

2016

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

## Personal Violence Bill 2016

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2016

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

## Personal Violence Bill 2016

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### A Bill for

An Act to protect people from personal violence (other than family violence) including personal violence in the workplace, 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 *Personal Violence Act 2016*.

4 **2 Commencement**

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

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

9 **3 Dictionary**

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

11 *Note 1* The dictionary at the end of this Act defines certain terms used in this  
12 Act, and includes references (*signpost definitions*) to other terms  
13 defined elsewhere.

14 For example, the signpost definition '*firearm*—see the [Firearms](#)  
15 [Act 1996](#), section 6.' means that the term 'firearm' is defined in that  
16 section and the definition applies to this Act.

17 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
18 the entire Act unless the definition, or another provision of the Act,  
19 provides otherwise or the contrary intention otherwise appears (see  
20 [Legislation Act](#), s 155 and s 156 (1)).

21 **4 Notes**

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

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



1     **5           Offences against Act—application of Criminal Code etc**

2           Other legislation applies in relation to offences against this Act.

3           *Note 1   Criminal Code*

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

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

10          *Note 2   Penalty units*

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



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1 **Division 2.2** **Important concepts**

2 **8** **Meaning of *personal violence***

3 (1) In this Act:

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

6 (a) physical violence or abuse;

7 (b) sexual violence or abuse;

8 (c) threatening behaviour;

9 (d) stalking;

10 (e) harassing, intimidating or offensive behaviour;

11 (f) damaging property.

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

15 (a) subsection (1) (a) to (e) in relation to a person at the  
16 workplace; or

17 (b) subsection (1) (f) in relation to property at the workplace that  
18 causes reasonable fear to a person at the workplace.

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

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

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

1 **9 Principle about procedures**

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

4 **10 Balance of probabilities**

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

1 **Part 3** **Protection orders**

2 **Division 3.1** **Matters to be considered when**  
3 **making protection orders**

4 **11** **Matters to be considered—protection orders**

5 (1) In deciding whether to make a protection order, the Magistrates  
6 Court must consider the following:

7 (a) the objects of this Act in section 6;

8 (b) any hardship that may be caused to the respondent or anyone  
9 else by the making of the order;

10 (c) any previous family violence or personal violence by the  
11 respondent in relation to the affected person or anyone else;

12 (d) any previous protection order made in relation to the  
13 respondent;

14 (e) any previous contravention of a protection order by the  
15 respondent;

16 (f) if the respondent objected to the making of an interim order—  
17 the respondent's objection;

18 (g) the need to ensure that property is protected from damage.

19 (2) The Magistrates Court may also consider anything else the court  
20 considers relevant.

21 (3) In this section:

22 ***protection order***—

23 (a) means a protection order under this Act; and

24 (b) includes the following:

25 (i) a family violence order under the *Family Violence*  
26 *Act 2016*;

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

## 14 **Division 3.2 Applications for protection orders**

### 15 **12 Who may apply for personal protection orders?**

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

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

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

- 22 (a) a police officer;

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

3 **Examples—s (2) (b)**

4 1 a parent or guardian of a child

5 2 an agent of the person

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

10 *Note 2* If a form is approved under the *Court Procedures Act 2004*, s 8 for an  
11 application, the form must be used.

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

15 **13 Who may apply for workplace protection orders?**

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

18 *Note* If a form is approved under the *Court Procedures Act 2004*, s 8 for an  
19 application, the form must be used.

20 **14 Application forms that require affected person's address**

21 (1) This section applies if a form approved under the *Court Procedures*  
22 *Act 2004*, section 8 for an application for a protection order requires  
23 the affected person's home or work address to be included in the  
24 application.

25 (2) The address need not be included in the application.

26 (3) For this section, if the affected person is not the applicant, *affected*  
27 *person* includes the applicant.

28 **15 What if application is made for the wrong order?**

29 (1) This section applies if—

30 (a) a person applies for a protection order under this Act; and

- 1 (b) the order may not be made because the conduct on which the  
2 application is based—
- 3 (i) is not conduct that the order could restrain; but
- 4 (ii) is conduct that an order under the *Family Violence*  
5 *Act 2016* could restrain; and
- 6 (c) the application has not been decided.
- 7 (2) The Magistrates Court may make a protection order under the  
8 *Family Violence Act 2016* even though that protection order was not  
9 properly applied for if—
- 10 (a) the person honestly applied for the order under this Act; and
- 11 (b) had the application been properly made, the court could have  
12 made the protection order under the *Family Violence Act 2016*.
- 13 (3) This section does not apply to a consent order under this Act.
- 14 *Note* A consent order may be made whether or not any ground for making the  
15 order has been made out (see s 25 (2) (b)).

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

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



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

3 **Example**

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

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

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

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

15 **Division 3.3 Interim orders**

16 **17 Interim orders—only on application for final order**

17 (1) The Magistrates Court may make an interim order only on an  
18 application for a final order.

19 (2) The Magistrates Court may make an interim order—

20 (a) at any time before the application for the final order is decided;  
21 and

22 (b) even if a copy of the application and a timing notice have not  
23 been served on the respondent in accordance with section 39  
24 (Service of applications).

25 **18 Interim orders—only 1 may be made**

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

1 **19 Interim orders—grounds for making**

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

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

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

13 **20 Interim orders—length**

14 (1) An interim order must not be in force for more than 12 months plus  
15 any extension under—

- 16 (a) section 23 (Interim orders—extension for non-service of  
17 application); or
- 18 (b) section 24 (Interim orders—extension for non-service of final  
19 order).

20 (2) However, an interim order made as a consent order must not be in  
21 force for more than 16 weeks.

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

24 **21 Interim orders—ending**

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

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

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

5 **22 Interim orders—further orders**

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

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

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

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

17 **23 Interim orders—extension for non-service of application**

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

26 **24 Interim orders—extension for non-service of final order**

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

1 (b) the respondent is not present at the making of the final order;  
2 and

3 (c) an interim order made in relation to the application for the final  
4 order would, but for this section, expire before the final order  
5 is served on the respondent.

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

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

## 10 **Division 3.4 Consent orders**

### 11 **25 Consent orders**

12 (1) On application for a final order, the Magistrates Court may make an  
13 interim or final order with the consent of the parties to the  
14 proceeding.

15 (2) The order may be made—

16 (a) whether or not the parties have attended, or any party has  
17 attended, before the Magistrates Court in relation to the  
18 application; and

19 (b) whether or not any ground for making the order has been made  
20 out; and

21 (c) whether or not the court has considered the matters mentioned  
22 in section 11; and

23 (d) without proof or admission of guilt.

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

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

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

## 16 **Division 3.5 Final orders**

### 17 **26 Final orders—grounds for making**

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

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

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

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

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

7 **27 Final orders—length**

8 (1) A final order remains in force for—

9 (a) 12 months, regardless of whether it is stated in the order; or

10 (b) if a shorter period is stated in the order—the period stated; or

11 (c) if the Magistrates Court is satisfied that there are special or  
12 exceptional circumstances that justify a longer period—the  
13 stated longer period.

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

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

19 **Division 3.6 Conditions of protection orders**

20 **28 Safety of affected person paramount**

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

24 **29 Least restrictive principle**

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

1    **30           Conditions—personal protection orders**

2           (1) A personal protection order may include the conditions the  
3           Magistrates Court considers necessary having regard to section 28  
4           and section 29.

5           (2) Without limiting subsection (1), a personal protection order may do  
6           1 or more of the following:

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

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

12           (b) prohibit the respondent from being on premises where the  
13           protected person works;

14           (c) prohibit the respondent from being on premises where the  
15           protected person is likely to be;

16           (d) prohibit the respondent from being in a particular place;

17           (e) prohibit the respondent from being within a particular distance  
18           from the protected person;

19           (f) prohibit the respondent locating or attempting to locate the  
20           protected person;

21           (g) prohibit the respondent from contacting the protected person;

22           (h) prohibit the respondent from doing anything that is personal  
23           violence in relation to the protected person;

24           (i) prohibit the respondent from doing anything mentioned in  
25           paragraphs (e) to (h) in relation to—

26                   (i) a child of the protected person; or

27                   (ii) any other child if the Magistrates Court is satisfied that  
28                   there is an unacceptable risk of the child being exposed to  
29                   personal violence;

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

8 **31 Exclusion conditions—personal protection orders**

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



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

5 **Example**

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

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

- 11 (3) If an applicant for a personal protection order seeks an exclusion  
12 condition in relation to the respondent and the court decides to make  
13 the order without the condition, the court must give reasons for the  
14 decision.

- 15 (4) In this section:

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

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

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

24 **32 Conditions—workplace protection orders**

- 25 (1) A workplace protection order may include the conditions the  
26 Magistrates Court considers necessary having regard to section 28  
27 and section 29.

- 28 (2) Without limiting subsection (1), a workplace protection order may  
29 do 1 or more of the following:

- 30 (a) prohibit the respondent from entering the workplace;

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

10 **33 Conditions—consent orders**

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

15 **34 Conditions may apply for shorter time than order**

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

18 **Division 3.7 Effect of protection orders**

19 **35 Offence—contravention of protection order**

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

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

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

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

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

10 **36 Interim orders—respondent’s firearms**

11 (1) This section applies if an interim order is made against a respondent  
12 who is the holder of a firearms licence.

13 (2) Unless the Magistrates Court makes an order under subsection (3),  
14 the respondent’s firearms licence is suspended until the interim  
15 order ends.

16 (3) The Magistrates Court may order the non-suspension of a  
17 respondent’s firearms licence—

- 18 (a) if the parties to a consent order agree to the non-suspension; or  
19 (b) otherwise, only if the court is satisfied that the licence should  
20 not be suspended.

21 **37 Final orders—respondent’s firearms**

22 (1) This section applies if a final order is made against a respondent  
23 who is the holder of a firearms licence.

24 (2) Unless the Magistrates Court makes an order under subsection (3),  
25 the respondent’s firearms licence is cancelled.

26 (3) The Magistrates Court may order the non-cancellation of a  
27 respondent’s firearms licence—

- 28 (a) if the parties to a consent order agree to the non-cancellation;  
29 or

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

3                    **38                    Firearm licences—other conditions and orders**

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

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1 **Part 4** **Procedural matters**

2 **Division 4.1** **Service of applications**

3 **39** **Service of applications**

4 (1) If the Magistrates Court receives an application for a protection  
5 order, the registrar must serve—

6 (a) on the respondent—

7 (i) a copy of the application; and

8 (ii) a notice stating the following (a *timing notice*):

9 (A) a return date for the application;

10 (B) that if the respondent does not attend the hearing, the  
11 Magistrates Court may decide the application in the  
12 respondent's absence; and

13 (b) on the applicant—the timing notice.

14 (2) The registrar may serve a copy of the application and timing notice  
15 on anyone else the registrar is satisfied has a relevant interest in the  
16 proceeding for the final order.

17 **Example**

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

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

23 (3) If the return date set under section 42 is not the day the application  
24 is received, the registrar must act under subsection (1) as soon as  
25 practicable.

26 (4) If the return date set under section 42 is the day the application is  
27 received, the registrar must act under subsection (1) after the  
28 application has gone before the Magistrates Court and the court has  
29 set a further return date for the application.

1            (5) Service on the applicant or respondent under subsection (1) must be  
2            personal service unless the Magistrates Court makes an order under  
3            section 40.

4            (6) If the return date for an application is changed under section 48  
5            (Interim orders—return date for hearing to decide final order) and  
6            the registrar has already served a timing notice for the application,  
7            the registrar must serve a revised timing notice on each person  
8            already served with a timing notice.

9            **40            If personal service of application impracticable**

10           (1) This section applies if personal service of an application for a  
11           protection order is not reasonably practicable.

12           (2) A court may order that the application be served in the way, stated  
13           in the order, that the court considers is likely to bring the application  
14           to the attention of the person required to be served.

15           **41           Service of documents by police**

16           (1) A court may direct that a document required to be served on  
17           someone be served by a police officer if the court considers that it is  
18           appropriate to do so.

19           (2) If the court gives a direction under subsection (1), an authorised  
20           police officer must, when asked to do so by the registrar, arrange for  
21           the document to be served by a police officer.

22           (3) For this section:

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

25           **Division 4.2            Pre-hearing procedures**

26           **42           Registrar sets return date**

27           (1) On receiving an application for a protection order, the registrar  
28           must—

29                    (a) enter the application into the Magistrates Court's record; and

1 (b) set a return date for the application.

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

3 (2) The return date must be—

4 (a) not later than 2 days after the day the application is made; or

5 (b) not later than 10 days after the day the application is made if—

6 (i) the applicant is not seeking an interim order on the  
7 application; and

8 (ii) the registrar is satisfied that the longer time is necessary  
9 to allow the respondent to be served with the application  
10 and the timing notice.

11 (3) However, unless a magistrate otherwise directs, or gives leave to  
12 accept the application, the registrar need not accept an application  
13 for a protection order if the registrar is satisfied the application is—

14 (a) an abuse of process; or

15 (b) frivolous or vexatious.

16 **43 Adjournment of proceedings for non-service**

17 (1) The registrar may adjourn a proceeding for a protection order if—

18 (a) a return date has been set for the application for the order; and

19 (b) the respondent has not been served with a copy of the  
20 application and timing notice under section 39 (Service of  
21 applications).

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

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

1        **44            Preliminary conferences—objects**

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

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

18        **45            Preliminary conferences**

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

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

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



1 (3) If a preliminary conference must be held, the registrar must, in  
2 writing, tell each party to the application—

3 (a) when and where the conference is to be held; and

4 (b) that, if the party does not attend the conference, the  
5 nonattendance must be reported to the Magistrates Court.

6 (4) The registrar must tell the Magistrates Court if a party does not  
7 attend the preliminary conference if satisfied that the party was  
8 given notice of the conference.

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

13 (5) The failure of the registrar to hold a preliminary conference in  
14 relation to an application for a protection order does not affect the  
15 validity of the protection order.

16 (6) If a preliminary conference is held, and no consent order is made by  
17 the end of the conference, the registrar may set a new return date for  
18 a hearing to decide the application for the final order.

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

## 21 **46 Referrals to mediation**

22 (1) This section applies if, at any time during the preliminary  
23 conference for an application for a protection order, the registrar is  
24 satisfied that the application is likely to be more effectively resolved  
25 by mediation than by a hearing.

26 (2) The registrar must—

27 (a) recommend to the parties to the application that they seek  
28 mediation; and

29 (b) give the parties information about mediation; and

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

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

5                    **47                    Preparation for hearing in Magistrates Court**

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

22                    **48                    Interim orders—return date for hearing to decide final  
23                    order**

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

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

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

- 1     **49           Interim orders—endorsement of consent or objection**
- 2           (1) This section applies if the Magistrates Court makes an interim order
- 3           in the absence of a respondent.
- 4           (2) If the respondent wishes to consent to the interim order becoming a
- 5           final order, the respondent may—
- 6               (a) fill out the endorsement copy of the interim order in
- 7               accordance with the instructions on the copy; and
- 8               (b) indicate on the endorsement copy that the respondent consents
- 9               to the interim order becoming a final order; and
- 10              (c) return it to the Magistrates Court before the return date for the
- 11              application for the final order.
- 12           (3) If the respondent acts under subsection (2), the interim order
- 13           becomes a final order on the day the Magistrates Court receives the
- 14           endorsement copy.
- 15           *Note*     The court may make consent orders whether or not a party has attended
- 16                   before the court, whether or not a ground for making the order has been
- 17                   made out, whether or not the court has considered the matters
- 18                   mentioned in s 11 and without proof or admission of guilt (see s 25).
- 19           (4) If the respondent wishes to object to the interim order becoming a
- 20           final order, the respondent may—
- 21               (a) fill out the endorsement copy of the interim order in
- 22               accordance with the instructions on the copy; and
- 23               (b) indicate on the endorsement copy that the respondent objects to
- 24               the interim order becoming a final order; and
- 25               (c) return it to the Magistrates Court at least 7 days before the
- 26               return date for the application for the final order.
- 27           (5) If the respondent acts under subsection (4), the Magistrates Court
- 28           may decide the application for the final order at the next return date
- 29           for the application.

- 1            (6) If the respondent wishes to object to the interim order becoming a  
2            final order but does not act under subsection (4), the Magistrates  
3            Court may decide the application for the final order only if the  
4            respondent—
- 5            (a) attends the Magistrates Court on the return date for the  
6            application for the final order; and
- 7            (b) objects to the interim order becoming a final order; and
- 8            (c) satisfies the court that the respondent—
- 9                    (i) is a person with impaired decision-making ability who  
10                    was not represented by a lawyer, or another person with a  
11                    right to represent the person in the proceeding, at any time  
12                    before the endorsement copy was required to be returned  
13                    under subsection (4) (c); or
- 14                    (ii) otherwise has a reasonable excuse for failing to act under  
15                    subsection (4).
- 16                    **Examples—par (c) (i)**
- 17                    1 litigation guardian
- 18                    2 disability guardian
- 19                    3 for a child, the child’s parent
- 20                    **Examples—par (c) (ii)**
- 21                    1 the respondent was injured in a car accident and unable to return  
22                    the endorsement copy in the time required
- 23                    2 the respondent is from a non-English speaking background and  
24                    no-one was able to interpret the endorsement copy for the  
25                    respondent until after it was required to be returned
- 26                    *Note*            An example is part of the Act, is not exhaustive and may  
27                    extend, but does not limit, the meaning of the provision in  
28                    which it appears (see [Legislation Act](#), s 126 and s 132).
- 29            (7) If the interim order does not become a final order under  
30            subsection (3) and the application may not be decided by the  
31            Magistrates Court under subsection (5) or (6), the court may decide  
32            that the interim order becomes a final order at the next return date  
33            for the application for the final order.

1 (8) In this section:

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

## 4 **Division 4.3 Hearings**

### 5 **50 Applicant not present at return of application**

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

9 (a) dismiss the application; or

10 (b) adjourn the hearing.

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

### 13 **51 Respondent not present at return of application**

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

16 (a) has been served with a copy of the application and timing  
17 notice under section 39 (Service of applications); and

18 (b) is not present, personally or by a representative, when the  
19 application is returned before the Magistrates Court.

20 (2) The Magistrates Court must—

21 (a) decide the application in the respondent's absence; or

22 (b) if the court considers it appropriate—

23 (i) issue a warrant for the respondent to be arrested and  
24 brought before the court; and

25 (ii) adjourn the proceeding until the respondent is brought  
26 before the court.

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

1        **52            Neither party present at return of application**

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

8        **53            Hearings usually in public**

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

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

13        **54            Public hearing not required**

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

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

- 1     **55**           **Closed hearings in special circumstances**
- 2           (1) The Magistrates Court when hearing an application for a protection  
3           order may, if satisfied that it is in the interests of safety, justice or  
4           the public to do so, make an order—
- 5           (a) permitting—
- 6                 (i) the hearing, or part of the hearing, to take place in private;  
7                 and
- 8                 (ii) stated people to be present at the hearing; or
- 9           (b) prohibiting or restricting the publication of—
- 10                (i) evidence given at, or received for, the hearing, whether in  
11                public or private; or
- 12                (ii) a matter in a document filed in the court for the  
13                proceeding; or
- 14           (c) prohibiting or restricting the disclosure to some or all of the  
15           parties to the proceeding of—
- 16                (i) evidence given, or received, at the hearing, whether in  
17                public or private; or
- 18                (ii) a matter in a document filed in the court for the  
19                proceeding.
- 20           (2) A person commits an offence if the person fails to comply with an  
21           order under this section.
- 22           Maximum penalty: 50 penalty units.
- 23           (3) For subsection (1), the making of an order is in the *interests of*  
24           *safety, justice or the public* if the order is necessary—
- 25           (a) to protect the affected person; or
- 26           (b) to protect morals, public order or national security in a  
27           democratic society; or
- 28           (c) because the interest of the private lives of the parties require  
29           the privacy; or

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

4            **56            Discontinuance**

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

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

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

14           **57            Admissibility of preliminary conference evidence**

- 15           (1) This section applies to a proceeding for a protection order if a  
16           preliminary conference is held in relation to the application for the  
17           order.

- 18           (2) Evidence must not be given before, or statements made in, the court  
19           about words spoken or anything done at the preliminary conference  
20           that is related to a question to be decided by the court in the  
21           proceeding unless—

- 22           (a) the parties otherwise agree; or  
23           (b) the court is satisfied that there are substantial reasons why, in  
24           the interests of justice, the evidence should be given, or  
25           statements made.



1    **58           Undertakings by respondent**

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

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

13    **59           Court may inform itself**

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

16    **Division 4.4           Making of protection orders**

17    **60           Explaining orders if respondent present**

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

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

- 1 (b) the consequences that may follow if the respondent fails to  
2 comply with the order; and
- 3 (c) how the order may be amended or revoked; and
- 4 (d) that, if a State, another Territory or New Zealand has  
5 legislation that corresponds to this Act, the order may be  
6 registered, and enforced, in the State, Territory or New Zealand  
7 without notice of registration being given to the respondent.
- 8 *Note* Pt 7 deals with the registration of protection orders from other  
9 jurisdictions in the ACT.
- 10 (3) Before making a consent order, the Magistrates Court must explain  
11 to the respondent, in language likely to be readily understood by the  
12 respondent, the matters mentioned in subsection (2) (a) to (d).
- 13 (4) A failure of the Magistrates Court to comply with this section in  
14 relation to a protection order does not affect the validity of the order.

15 **61 Explaining orders if protected person present**

- 16 (1) This section applies if—
- 17 (a) a court intends to make a protection order; and
- 18 (b) the protected person is before the court.
- 19 (2) On making the protection order (other than a consent order), the  
20 court must explain to the protected person, in language likely to be  
21 readily understood by the person—
- 22 (a) the purpose, terms and effect of the order; and
- 23 *Note* Explaining the effect of the order includes explaining any  
24 consequence that will automatically flow from the making of the  
25 order. For example, if relevant, that any firearms licence of the  
26 respondent will automatically be cancelled or suspended unless  
27 the Magistrates Court otherwise orders.
- 28 (b) the consequences that may follow if the respondent fails to  
29 comply with the order; and
- 30 (c) how the order may be amended or revoked; and

1 (d) that, if the protected person aids or abets the respondent to  
2 commit an offence against section 35 (Offence—contravention  
3 of protection order), the protected person may also commit an  
4 offence; and

5 (e) that, if a State, another Territory or New Zealand has  
6 legislation that corresponds to this Act, the order may be  
7 registered, and enforced, in the State, Territory or New Zealand  
8 without notice of registration being given to the respondent.

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

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

12 (3) Before making a consent order, the Magistrates Court must explain  
13 to the protected person, in language likely to be readily understood  
14 by the person, the matters mentioned in subsection (2) (a) to (e).

15 (4) A failure of the Magistrates Court to comply with this section in  
16 relation to a protection order does not affect the validity of the order.

17 **62 Reasons for order**

18 (1) If the Magistrates Court makes a protection order, the court must  
19 record the reasons for making the order.

20 (2) If the order is a consent order, the reason for making the order is that  
21 the parties have consented to it.

22 **63 Orders generally not to include protected person's  
23 address**

24 (1) The protected person's home or work address must not be included  
25 in a protection order unless—

26 (a) the protected person agrees to the address being included; or

27 (b) it is necessary to include the address to allow the respondent to  
28 comply with the order; or

29 (c) the court or registrar making the order is satisfied that the  
30 respondent already knows the address.

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

3            **64            Service of protection orders**

- 4            (1) If the Magistrates Court makes a protection order, the registrar  
5            must—  
6            (a) if the order is an interim order—serve 2 copies of the order  
7            (1 marked as the endorsement copy) on the respondent not later  
8            than 14 days before the return date for the application for the  
9            final order; or  
10            (b) if the order is not an interim order—serve a copy of the order  
11            on the respondent; and  
12            (c) give a copy of the order to—  
13            (i) each other party to the proceeding; and  
14            (ii) the chief police officer; and  
15            (iii) the registrar of firearms; and  
16            (iv) anyone else the court is satisfied has a relevant interest in  
17            the proceeding who does not already have a copy of the  
18            order.

19            **Example**

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

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).

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

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1     **Division 4.5                    Other procedural matters**

2     **65                    Police officer party to proceeding for personal protection**  
3                    **order—substitution of applicant etc**

4             (1) This section applies if a police officer applies for a personal  
5                    protection order for an affected person under section 12 (2) (a).

6             (2) The Magistrates Court may, on application or its own initiative,  
7                    substitute as applicant—

8                    (a) with the protected person’s consent—the protected person; or

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

11            (3) In a proceeding for a personal protection order, the police officer  
12                    may be represented by—

13                    (a) another police officer; or

14                    (b) a person nominated by the chief police officer.

15     **66                    Directions about procedure**

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

19            (2) A direction is a notifiable instrument.

20                    *Note*     A notifiable instrument must be notified under the [Legislation Act](#).

21            (3) If the procedure for taking a step in a proceeding is not prescribed  
22                    under this Act (including under a direction mentioned under  
23                    subsection (1)) or another territory law, the Magistrates Court may  
24                    give a direction about the procedure to be followed in relation to the  
25                    step.

26     **67                    Costs**

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

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

20 **Division 4.6 Party with impaired decision-making**  
21 **ability**

22 **68 Meaning of *impaired decision-making ability***

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

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

9 **69 Child respondents**

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

15 **70 Representation—party with impaired decision-making**  
16 **ability**

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

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

2 **Examples—par (b) (ii)**

- 3 1 a police officer  
4 2 litigation guardian  
5 3 disability guardian  
6 4 for a child, the child's parent

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

10 (2) The Magistrates Court may, on application, or its own initiative—

11 (a) adjourn the proceeding so the parties can get representation or  
12 appoint a litigation guardian; and

13 (b) give the parties information necessary to allow the parties to  
14 get representation or appoint a litigation guardian; and

15 (c) tell the public advocate that the proceeding has been adjourned  
16 so the parties can get representation or appoint a litigation  
17 guardian; and

18 (d) ask that legal representation be arranged by Legal Aid ACT.

19 (3) Nothing in this section prevents the Magistrates Court from making  
20 an interim order against a respondent with impaired  
21 decision-making ability if the court is satisfied of the matters  
22 mentioned in section 19 (Interim orders—grounds for making).

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

25 (4) In this section:

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



- 1     **71**           **Consent orders—party with impaired decision-making**  
2                   **ability**
- 3           (1) This section applies if—
- 4               (a) the Magistrates Court is considering an application for a  
5                 consent order; and
- 6               (b) the court considers that a party to the proceeding is a person  
7                 with impaired decision-making ability who is not separately  
8                 represented by a lawyer or another person with a right to  
9                 represent the person; and
- 10              (c) it appears to the court that the party should be separately  
11                 represented.
- 12           (2) The Magistrates Court—
- 13               (a) must not make the consent order; and
- 14               (b) may adjourn the hearing to allow the person to get separate  
15                 representation.

16     **Division 4.7**           **Appointment etc of litigation guardian**

- 17     **72**           **Litigation guardian—appointment**
- 18           (1) The following people may be appointed as a litigation guardian for a  
19               person with impaired decision-making ability (the *assisted person*)  
20               in a proceeding for a protection order:
- 21               (a) an individual who is not a person with impaired  
22                 decision-making ability;
- 23               (b) the public advocate.
- 24           (2) A person is appointed by filing with the Magistrates Court a  
25               statement—
- 26               (a) about whether, to the best of the person’s knowledge, the  
27                 assisted person already has a disability guardian; and

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

8                    **73                    Litigation guardian—powers**

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

15                    *Note*            The litigation guardian may not give the person’s evidence for the

16                            person (see *Evidence Act 2011*, pt 3.2).

17                    **74                    Litigation guardian—responsibilities**

18                            The litigation guardian of a person with impaired decision-making

19                            ability in a proceeding for a protection order must do everything that

20                            is necessary in the proceeding to protect the person’s interests.

21                    **75                    Litigation guardian—removal**

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

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

1 **Part 5** **Amendment of protection orders**

2 **76** **Amendment of protection orders—who may apply**

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

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

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

11 *Note 2* If a form is approved under the *Court Procedures Act 2004*, s 8 for an  
12 application, the form must be used.

13 **77** **Amendment of protection orders**

14 (1) The Magistrates Court may amend a protection order only if  
15 satisfied that—

- 16 (a) either—
- 17 (i) there has been a change in the circumstances of a party to  
18 the order; or
- 19 (ii) the order causes unnecessary hardship to the respondent;  
20 and
- 21 (b) amending the order will not adversely affect the safety of the  
22 protected person or a child of the protected person; and
- 23 (c) the order as amended could be made on application for a  
24 protection order; and

- 1 (d) if the amendment would reduce the protection of a child who is  
 2 15 years old or younger—the child is no longer in need of the  
 3 greater protection provided by the unamended protection order.

4 **Example—par (a) (i)**

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

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

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

17 **Examples**

- 18 1 the protected person has had a change in circumstances since the original  
 19 order was made  
 20 2 the original order restricts the respondent’s rights unnecessarily

- 21 (4) An application for an amendment must be made before the original  
 22 order ends.
- 23 (5) This section does not apply to a kind of amendment if this Act (apart  
 24 from this section) expressly deals with the grounds for that kind of  
 25 amendment or for revocation.

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

28 **78 Final orders—temporary amendment**

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

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

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

4 **79 Interim orders made by consent—extension**

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

11 **80 Final orders—extension**

- 12 (1) The Magistrates Court must, on application, amend a final order (the  
13 *original order*) by extending it for a stated period unless satisfied  
14 that a protection order is no longer necessary to protect the protected  
15 person from personal violence by the respondent.  
16 (2) If the parties consent to the application to amend the original order,  
17 the Magistrates Court must amend the original order without  
18 considering the matter mentioned in subsection (1).  
19 (3) An application to extend the original order must be made at least  
20 21 days before the day the original order is to end.  
21 (4) However, the Magistrates Court may allow a person to apply for an  
22 extension after the period mentioned in subsection (3) if satisfied  
23 that it is appropriate to do so.  
24 (5) The parties may consent to an application being made after the  
25 period mentioned in subsection (3).

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

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## 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.

- 1     **82           Particular final orders—review**
- 2           (1) On hearing an application under section 81 to review a final order,  
3           the Magistrates Court must, by order—
- 4               (a) dismiss the application; or
- 5               (b) confirm the original order; or
- 6               (c) revoke the original order; or
- 7               (d) set aside the original order and make a new order.
- 8           (2) The Magistrates Court may revoke the original order—
- 9               (a) if the court is satisfied that the original order is no longer  
10              necessary to protect the protected person; or
- 11              (b) if—
- 12                   (i) the applicant for the original order applies for the review  
13                   of the original order; and
- 14                   (ii) if the revocation would affect the protection of a child  
15                   who is 15 years old or younger—the court is satisfied the  
16                   child is no longer in need of the protection provided by  
17                   the original order.
- 18           (3) If the Magistrates Court revokes the original order, the court must  
19           notify the protected person, in writing, as soon as practicable.
- 20     **83           Consent orders—review**
- 21           (1) A party to a proceeding for a protection order may apply to the  
22           Magistrates Court for a review of a consent order (the *original*  
23           *order*) only on the ground that the making of the original order was  
24           induced or affected by fraud or duress, other than fraud of the party  
25           or duress applied by the party.
- 26           (2) On application for the review, the Magistrates Court may—
- 27               (a) either—
- 28                   (i) amend, or refuse to amend, the original order; or



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

5 **84 Appealable decisions**

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

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

12 **85 Appeals to Supreme Court**

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

1     **86           Giving notice of appeal**

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

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

7     **87           Evidence on appeal**

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

12    **88           Powers of Supreme Court on appeal**

13          On an appeal, the Supreme Court may—

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

22    **89           Effect of filing appeal**

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

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## 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

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

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

6 **93 Effect of registration**

7 A registered order—

8 (a) is enforceable in the ACT as if it were a final order that had  
9 been personally served on the respondent; and

10 (b) may be amended or revoked in the same way as a final order.

11 **94 Registered orders—amendment**

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

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

18 **95 Registered orders—revocation**

19 (1) This section applies if a recognised court tells the registrar that a  
20 registered order has been revoked.

21 (2) The registrar must—

22 (a) cancel the registration of the registered order; and

23 (b) tell the chief police officer and the person protected by the  
24 order about the cancellation.

25 **96 Recognised orders—amendment**

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

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

10   **97           Notification by interstate court of registration**

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

20           *Note*     Under the *Electronic Transactions Act 2001*, s 8 (1), information

21               required to be in writing may be given electronically in certain

22               circumstances.

- 1                      **Part 8                      Miscellaneous**
- 2                      **Division 8.1              Public access and publication**
- 3                      **98                      Publication of reports about proceedings—offence**
- 4                      (1) A person commits an offence if—
- 5                              (a) the person publishes (completely or partly) an account or
- 6    report of a proceeding for a protection order; and
- 7                              (b) the account or report—
- 8    (i) identifies a party to the proceeding; or
- 9    (ii) identifies a person who is related to, or associated with, a
- 10    party to the proceeding or is, or is claimed to be, in any
- 11    other way concerned in the matter to which the
- 12    proceeding relates; or
- 13                              (iii) identifies a witness to the proceeding; or
- 14                              (iv) allows the identity of a person mentioned in
- 15    subparagraph (i), (ii) or (iii) to be worked out.
- 16                      Maximum penalty: 10 penalty units.
- 17                      *Note*              It is an offence under the [Criminal Code](#), s 712A for a person to publish
- 18    information that identifies someone else as a person who is or was a
- 19    child or young person in a proceeding under this Act.
- 20                      (2) In this section:
- 21                              ***publish*** means communicate or distribute information in a way or to
- 22    an extent that makes it available to, or likely to come to the notice
- 23    of, the public or a section of the public or anyone else not lawfully
- 24    entitled to the information.

- 1 **99** **Publication of reports about proceedings—exceptions to**  
2 **offence**
- 3 (1) Section 98 does not prevent—
- 4 (a) a party to a proceeding for a protection order from—
- 5 (i) telling someone else about the contents of an order made  
6 in the proceeding; or
- 7 (ii) giving someone else a copy of the order; or
- 8 (b) the publication of an account or report of a proceeding for a  
9 protection order if the publication is a permitted publication  
10 about proceedings mentioned in schedule 1, section 1.2.
- 11 (2) A court may make an order allowing circulation of, or may permit  
12 the circulation of, information the publication of which would  
13 otherwise contravene section 98 only if satisfied that—
- 14 (a) it is in the public interest; or
- 15 (b) it will promote compliance with the protection order; or
- 16 (c) it is necessary for the proper operation of this Act.

17 **Division 8.2** **Other matters**

18 **100** **Effect of availability of workplace protection orders**

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

22 **101** **Deciding application if criminal proceedings**

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

1    **102            Criminal and civil liability not affected by protection**  
2                    **orders**

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

7    **103            Crimes Act, s 397 (1)**

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

11   **104            Working out time if less than 5 days**

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

15   **105            Regulation-making power**

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

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

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



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## 1      **Part 20**                                      **Transitional**

### 2      **200**              **Existing registered orders under repealed Act**

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

### 12      **201**              **Transitional regulations**

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

### 21      **202**              **Expiry—pt 20**

22              This part expires 2 years after the day it commences.

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

1 **Part 21 Amendments**

2 **203 Legislation amended—sch 2**

3 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

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<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

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## 1      **Schedule 2            Firearms Act 1996**

2      (see s 203)

### 3      **[2.1]            Section 18 (1) (b) (ii) and (iii)**

4                    *substitute*

5                    (ii) been subject to a final protection order that—

6                            (A) has been revoked; or

7                            (B) permits the individual to possess or retain a firearm;  
8    or

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

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

### 14      **[2.2]            Section 19 (1) (b) (i), except note**

15                    *substitute*

16                    (i) subject to a final protection order other than an order  
17    that—

18                            (A) has been revoked or successfully appealed against;  
19    or

20                            (B) permits the individual to possess or retain a firearm;  
21    or

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

- 1 **[2.3] Section 80 heading**
- 2 *substitute*
- 3 **80 Adult firearms licences—mandatory suspension for**
- 4 **family violence offence**
- 5 **[2.4] Section 80 (1)**
- 6 *omit*
- 7 domestic violence
- 8 *substitute*
- 9 family violence
- 10 **[2.5] Section 80 (1), notes**
- 11 *substitute*
- 12 *Note 1* A person's licence is automatically suspended under—
- 13 • the *Family Violence Act 2016*, s 44 (1) (Firearms licences) if an
- 14 interim or after-hours order is made against the person; or
- 15 • the *Personal Violence Act 2016*, s 36 (Interim orders—respondent's
- 16 firearms) if an interim order is made against the person unless the
- 17 court otherwise orders.
- 18 *Note 2* If the registrar suspends a licence under this section, the registrar must
- 19 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).

- 1 (2) The registrar must decide whether the licensee continues to be  
2 suitable to hold the adult firearms licence—
- 3 (a) having regard to the criteria in section 18 and section 19 that  
4 apply to the licensee; but
- 5 (b) disregarding the current protection order.
- 6 *Note* If the registrar is satisfied on reasonable grounds that the licensee is not  
7 suitable, the registrar must cancel the licensee's licence (see  
8 s 81 (1) (c)).
- 9 (3) If the registrar cancels the licensee's adult firearms licence because  
10 of this section, the registrar must give the Magistrates Court written  
11 notice of the decision.

12 **[2.8] Section 97 heading**

13 *substitute*

14 **97 Minors firearms licences—mandatory suspension if**  
15 **family violence offence**

16 **[2.9] Section 97 (1)**

17 *omit*

18 domestic violence

19 *substitute*

20 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

- 1 (b) the Magistrate Court orders that the licensee's minors firearms  
2 licence not be—
- 3 (i) suspended under section 36 (3) (Interim orders—  
4 respondent's firearms); or
- 5 (ii) cancelled under section 37 (3) (Final orders—  
6 respondent's firearms).
- 7 (2) The registrar must decide whether the licensee continues to be  
8 suitable to hold the minors firearms licence—
- 9 (a) having regard to the criteria in section 18 and section 19 that  
10 apply to the licensee; but
- 11 (b) disregarding the current protection order.
- 12 *Note* If the registrar is satisfied on reasonable grounds that the licensee is not  
13 suitable, the registrar must cancel the licensee's licence (see s 98 (c)).
- 14 (3) If the registrar cancels the licensee's minors firearms licence  
15 because of this section, the registrar must give the Magistrates Court  
16 written notice of the decision.

17 **[2.13] Section 119 heading**

18 *substitute*

19 **119 Composite entity firearms licences—mandatory**  
20 **suspension for family violence offence**

21 **[2.14] Section 119 (1)**

22 *omit*

23 domestic violence

24 *substitute*

25 family violence

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

2 *omit*

3 **[2.16] Section 120, note 2**

4 *omit*

5 **[2.17] Section 132, note 2**

6 *substitute*

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

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

13 **[2.18] Dictionary, definitions of *corresponding order* and**  
14 ***domestic violence offence***

15 *omit*

16 **[2.19] Dictionary, new definitions**

17 *insert*

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

20 ***final protection order***—

21 (a) means a final order under—

22 (i) the *Family Violence Act 2016*; or

23 (ii) the *Personal Violence Act 2016*; and

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

16 **[2.20] Dictionary, definition of *interim protection order***

17 *substitute*

18 *interim protection order*—

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

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

9 **[2.21] Dictionary, definition of *protection order***

10 *omit*

11 **[2.22] Dictionary, new definition of *recognised FVO***

12 *insert*

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

## 1 Dictionary

2 (see s 3)

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

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

- 6 • chief police officer
- 7 • child
- 8 • director of public prosecutions
- 9 • individual
- 10 • lawyer
- 11 • magistrate
- 12 • Magistrates Court
- 13 • parent
- 14 • police officer
- 15 • proceeding
- 16 • public advocate
- 17 • registrar
- 18 • registrar of firearms
- 19 • Supreme Court.

20 ***affected person*** means—

21 (a) in relation to personal violence at a workplace—the following  
22 people against whom personal violence has been, or is likely to  
23 be, committed:

24 (i) an employee at the workplace;

25 (ii) the employee’s employer;

26 (iii) any other person in the workplace; or

27 (b) in relation to other personal violence—a person against whom  
28 personal violence has been, or is likely to be, committed.

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

- 1           **amend**, a protection order, includes amend the order by—
- 2           (a) adding further conditions, prohibitions or restrictions to the
- 3           order or amending or deleting conditions, prohibitions or
- 4           restrictions; or
- 5           (b) extending or reducing the period for which the order remains in
- 6           force.
- 7           **ammunition**—see the *Firearms Act 1996*, dictionary.
- 8           **appealable decision** means a decision mentioned in section 84.
- 9           **application**, for a protection order, means an application for a final
- 10          order.
- 11          **Note 1**   The court may make an interim order on an application for a final order
- 12          (see s 17). No separate application for an interim order is required.
- 13          **Note 2**   As a protection order includes an order amending a protection order
- 14          (see def *protection order*), an application for a protection order includes
- 15          an application to amend a protection order.
- 16          **authorised person**, for schedule 1 (Permitted publication about
- 17          proceeding)—see schedule 1, section 1.1.
- 18          **care and protection chapters**, for schedule 1 (Permitted publication
- 19          about proceeding)—see schedule 1, section 1.1.
- 20          **child**, of a person, includes—
- 21          (a) a child who normally lives with the person; and
- 22          (b) a child for whom the person is a guardian.
- 23          **Note**    A child is someone under 18 years old (see *Legislation Act*, dict, pt 1).
- 24          **consent order** means a protection order made under section 25.
- 25          **copy**, in relation to a document to be served in a proceeding,
- 26          means—
- 27          (a) if the document has been entered into the record of the
- 28          Magistrates Court—a true copy sealed or stamped with the seal
- 29          of the court; or
- 30          (b) in any other case—a true copy.

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

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

5            (a) under a contract of service; or

6            (b) under a contract for services; or

7            (c) under an apprenticeship; or

8            (d) under an approved training contract under the *Training and*  
9            *Tertiary Education Act 2003*; or

10           (e) to work for the person as a volunteer.

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

12           (a) under a contract of service; or

13           (b) under a contract for services; or

14           (c) under an apprenticeship; or

15           (d) under an approved training contract under the *Training and*  
16           *Tertiary Education Act 2003*; or

17           (e) to work as a volunteer.

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

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

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

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

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

25           **interim order**—

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



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

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

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

7 **personal violence**—see section 8.

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

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

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

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

16 **protection order**—

17 (a) means—

18 (i) an interim personal or workplace protection order; or

19 (ii) a final personal or workplace protection order; and

20 (b) includes—

21 (i) an order about the seizure of a firearms licence, firearm or  
22 ammunition; and

23 (ii) an order amending a protection order, including an order  
24 for a temporary amendment under section 78.

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

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

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

