders?

- (1) An affected person may apply to the Magistrates Court for a personal protection order.

*Note* A child younger than 10 years old cannot be a respondent to an application for a protection order (see s 69 (1)).

- (2) The following people may apply to the Magistrates Court for a personal protection order for an affected person:
  - (a) a police officer;

- (b) a litigation guardian for the person or any other person with a right to apply for the person.

**Examples—s (2) (b)**

- 1 a parent or guardian of a child
- 2 an agent of the person

*Note 1* If an application for a personal protection order is made by a police officer—the affected person, a litigation guardian or any other person with a right to apply for the affected person may be substituted as the applicant for the order (see s 65).

*Note 2* If a form is approved under the [Court Procedures Act 2004](#), s 8 for an application, the form must be used.

*Note 3* 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](#), s 126 and s 132).

### **13 Who may apply for workplace protection orders?**

The employer for a workplace may apply to the Magistrates Court for a workplace protection order for an affected person.

*Note* If a form is approved under the [Court Procedures Act 2004](#), s 8 for an application, the form must be used.

### **14 Application forms that require affected person's address**

- (1) This section applies if a form approved under the [Court Procedures Act 2004](#), section 8 for an application for a protection order requires the affected person's home or work address to be included in the application.
- (2) The address need not be included in the application.
- (3) For this section, if the affected person is not the applicant, *affected person* includes the applicant.

### **15 What if application is made for the wrong order?**

- (1) This section applies if—
  - (a) a person applies for a protection order under this Act; and

- (b) the order may not be made because the conduct on which the application is based—
  - (i) is not conduct that the order could restrain; but
  - (ii) is conduct that an order under the *Family Violence Act 2016* could restrain; and
- (c) the application has not been decided.
- (2) The Magistrates Court may make a protection order under the *Family Violence Act 2016* even though that protection order was not properly applied for if—
  - (a) the person honestly applied for the order under this Act; and
  - (b) had the application been properly made, the court could have made the protection order under the *Family Violence Act 2016*.
- (3) This section does not apply to a consent order under this Act.

*Note* A consent order may be made whether or not any ground for making the order has been made out (see s 25 (2) (b)).

## 16 What if application for the wrong order is decided?

- (1) This section applies if—
  - (a) a person applies for a protection order under this Act; and
  - (b) the order cannot be validly made because the conduct on which the application is based is not conduct that the order could restrain; and
  - (c) the application is decided before it becomes apparent that paragraph (b) applies; and
  - (d) a protection order under this Act is purportedly made (the *invalid order*); and
  - (e) had an application been properly made, the court could have made a protection order under the *Family Violence Act 2016* of the same kind as the invalid order.



- (2) The invalid order is taken to be an order properly applied for and validly made under the *Family Violence Act 2016*.

**Example**

A personal protection order is made as an interim order under this Act. Later, it is discovered that the parties had previously been domestic partners, making the conduct on which the application for the interim order was based family violence. The interim order made under this Act is taken to be an interim order validly made under the *Family Violence Act 2016*.

*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](#), s 126 and s 132).

- (3) This section does not apply to a consent order under this Act.

*Note* A consent order may be made whether or not any ground for making the order has been made out (see s 25 (2) (b)).

## **Division 3.3 Interim orders**

### **17 Interim orders—only on application for final order**

- (1) The Magistrates Court may make an interim order only on an application for a final order.
- (2) The Magistrates Court may make an interim order—
- (a) at any time before the application for the final order is decided; and
  - (b) even if a copy of the application and a timing notice have not been served on the respondent in accordance with section 39 (Service of applications).

### **18 Interim orders—only 1 may be made**

Only 1 interim order may be made in relation to an application for a final order unless section 22 (Interim orders—further orders) applies.

## 19 Interim orders—grounds for making

A court may make an interim order if satisfied that the order is necessary to do either or both of the following until the application for the final order is decided:

- (a) ensure the safety of an affected person from personal violence;
- (b) prevent substantial damage to—
  - (i) for a personal protection order—an affected person’s property; or
  - (ii) for a workplace protection order—property at a workplace.

*Note* The court must consider the matters mentioned in s 11 in deciding whether to make the interim order.

## 20 Interim orders—length

- (1) An interim order must not be in force for more than 12 months plus any extension under—
  - (a) section 23 (Interim orders—extension for non-service of application); or
  - (b) section 24 (Interim orders—extension for non-service of final order).
- (2) However, an interim order made as a consent order must not be in force for more than 16 weeks.

*Note* An interim order made as a consent order may be extended but must not be in force for more than 16 weeks (see s 79).

## 21 Interim orders—ending

An interim order ends if any of the following happens:

- (a) if a period is stated in the order—the period, including any extension under section 23 or section 24, ends;
- (b) the interim order is revoked;

- (c) the application for a final order on which the interim order was made is discontinued or dismissed;
- (d) a final order is made and the respondent is present when it is made.

## **22 Interim orders—further orders**

- (1) This section applies if an interim order has ended or is about to end.
- (2) The Magistrates Court may make a further interim order if satisfied there are special or exceptional circumstances (having regard to the objects of this Act and how those objects are to be achieved as set out in section 7) that justify the making of a further interim order.

*Note* Section 20 limits the length of a further interim order.

- (3) Only 1 further interim order may be made under this section in relation to an application for a final order.
- (4) However, a further interim order must not be made as a consent order.

*Note* An interim order may be amended in certain circumstances (see s 77).

## **23 Interim orders—extension for non-service of application**

- (1) This section applies if the registrar adjourns a proceeding for a final order because the respondent has not been served with a copy of the application for the final order and a timing notice.
- (2) The registrar may also amend an interim order made in relation to the application by extending it to take into account the delay caused by the adjournment.
- (3) The registrar must not extend an interim order under subsection (2) for more than 8 weeks.

## **24 Interim orders—extension for non-service of final order**

- (1) This section applies if—
  - (a) a final order is made; and

- (b) the respondent is not present at the making of the final order; and
- (c) an interim order made in relation to the application for the final order would, but for this section, expire before the final order is served on the respondent.

*Note* A further order may be made in special or exceptional circumstances (see s 22).

- (2) The interim order is extended until the final order is served on the respondent.

## **Division 3.4 Consent orders**

### **25 Consent orders**

- (1) On application for a final order, the Magistrates Court may make an interim or final order with the consent of the parties to the proceeding.
- (2) The order may be made—
  - (a) whether or not the parties have attended, or any party has attended, before the Magistrates Court in relation to the application; and
  - (b) whether or not any ground for making the order has been made out; and
  - (c) whether or not the court has considered the matters mentioned in section 11; and
  - (d) without proof or admission of guilt.

*Note* Sections 60 and 61 apply to require the Magistrates Court to explain the order intended to be made under this section if the party to the order is before the court.

- (3) Before making a final order under this section, the Magistrates Court may conduct a hearing in relation to the particulars of the application if the court is satisfied it is in the interests of justice to do so.

- (4) If an automatic consequence flows from the making of a kind of order and an order of that kind is made under this section, the automatic consequence flows from the making of the order unless—
- (a) this Act allows a discretion for the automatic consequence not to flow from the making of an order of that kind; and
  - (b) the parties consent to the automatic consequence not flowing from the making of the order.
- (5) However, this section does not allow the Magistrates Court to make a protection order—
- (a) that may not otherwise be made under this Act; or
  - (b) for a period other than a period for which the order may be made; or
- Note* Section 20 limits the length of interim orders.
- (c) if section 71 (Consent orders—party with impaired decision-making ability) applies.

## **Division 3.5 Final orders**

### **26 Final orders—grounds for making**

The Magistrates Court may, on application, make a final order if satisfied that the respondent—

- (a) for a personal protection order—
  - (i) has used personal violence in relation to a person; and
  - (ii) may engage in personal violence in relation to the person during the time the order is proposed to operate if the order is not made; or
- (b) for a workplace protection order—
  - (i) has used personal violence in relation to a workplace; and

- (ii) may engage in personal violence in relation to a workplace during the time the order is proposed to operate if the order is not made.

*Note 1* The court must consider the matters mentioned in s 11 in deciding whether to make the final order.

*Note 2* This section does not apply to consent orders (see s 25 (2) (b)).

## **27 Final orders—length**

- (1) A final order remains in force for—
- (a) 12 months, regardless of whether it is stated in the order; or
  - (b) if a shorter period is stated in the order—the period stated; or
  - (c) if the Magistrates Court is satisfied that there are special or exceptional circumstances that justify a longer period—the stated longer period.

*Note* The Magistrates Court must, on application, extend a final order unless satisfied the order is no longer necessary to protect the protected person from personal violence (see s 80).

- (2) However, a final order made as a consent order must not be longer than 12 months.

## **Division 3.6 Conditions of protection orders**

### **28 Safety of affected person paramount**

In deciding the conditions to be included in a protection order, a court must give paramount consideration to the safety and protection of the affected person.

### **29 Least restrictive principle**

A court must ensure the conditions included in a protection order are the least restrictive of the personal rights and liberties of the respondent as possible that still achieve the objects of this Act and give effect to section 28.

**30 Conditions—personal protection orders**

- (1) A personal protection order may include the conditions the Magistrates Court considers necessary having regard to section 28 and section 29.
- (2) Without limiting subsection (1), a personal protection order may do 1 or more of the following:

- (a) prohibit the respondent from being on premises where the protected person lives;

*Note* Section 31 sets out matters to be considered when including a condition prohibiting a respondent from being on premises where the respondent lives.

- (b) prohibit the respondent from being on premises where the protected person works;
- (c) prohibit the respondent from being on premises where the protected person is likely to be;
- (d) prohibit the respondent from being in a particular place;
- (e) prohibit the respondent from being within a particular distance from the protected person;
- (f) prohibit the respondent locating or attempting to locate the protected person;
- (g) prohibit the respondent from contacting the protected person;
- (h) prohibit the respondent from doing anything that is personal violence in relation to the protected person;
- (i) prohibit the respondent from doing anything mentioned in paragraphs (e) to (h) in relation to—
- (i) a child of the protected person; or
- (ii) any other child if the Magistrates Court is satisfied that there is an unacceptable risk of the child being exposed to personal violence;

- (j) prohibit the respondent from causing someone else to do something mentioned in paragraphs (f) to (i);
- (k) state the conditions on which the respondent may—
  - (i) be on particular premises; or
  - (ii) be in a particular place; or
  - (iii) approach or contact a particular person; or
  - (iv) locate or attempt to locate the protected person.

**31 Exclusion conditions—personal protection orders**

- (1) In deciding whether to include an exclusion condition in a personal protection order, a court must consider the following:
  - (a) as primary factors—
    - (i) the physical, emotional and psychological needs of the protected people; and
    - (ii) any disability the protected people have;
  - (b) as secondary factors—
    - (i) the accommodation needs of, and options for accommodation available to, the protected people, the respondent and any child of the protected person or respondent; and
    - (ii) the length of time required for a person mentioned in paragraph (b) (i) to find alternative accommodation.



- (2) However, a court may include an exclusion condition in an interim order against a respondent who is a child only if the court is satisfied that adequate arrangements have been made for the child's care (including education) and safety.

**Example**

if a government agency responsible for the care and protection of children has found alternative accommodation for the child

*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](#), s 126 and s 132).

- (3) If an applicant for a personal protection order seeks an exclusion condition in relation to the respondent and the court decides to make the order without the condition, the court must give reasons for the decision.
- (4) In this section:

***exclusion condition*** means a condition in a personal protection order prohibiting the respondent from being on premises—

- (a) where the respondent lives; or
- (b) if the respondent is a child—where the child normally receives care (including education) or protection.

***protected people***, in relation to a respondent, means the protected person and any child directly or indirectly affected by the respondent's alleged conduct.

## **32 Conditions—workplace protection orders**

- (1) A workplace protection order may include the conditions the Magistrates Court considers necessary having regard to section 28 and section 29.
- (2) Without limiting subsection (1), a workplace protection order may do 1 or more of the following:
- (a) prohibit the respondent from entering the workplace;

- (b) prohibit the respondent from being within a particular distance from the workplace;
- (c) prohibit the respondent from doing anything that is personal violence in relation to the workplace;
- (d) prohibit the respondent from causing someone else to do something mentioned in paragraph (c);
- (e) state the conditions on which the respondent may—
  - (i) be in the workplace; or
  - (ii) approach or contact a particular person.

**33 Conditions—consent orders**

A final order made as a consent order may contain a condition that a final order made other than as a consent order may contain, but it is not necessary for the Magistrates Court to consider whether the condition is necessary.

**34 Conditions may apply for shorter time than order**

A condition in a protection order may have effect for a period stated in the protection order that is shorter than the period of the order.

**Division 3.7 Effect of protection orders**

**35 Offence—contravention of protection order**

- (1) This section applies to a person against whom a protection order is made if the person—
  - (a) was present when the protection order was made; or
  - (b) has been personally served in accordance with this Act with a copy of the protection order.

- (2) The person commits an offence if the person engages in conduct that contravenes the protection order (including a condition of the order).

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

*Note* In deciding the sentence to be imposed on a person under this section, the Magistrates Court must consider the matters under the [Crimes \(Sentencing\) Act 2005](#), s 33 (Sentencing—relevant considerations).

- (3) This section applies to conduct engaged in within the ACT as well as outside.

### **36 Interim orders—respondent’s firearms**

- (1) This section applies if an interim order is made against a respondent who is the holder of a firearms licence.
- (2) Unless the Magistrates Court makes an order under subsection (3), the respondent’s firearms licence is suspended until the interim order ends.
- (3) The Magistrates Court may order the non-suspension of a respondent’s firearms licence—
- (a) if the parties to a consent order agree to the non-suspension; or
  - (b) otherwise, only if the court is satisfied that the licence should not be suspended.

### **37 Final orders—respondent’s firearms**

- (1) This section applies if a final order is made against a respondent who is the holder of a firearms licence.
- (2) Unless the Magistrates Court makes an order under subsection (3), the respondent’s firearms licence is cancelled.
- (3) The Magistrates Court may order the non-cancellation of a respondent’s firearms licence—
- (a) if the parties to a consent order agree to the non-cancellation;
- or

- (b) otherwise, only if the court is satisfied that the licence should not be cancelled.

### **38 Firearm licences—other conditions and orders**

- (1) If a respondent's firearms licence is suspended or cancelled under section 36 (2) or section 37 (2), the Magistrates Court may order—
  - (a) the seizure of the firearms licence; and
  - (b) the seizure of any firearm or ammunition in the respondent's possession.
- (2) If a respondent's firearms licence is not suspended or cancelled under an order under section 36 (3) or section 37 (3)—
  - (a) the Magistrates Court may make conditions about the use or possession of a firearm to which the licence applies; and
  - (b) a copy of the order must be given to the registrar of firearms; and
  - (c) any condition of the licence imposed under the *Firearms Act 1996* is taken to be a condition of the order; and
  - (d) if the licence is suspended or revoked by the registrar under the *Firearms Act 1996*—
    - (i) it is a condition of the order that the respondent notifies the court about the suspension or revocation; and
    - (ii) the court may amend the order.

## **Part 4**                      **Procedural matters**

### **Division 4.1**              **Service of applications**

#### **39**              **Service of applications**

- (1) If the Magistrates Court receives an application for a protection order, the registrar must serve—
  - (a) on the respondent—
    - (i) a copy of the application; and
    - (ii) a notice stating the following (a *timing notice*):
      - (A) a return date for the application;
      - (B) that if the respondent does not attend the hearing, the Magistrates Court may decide the application in the respondent's absence; and
  - (b) on the applicant—the timing notice.
- (2) The registrar may serve a copy of the application and timing notice on anyone else the registrar is satisfied has a relevant interest in the proceeding for the final order.

#### **Example**

a parent or guardian of a child who is an affected person if the parent or guardian does not live with the child

*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](#), s 126 and s 132).

- (3) If the return date set under section 42 is not the day the application is received, the registrar must act under subsection (1) as soon as practicable.
- (4) If the return date set under section 42 is the day the application is received, the registrar must act under subsection (1) after the application has gone before the Magistrates Court and the court has set a further return date for the application.

- (5) Service on the applicant or respondent under subsection (1) must be personal service unless the Magistrates Court makes an order under section 40.
- (6) If the return date for an application is changed under section 48 (Interim orders—return date for hearing to decide final order) and the registrar has already served a timing notice for the application, the registrar must serve a revised timing notice on each person already served with a timing notice.

**40                    If personal service of application impracticable**

- (1) This section applies if personal service of an application for a protection order is not reasonably practicable.
- (2) A court may order that the application be served in the way, stated in the order, that the court considers is likely to bring the application to the attention of the person required to be served.

**41                    Service of documents by police**

- (1) A court may direct that a document required to be served on someone be served by a police officer if the court considers that it is appropriate to do so.
- (2) If the court gives a direction under subsection (1), an authorised police officer must, when asked to do so by the registrar, arrange for the document to be served by a police officer.
- (3) For this section:

*authorised police officer* means the police officer in charge of a police station.

**Division 4.2                    Pre-hearing procedures**

**42                    Registrar sets return date**

- (1) On receiving an application for a protection order, the registrar must—
  - (a) enter the application into the Magistrates Court’s record; and

(b) set a return date for the application.

*Note* The return date may be for a preliminary conference (see s 45).

- (2) The return date must be—
- (a) not later than 2 days after the day the application is made; or
  - (b) not later than 10 days after the day the application is made if—
    - (i) the applicant is not seeking an interim order on the application; and
    - (ii) the registrar is satisfied that the longer time is necessary to allow the respondent to be served with the application and the timing notice.
- (3) However, unless a magistrate otherwise directs, or gives leave to accept the application, the registrar need not accept an application for a protection order if the registrar is satisfied the application is—
- (a) an abuse of process; or
  - (b) frivolous or vexatious.

### **43 Adjourning of proceedings for non-service**

- (1) The registrar may adjourn a proceeding for a protection order if—
- (a) a return date has been set for the application for the order; and
  - (b) the respondent has not been served with a copy of the application and timing notice under section 39 (Service of applications).

*Note* The registrar may also extend an interim order (see s 23).

- (2) However, the registrar must not adjourn the proceeding under subsection (1) more than twice.

#### **44            Preliminary conferences—objects**

- (1) The objects of a preliminary conference for a proceeding for a protection order are to—
  - (a) find out whether the proceeding may be settled by consent before it is heard by the Magistrates Court; and
  - (b) work out and limit the issues to be decided in the proceeding; and
  - (c) ensure that the parties are taking the measures necessary to allow the proceeding to be heard quickly.
- (2) Without limiting how the issues to be decided in the proceeding may be worked out and limited, the preliminary conference must try to identify—
  - (a) facts and issues agreed on; and
  - (b) facts and issues not agreed on; and
  - (c) any unusual or urgent factors that require special attention.

*Note*        Before making a consent order, the court must explain certain things about the order (see s 60 and s 61).

#### **45            Preliminary conferences**

- (1) The registrar must hold a preliminary conference in relation to an application for a protection order unless the registrar is satisfied that the conference would not, completely or partly, achieve the objects mentioned in section 44.

*Note*        Words spoken or anything done at the preliminary conference that is related to a question to be decided by the court in the proceeding for the protection order is generally inadmissible as evidence in the proceeding (see s 57).

- (2) A preliminary conference need not be held before an interim order is made.



- (3) If a preliminary conference must be held, the registrar must, in writing, tell each party to the application—
- (a) when and where the conference is to be held; and
  - (b) that, if the party does not attend the conference, the nonattendance must be reported to the Magistrates Court.
- (4) The registrar must tell the Magistrates Court if a party does not attend the preliminary conference if satisfied that the party was given notice of the conference.

*Note* If the application is returned before the Magistrates Court at the same time as the preliminary conference is to be held and a party to the application does not attend, the application may be dealt with (see s 50, s 51 and s 52).

- (5) The failure of the registrar to hold a preliminary conference in relation to an application for a protection order does not affect the validity of the protection order.
- (6) If a preliminary conference is held, and no consent order is made by the end of the conference, the registrar may set a new return date for a hearing to decide the application for the final order.

*Note* If an interim order is made, the return date must be at least 21 days after the day the order is made (see s 48).

## **46 Referrals to mediation**

- (1) This section applies if, at any time during the preliminary conference for an application for a protection order, the registrar is satisfied that the application is likely to be more effectively resolved by mediation than by a hearing.
- (2) The registrar must—
- (a) recommend to the parties to the application that they seek mediation; and
  - (b) give the parties information about mediation; and

- (c) adjourn the preliminary conference until a stated date to allow for mediation to happen.

*Note* The *Court Procedures Act 2004*, pt 5A (Mediation) applies to a mediation in relation to a proceeding in a court.

#### **47 Preparation for hearing in Magistrates Court**

- (1) This section applies to an application for a protection order if—
  - (a) if a preliminary conference must be held in relation to the application—the conference has been held; and
  - (b) no consent order has been made as a result of the conference.
- (2) On or before the return date for the hearing to decide the application, the registrar must prepare the following documents for the hearing of the application:
  - (a) a statement about who will give evidence at the hearing;
  - (b) a statement about how long the hearing is likely to be;
  - (c) a summary of the issues agreed to, and not agreed to, by the parties at the conference.
- (3) The registrar may ask an applicant for a protection order for further particulars in relation to the application on or before the return date.
- (4) The registrar may do anything else to assist the hearing of the application that the registrar considers appropriate on or before the return date.

#### **48 Interim orders—return date for hearing to decide final order**

If the Magistrates Court makes an interim order, the return date for a hearing to decide the application must be, or must be changed to be, at least 21 days after the day the interim order is made.

*Note 1* A return date may have already been set at a preliminary conference (see s 45 (6)).

*Note 2* If the return date is changed under this section, the registrar may need to serve a revised timing notice (see s 39 (6)).

**49 Interim orders—endorsement of consent or objection**

- (1) This section applies if the Magistrates Court makes an interim order in the absence of a respondent.
- (2) If the respondent wishes to consent to the interim order becoming a final order, the respondent may—
  - (a) fill out the endorsement copy of the interim order in accordance with the instructions on the copy; and
  - (b) indicate on the endorsement copy that the respondent consents to the interim order becoming a final order; and
  - (c) return it to the Magistrates Court before the return date for the application for the final order.
- (3) If the respondent acts under subsection (2), the interim order becomes a final order on the day the Magistrates Court receives the endorsement copy.

*Note* The court may make consent orders whether or not a party has attended before the court, whether or not a ground for making the order has been made out, whether or not the court has considered the matters mentioned in s 11 and without proof or admission of guilt (see s 25).

- (4) If the respondent wishes to object to the interim order becoming a final order, the respondent may—
  - (a) fill out the endorsement copy of the interim order in accordance with the instructions on the copy; and
  - (b) indicate on the endorsement copy that the respondent objects to the interim order becoming a final order; and
  - (c) return it to the Magistrates Court at least 7 days before the return date for the application for the final order.
- (5) If the respondent acts under subsection (4), the Magistrates Court may decide the application for the final order at the next return date for the application.

- (6) If the respondent wishes to object to the interim order becoming a final order but does not act under subsection (4), the Magistrates Court may decide the application for the final order only if the respondent—
- (a) attends the Magistrates Court on the return date for the application for the final order; and
  - (b) objects to the interim order becoming a final order; and
  - (c) satisfies the court that the respondent—
    - (i) is a person with impaired decision-making ability who was not represented by a lawyer, or another person with a right to represent the person in the proceeding, at any time before the endorsement copy was required to be returned under subsection (4) (c); or
    - (ii) otherwise has a reasonable excuse for failing to act under subsection (4).

**Examples—par (c) (i)**

- 1 litigation guardian
- 2 disability guardian
- 3 for a child, the child’s parent

**Examples—par (c) (ii)**

- 1 the respondent was injured in a car accident and unable to return the endorsement copy in the time required
- 2 the respondent is from a non-English speaking background and no-one was able to interpret the endorsement copy for the respondent until after it was required to be returned

*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](#), s 126 and s 132).

- (7) If the interim order does not become a final order under subsection (3) and the application may not be decided by the Magistrates Court under subsection (5) or (6), the court may decide that the interim order becomes a final order at the next return date for the application for the final order.

(8) In this section:

*endorsement copy*, of an interim order, means the copy of the interim order marked as the endorsement copy under section 64 (1).

## **Division 4.3                      Hearings**

### **50                      Applicant not present at return of application**

If the applicant is not present, personally or by a representative, when an application for a protection order is returned before the Magistrates Court, the court must—

- (a) dismiss the application; or
- (b) adjourn the hearing.

*Note*                      An interim order ends if the application for a final order on which the interim order was made is discontinued or dismissed (see s 21).

### **51                      Respondent not present at return of application**

(1) This section applies to an application for a protection order if the respondent—

- (a) has been served with a copy of the application and timing notice under section 39 (Service of applications); and
- (b) is not present, personally or by a representative, when the application is returned before the Magistrates Court.

(2) The Magistrates Court must—

- (a) decide the application in the respondent's absence; or
- (b) if the court considers it appropriate—
  - (i) issue a warrant for the respondent to be arrested and brought before the court; and
  - (ii) adjourn the proceeding until the respondent is brought before the court.

(3) This section does not prevent the Magistrates Court from making an interim order in the proceeding.

**52            Neither party present at return of application**

- (1) If neither party to an application for a protection order is present, personally or by a representative, when the application is returned before the court, the Magistrates Court may order that the proceeding be dismissed.
- (2) If the Magistrates Court orders that the proceeding be dismissed, the court must not make an order about costs.

**53            Hearings usually in public**

The hearing of an application for a protection order must be in public unless—

- (a) section 54 applies; or
- (b) the court makes an order under section 55.

**54            Public hearing not required**

The hearing of an application for a protection order, or part of the hearing, need not be in public if—

- (a) the order sought is a consent order; or
- (b) the part of the hearing is an application for an interim order and the respondent has not been served with a copy of the application and timing notice under section 39 (Service of applications); or
- (c) if the respondent has been served with the application and timing notice—the respondent does not appear in the Magistrates Court when the application is returned before the court.

**55 Closed hearings in special circumstances**

- (1) The Magistrates Court when hearing an application for a protection order may, if satisfied that it is in the interests of safety, justice or the public to do so, make an order—
- (a) permitting—
    - (i) the hearing, or part of the hearing, to take place in private; and
    - (ii) stated people to be present at the hearing; or
  - (b) prohibiting or restricting the publication of—
    - (i) evidence given at, or received for, the hearing, whether in public or private; or
    - (ii) a matter in a document filed in the court for the proceeding; or
  - (c) prohibiting or restricting the disclosure to some or all of the parties to the proceeding of—
    - (i) evidence given, or received, at the hearing, whether in public or private; or
    - (ii) a matter in a document filed in the court for the proceeding.
- (2) A person commits an offence if the person fails to comply with an order under this section.
- Maximum penalty: 50 penalty units.
- (3) For subsection (1), the making of an order is in the *interests of safety, justice or the public* if the order is necessary—
- (a) to protect the affected person; or
  - (b) to protect morals, public order or national security in a democratic society; or
  - (c) because the interest of the private lives of the parties require the privacy; or

- (d) to the extent privacy is strictly necessary, in special circumstances of the application, because publicity would otherwise prejudice the interests of justice.

## **56            Discontinuance**

- (1) The applicant in a proceeding for a protection order may discontinue the proceeding at any time before a final decision is made in the proceeding by filing a notice of discontinuance.

*Note*     If a form is approved under the *Court Procedures Act 2004*, s 8 for this provision, the form must be used.

- (2) If a proceeding is discontinued, the discontinuance—
  - (a) does not prevent a further application being made in relation to the same, or substantially the same, matter; and
  - (b) is not a defence in a proceeding on any further application.

## **57            Admissibility of preliminary conference evidence**

- (1) This section applies to a proceeding for a protection order if a preliminary conference is held in relation to the application for the order.
- (2) Evidence must not be given before, or statements made in, the court about words spoken or anything done at the preliminary conference that is related to a question to be decided by the court in the proceeding unless—
  - (a) the parties otherwise agree; or
  - (b) the court is satisfied that there are substantial reasons why, in the interests of justice, the evidence should be given, or statements made.



**58 Undertakings by respondent**

Before a court accepts an undertaking from a respondent in a proceeding for a protection order, the court must obtain from the respondent and protected person a written acknowledgement that each person understands the following:

- (a) a breach of the undertaking is not an offence;
- (b) the undertaking is not legally enforceable;
- (c) the court's acceptance of the undertaking does not stop the court from making further orders against the respondent to protect the protected person from personal violence;
- (d) evidence of a breach of the undertaking may be used in evidence in a later proceeding.

**59 Court may inform itself**

A court may inform itself in any way it considers appropriate in a proceeding for a protection order.

**Division 4.4 Making of protection orders**

**60 Explaining orders if respondent present**

- (1) This section applies if—
  - (a) the Magistrates Court intends to make a protection order; and
  - (b) the respondent is before the court.
- (2) On making the protection order (other than a consent order), the court must explain to the respondent, in language likely to be readily understood by the respondent—
  - (a) the purpose, terms and effect of the order; and

*Note* Explaining the effect of the order includes explaining any consequence that will automatically flow from the making of the order. For example, if relevant, that any firearms licence of the respondent will automatically be cancelled or suspended unless the Magistrates Court otherwise orders.

- (b) the consequences that may follow if the respondent fails to comply with the order; and
- (c) how the order may be amended or revoked; and
- (d) that, if a State, another Territory or New Zealand has legislation that corresponds to this Act, the order may be registered, and enforced, in the State, Territory or New Zealand without notice of registration being given to the respondent.

*Note*     Pt 7 deals with the registration of protection orders from other jurisdictions in the ACT.

- (3) Before making a consent order, the Magistrates Court must explain to the respondent, in language likely to be readily understood by the respondent, the matters mentioned in subsection (2) (a) to (d).
- (4) A failure of the Magistrates Court to comply with this section in relation to a protection order does not affect the validity of the order.

## **61            Explaining orders if protected person present**

- (1) This section applies if—
  - (a) a court intends to make a protection order; and
  - (b) the protected person is before the court.
- (2) On making the protection order (other than a consent order), the court must explain to the protected person, in language likely to be readily understood by the person—
  - (a) the purpose, terms and effect of the order; and

*Note*     Explaining the effect of the order includes explaining any consequence that will automatically flow from the making of the order. For example, if relevant, that any firearms licence of the respondent will automatically be cancelled or suspended unless the Magistrates Court otherwise orders.

- (b) the consequences that may follow if the respondent fails to comply with the order; and
- (c) how the order may be amended or revoked; and

- (d) that, if the protected person aids or abets the respondent to commit an offence against section 35 (Offence—contravention of protection order), the protected person may also commit an offence; and
- (e) that, if a State, another Territory or New Zealand has legislation that corresponds to this Act, the order may be registered, and enforced, in the State, Territory or New Zealand without notice of registration being given to the respondent.

*Note 1* Pt 7 deals with the registration of protection orders from other jurisdictions in the ACT.

*Note 2* The [Criminal Code](#), pt 2.4 deals with offences of aiding and abetting.

- (3) Before making a consent order, the Magistrates Court must explain to the protected person, in language likely to be readily understood by the person, the matters mentioned in subsection (2) (a) to (e).
- (4) A failure of the Magistrates Court to comply with this section in relation to a protection order does not affect the validity of the order.

## **62 Reasons for order**

- (1) If the Magistrates Court makes a protection order, the court must record the reasons for making the order.
- (2) If the order is a consent order, the reason for making the order is that the parties have consented to it.

## **63 Orders generally not to include protected person's address**

- (1) The protected person's home or work address must not be included in a protection order unless—
  - (a) the protected person agrees to the address being included; or
  - (b) it is necessary to include the address to allow the respondent to comply with the order; or
  - (c) the court or registrar making the order is satisfied that the respondent already knows the address.

- (2) For this section, if the protected person is not the applicant, *protected person* includes the applicant.

## 64           Service of protection orders

- (1) If the Magistrates Court makes a protection order, the registrar must—
- (a) if the order is an interim order—serve 2 copies of the order (1 marked as the endorsement copy) on the respondent not later than 14 days before the return date for the application for the final order; or
  - (b) if the order is not an interim order—serve a copy of the order on the respondent; and
  - (c) give a copy of the order to—
    - (i) each other party to the proceeding; and
    - (ii) the chief police officer; and
    - (iii) the registrar of firearms; and
    - (iv) anyone else the court is satisfied has a relevant interest in the proceeding who does not already have a copy of the order.

### **Example**

a parent or guardian of a child who is an affected person if the parent or guardian does not live with the child

*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](#), s 126 and s 132).

- (2) Service under subsection (1) (a) must be personal service unless—
- (a) the respondent is present when the protection order is made; or
  - (b) a court makes an order under section 40 (If personal service of application impracticable).

## **Division 4.5                      Other procedural matters**

### **65                      Police officer party to proceeding for personal protection order—substitution of applicant etc**

- (1) This section applies if a police officer applies for a personal protection order for an affected person under section 12 (2) (a).
- (2) The Magistrates Court may, on application or its own initiative, substitute as applicant—
  - (a) with the protected person’s consent—the protected person; or
  - (b) a litigation guardian for the protected person or any other person with a right to apply for the protected person.
- (3) In a proceeding for a personal protection order, the police officer may be represented by—
  - (a) another police officer; or
  - (b) a person nominated by the chief police officer.

### **66                      Directions about procedure**

- (1) If the procedure for taking a step in a proceeding is not prescribed under this Act or another territory law, the Chief Magistrate may give a direction about the procedure to be followed for the step.
- (2) A direction is a notifiable instrument.

*Note*      A notifiable instrument must be notified under the [Legislation Act](#).
- (3) If the procedure for taking a step in a proceeding is not prescribed under this Act (including under a direction mentioned under subsection (1)) or another territory law, the Magistrates Court may give a direction about the procedure to be followed in relation to the step.

### **67                      Costs**

- (1) Each party to a proceeding for a protection order is responsible for the party’s own costs of the proceeding.

- (2) However, the Magistrates Court may make an order about costs against—
- (a) the applicant for a protection order only if the court is satisfied the application was vexatious, frivolous or in bad faith; or
  - (b) the respondent if the court considers it appropriate to do so.
- Note* If the Magistrates Court orders that a proceeding be dismissed under s 52 (Neither party present at return of application), the court must not make an order about costs (see s 52 (2)).
- (3) For subsection (2) (a), an application is not a vexatious or frivolous application or an application made in bad faith only because it is made then discontinued.
- (4) If the Magistrates Court orders costs against a party to a proceeding (the *payee*) for a protection order, the amount must not be more than the costs reasonably incurred by the other party.
- (5) The amount stated in the order—
- (a) is a debt owed by the payee to the other party; and
  - (b) is a judgment debt enforceable in accordance with the rules under the *Court Procedures Act 2004* applying in relation to the civil jurisdiction of the Magistrates Court.

## **Division 4.6 Party with impaired decision-making ability**

### **68 Meaning of *impaired decision-making ability***

- (1) For this Act, a person has *impaired decision-making ability* if the person—
- (a) cannot make decisions in relation to a proceeding under this Act; or
  - (b) does not understand the nature and effect of the decisions the person makes in relation to the proceeding.

- (2) For subsection (1), a person does not have impaired decision-making ability only because—
- (a) the person makes an unwise decision; or
  - (b) a disability guardian is appointed for the person; or
  - (c) subject to section 69, the person is a child; or
  - (d) the person has, or is taken to have, impaired decision-making ability under another territory law or in relation to another matter.

**69 Child respondents**

- (1) A child younger than 10 years old cannot be a respondent to an application for a protection order.
- (2) Unless the court otherwise orders, for a proceeding for a protection order, a respondent who is 10 years old or older but younger than 14 years old is taken to have impaired decision-making ability.

**70 Representation—party with impaired decision-making ability**

- (1) This section applies if—
  - (a) the Magistrates Court considers that a party to a proceeding for a protection order has impaired decision-making ability; and
  - (b) the person is not represented by—
    - (i) a lawyer; or

- (ii) another person with a right to represent the person.

**Examples—par (b) (ii)**

- 1 a police officer
- 2 litigation guardian
- 3 disability guardian
- 4 for a child, the child's parent

*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](#), s 126 and s 132).

- (2) The Magistrates Court may, on application, or its own initiative—
- (a) adjourn the proceeding so the parties can get representation or appoint a litigation guardian; and
  - (b) give the parties information necessary to allow the parties to get representation or appoint a litigation guardian; and
  - (c) tell the public advocate that the proceeding has been adjourned so the parties can get representation or appoint a litigation guardian; and
  - (d) ask that legal representation be arranged by Legal Aid ACT.
- (3) Nothing in this section prevents the Magistrates Court from making an interim order against a respondent with impaired decision-making ability if the court is satisfied of the matters mentioned in section 19 (Interim orders—grounds for making).

*Note* A child younger than 10 years old cannot be a respondent to an application for a protection order (see s 69).

- (4) In this section:

***Legal Aid ACT***—see the *Legal Aid ACT 1977*, section 94 (Commission to operate as Legal Aid ACT).



**71 Consent orders—party with impaired decision-making ability**

- (1) This section applies if—
  - (a) the Magistrates Court is considering an application for a consent order; and
  - (b) the court considers that a party to the proceeding is a person with impaired decision-making ability who is not separately represented by a lawyer or another person with a right to represent the person; and
  - (c) it appears to the court that the party should be separately represented.
- (2) The Magistrates Court—
  - (a) must not make the consent order; and
  - (b) may adjourn the hearing to allow the person to get separate representation.

**Division 4.7 Appointment etc of litigation guardian**

**72 Litigation guardian—appointment**

- (1) The following people may be appointed as a litigation guardian for a person with impaired decision-making ability (the *assisted person*) in a proceeding for a protection order:
  - (a) an individual who is not a person with impaired decision-making ability;
  - (b) the public advocate.
- (2) A person is appointed by filing with the Magistrates Court a statement—
  - (a) about whether, to the best of the person’s knowledge, the assisted person already has a disability guardian; and

- (b) to the effect that the person—
  - (i) has no interest in the proceeding that is adverse to the interests of the assisted person; and
  - (ii) agrees to be appointed.
- (3) If the assisted person already has a disability guardian, the disability guardian may be appointed as the assisted person’s litigation guardian only with the Magistrates Court’s leave.

### **73 Litigation guardian—powers**

- (1) This section applies if a litigation guardian has been appointed under section 72 for a person with impaired decision-making ability.
- (2) Anything that the person is allowed to do under this Act may be done by the person’s litigation guardian.
- (3) Anything that the person is required to do under this Act must be done by the person’s litigation guardian.

*Note* The litigation guardian may not give the person’s evidence for the person (see [Evidence Act 2011](#), pt 3.2).

### **74 Litigation guardian—responsibilities**

The litigation guardian of a person with impaired decision-making ability in a proceeding for a protection order must do everything that is necessary in the proceeding to protect the person’s interests.

### **75 Litigation guardian—removal**

- (1) The Magistrates Court may in a proceeding for a protection order, on application or on its own initiative—
  - (a) remove the litigation guardian of a person with impaired decision-making ability in the proceeding; and
  - (b) order that the proceeding be stayed until someone else has been appointed as a replacement litigation guardian.

- (2) An applicant for an order under subsection (1) must, unless the Magistrates Court otherwise directs, serve notice of the application on the person whose removal is sought and on the person with impaired decision-making ability in the proceeding.
- (3) An application under subsection (1) may be made by a party to the proceeding or anyone else.

## Part 5 Amendment of protection orders

### 76 Amendment of protection orders—who may apply

The Magistrates Court may, on application by any of the following people, amend a protection order:

- (a) the protected person for the order;
- (b) if the protected person is not the applicant for the order—the applicant;
- (c) the respondent to the order.

*Note 1* **Amend** includes extend or reduce the period for which the protection order remains in force (see dict).

*Note 2* If a form is approved under the [Court Procedures Act 2004](#), s 8 for an application, the form must be used.

### 77 Amendment of protection orders

- (1) The Magistrates Court may amend a protection order only if satisfied that—
  - (a) either—
    - (i) there has been a change in the circumstances of a party to the order; or
    - (ii) the order causes unnecessary hardship to the respondent; and
  - (b) amending the order will not adversely affect the safety of the protected person or a child of the protected person; and
  - (c) the order as amended could be made on application for a protection order; and

- (d) if the amendment would reduce the protection of a child who is 15 years old or younger—the child is no longer in need of the greater protection provided by the unamended protection order.

**Example—par (a) (i)**

An interim order, when first made, did not prohibit the respondent from contacting the protected person's child. Several days after the interim order is made, the respondent behaves in a way that increases the risk of harm to the protected person's child. The protected person now needs an amendment of the interim order to include the prohibition.

*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](#), s 126 and s 132).

- (2) If the protection order has been amended by being extended, the order must mention that it has been extended.
- (3) An application for an amendment must state the grounds for the application.

**Examples**

- 1 the protected person has had a change in circumstances since the original order was made
  - 2 the original order restricts the respondent's rights unnecessarily
- (4) An application for an amendment must be made before the original order ends.
- (5) This section does not apply to a kind of amendment if this Act (apart from this section) expressly deals with the grounds for that kind of amendment or for revocation.

*Note* Section 80 (Final orders—extension) expressly deals with the grounds for amendment.

## 78 Final orders—temporary amendment

- (1) The Magistrates Court may, on application, amend a final order for a stated period (a *temporary amendment*).

*Note* If a form is approved under the [Court Procedures Act 2004](#), s 8 for an application, the form must be used.

- (2) The order for the temporary amendment must state—
  - (a) the date and time when the amendment starts and ends; and
  - (b) the reasons for the amendment.

**79 Interim orders made by consent—extension**

- (1) The Magistrates Court may, on application, amend an interim order made as a consent order by extending it for an additional stated period, or further additional stated period, of up to 8 weeks.
- (2) However, an interim order made as a consent order must not be extended if the extension would mean the order would be in force for more than 16 weeks.

**80 Final orders—extension**

- (1) The Magistrates Court must, on application, amend a final order (the *original order*) by extending it for a stated period unless satisfied that a protection order is no longer necessary to protect the protected person from personal violence by the respondent.
- (2) If the parties consent to the application to amend the original order, the Magistrates Court must amend the original order without considering the matter mentioned in subsection (1).
- (3) An application to extend the original order must be made at least 21 days before the day the original order is to end.
- (4) However, the Magistrates Court may allow a person to apply for an extension after the period mentioned in subsection (3) if satisfied that it is appropriate to do so.
- (5) The parties may consent to an application being made after the period mentioned in subsection (3).

*Note* An interim order may be applied for on an application for extension of a final order.

---

## Part 6 Review of orders

### 81 Particular final orders—application for review

- (1) This section applies to an application for review of a final order other than a consent order (the *original order*).

*Note* Section 83 applies to applications for review of consent orders.

- (2) The following people may apply to the Magistrates Court for review of the original order:
- (a) the protected person;
  - (b) if the protected person is not the applicant—the applicant;
  - (c) with the court’s leave—
    - (i) the respondent; or
    - (ii) someone else with sufficient interest in the original order.

**Example—someone with sufficient interest**

a protected person’s guardian

*Note 1* If a form is approved under the [Court Procedures Act 2004](#), s 8 for an application, the form must be used.

*Note 2* 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](#), s 126 and s 132).

- (3) Before hearing an application for leave for subsection (2) (c), the Magistrates Court must—
- (a) fix a date and time to hear the application; and
  - (b) give the people mentioned in subsection (2) written notice of the date and time.
- (4) In this section:

***protected person*** means the protected person in relation to the original order.

***respondent*** means the respondent to the original order.

**82 Particular final orders—review**

- (1) On hearing an application under section 81 to review a final order, the Magistrates Court must, by order—
  - (a) dismiss the application; or
  - (b) confirm the original order; or
  - (c) revoke the original order; or
  - (d) set aside the original order and make a new order.
- (2) The Magistrates Court may revoke the original order—
  - (a) if the court is satisfied that the original order is no longer necessary to protect the protected person; or
  - (b) if—
    - (i) the applicant for the original order applies for the review of the original order; and
    - (ii) if the revocation would affect the protection of a child who is 15 years old or younger—the court is satisfied the child is no longer in need of the protection provided by the original order.
- (3) If the Magistrates Court revokes the original order, the court must notify the protected person, in writing, as soon as practicable.

**83 Consent orders—review**

- (1) A party to a proceeding for a protection order may apply to the Magistrates Court for a review of a consent order (the *original order*) only on the ground that the making of the original order was induced or affected by fraud or duress, other than fraud of the party or duress applied by the party.
- (2) On application for the review, the Magistrates Court may—
  - (a) either—
    - (i) amend, or refuse to amend, the original order; or



- (ii) declare the original order void; and
- (b) make any order that could have been made on the application in relation to which the original order was made instead of the original order.

#### **84 Appealable decisions**

The following decisions by the Magistrates Court under this Act are appealable:

- (a) the making, amending or revoking of a final order;
- (b) a refusal to make, amend or revoke a final order;
- (c) a decision mentioned in section 83 made on the review of a consent order.

#### **85 Appeals to Supreme Court**

- (1) A person may appeal to the Supreme Court against an appealable decision if the person was a party to the proceeding in which the decision was made.
- (2) The person must file a notice of appeal with the Supreme Court not later than 28 days after—
  - (a) if the appealable decision was the making or amending of a final order and the respondent was not present when the final order was made or amended—the day the final order or amendment is served on the respondent; or
  - (b) in any other case—the date of the order.
- (3) However, the Supreme Court may allow a person to file a notice of appeal after the period mentioned in subsection (2) if satisfied that it is appropriate to do so.

**86 Giving notice of appeal**

As soon as practicable after filing the notice of appeal, the appellant must—

- (a) file a copy of the notice in the Magistrates Court; and
- (b) serve a copy of the notice on each other party to the proceeding from which the appeal arose.

**87 Evidence on appeal**

In an appeal, the Supreme Court must consider the evidence given in the proceeding from which the appeal arose, and has power to draw inferences of fact and, in its discretion, to receive further evidence.

**88 Powers of Supreme Court on appeal**

On an appeal, the Supreme Court may—

- (a) confirm, reverse or amend the decision or order appealed from; or
- (b) make the decision or order that, in all the circumstances, it considers appropriate, or refuse to make an order; or
- (c) set aside the decision or order appealed from, completely or partly, and remit the proceedings to the Magistrates Court for further hearing, subject to the directions the Supreme Court considers appropriate.

**89 Effect of filing appeal**

The filing of an appeal against the making or amending of a final order under this Act does not affect the operation of the order.

---

## Part 7 Reciprocal arrangements

### 90 Definitions—pt 7

In this part:

*recognised court* means a court of a State, another Territory or New Zealand that may make a recognised order.

*recognised order* means an order, under a law of a State, another Territory or New Zealand, that corresponds to a protection order.

*registered order*—

- (a) means a recognised order registered under section 92 or section 94; and
- (b) includes a registered order amended as if it were a final order.

### 91 Recognised orders—applications for registration

- (1) A person may apply to the registrar for registration of a recognised order.

*Note* If a form is approved under the [Court Procedures Act 2004](#), s 8 for an application, the form must be used.

- (2) The application must be accompanied by the recognised order or a certified copy of the recognised order.

### 92 Recognised orders—registration

- (1) On receiving an application under section 91 for registration of a recognised order, the registrar must register the order.
- (2) If the registrar registers a recognised order, the registrar must—
  - (a) give the chief police officer a copy of—
    - (i) the application for registration; and
    - (ii) the registered order; and

- (b) tell the recognised court, in writing, that the order has been registered.

*Note* Under the *Electronic Transactions Act 2001*, s 8 (1), information required to be in writing may be given electronically in certain circumstances.

### 93 Effect of registration

A registered order—

- (a) is enforceable in the ACT as if it were a final order that had been personally served on the respondent; and
- (b) may be amended or revoked in the same way as a final order.

### 94 Registered orders—amendment

If a registered order is amended under this Act, the registrar must tell the recognised court that made the order, in writing, about the amendment.

*Note* Under the *Electronic Transactions Act 2001*, s 8 (1), information required to be in writing may be given electronically in certain circumstances.

### 95 Registered orders—revocation

- (1) This section applies if a recognised court tells the registrar that a registered order has been revoked.
- (2) The registrar must—
  - (a) cancel the registration of the registered order; and
  - (b) tell the chief police officer and the person protected by the order about the cancellation.

### 96 Recognised orders—amendment

- (1) This section applies if a recognised court tells the registrar that a recognised order (the *original order*) registered under this part has been amended.

- (2) The registrar must—
  - (a) cancel the registration of the original order; and
  - (b) register the recognised order (the *amended order*) as amended.
- (3) The amended order takes effect on the cancellation of the registration of the original order.
- (4) If a breach of the original order that is not enforced before the original order is cancelled would amount to a breach of the amended order, the breach may be enforced as if it were a breach of the amended order.

## **97 Notification by interstate court of registration**

- (1) This section applies if—
  - (a) a recognised court tells the Magistrates Court that it has registered a protection order; and
  - (b) the Magistrates Court amends or revokes the order.
- (2) The Magistrates Court must—
  - (a) tell the recognised court, in writing, that the order has been amended or revoked; and
  - (b) if the order has been amended—give the recognised court a copy of the order as amended.

*Note* Under the *Electronic Transactions Act 2001*, s 8 (1), information required to be in writing may be given electronically in certain circumstances.

## Part 8                      Miscellaneous

### Division 8.1              Public access and publication

#### 98                      Publication of reports about proceedings—offence

- (1) A person commits an offence if—
- (a) the person publishes (completely or partly) an account or report of a proceeding for a protection order; and
  - (b) the account or report—
    - (i) identifies a party to the proceeding; or
    - (ii) identifies a person who is related to, or associated with, a party to the proceeding or is, or is claimed to be, in any other way concerned in the matter to which the proceeding relates; or
    - (iii) identifies a witness to the proceeding; or
    - (iv) allows the identity of a person mentioned in subparagraph (i), (ii) or (iii) to be worked out.

Maximum penalty: 10 penalty units.

*Note*              It is an offence under the [Criminal Code](#), s 712A for a person to publish information that identifies someone else as a person who is or was a child or young person in a proceeding under this Act.

- (2) In this section:

***publish*** means communicate or distribute information in a way or to an extent that makes it available to, or likely to come to the notice of, the public or a section of the public or anyone else not lawfully entitled to the information.

**99 Publication of reports about proceedings—exceptions to offence**

- (1) Section 98 does not prevent—
  - (a) a party to a proceeding for a protection order from—
    - (i) telling someone else about the contents of an order made in the proceeding; or
    - (ii) giving someone else a copy of the order; or
  - (b) the publication of an account or report of a proceeding for a protection order if the publication is a permitted publication about proceedings mentioned in schedule 1, section 1.2.
- (2) A court may make an order allowing circulation of, or may permit the circulation of, information the publication of which would otherwise contravene section 98 only if satisfied that—
  - (a) it is in the public interest; or
  - (b) it will promote compliance with the protection order; or
  - (c) it is necessary for the proper operation of this Act.

**Division 8.2 Other matters**

**100 Effect of availability of workplace protection orders**

The availability of a workplace protection order under this Act does not create a new right or obligation in relation to any employment relationship.

**101 Deciding application if criminal proceedings**

The power of a court to make, amend or revoke a protection order in relation to a person may be exercised even if the person has been charged with, or convicted or found guilty of, an offence arising out of the same conduct as that out of which the application for the order arose.

**102              Criminal and civil liability not affected by protection orders**

The making, amendment or revocation of a protection order does not, except as provided by this Act, affect the civil or criminal liability of the respondent in relation to the same conduct as that out of which the application for the order arose.

**103              Crimes Act, s 397 (1)**

This Act does not affect the operation of the *Crimes Act 1900*, section 397 (1) (which deals with the making of recognisances to keep the peace).

**104              Working out time if less than 5 days**

If a period of less than 5 days is prescribed under this Act, the period is to be worked out ignoring any day when the Magistrates Court is not open for business.

**105              Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note*              A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) A regulation may create offences and fix maximum penalties of not more than 10 penalty units for the offences.



## Part 20 Transitional

### 200 Existing registered orders under repealed Act

- (1) This section applies to an order that corresponds to a protection order—
  - (a) registered under the *Domestic Violence and Protection Orders Act 2008*, part 12 (Reciprocal arrangements) before the commencement of this Act, part 7 (Reciprocal arrangements); and
  - (b) in force immediately before the commencement of this Act, part 7.
- (2) The order is taken to have been registered under this Act, part 7.

### 201 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act.

### 202 Expiry—pt 20

This part expires 2 years after the day it commences.

*Note* Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

## Part 21 Amendments

### 203 Legislation amended—sch 2

This Act amends the legislation mentioned in schedule 2.

## Schedule 1 Permitted publication about proceedings

(see s 99 (1) (b))

### 1.1 Definitions—sch 1

In this schedule:

*authorised person* under the *Children and Young People Act 2008*—see the *Children and Young People Act 2008*, section 26.

*care and protection chapters*—see the *Children and Young People Act 2008*, section 336.

### 1.2 Permitted publication about proceedings

Table 1.2

column 1 item	column 2 permitted publication about proceedings
1	information circulated in accordance with— (a) an order of the Magistrates Court; or (b) the written permission of a magistrate
2	information given to a criminal justice entity under the <i>Crimes (Sentencing) Act 2005</i> , section 136 (Information exchanges between criminal justice entities)
3	information given to the director-general in relation to the exercise of the director-general's functions
4	information given to the director-general responsible for, or an authorised person under, the <i>Children and Young People Act 2008</i> to allow the director-general to exercise the director-general's powers under the care and protection chapters of that Act
5	information given to the public advocate in relation to the exercise of the public advocate's functions

**Schedule 1** Permitted publication about proceedings

Section 1.2

---

<b>column 1 item</b>	<b>column 2 permitted publication about proceedings</b>
6	a pleading, transcript of evidence or other document communicated to— (a) people concerned with any other proceeding in a court or tribunal for use in relation to that proceeding; or (b) people concerned with the disciplinary proceeding of a lawyer, for use in relation to that proceeding; or (c) an entity that grants legal aid, to help decide whether to provide legal aid in a particular case
7	matter published in law reports or other technical or professional publications
8	matter given to someone in relation to the person's professional practice
9	information about a party to a proceeding, or a protection order made in the proceeding, communicated to another person, with the party's permission, for the purpose of organising the party's personal affairs

## Schedule 2 Firearms Act 1996

(see s 203)

### [2.1] Section 18 (1) (b) (ii) and (iii)

*substitute*

- (ii) been subject to a final protection order that—
  - (A) has been revoked; or
  - (B) permits the individual to possess or retain a firearm;  
or

*Note* The Magistrates Court may order that the firearms licence of a person subject to a final order not be cancelled under the *Personal Violence Act 2016*, s 37 (3).

- (iii) been subject to an interim protection order; or

### [2.2] Section 19 (1) (b) (i), except note

*substitute*

- (i) subject to a final protection order other than an order that—
  - (A) has been revoked or successfully appealed against;  
or
  - (B) permits the individual to possess or retain a firearm;  
or

*Note 1* The Magistrates Court may order that the firearms licence of a person subject to a final order not be cancelled under the *Personal Violence Act 2016*, s 37 (3).

**[2.3] Section 80 heading**

*substitute*

**80 Adult firearms licences—mandatory suspension for family violence offence**

**[2.4] Section 80 (1)**

*omit*

domestic violence

*substitute*

family violence

**[2.5] Section 80 (1), notes**

*substitute*

*Note 1* A person's licence is automatically suspended under—

- the *Family Violence Act 2016*, s 44 (1) (Firearms licences) if an interim or after-hours order is made against the person; or
- the *Personal Violence Act 2016*, s 36 (Interim orders—respondent's firearms) if an interim order is made against the person unless the court otherwise orders.

*Note 2* If the registrar suspends a licence under this section, the registrar must give written notice of the decision to the licensee (see s 260).

**[2.6] Section 81 (2), note 2**

*substitute*

*Note 2* If the registrar cancels a licence under this section because of a reassessment of the licensee's suitability to hold a licence under s 81A, the registrar must give written notice of the decision to the Magistrates Court.

*Note 3* A person's licence is automatically cancelled under—

- the *Family Violence Act 2016*, s 44 (2) (Firearms licences) if a final order is made against the person; or
- the *Personal Violence Act 2016*, s 37 (Final orders—respondent's firearms) if a final order is made against the person unless the court otherwise orders.

**[2.7] New section 81A**

*insert*

**81A Adult firearms licences—reconsideration of suitability of licensee under certain protection orders**

- (1) This section applies if—
  - (a) a licensee is subject to a final or interim protection order (a ***current protection order***) under the *Personal Violence Act 2016*; and
  - (b) the Magistrates Court orders that the licensee's adult firearms licence not be—
    - (i) suspended under section 36 (3) (Interim orders—respondent's firearms); or
    - (ii) cancelled under section 37 (3) (Final orders—respondent's firearms).

- (2) The registrar must decide whether the licensee continues to be suitable to hold the adult firearms licence—
- (a) having regard to the criteria in section 18 and section 19 that apply to the licensee; but
  - (b) disregarding the current protection order.

*Note* If the registrar is satisfied on reasonable grounds that the licensee is not suitable, the registrar must cancel the licensee's licence (see s 81 (1) (c)).

- (3) If the registrar cancels the licensee's adult firearms licence because of this section, the registrar must give the Magistrates Court written notice of the decision.

**[2.8] Section 97 heading**

*substitute*

**97 Minors firearms licences—mandatory suspension if family violence offence**

**[2.9] Section 97 (1)**

*omit*

domestic violence

*substitute*

family violence



**[2.10] Section 97 (1), notes***substitute*

*Note 1* A person's licence is automatically suspended under—

- the *Family Violence Act 2016*, s 44 (1) (Firearms licences) if an interim or after-hours order is made against the person; or
- the *Personal Violence Act 2016*, s 36 (Interim orders—respondent's firearms) if an interim order is made against the person unless the court otherwise orders.

*Note 2* If the registrar suspends a licence under this section, the registrar must give written notice of the decision to the licensee (see s 260).

**[2.11] Section 98, note 2***substitute*

*Note 2* If the registrar cancels a licence under this section because of a reassessment of the licensee's suitability to hold a licence under s 98A, the registrar must give written notice of the decision to the Magistrates Court.

*Note 3* A person's licence is automatically cancelled under—

- the *Family Violence Act 2016*, s 44 (2) (Firearms licences) if a final order is made against the person; or
- the *Personal Violence Act 2016*, s 37 (Final orders—respondent's firearms) if a final order is made against the person unless the court otherwise orders.

**[2.12] New section 98A***insert***98A Minors firearms licences—reconsideration of suitability of licensee under certain protection orders**

(1) This section applies if—

- (a) a licensee is subject to a final or interim protection order (the *current protection order*) under the *Personal Violence Act 2016*; and

- (b) the Magistrate Court orders that the licensee's minors firearms licence not be—
  - (i) suspended under section 36 (3) (Interim orders—respondent's firearms); or
  - (ii) cancelled under section 37 (3) (Final orders—respondent's firearms).
- (2) The registrar must decide whether the licensee continues to be suitable to hold the minors firearms licence—
  - (a) having regard to the criteria in section 18 and section 19 that apply to the licensee; but
  - (b) disregarding the current protection order.

*Note* If the registrar is satisfied on reasonable grounds that the licensee is not suitable, the registrar must cancel the licensee's licence (see s 98 (c)).
- (3) If the registrar cancels the licensee's minors firearms licence because of this section, the registrar must give the Magistrates Court written notice of the decision.

**[2.13] Section 119 heading**

*substitute*

**119 Composite entity firearms licences—mandatory suspension for family violence offence**

**[2.14] Section 119 (1)**

*omit*

domestic violence

*substitute*

family violence

**[2.15] Section 119 (1), notes 1, 2 and 3**

*omit*

**[2.16] Section 120, note 2**

*omit*

**[2.17] Section 132, note 2**

*substitute*

*Note 2* A person's licence is automatically cancelled under—

- the *Family Violence Act 2016*, s 44 (2) (Firearms licences) if a final order is made against the person; or
- the *Personal Violence Act 2016*, s 37 (Final orders—respondent's firearms) if a final order is made against the person unless the court otherwise orders.

**[2.18] Dictionary, definitions of *corresponding order* and *domestic violence offence***

*omit*

**[2.19] Dictionary, new definitions**

*insert*

***family violence offence*** means an offence if the conduct making up the offence is family violence under the *Family Violence Act 2016*.

***final protection order***—

(a) means a final order under—

- (i) the *Family Violence Act 2016*; or
- (ii) the *Personal Violence Act 2016*; and

- (b) includes the following orders, other than an order of an interim nature:
  - (i) a protection order under the *Domestic Violence Agencies Act 1986* as in force at any time;
  - (ii) a protection order under the *Domestic Violence and Protection Orders Act 2001* as in force at any time;
  - (iii) a protection order under the *Domestic Violence and Protection Orders Act 2008* as in force at any time;
  - (iv) a restraining order under the *Magistrates Court Act 1930* before 27 March 2002;
  - (v) a recognised FVO;
  - (vi) any other order under a law of a State, another Territory or New Zealand that has or had the same effect, or substantially the same effect, as an order mentioned in paragraph (a).

**[2.20] Dictionary, definition of *interim protection order***

*substitute*

*interim protection order*—

- (a) means—
  - (i) an interim order under—
    - (A) the *Family Violence Act 2016*; or
    - (B) the *Personal Violence Act 2016*; or
  - (ii) a recognised FVO of an interim nature; and
- (b) includes an order of an interim nature that has or had the same effect, or substantially the same effect, as an order mentioned in paragraph (a) under the following:

- (i) the *Domestic Violence Agencies Act 1986* as in force at any time;
- (ii) the *Domestic Violence and Protection Orders Act 2001* as in force at any time;
- (iii) the *Domestic Violence and Protection Orders Act 2008* as in force at any time;
- (iv) the *Magistrates Court Act 1930* before 27 March 2002;
- (v) a law of a State, another Territory or New Zealand.

**[2.21] Dictionary, definition of *protection order***

*omit*

**[2.22] Dictionary, new definition of *recognised FVO***

*insert*

***recognised FVO***—see the *Family Violence Act 2016*, section 119 and section 144.

## Dictionary

(see s 3)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- chief police officer
- child
- director of public prosecutions
- individual
- lawyer
- magistrate
- Magistrates Court
- parent
- police officer
- proceeding
- public advocate
- registrar
- registrar of firearms
- Supreme Court.

***affected person*** means—

- (a) in relation to personal violence at a workplace—the following people against whom personal violence has been, or is likely to be, committed:
- (i) an employee at the workplace;
  - (ii) the employee’s employer;
  - (iii) any other person in the workplace; or
- (b) in relation to other personal violence—a person against whom personal violence has been, or is likely to be, committed.

*Note* Personal violence does not include family violence which is dealt with under the *Family Violence Act 2016* (see s 8 (2)).

**amend**, a protection order, includes amend the order by—

- (a) adding further conditions, prohibitions or restrictions to the order or amending or deleting conditions, prohibitions or restrictions; or
- (b) extending or reducing the period for which the order remains in force.

**ammunition**—see the *Firearms Act 1996*, dictionary.

**appealable decision** means a decision mentioned in section 84.

**application**, for a protection order, means an application for a final order.

*Note 1* The court may make an interim order on an application for a final order (see s 17). No separate application for an interim order is required.

*Note 2* As a protection order includes an order amending a protection order (see def *protection order*), an application for a protection order includes an application to amend a protection order.

**authorised person**, for schedule 1 (Permitted publication about proceeding)—see schedule 1, section 1.1.

**care and protection chapters**, for schedule 1 (Permitted publication about proceeding)—see schedule 1, section 1.1.

**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.

*Note* A child is someone under 18 years old (see *Legislation Act*, dict, pt 1).

**consent order** means a protection order made under section 25.

**copy**, in relation to a document to be served in a proceeding, means—

- (a) if the document has been entered into the record of the Magistrates Court—a true copy sealed or stamped with the seal of the court; or
- (b) in any other case—a true copy.

**disability guardian**, of a person—see the *Guardianship and Management of Property Act 1991*, dictionary, definition of *guardian*.

**employee** means an individual engaged by someone—

- (a) under a contract of service; or
- (b) under a contract for services; or
- (c) under an apprenticeship; or
- (d) under an approved training contract under the *Training and Tertiary Education Act 2003*; or
- (e) to work for the person as a volunteer.

**employer** means someone who engages an individual—

- (a) under a contract of service; or
- (b) under a contract for services; or
- (c) under an apprenticeship; or
- (d) under an approved training contract under the *Training and Tertiary Education Act 2003*; or
- (e) to work as a volunteer.

**family violence**—see the *Family Violence Act 2016*, section 8.

**final order** means a protection order that is not an interim order, and includes an order amending a final order.

**firearm**—see the *Firearms Act 1996*, section 6.

**firearms licence**—see the *Firearms Act 1996*, dictionary, definition of *licence*.

**impaired decision-making ability**—see section 68.

**interim order**—

- (a) means a protection order (including a consent order) made under section 19 (Interim orders—grounds for making); and



(b) includes an order (other than a final order) that amends or revokes an interim order.

**litigation guardian**, of a person, means a person appointed in accordance with section 72.

**personal protection order** means an interim or final order other than a workplace protection order.

**personal violence**—see section 8.

*Note* **Personal violence** does not include family violence (see s 8 (3)).

**proceeding**, for a protection order, includes a proceeding to review the order under part 6.

*Note* As a protection order includes an order amending a protection order (see def **protection order**), a proceeding for a protection order includes a proceeding to amend the order.

**protected person** means the person protected under a protection order.

**protection order**—

(a) means—

- (i) an interim personal or workplace protection order; or
- (ii) a final personal or workplace protection order; and

(b) includes—

- (i) an order about the seizure of a firearms licence, firearm or ammunition; and
- (ii) an order amending a protection order, including an order for a temporary amendment under section 78.

**recognised court**, for part 7 (Reciprocal arrangements)—see section 90.

**recognised order**, for part 7 (Reciprocal arrangements)—see section 90.

**registered order**, for part 7 (Reciprocal arrangements)—see section 90.

**respondent** means a person—

- (a) in relation to whom an application for a protection order has been made; or
- (b) against whom a protection order has been made.

**return date**, for an application for a protection order, means the day fixed by the Magistrates Court for return of the application before the court.

**revoke** includes cancel.

**timing notice**, for an application for a protection order—see section 39 (Service of applications).

**workplace protection order** means an interim or final order restraining a person from personal violence in relation to a workplace.

*Note* See s 8 (2) for the meaning of personal violence by a person in relation to a workplace.

---

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 7 June 2016.

**2 Notification**

Notified under the [Legislation Act](#) on 18 August 2016.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

---

I certify that the above is a true copy of the Personal Violence Bill 2016, which was passed by the Legislative Assembly on 2 August 2016.

Clerk of the Legislative Assembly

© Australian Capital Territory 2016