

2015

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Crimes (Domestic and Family Violence) Legislation Amendment Bill 2015

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2015

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# **Crimes (Domestic and Family Violence) Legislation Amendment Bill 2015**

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## **A Bill for**

An Act to amend legislation about crimes of domestic and family violence, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Crimes (Domestic and Family Violence) Legislation*  
4 *Amendment Act 2015*.

5 **2 Commencement**

6 (1) This Act (other than the following provisions) commences on the  
7 day after its notification day:

- 8 • part 4 (Evidence (Miscellaneous Provisions) Act 1991);
- 9 • schedule 1, amendment 1.1;
- 10 • schedule 1, part 1.2 (Confiscation of Criminal Assets Act 2003);
- 11 • schedule 1, part 1.3 (Court Procedures Act 2004);
- 12 • schedule 1, part 1.4 (Court Procedures Rules 2006);
- 13 • schedule 1, part 1.6 (Crimes (Forensic Procedures) Act 2000);
- 14 • schedule 1, part 1.7 (Crimes (Sentencing) Act 2005);
- 15 • schedule 1, part 1.8 (Evidence Act 2011);
- 16 • schedule 1, part 1.9 (Evidence (Miscellaneous Provisions)
- 17 Regulation 2009);
- 18 • schedule 1, part 1.11 (Supreme Court Act 1933).

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

21 (2) The provisions mentioned in subsection (1) commence 6 months  
22 after this Act's notification day.



1 **3 Legislation amended**

2 This Act amends the following legislation:

- 3 • *Crimes Act 1900*
- 4 • *Domestic Violence and Protection Orders Act 2008*
- 5 • *Evidence (Miscellaneous Provisions) Act 1991*.

6 *Note* This Act also amends other legislation (see sch 1).

1 **Part 2 Crimes Act 1900**

2 **4 Acts endangering health etc**  
3 **New section 28 (2) (aa)**

4 *before paragraph (a), insert*

5 (aa) chokes, suffocates or strangles another person; or

6 **5 Alternative verdicts for certain other offences against the**  
7 **person**  
8 **Table 49, new item 7A**

9 *insert*

7A	section 27 (3) (a) (Choking etc rendering person unconscious etc)	section 28 (2) (aa)
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10 **6 Table 49, new item 11A**

11 *insert*

11A	section 28 (2) (aa) (Choking, suffocating or strangling)	section 26
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1 **Part 3** **Domestic Violence and**  
2 **Protection Orders Act 2008**

3 **7 Registrar may adjourn proceedings etc**  
4 **Section 23 (2), note**

5 *substitute*

6 *Note* The registrar may also extend a general interim order (see s 41E).

7 **8 New division 4.1 and division 4.2 heading**

8 *insert*

9 **Division 4.1** **Definitions**

10 **28A** **Meaning of *interim order*, *general interim order* and**  
11 ***special interim order*—Act**

12 In this Act:

13 ***general interim order***—

14 (a) means a protection order (including a consent order) made  
15 under section 30A (b) (Interim orders—general interim orders  
16 and special interim orders); and

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

19 ***interim order*** means—

20 (a) a general interim order; or

21 (b) a special interim order.

1

*special interim order*—

2

(a) means a domestic violence order (including a consent order) made under section 30A (a) (Interim orders—general interim orders and special interim orders); and

3

4

5

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

6

7

### **28B Meaning of *related* charges—Act**

8

In this Act:

9

*related*—a charge against a person for an offence is *related* to an application for a final order and, if an interim order is made on the application, an interim order if—

10

11

12

(a) the person charged is—

13

(i) the respondent for the application; and

14

(ii) a relevant person in relation to the aggrieved person; and

15

(b) the offence is a domestic violence offence, other than an offence against section 90 (Offence for contravention of protection order).

16

17

18

### **28C Meaning of *outstanding* charges—pt 4**

19

In this part:

20

*outstanding*—a charge against a person for an offence is *outstanding* until the charge is finally dealt with in any of the following ways:

21

22

23

(a) the charge is withdrawn;

24

(b) the charge is dismissed by a court;

25

(c) the person is discharged by a court following a committal hearing;

26

- 1 (d) the person is acquitted, convicted or found guilty by a court of  
2 the offence.

3 *Note* **Found guilty**, of an offence—see the [Legislation Act](#), dictionary,  
4 pt 1.

## 5 **Division 4.2 Making interim orders**

### 6 **9 Section 29 heading**

7 *substitute*

### 8 **29 Interim orders—grounds for making**

### 9 **10 Section 30 heading**

10 *substitute*

### 11 **30 Interim orders—only on application for final order**

### 12 **11 Section 30 (3)**

13 *omit*

### 14 **12 New section 30A**

15 *insert*

### 16 **30A Interim orders—general interim orders and special** 17 **interim orders**

18 (1) If the Magistrates Court is making an interim order on an  
19 application, the court may make—

20 (a) a special interim order if—

- 21 (i) the application is for a final domestic violence order; and  
22 (ii) there is a related charge outstanding in relation to the  
23 respondent; or

- 1 (b) in any other case—a general interim order.
- 2 (2) If the court makes a special interim order in circumstances where a  
3 general interim order may be made—
- 4 (a) the operation of the special interim order is not affected by the  
5 fact that a general interim order may have been made; and
- 6 (b) the court may set aside the special interim order and make a  
7 general interim order.
- 8 (3) If the court makes a general interim order in circumstances where a  
9 special interim order may be made—
- 10 (a) the operation of the general interim order is not affected by the  
11 fact that a special interim order may have been made; and
- 12 (b) the court may set aside the general interim order and make a  
13 special interim order.

14 **13 Section 31 heading**

15 *substitute*

16 **31 Interim orders—court consideration of children**

17 **14 Section 32 heading**

18 *substitute*

19 **32 Interim orders—respondent with legal disability**

20 **15 Section 33 heading**

21 *substitute*

22 **33 Interim orders—service of application unnecessary**

- 
- 1 **16 Section 34 heading**
- 2 *substitute*
- 3 **34 General interim order—extension of return date for final**
- 4 **order**
- 5 **17 Section 34 (1) (a)**
- 6 *omit*
- 7 an interim order
- 8 *substitute*
- 9 a general interim order
- 10 **18 Section 34 (1) (b) and (2)**
- 11 *omit*
- 12 the interim order
- 13 *substitute*
- 14 the general interim order
- 15 **19 New section 34A**
- 16 *insert*
- 17 **34A Special interim order—return date for final order**
- 18 (1) This section applies if the Magistrates Court makes a special interim
- 19 order.
- 20 (2) The return date for the application for the final order must be—
- 21 (a) not earlier than the day all related charges are finalised; and

1 (b) not later than 21 days after the day all related charges are  
2 finalised.

3 *Note* **Finalised**—see s 42.  
4 **Related** charges—see s 28B.  
5 **Special interim order**—see s 28A.

6 **20 Section 35 heading**

7 *substitute*

8 **35 Interim orders—content**

9 **21 Section 36 heading**

10 *substitute*

11 **36 General interim orders—becoming final orders**

12 **22 Section 36**

13 *omit*

14 an interim order

15 *substitute*

16 a general interim order

17 **23 Section 36**

18 *omit*

19 the interim order

20 *substitute*

21 the general interim order

22 **24 Section 36 (as amended)**

23 *relocate to division 4.3 as section 41C*



1 **25 Length of interim orders not by consent**  
2 **Section 37**

3 *omit*

4 **26 Section 38**

5 *substitute*

6 **38 Interim orders—ending**

7 An interim order ends if any of the following happens:

8 (a) for a general interim order—the end of the period stated in the  
9 order;

10 *Note* A general interim order (other than a consent order) must not be  
11 in force for more than 2 years (see s 41A).  
12 A general interim order made as a consent order remains in force  
13 for the period of up to 16 weeks stated in the order (see s 45).

14 (b) the interim order is revoked;

15 (c) the application on which the interim order was made is  
16 dismissed;

17 (d) if a final order is made on the application and the respondent is  
18 present when the final order is made—the final order is made;

19 (e) if a final order is made on the application but the respondent is  
20 not present when the final order is made—the final order is  
21 served on the respondent.

22 **27 What if interim orders would expire before final orders**  
23 **are served?**  
24 **Section 39**

25 *omit*

1 **28 Section 40 heading**

2 *substitute*

3 **40 Interim orders—respondent’s firearms**

4 **29 Sections 41 and 42**

5 *omit*

6 **30 New divisions 4.3 and 4.4**

7 *insert*

8 **Division 4.3 General interim orders—no related**  
9 **charges**

10 **41 General interim orders—only one may be made**

11 Only 1 general interim order may be made in relation to an  
12 application for a final order unless section 41D (General interim  
13 orders—further orders) applies.

14 **41A General interim orders—length**

15 A general interim order (other than a consent order) must not be in  
16 force for more than 2 years.

17 *Note* Section 45 provides for how long a general interim order made as a  
18 consent order may be in force.

19 **41B General interim orders—taken to be special interim**  
20 **orders if related charges laid**

21 (1) This section applies if—

22 (a) the court has made a general interim order on an application;  
23 and

1 (b) after the general interim order is made, but before the final  
2 order is made, the respondent is charged with an offence; and

3 (c) the charge is related to the application.

4 *Note* **Related** charges—see s 28B.

5 (2) The general interim order is taken to be a special interim order—

6 (a) in the same terms as the general interim order; and

7 (b) subject to same conditions as the general interim order.

8 (3) The return date for the application must be changed to a day—

9 (a) not earlier than the day all related charges are finalised; and

10 (b) not later than 21 days after the day all related charges are  
11 finalised.

12 *Note* **Finalised**—see s 42.

13 **Related** charges—see s 28B.

14 **Special interim order**—see s 28A.

#### 15 **41D General interim orders—further orders**

16 (1) This section applies if a general interim order has ended or is about  
17 to end.

18 (2) The Magistrates Court may make a further general interim order if  
19 satisfied there are special or exceptional circumstances (having  
20 regard to the principles for making protection orders) that justify the  
21 making of a further general interim order.

22 *Note* The principles for making protection orders are set out in s 7.

23 (3) However, a further general interim order must not be made as a  
24 consent order.

25 *Note* An interim order may be amended in certain circumstances (see s 58).

1     **41E       General interim orders—extension of orders**

- 2             (1) This section applies if the registrar adjourns a proceeding for a final  
3               order because the respondent has not been served with a copy of the  
4               application and a notice about the proceeding stating the date for the  
5               application's return before the Magistrates Court.
- 6             (2) The registrar may also amend a general interim order made in  
7               relation to the application by extending it to take into account the  
8               delay caused by the adjournment.
- 9             (3) The registrar must not extend a general interim order under  
10            subsection (2) for longer than 8 weeks.

11            *Note*     A general interim order must not be extended if the extension would  
12                        mean the interim order would be in force for more than 16 weeks  
13                        (see s 61 (2)).

14     **41F       General interim orders—expiry before final order served**

- 15             (1) This section applies if—
- 16               (a) a final order is made on an application for an interim order; and
- 17               (b) the respondent is not present at the making of the final order;  
18               and
- 19               (c) a general interim order made in relation to the same application  
20               would, but for this section, expire before the final order is  
21               served on the respondent.

22            *Note*     A further order may be made in special or exceptional circumstances  
23                        (see s 41D).

- 24             (2) The general interim order is taken to continue in force until the final  
25               order is served on the respondent.
- 26             (3) To remove any doubt, section 90 (Offence for contravention of  
27               protection order) applies to the general interim order continued in  
28               force.

---

1 **Division 4.4**                      **Special interim orders—related**  
2    **domestic violence charges**  
3    **outstanding**

4 **42**                      **Meaning of outstanding related charges *finalised*—div 4.4**

5 In this division:

6 *finalised*—an outstanding related charge is *finalised* if—

- 7 (a) the charge is withdrawn; or  
8 (b) the director of public prosecutions declines to proceed further  
9 with the prosecution of the offences and causes it to be brought  
10 to an end; or  
11 (c) the charge is dismissed by a court; or  
12 (d) the person is discharged by a court following a committal  
13 hearing; or  
14 (e) the person is acquitted, convicted or found guilty by a court of  
15 the offence.

16 *Note*      *Found guilty*, of an offence—see the [Legislation Act](#), dictionary,  
17 pt 1.

18 **42A**                      **Special interim orders—continue until application**  
19    **decided**

20 If the Magistrates Court makes a special interim order on an  
21 application for a final order, the special interim order continues in  
22 force until the application is decided.

1     **42B     Special interim orders—application not to be decided**  
2     **until related charges finalised**

- 3           (1) If the Magistrates Court makes a special interim order on an  
4           application for a final order, the Court must not decide the  
5           application until all related charges are finalised.

6           *Note*     **Finalised**—see s 42.

- 7           (2) However, the application may be withdrawn, or decided by the court  
8           by consent, before all related charges are finalised.

9     **42C     Special interim orders—final application decided**

- 10          (1) This section applies if—

11           (a) the Magistrates Court has made a special interim order on an  
12           application for a final order; and

13           (b) all charges related to a special interim order are finalised; and

14           (c) the application for the final order has not yet been decided.

15          *Note 1*     **Finalised**—see s 42.

16          *Note 2*     The Court must not decide the application, unless by consent, until all  
17          related charges are finalised (see s 42B).

- 18          (2) After the final related charge is finalised by the court, the court must  
19          also—

20           (a) if the court is the Magistrates Court—decide the application for  
21           the final order; or

22           (b) if the court is another court—

23           (i) decide the application for the final order as if it were the  
24           Magistrates Court; or

- 1 (ii) notify the Magistrates Court that the final related charge  
2 has been decided.
- 3 *Note* It is sufficient for a Magistrate to be satisfied on the balance of  
4 probabilities in relation to any matter to be decided in proceedings on an  
5 application.
- 6 (3) If a court notifies the Magistrates Court under  
7 subsection (2) (b) (ii)—
- 8 (a) the court may give the Magistrates Court guidance about, or a  
9 direction for, suitable conditions to be included in the final  
10 order; and
- 11 (b) the Magistrates Court must decide the application for the final  
12 order.
- 13 (4) A decision to dismiss the application may only be made after giving  
14 the parties an opportunity to be heard.
- 15 (5) The court deciding the application for the final order under this  
16 section may set a return date for the application.

17 **31 Consent orders**  
18 **Section 43 (4) (b)**

19 *omit*

20 section 45 (Length of interim orders by consent)

21 *substitute*

22 section 45 (Consent orders—length of general interim orders)

23 **32 Section 44 heading**

24 *substitute*

25 **44 Consent orders—party with legal disability**

1 **33 Section 45**

2 *substitute*

3 **45 Consent orders—length of general interim orders**

4 (1) A general interim order made as a consent order remains in force for  
5 the period of up to 16 weeks stated in the order.

6 (2) To remove any doubt, section 61 (2) applies to a general interim  
7 order made by consent.

8 *Note 1* Under s 61 (2), a general interim order made by consent may not be  
9 amended by extending it to be in force for longer than 16 weeks.

10 *Note 2* A special interim order made as a consent order continues in force until  
11 the application for the final order is decided (see s 42A).

12 **34 Amendment generally**  
13 **Section 58 (3), note 1**

14 *substitute*

15 *Note 1* The following sections expressly deal with the grounds for amendment:  
16 • s 61 (Extension of general interim orders made by consent)  
17 • s 62 (Extension of final orders)  
18 • s 78 (Emergency amendment and revocation of emergency orders)  
19 • s 79 (Non-emergency amendment and revocation of emergency  
20 orders).

21 **35 Section 61**

22 *substitute*

23 **61 Extension of general interim orders made by consent**

24 (1) The Magistrates Court may, on application, amend a general interim  
25 order that is a consent order by extending it for an additional period,  
26 or further additional period, of up to 8 weeks.



1 (2) However, a general interim order must not be extended if the  
2 extension would mean the order would be in force for more than  
3 16 weeks.

4 *Note 1* The registrar may extend a general interim order if the application for  
5 the final order has not been served on the respondent (see s 41F) or if  
6 the registrar is exercising the Magistrates Court's jurisdiction to make a  
7 consent order.

8 *Note 2* A special interim order made as a consent order continues in force until  
9 the application for the final order is decided (see s 42A).

10 **36 Service of non-emergency protection orders**  
11 **Section 64 (1) (a)**

12 *substitute*

13 (a) if the order is an interim order—serve 2 copies of the order  
14 (1 marked as the endorsement copy) on the respondent not later  
15 than—

16 (i) for a general interim order—14 days before the return  
17 date for the application for the final order; or

18 (ii) for a special interim order—14 days after the special  
19 interim order is made; and

20 **37 New sections 90A and 90B**

21 *in part 11, insert*

22 **90A Application for review of special interim orders**

23 The Magistrates Court may, on application by the respondent to a  
24 special interim order, give leave to the respondent to apply to the  
25 court for review of the order in relation to any of the following only:

26 (a) the identity of the respondent;

27 (b) an administrative defect or error in the special interim order;

1 (c) whether or not there are outstanding related charges in relation  
2 to the respondent;

3 (d) whether a general interim order should have been made.

4 *Note 1* Section 30A deals with the making of general interim orders and special  
5 interim orders.

6 *Note 2* If a form is approved under the *Court Procedures Act 2004* for an  
7 application under this section, the form must be used.

## 8 **90B Review of special interim orders**

9 (1) On hearing an application for review under section 90A, the  
10 Magistrates Court must, by order—

11 (a) dismiss the application; or

12 (b) confirm the special interim order; or

13 (c) revoke the special interim order; or

14 (d) set aside the special interim order and make a new interim  
15 order.

16 *Note* Section 29 sets out the grounds for making interim orders and s 30A  
17 deals with whether it is a general interim order or a special interim  
18 order.

19 (2) The Magistrates Court may revoke the special interim order only if  
20 the Magistrates Court is satisfied that the special interim order is no  
21 longer necessary for the protection of the person it protects.

## 22 **38 Application for review of particular final orders**

### 23 **Section 91 (1) (a)**

24 *substitute*

25 (a) an application by a respondent for review of a general interim  
26 order that became final under section 41C (General interim  
27 orders—becoming final orders); and

1 **39 Section 91 (1), note 1**

2 *omit*

3 s 36

4 *substitute*

5 s 41C

6 **40 Section 93 heading**

7 *substitute*

8 **93 Application by respondent for review of order finalised**  
9 **under s 41C**

10 **41 Section 93 (1)**

11 *substitute*

12 (1) This section applies if a general interim order has become a final  
13 order (the *original order*) under section 41C (General interim  
14 orders—becoming final orders).

15 **42 Section 93 (3) (a)**

16 *omit*

17 section 36

18 *substitute*

19 section 41C

20 **43 Section 94 heading**

21 *substitute*

22 **94 Review of order finalised under s 41C**

**44 Section 94 (2)**

2 *substitute*

3 (2) If the Magistrates Court makes a new general interim order,  
4 section 41C applies to the order.

**45 Deciding application if criminal proceedings  
Section 113, new note**

7 *insert*

8 *Note* If the Magistrates Court is making an interim order under s 29, and  
9 there is a related charge outstanding in relation to the respondent, the  
10 court must make a special interim order.

**46 Dictionary, new definitions**

12 *insert*

13 *finalised*, for an outstanding related charge, for division 4.4 (Special  
14 interim orders—related domestic violence charges outstanding)—  
15 see section 42.

16 *general interim order*—see section 28A.

**47 Dictionary, definition of *interim order***

18 *substitute*

19 *interim order*—see section 28A.

**48 Dictionary, new definitions**

21 *insert*

22 *outstanding*, for a charge, for part 4 (Interim orders)—see  
23 section 28C.

24 *related*, for a charge—see section 28B.

25 *special interim order*—see section 28A.

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1 **Part 4** **Evidence (Miscellaneous**  
2 **Provisions) Act 1991**

3 **49** **Parts 1 to 3**

4 *renumber as chapters 1 to 3*

5 **50** **Division 3.1 heading**

6 *substitute*

7 **Part 3.1** **Preliminary—ch 3**

8 **51** **Divisions 3.2 to 3.6**

9 *renumber as parts 3.2 to 3.6*

10 **52** **Part 4 heading**

11 *substitute*

12 **Chapter 4** **Evidence in sexual, violent and**  
13 **domestic violence offence**  
14 **proceedings**

15 **Part 4.1** **Preliminary—ch 4**

16 **36A** **Failure to comply with ch 4**

17 (1) If the evidence of the complainant or a similar act witness is not  
18 given in accordance with this chapter, the evidence is not  
19 inadmissible for that reason only.

20 (2) Failure to comply with this chapter in relation to a proceeding does  
21 not affect the validity of the proceeding.

1 **36D Meaning of *intellectually impaired*—ch 4**

2 In this chapter:

3 *intellectually impaired*—a person is *intellectually impaired* if the  
4 person has—

- 5 (a) an appreciably below average general intellectual function; or  
6 (b) a cognitive impairment (including dementia or autism) arising  
7 from an acquired brain injury, neurological disorder or a  
8 developmental disorder; or  
9 (c) any other intellectual disability.

10 **Part 4.2 Evidence in sexual and violent**  
11 **offence proceedings**

12 **53 Division 4.1 heading**

13 *substitute*

14 **Division 4.2.1 Preliminary—pt 4.2**

15 **54 Section 37 heading**

16 *substitute*

17 **37 Definitions—pt 4.2**

**55 Section 37, definition of *less serious violent offence***

*substitute*

*less serious violent offence* means—

- (a) an offence against any of the following provisions of the *Crimes Act 1900*:
- (i) section 21 (1) (Wounding);
  - (ii) section 22 (Assault with intent to commit other offence);
  - (iii) section 23 (1) (Inflicting actual bodily harm);
  - (iv) section 24 (1) (Assault occasioning actual bodily harm);
  - (v) section 25 (Causing grievous bodily harm);
  - (vi) section 26 (Common assault);
  - (vii) section 28 (Acts endangering health etc);
  - (viii) section 29 (4) and (5) (Culpable driving of motor vehicle);
  - (ix) section 31 (Threat to inflict grievous bodily harm);
  - (x) section 37 (Abduction of young person);
  - (xi) section 41 (Exposing or abandoning child);
  - (xii) section 116 (Destroying or damaging property); or
- (b) an offence against the *Criminal Code*, section 403 (Damaging property); or
- (c) an offence against the *Domestic Violence and Protection Orders Act 2008*, section 90 (Offence for contravention of protection order).

1 **56 Section 37, definition of *serious violent offence*,**  
2 **new paragraph (a) (xiia)**

3 *insert*

4 (xiia) section 35 (Stalking);

5 **57 Section 37, definition of *serious violent offence*,**  
6 **new paragraph (b) (iii) and (iv)**

7 *insert*

8 (iii) section 311 (Burglary) if the complainant was in the  
9 building at the time of the offence;

10 (iv) section 312 (Aggravated burglary) if the complainant was  
11 in the building at the time of the offence.

12 **58 Section 37, new definitions**

13 *insert*

14 *sexual or violent offence* means—

15 (a) a sexual offence; or

16 (b) a violent offence.

17 *sexual or violent offence proceeding* means—

18 (a) a sexual offence proceeding; or

19 (b) a violent offence proceeding.

20 **59 Division 4.2**

21 *renumber as division 4.2.2*



- 1 **60 Section 38B heading**
- 2 *substitute*
- 3 **38B Meaning of *relevant person*—ch 4**
- 4 **61 Section 38B (1)**
- 5 *omit*
- 6 For this division,
- 7 *substitute*
- 8 In this chapter:
- 9 **62 Section 38B (as amended)**
- 10 *relocate to part 4.1 as section 36B*
- 11 **63 Section 38BA heading**
- 12 *substitute*
- 13 **38BA Meaning of *relative*—ch 4**
- 14 **64 Section 38BA**
- 15 *omit*
- 16 For this division, a
- 17 *substitute*
- 18 In this chapter:
- 19 **65 Section 38BA (as amended)**
- 20 *relocate to part 4.1 as section 36C*

- 1 **66** **Division 4.2A**
- 2 *renumber as division 4.2.2A*
- 3 **67** **Meaning of *complainant*—div 4.2A**
- 4 **Section 40A**
- 5 *omit*
- 6 **68** **Section 40B heading**
- 7 *substitute*
- 8 **40B** **Meaning of *sexual offence proceeding*—div 4.2.2A**
- 9 **69** **Section 40B (1) (c) and (d)**
- 10 *substitute*
- 11 (c) an appeal arising out of a proceeding mentioned in
- 12 paragraph (a) or (b).
- 13 **70** **Section 40C heading**
- 14 *substitute*
- 15 **40C** **Meaning of *violent offence proceeding*—div 4.2.2A**
- 16 **71** **Section 40C (1) (c) and (d)**
- 17 *substitute*
- 18 (c) an appeal arising out of a proceeding mentioned in
- 19 paragraph (a) or (b).

1	<b>72</b>	<b>Section 40D heading</b>
2		<i>substitute</i>
3	<b>40D</b>	<b>Meaning of <i>witness</i>—div 4.2.2A</b>
4	<b>73</b>	<b>Section 40D (2)</b>
5		<i>substitute</i>
6		<i>Note</i> <b><i>Intellectually impaired</i></b> —see s 36D.
7	<b>74</b>	<b>Division 4.2B</b>
8		<i>renumber as division 4.2.2B</i>
9	<b>75</b>	<b>Section 40P heading</b>
10		<i>substitute</i>
11	<b>40P</b>	<b>Meaning of <i>witness</i>—div 4.2.2B</b>
12	<b>76</b>	<b>Section 40P (3)</b>
13		<i>substitute</i>
14		<i>Note</i> <b><i>Intellectually impaired</i></b> —see s 36D.
15	<b>77</b>	<b>Division 4.3</b>
16		<i>renumber as division 4.2.3</i>
17	<b>78</b>	<b>Meaning of <i>complainant</i> and <i>sexual offence proceeding</i>—</b>
18		<b>div 4.3</b>
19		<b>Section 41 (2) (c)</b>
20		<i>omit</i>

1 **79** **Meaning of *violent offence proceeding*—div 4.3**  
2 **Section 41A (1) (c)**

3 *omit*

4 **80** **Meaning of *sexual offence* and *violent offence*—div 4.3**  
5 **Section 41B**

6 *omit*

7 **81** **Proceedings to which div 4.3 applies**  
8 **Section 42 (1) (c) (i)**

9 *insert*

10 *Note* *Relevant person*—see s 38B.

11 **82** **Section 42 (3)**

12 *omit*

13 **83** **Failure to comply with div 4.3**  
14 **Section 47**

15 *omit*

16 **84** **Divisions 4.4 to 4.6**

17 *renumber as divisions 4.2.4 to 4.2.6*

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**85** **New part 4.3***insert***Part 4.3** **Evidence in domestic violence proceedings****Division 4.3.1** **Definitions—pt 4.3****74** **Meaning of *domestic violence offence*—pt 4.3**

In this part:

*domestic violence offence* means an offence mentioned in the [Domestic Violence and Protection Orders Act 2008](#), schedule 1, table 1.2.

*Note* **Complainant**, for a domestic violence offence proceeding, is an adult who is a relevant person in relation to the accused (see s 76).  
**Relevant person**—see s 36B.

**75** **Meaning of *domestic violence offence proceeding*—pt 4.3**

(1) In this part:

*domestic violence offence proceeding* means—

- (a) a proceeding for a domestic violence offence; or
- (b) a proceeding in relation to bail for a person charged with a domestic violence offence, whether or not the person is also charged with any other offence; or
- (c) a sentencing proceeding for a person convicted or found guilty of a domestic violence offence, whether or not the person is also convicted or found guilty of any other offence; or
- (d) an appeal arising out of a proceeding mentioned in paragraphs (a) to (c); or

- 1 (e) an interlocutory proceeding in, or a proceeding ancillary to, a  
2 proceeding mentioned in paragraphs (a) to (c).
- 3 (2) In this section:
- 4 *proceeding for a domestic violence offence* includes—
- 5 (a) a proceeding for a domestic violence offence and any other  
6 offence; and
- 7 (b) a proceeding for a domestic violence offence and any other  
8 offence as an alternative to the domestic violence offence; and
- 9 (c) a proceeding for a domestic violence offence that may result in  
10 a finding of guilt (or committal for trial or sentence) for any  
11 other offence.

12 **76 Meaning of *complainant*—pt 4.3**

13 In this part:

14 *complainant*, for a domestic violence offence proceeding—

- 15 (a) means a person—
- 16 (i) against whom a domestic violence offence the subject of  
17 the proceeding is alleged, or has been found, to have been  
18 committed; and
- 19 (ii) who is a relevant person in relation to the accused person;  
20 but

21 *Note* **Relevant person**—see s 36B.

- 1 (b) does not include a person who—  
2 (i) is a child on the day a recorded statement is made; or  
3 (ii) is intellectually impaired.

4 *Note 1* **Intellectually impaired**—see s 36D.

5 *Note 2* Audiovisual recording and the evidence of children and people  
6 with intellectual impairment is dealt with in div 4.2.2A.

7 **77 Meaning of recorded statement—pt 4.3**

8 (1) In this part:

9 **recorded statement** means—

- 10 (a) an audiovisual recording—  
11 (i) of a complainant answering questions of a police officer  
12 in relation to the investigation of a domestic violence  
13 offence; and  
14 (ii) made by a police officer; or  
15 (b) an audio recording that complies with paragraph (a)—  
16 (i) if the complainant does not consent to an audiovisual  
17 recording; or  
18 (ii) in exceptional circumstances.

19 **Example—exceptional circumstances**

20 technical difficulties with the visual aspect of the recording identified  
21 following the making of the recording

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

- 1 (2) A police officer must, before making a recorded statement, tell the  
2 complainant that—
- 3 (a) the recorded statement may be used in evidence at a hearing;  
4 and
- 5 (b) if the recorded statement is used in evidence at a hearing, the  
6 complainant may be called to give evidence under  
7 cross-examination in person at the hearing; and
- 8 (c) the complainant does not have to consent to the recording.
- 9 (3) In this section:
- 10 *police officer* includes a person who is a member of the police force  
11 of a State or another Territory if—
- 12 (a) provisions of the law of that State or Territory correspond  
13 (or substantially correspond) to this part; and
- 14 (b) the person is trained in the taking of evidence under those  
15 provisions.
- 16 *Note* *Police officer*—see the [Legislation Act](#), dictionary, pt 1.

## 17 Division 4.3.2 Evidence may be given in closed 18 court

### 19 78 Evidence may be given in closed court

- 20 (1) This section applies to the complainant giving evidence in a  
21 domestic violence offence proceeding if the court considers that the  
22 complainant has a vulnerability that affects the complainant's ability  
23 to give evidence because of the circumstances of the proceeding or  
24 the complainant's circumstances.

#### 25 **Examples—complainant vulnerability**

- 26 1 the complainant is likely to suffer severe emotional trauma because of the  
27 nature of the alleged offence



1                   2    the complainant is intimidated or distressed because of the complainant's  
2                            relationship to the accused person

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

6                   (2)   The court is not bound by the rules of evidence and may inform  
7                            itself as it considers appropriate.

8                   (3)   The court may order that the court be closed to the public while all  
9                            or part of the complainant's evidence (including evidence given  
10                          under cross-examination) is given.

11                  *Note*    The accused is entitled to a fair and public hearing, but the court may  
12                            exclude the public in certain circumstances (see [Human Rights  
13                            Act 2004](#), s 21 (2)).

14                  (4)   In deciding whether to order that the court be closed to the public,  
15                            the court must consider whether—

- 16                           (a)   the complainant wants to give evidence in open court; and  
17                           (b)   it is in the interests of justice that the complainant give  
18                            evidence in open court.

19                  (5)   However, an order under this section does not stop the following  
20                            people from being in court when the complainant gives evidence:

- 21                           (a)   a person nominated by the complainant;  
22                           (b)   a person who attends the proceeding to prepare a news report  
23                            of the proceeding and is authorised to attend for that purpose  
24                            by the person's employer.

25                  *Note*    Publishing certain information in relation to sexual offence  
26                            proceedings is an offence (see s 40).

27                  (6)   In this section, a reference to a person giving evidence includes the  
28                            person giving evidence by the playing of a recorded statement of the  
29                            evidence under division 4.3.3.

1     **Division 4.3.3                    Recorded statement of police**  
2    **interview admissible as evidence**

3     **79                    Recorded statement—requirements**

- 4            (1) A recorded statement must be made—  
5                    (a) as soon as practicable after the events mentioned in the  
6                                    statement happened; and  
7                    (b) in the form of questions and answers.

8            *Note*            If the recorded statement is to be admitted as evidence in a  
9                                    proceeding, the rules of evidence apply to the content of the  
10                                    statement.

- 11           (2) A recorded statement of a complainant must include the following:  
12                    (a) the name of each person present during any part of the  
13                                    recording;  
14                    (b) a statement by the complainant—  
15                                    (i) of the complainant’s name, age and whether the  
16    complainant lives in the ACT; and  
17                                    (ii) about the truth of the representations made by the  
18    complainant in the recorded statement;  
19                    (c) any other matter prescribed by regulation.

- 20           (3) As far as is practicable, a recorded statement must not contain an  
21                    image of—  
22                    (a) a child; or  
23                    (b) a person who is intellectually impaired.

24           *Note 1*     ***Intellectually impaired***—see s 36D.

25           *Note 2*     Audiovisual recording and the evidence of children and people with  
26                                    intellectual impairment is dealt with in div 4.2.2A.

- 1 (4) If any part of a recorded statement is in a language other than  
2 English—
- 3 (a) the recorded statement must contain an English translation of  
4 the part; or
- 5 (b) a separate written English translation of the part must  
6 accompany the recorded statement.
- 7 (5) A recorded statement must not be edited or changed unless—
- 8 (a) both parties consent to the edits or changes; or
- 9 (b) the court hearing the proceeding in which the recorded  
10 statement is tendered otherwise orders.

11 **Example—court ordering change**

12 editing the recorded statement to omit inadmissible material

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

16 **80 Recorded statement—may be admitted as evidence**

- 17 (1) A recorded statement may—
- 18 (a) be played at the hearing of a proceeding for the domestic  
19 violence offence to which it relates; and
- 20 (b) if the recorded statement is played at the hearing—be admitted  
21 as all or part of the complainant’s evidence in chief in the  
22 proceeding as if the complainant gave the evidence at the  
23 hearing in person.
- 24 (2) However, the court may refuse to admit all or any part of the  
25 recorded statement if the court considers it is in the interests of  
26 justice to do so.
- 27 (3) The complainant may choose not to be present in the courtroom  
28 while the court is viewing or listening to the recorded statement.

- 1 (4) If the complainant is giving evidence by audiovisual link from an  
2 external place under division 4.2.3 (Sexual and violent offence  
3 proceedings—giving evidence by audiovisual link), the complainant  
4 must not be visible or audible to anyone in the courtroom by  
5 closed-circuit television or by means of similar technology while the  
6 court is viewing or listening to the recorded statement.
- 7 (5) To remove any doubt, if a recorded statement is admitted as part of  
8 a complainant's evidence in chief in a proceeding, the complainant  
9 may give further evidence in chief.
- 10 (6) This section is subject to section 81D (Recorded statement—  
11 admissibility).

## 12 **81 Recorded statement—hearsay rule and opinion rule**

- 13 (1) The hearsay rule and the opinion rule do not prevent the admission  
14 or use of evidence of a representation in the form of a recorded  
15 statement only because it is in that form.

16 *Note* The hearsay rule and opinion rule will apply to the content of the  
17 recorded statement to be admitted as evidence.

- 18 (2) In this section:

19 *hearsay rule*—see the *Evidence Act 2011*, dictionary, part 1.

20 *opinion rule*—see the *Evidence Act 2011*, dictionary, part 1.

## 21 **81A Validity of proceeding not affected**

- 22 (1) The failure of a police officer to record a representation in the form  
23 of a recorded statement in accordance with the requirements of this  
24 division or any regulation does not affect the validity of a  
25 proceeding in which evidence of the representation is given.
- 26 (2) The failure of a complainant to give evidence in accordance with  
27 this part does not affect the validity of a proceeding or any decision  
28 made in connection with the proceeding.

- 1 **81B Recorded statement—represented accused person to be**  
2 **given copy**
- 3 (1) This section applies if—
- 4 (a) a recorded statement has been made in relation to a domestic  
5 violence offence that is the subject of a proceeding; and
- 6 (b) the accused person is represented by a lawyer in the  
7 proceeding.
- 8 (2) The lawyer representing the accused person must be given a copy of  
9 the recorded statement as soon as practicable after the proceeding is  
10 commenced.
- 11 *Note* For how documents may be served, see the [Legislation Act](#), pt 19.5.
- 12 (3) The lawyer representing the accused person must return the copy of  
13 the recorded statement by giving it to the prosecutor not later than  
14 16 weeks after the proceeding is finalised.
- 15 (4) The accused person must not be given, or take a copy of, the  
16 recorded statement.
- 17 **81C Recorded statement—unrepresented accused person to**  
18 **be given access**
- 19 (1) This section applies if—
- 20 (a) a recorded statement has been made in relation to a domestic  
21 violence offence that is the subject of a proceeding; and
- 22 (b) the accused person is not represented by a lawyer in the  
23 proceeding.
- 24 (2) The accused person must be given an audio copy of the recorded  
25 statement as soon as practicable after the proceeding is commenced.

- 1           (3) Also, if it is reasonably practicable, the accused person must be  
2           given an opportunity to view a recorded statement that is in the form  
3           of a video recording at a police station on at least 1 of the following  
4           occasions:
- 5           (a) when the accused person is being questioned in relation to the  
6           alleged domestic violence offence;
- 7           (b) at the request of the accused person, on a day arranged with the  
8           accused person;
- 9           (c) on another day stated in a written notice given to the accused  
10          person before committal proceedings or the trial commences.
- 11          (4) If compliance with subsection (3) is not reasonably practicable, the  
12          accused person must be given the opportunity to view the recorded  
13          statement on a day on which proceedings relating to the offence are  
14          being held.

15       **81D          Recorded statement—admissibility**

16          Evidence of a representation of a complainant given in the form of a  
17          recorded statement is not to be admitted if section 81B or  
18          section 81C have not been complied with, unless the court is  
19          satisfied that—

- 20          (a) the parties consent to the recorded statement being admitted; or
- 21          (b) the accused person or the accused person’s lawyer (if any)  
22          have been given a reasonable opportunity to listen to or view  
23          the recorded statement and it would be in the interests of  
24          justice to admit the recorded statement.

- 1 **81E Recorded statement—accused person to be given audio**  
2 **copy**
- 3 (1) This section applies if—
- 4 (a) the prosecutor in a domestic violence offence proceeding  
5 intends to tender a recorded statement as evidence; and
- 6 (b) the court accepts a plea of not guilty from the accused person;  
7 and
- 8 (c) the accused person has not already been given an audio copy of  
9 the recorded statement under section 81C (Recorded  
10 statement—unrepresented accused person to be given access).
- 11 (2) The accused person must be given an audio copy of the recorded  
12 statement.
- 13 **81F Recorded statement—jury trial**
- 14 (1) This section applies if—
- 15 (a) a domestic violence offence proceeding is a trial by jury; and  
16 (b) a recorded statement is admitted in evidence in the proceeding.
- 17 (2) The court must tell the jury that—
- 18 (a) admission of a recorded statement is a usual practice; and  
19 (b) the jury must not draw any inference against the accused  
20 person, or give the evidence more or less weight, because the  
21 evidence is given in that way.
- 22 (3) If the court considers that a transcript of the recorded statement  
23 would be likely to help the jury’s understanding of the evidence, the  
24 court may order that the transcript be made available to the jury.

1    **81G       Recorded statement—offence to publish**

2       (1) A person commits an offence if the person—

3           (a) publishes a recorded statement; and

4           (b) does not have authority to publish the recorded statement.

5       Maximum penalty: 50 penalty units, imprisonment for 6 months or  
6       both.

7       (2) For this section, a person has *authority* to publish a recorded  
8       statement only if the person publishes the recorded statement in  
9       connection with—

10           (a) the investigation of, or a proceeding for, an offence in relation  
11           to which the recorded statement is prepared; or

12           (b) a re-hearing, re-trial or appeal in relation to the proceeding.

13       (3) In this section:

14       *person* includes the complainant in relation to the recorded  
15       statement.

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

20    **86       Parts 5 to 7**

21       *renumber as chapters 5 to 7*

22    **87       Divisions 7.1 to 7.3**

23       *renumber as parts 7.1 to 7.3*



1 **88** **Parts 8 and 9**

2 *renumber as chapters 8 and 9*

3 **89** **Dictionary, note 2**

4 *insert*

- 5 • adult

6 **90** **Dictionary, definition of *complainant***

7 *substitute*

8 ***complainant***—

- 9 (a) for division 4.2.2 (Sexual and violent offence proceedings—  
10 general)—see section 38; and
- 11 (b) for division 4.2.2B (Sexual offence proceedings—giving  
12 evidence at pre-trial hearing)—see section 40N; and
- 13 (c) for division 4.2.3 (Sexual and violent offence proceedings—  
14 giving evidence by audiovisual link)—see section 41 (1); and
- 15 (d) for division 4.2.4 (Evidence of complainant’s sexual reputation  
16 and activities)—see section 48; and
- 17 (e) for division 4.2.6 (Sexual offence proceedings—directions and  
18 warnings to juries)—see section 68; and
- 19 (f) for part 4.3 (Evidence in domestic violence proceedings)—see  
20 section 76.

**91 Dictionary, new definitions**

2 *insert*

3 *domestic violence offence*, for part 4.3 (Evidence in domestic  
4 violence proceedings)—see section 74.

5 *domestic violence offence proceeding*, for part 4.3 (Evidence in  
6 domestic violence proceedings)—see section 75.

7 *intellectually impaired*, for chapter 4 (Evidence in sexual, violent  
8 and domestic violence offence proceedings)—see section 36D.

9 *recorded statement*, for part 4.3 (Evidence in domestic violence  
10 proceedings)—see section 77.

**92 Dictionary, definitions of *relative*, *relevant person* and  
*sexual offence***

13 *substitute*

14 *relative*, for chapter 4 (Evidence in sexual, violent and domestic  
15 violence offence proceedings)—see section 36C.

16 *relevant person*, in relation to a person, for chapter 4 (Evidence in  
17 sexual, violent and domestic violence offence proceedings)—see  
18 section 36B.

19 *sexual offence*—

20 (a) for part 4.2 (Evidence in sexual and violent offence  
21 proceedings) generally—see section 37; and

22 (b) for division 4.2.2A (Sexual and violent offence proceedings—  
23 audiovisual recording of police interview admissible as  
24 evidence)—see section 40AA (1); and

25 (c) for division 4.2.2B (Sexual offence proceedings—giving  
26 evidence at pre-trial hearing)—see section 40NA.

**93 Dictionary, new definitions**

*insert*

*sexual or violent offence*, for part 4.2 (Evidence in sexual and violent offence proceedings)—see section 37.

*sexual or violent offence proceeding*, for part 4.2 (Evidence in sexual and violent offence proceedings)—see section 37.

**94 Dictionary, definition of *violent offence***

*substitute*

*violent offence*—

(a) for part 4.2 (Evidence in sexual and violent offence proceedings) generally—see section 37; and

(b) for division 4.2.2A (Sexual and violent offence proceedings—audiovisual recording of police interview admissible as evidence)—see section 40AA (2).

**95 Further amendments, mentions of 4.2**

*omit*

4.2

*substitute*

4.2.2

*in*

- section 38 heading
- section 38A heading
- dictionary, definition of *sexual offence proceeding*, paragraph (a)
- dictionary, definition of *violent offence proceeding*, paragraph (a)

- 1 **96 Further amendments, mentions of 4.2A**
- 2 *omit*
- 3 4.2A
- 4 *substitute*
- 5 4.2.2A
- 6 *in*
- 7 • section 39 (6)
- 8 • section 40AA heading
- 9 • section 40E heading
- 10 • section 40Q
- 11 • section 40S (2)
- 12 • section 102 (5)
- 13 • dictionary, definition of *audiovisual recording*
- 14 • dictionary, definition of *sexual offence proceeding*,
- 15 paragraph (b)
- 16 • dictionary, definition of *violent offence proceeding*,
- 17 paragraph (b)
- 18 • dictionary, definition of *witness*, paragraph (a)
- 19 **97 Further amendments, mentions of 4.2B**
- 20 *omit*
- 21 4.2B
- 22 *substitute*
- 23 4.2.2B
- 24 *in*
- 25 • section 39 (6)
- 26 • section 40N heading

- 1 • section 40NA heading
- 2 • section 40O heading
- 3 • section 102 (5)
- 4 • dictionary, definition of *sexual offence proceeding*,
- 5 paragraph (c)
- 6 • dictionary, definition of *witness*, paragraph (b)

## 7 **98 Further amendments, mentions of 4.3**

8 *omit*

9 4.3

10 *substitute*

11 4.2.3

12 *in*

- 13 • section 39 (6)
- 14 • section 40T (4)
- 15 • section 40X heading
- 16 • section 41 heading
- 17 • section 41A heading
- 18 • section 42 heading
- 19 • section 44 heading
- 20 • section 45 heading
- 21 • dictionary, definition of *give evidence in a proceeding by*
- 22 *audiovisual link*, paragraph (b)
- 23 • dictionary, definition of *proceeding*, paragraph (c)
- 24 • dictionary, definition of *sexual offence proceeding*,
- 25 paragraph (d)
- 26 • dictionary, definition of *violent offence proceeding*,
- 27 paragraph (c)

- 1 **99 Further amendments, mentions of 4.4**
- 2 *omit*
- 3 4.4
- 4 *substitute*
- 5 4.2.4
- 6 *in*
- 7 • section 48 heading
- 8 • section 49 heading
- 9 • dictionary, definition of *sexual offence proceeding*,
- 10 paragraph (e)
- 11 **100 Further amendments, mentions of 4.5**
- 12 *omit*
- 13 4.5
- 14 *substitute*
- 15 4.2.5
- 16 *in*
- 17 • section 54 heading
- 18 • section 55 heading
- 19 • section 56 heading
- 20 • dictionary, definition of *civil proceeding*
- 21 • dictionary, definition of *counsellor*
- 22 • dictionary, definition of *criminal proceeding*, paragraph (b)
- 23 • dictionary, definition of *document recording a protected*
- 24 *confidence*
- 25 • dictionary, definition of *harm*
- 26 • dictionary, definition of *preliminary criminal proceeding*

- 1           • dictionary, definition of *proceeding*, paragraph (d)  
2           • dictionary, definition of *protected confidence*  
3           • dictionary, definition of *protected confidence evidence*

4   **101 Further amendments, mentions of 4.6**

5           *omit*

6           4.6

7           *substitute*

8           4.2.6

9           *in*

- 10          • section 68 heading  
11          • dictionary, definition of *sexual offence proceeding*,  
12           paragraph (f)

13   **102 Further amendments, mentions of div**

14          *omit*

15          div

16          *substitute*

17          pt

18          *in*

- 19          • section 19 heading  
20          • section 22 heading  
21          • section 31 heading  
22          • section 33 heading  
23          • section 100 heading

- 1 **103 Further amendments, mentions of *division***
- 2 *omit*
- 3 *division*
- 4 *substitute*
- 5 *part*
- 6 *in*
- 7 • sections 19 and 20
- 8 • section 22
- 9 • sections 31 to 35
- 10 • section 100
- 11 • dictionary, definition of *witness with a disability*, paragraph (b)

- 12 **104 Further amendments, mentions of *part***
- 13 *omit*
- 14 *part*
- 15 *substitute*
- 16 *chapter*
- 17 *in*
- 18 • section 2, note 1
- 19 • sections 5 to 8
- 20 • section 12
- 21 • sections 14 to 18
- 22 • section 33 (2nd mention)
- 23 • sections 90 and 91
- 24 • section 110
- 25 • section 121
- 26 • dictionary, definition of *audio link*



- 1 • dictionary, definition of *court*
- 2 • dictionary, definition of *dangerously ill person*
- 3 • dictionary, definition of *give evidence in a proceeding by*
- 4 *audiovisual link*, paragraph (a)
- 5 • dictionary, definition of *Magistrates Court*
- 6 • dictionary, definition of *participating State*
- 7 • dictionary, definition of *proceeding*, paragraph (b)
- 8 • dictionary, definition of *recognised court*
- 9 • dictionary, definition of *State*
- 10 • dictionary, definition of *territory court*
- 11 • dictionary, definition of *tribunal*

## 12 **105 Further amendments, mentions of part 4**

13 *omit*

14 part 4

15 *substitute*

16 part 4.2

17 *in*

- 18 • dictionary, definition of *less serious violent offence*
- 19 • dictionary, definition of *serious violent offence*
- 20 • dictionary, definition of *similar act witness*
- 21 • dictionary, definition of *witness with a disability*, paragraph (a)

- 1 **106 Further amendments, mentions of *pt***
- 2 *omit*
- 3 *pt*
- 4 *substitute*
- 5 *ch*
- 6 *in*
- 7 • section 5 heading
- 8 • section 6 heading
- 9 • section 8 heading
- 10 • section 11 heading
- 11 • section 12 heading
- 12 • section 14 heading
- 13 • section 16 heading
- 14 • section 17 heading
- 15 • section 90 heading
- 16 • section 91 heading
- 17 • section 110 heading
- 18 • section 121 (3), definitions of *audio link* and *territory court*

1 **Schedule 1** **Consequential amendments**

2 (see s 3)

3 **Part 1.1** **Children and Young People**  
4 **Act 2008**

5 **[1.1] Section 246, definition of *privileged*, paragraph (b)**

6 *omit*

7 division 4.5

8 *substitute*

9 division 4.2.5

10 **[1.2] Section 463 (5), example**

11 *substitute*

12 **Example—par (a)**

13 The *Domestic Violence and Protection Orders Act 2008*, s 38 (d) provides that an  
14 interim order ends in certain circumstances when the final order is made.  
15 Applying par (a), the DVPO interim protection order ends when the care and  
16 protection order is made in those circumstances.

1 **Part 1.2** **Confiscation of Criminal Assets**  
2 **Act 2003**

3 **[1.3] Section 176 (5)**

4 *omit*  
5 part 3  
6 *substitute*  
7 chapter 3

8 **[1.4] Section 176 (5), note**

9 *omit*  
10 pt 3  
11 *substitute*  
12 ch 3

13 **Part 1.3** **Court Procedures Act 2004**

14 **[1.5] Section 41 (2) (d)**

15 *substitute*  
16 (d) the following sections of the *Evidence (Miscellaneous*  
17 *Provisions) Act 1991*:  
18 (i) section 11 (Consequential orders—ch 2);  
19 (ii) section 39 (Sexual and violent offence proceeding—  
20 evidence to be given in closed court);  
21 (iii) section 44 (Consequential orders—div 4.2.3);  
22 (iv) section 52 (c) (Application for leave under s 51);

- 1 (v) section 61 (5) (Preliminary examination of protected  
2 confidence evidence);
- 3 (vi) section 63 (2) (a) (Ancillary orders for protection of  
4 person who made protected confidence);
- 5 (vii) section 78 (Evidence may be given in closed court);
- 6 (viii) section 102 (Witness with vulnerability may give  
7 evidence in closed court);
- 8 (ix) section 111 (4) (Prohibition of publication of  
9 evidence etc); and

## 10 **Part 1.4 Court Procedures Rules 2006**

### 11 **[1.6] Rule 6703 (2), note 1**

12 *omit*

13 div 3.4

14 *substitute*

15 pt 3.4

### 16 **[1.7] Rule 6703 (2), note 1**

17 *omit*

18 div 3.2

19 *substitute*

20 pt 3.2

1 **Part 1.5 Crimes Act 1900**

2 **[1.8] Section 192 (1)**

3 *omit*

4 section 40 (5) (Firearms and interim orders)

5 *substitute*

6 section 40 (5) (Interim orders—respondent’s firearms)

7 **Part 1.6 Crimes (Forensic Procedures)**  
8 **Act 2000**

9 **[1.9] Section 38 (2) (a), note 2**

10 *omit*

11 pt 3

12 *substitute*

13 ch 3

14 **[1.10] Section 77C (2) (a), note 2**

15 *omit*

16 pt 3

17 *substitute*

18 ch 3

1 **Part 1.7** **Crimes (Sentencing) Act 2005**

2 **[1.11] Section 52 (4) (a)**

3 *omit*

4 part 2

5 *substitute*

6 chapter 2

7 **[1.12] Section 52 (4) (b)**

8 *omit*

9 part 4

10 *substitute*

11 part 4.2

12 **Part 1.8** **Evidence Act 2011**

13 **[1.13] Section 8, example 2**

14 *omit*

15 pt 5

16 *substitute*

17 ch 5

18 **[1.14] Section 126F (3)**

19 *omit*

20 division 4.5

21 *substitute*

22 division 4.2.5 (Protection of counselling communications)

1 **Part 1.9 Evidence (Miscellaneous**  
2 **Provisions) Regulation 2009**

3 **[1.15] New section 4 (3)**

4 *insert*

5 (3) In this section:

6 *police officer* includes a person who is a member of the police force  
7 of a State or another Territory if—

8 (a) provisions of the law of that State or Territory correspond  
9 (or substantially correspond) to the [Act](#), division 4.2.2A  
10 (Sexual and violent offence proceedings—audiovisual  
11 recording of police interview admissible as evidence); and

12 (b) the person is trained in the taking of evidence under those  
13 provisions.

14 *Note* *Police officer*—see the [Legislation Act](#), dictionary, pt 1.

15 **Part 1.10 Firearms Act 1996**

16 **[1.16] Section 80 (1), note 2**

17 *omit*

18 s 40 (Firearms and interim orders)

19 *substitute*

20 s 40 (Interim orders—respondent’s firearms)



1 **[1.17] Section 97 (1), note 2**

2 *omit*

3 s 40 (Firearms and interim orders)

4 *substitute*

5 s 40 (Interim orders—respondent’s firearms)

6 **[1.18] Section 119 (1), note 2**

7 *omit*

8 s 40 (Firearms and interim orders)

9 *substitute*

10 s 40 (Interim orders—respondent’s firearms)

11 **Part 1.11 Supreme Court Act 1933**

12 **[1.19] Section 37N (4), definition of *audio link***

13 *omit*

14 (Definitions for pt 3)

15 *substitute*

16 (Definitions—ch 3)

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 24 September 2015.

**2 Notification**

Notified under the [Legislation Act](#) on 2015.

**3 Republications of amended laws**

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

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