



Domestic and Family Violence Protection Act 1989

**Reprinted as in force on 1 January 2005
(includes commenced amendments up to 2004 Act No. 53)**

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This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

Domestic and Family Violence Protection Act 1989

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[as amended by all amendments that commenced on or before 1 January 2005]

An Act to provide for protection to a person against violence committed or threatened by someone else if a spousal, intimate personal, family or informal care relationship exists between the persons

Part 1 Preliminary

1 Short title

This Act may be cited as the *Domestic and Family Violence Protection Act 1989*.

2 Commencement

- (1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.
- (2) Except as provided by subsection (1), the provisions of this Act shall commence on a day appointed by proclamation.

3 Definitions

The dictionary in the schedule defines particular words used in this Act.

3A Main purpose of Act

- (1) The main purpose of this Act is to provide for the safety and protection of a person in the case of domestic violence committed by someone else if any of the following domestic relationships exist between the 2 persons—

- (a) a spousal relationship;
 - (b) an intimate personal relationship;
 - (c) a family relationship;
 - (d) an informal care relationship.
- (2) The way in which the main purpose of this Act is to be achieved is by allowing a court to make a domestic violence order to provide protection for the person against further domestic violence.

4 References to court and when justices may exercise power

- (1) *Court* means—
- (a) if an application is made to a Magistrates Court—the Magistrates Court; or
 - (b) if an application is made to a magistrate under section 54—the magistrate; or
 - (c) if an offender pleads guilty or is found guilty in relation to an offence that involves domestic violence—the court before which the offender appears.
- (2) A *Magistrates Court* means a court constituted by a magistrate but, subject to subsections (3) and (6), does not include a court constituted by justices who are not magistrates.
- (3) If an application is made—
- (a) to make a domestic violence order in terms agreed to by, or on behalf of, an aggrieved and a respondent; or
 - (b) to make or extend a temporary protection order and a magistrate is not readily available to constitute a Magistrates Court for the purpose; or
 - (c) to adjourn proceedings taken with a view to the making of a domestic violence order against a respondent;
- a Magistrates Court constituted by 2 or more justices may deal with the application.

- (4) An order made, or action taken, under subsection (3) is a procedural order or action for the purposes of the *Justices of the Peace and Commissioners for Declarations Act 1991*.
- (5) Subsection (6) applies if an offender appears in relation to an offence involving domestic violence at a place at which a Magistrates Court is being held before 2 or more justices appointed under section 552C(3) of the Criminal Code for the place and pleads guilty to the offence.¹
- (6) The Magistrates Court, constituted by the justices exercising jurisdiction under section 552C(3) of the Criminal Code, may deal with an application for a domestic violence order, or make a domestic violence order on its own initiative, relating to the offence and for which the offender is the respondent.

5 Meaning of *possession*

- (1) *Possession* of a weapon or thing includes—
 - (a) having it in one's custody; and
 - (b) having it under one's control in any place (whether or not another has custody of it); and
 - (c) having an ability to obtain its custody at will; and
 - (d) having a claim to its custody if the claimant has committed it to the custody of another, even though the weapon or thing is temporarily not in the control of the person having the claim.
- (2) A respondent does not possess a weapon if the respondent has otherwise surrendered the weapon under the Weapons Act, section 29B.²

6 Meaning of *premises*

Premises includes any, or part of any, of the following (whether a public place or private property)—

1 Under section 552C(3) of the Criminal Code, the Attorney-General may by gazette notice appoint a justice for a place specified in the gazette notice.

2 Weapons Act, section 29B (Arrangements for surrender of suspended or revoked licences and weapons)

- (a) an area of land (including a road within the meaning of the *Transport Operations (Road Use Management) Act 1995*);
- (b) a building or structure (whether movable or immovable), including a dwelling house;
- (c) a vehicle, vessel or aircraft;
- (d) a caravan or trailer.

7 Meaning of *property*

Property of a person means property that—

- (a) the person owns; or
- (b) the person does not own, but—
 - (i) is used and enjoyed by the person; or
 - (ii) is available for the person's use or enjoyment; or
 - (iii) is in the person's care or custody; or
 - (iv) is at the premises at which the person is residing.

9 Meaning of court being satisfied

If a court is to be satisfied of a matter, the court need only be satisfied of the matter on the balance of probabilities.

Part 2 Explanation of how domestic violence is dealt with under this Act

10 Purpose of this part

- (1) This part explains how domestic violence is dealt with under this Act, including setting out some of the ideas and expressions that are important for an understanding of this Act.

- (2) In particular, this part states what is domestic violence and the relationships that are protected by this Act.

11 What is domestic violence

- (1) ***Domestic violence*** is any of the following acts that a person commits against another person if a domestic relationship exists between the 2 persons—

- (a) wilful injury;
- (b) wilful damage to the other person's property;

Example of paragraph (b)—

Wilfully injuring a defacto's pet.

- (c) intimidation or harassment of the other person;

Examples of paragraph (c)—

- 1 Following an estranged spouse when the spouse is out in public, either by car or on foot.
- 2 Positioning oneself outside a relative's residence or place of work.
- 3 Repeatedly telephoning an ex-boyfriend at home or work without consent (whether during the day or night).
- 4 Regularly threatening an aged parent with the withdrawal of informal care if the parent does not sign over the parent's fortnightly pension cheque.

- (d) indecent behaviour to the other person without consent;
- (e) a threat to commit an act mentioned in paragraphs (a) to (d).

- (2) The person committing the domestic violence need not personally commit the act or threaten to commit it.³

11A Relationships that are domestic relationships for this Act

- (1) Each of the following is a domestic relationship for this Act—

³ See section 20(2)—

- (2) A person who counsels or procures someone else to commit an act that, if done by the person, would be an act of domestic violence is taken to have committed the act.

- (a) a spousal relationship;
 - (b) an intimate personal relationship;
 - (c) a family relationship;
 - (d) an informal care relationship.
- (2) Although a domestic relationship exists only between 2 persons, 1 aggrieved, or an authorised person for 1 aggrieved, may make an application for a protection order naming 1 respondent or more than 1 respondent.

12 What is a spousal relationship and who is a spouse

- (1) A *spousal relationship* exists between spouses.
- (2) A *spouse* includes—
- (a) a former spouse; and
 - (b) either 1 of the biological parents of a child.
- (3) For subsection (2)(b), it is irrelevant whether there is or was any relationship between the biological parents of the child.

12A What is an intimate personal relationship

- (1) An *intimate personal relationship* exists between 2 persons if the persons are or were engaged to be married to each other, including a betrothal under cultural or religious tradition.
- (2) Also, an *intimate personal relationship* exists between 2 persons, whether or not the relationship involves or involved a relationship of a sexual nature, if—
- (a) the persons date or dated each other; and
 - (b) their lives are or were enmeshed to the extent that the actions of 1 of them affect or affected the actions or life of the other.
- (3) In deciding whether an intimate personal relationship exists under subsection (2), a court may have regard to the following—
- (a) the circumstances of the relationship, including, for example, trust and commitment;

- (b) the length of time for which the relationship has existed or did exist;
 - (c) the frequency of contact between the persons;
 - (d) the level of intimacy between the persons.
- (4) An intimate personal relationship may exist whether the 2 persons are the same or the opposite sex.
- (5) The lives of 2 persons are not enmeshed merely because the persons date or dated each other on a number of occasions.

12B Meaning of *family relationship* and *relative*

- (1) A ***family relationship*** exists between 2 persons if 1 of them is the relative of the other.
- (2) A ***relative***, of a person, is someone who is ordinarily understood to be or to have been connected to the person by blood or marriage.

Example of subsection (2)—

A person's spouse, child (including an individual 18 years or over), stepchild, parent, step-parent, sibling, grandparent, aunt, nephew, cousin, half-brother, mother-in-law or aunt-in-law is the person's relative.

- (3) For deciding if someone is related by marriage, any 2 persons who are or were spouses of each other are considered to be or to have been married to each other.
- (4) A ***relative*** of a person (the ***relevant person***) is also either of the following persons if it is or was reasonable to regard the person as a relative especially considering that for some people the concept of a relative may be wider than is ordinarily understood—
- (a) a person whom the relevant person regards or regarded as a relative;
 - (b) a person who regards or regarded himself or herself as a relative of the relevant person.

Examples of people who may have a wider concept of a relative—

- 1 Aboriginal people.
- 2 Torres Strait Islanders.

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- 3 Members of certain communities with non-English speaking backgrounds.
 - 4 People with particular religious beliefs.
- (5) In deciding if a person is a relative of someone else—
- (a) a subsection of this section must not be used to limit another subsection of this section; and
 - (b) each subsection is to have effect even though, as a result, a person may be considered to be a relative who would not ordinarily be understood to be a relative.

12C What is an informal care relationship

- (1) An ***informal care relationship*** exists between 2 persons if a person is or was dependent on another person (a ***carer***) who helps the person in an activity of daily living (***personal care activity***).

Examples of personal care activities a carer may perform—

- 1 Dressing or other personal grooming of the person.
 - 2 Preparing the person's meals or helping the person with eating meals.
 - 3 Shopping for the person's groceries.
 - 4 Telephoning a specialist to make a medical appointment for the person.
- (2) The personal care activity must be required, or have been required, because of a disability, illness or impairment relating to the person.
- (3) A relationship in which the personal care activity is or was provided under an arrangement the person entered into with someone other than the carer is not an informal care relationship, whether or not a fee is or was paid for the care.

Example for subsection (3)—

The relationship between a person and a nurse who visits the person each day to help with bathing and physiotherapy is not an informal care relationship if the nurse visits under an arrangement between the person and a community based in-home care entity.

- (4) If the person entered into an arrangement with the carer and a fee is or was paid, or is to be paid, to or at the discretion of the carer under the arrangement for the personal care activity, the

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relationship existing between the persons is not an informal care relationship unless it is alleged that the circumstances relating to the arrangement or fee include an act mentioned in section 11(1)(a) to (e).⁴

Example for subsection (4)—

The relationship that exists between a person and the person's carer is an informal care relationship if the carer demanded the proceeds of the person's pension or superannuation cheque and threatened to injure the person unless the proceeds were paid.

(5) However, an informal care relationship can not exist between a child and a parent of the child.

(6) In this section—

fee does not include—

- (a) a pension or allowance in the carer's own name from the Commonwealth Government for providing care to a person; or
- (b) an amount of money paid to a carer for goods purchased for the person that does not exceed the purchase price of the goods.

Example of paragraph (b)—

A friend of a person who has had a stroke may call on the person at the person's home every second day and bring fresh milk and bread and be given the price of the items.

parent, of a child, see *Child Protection Act 1999*, section 11.⁵

4 Section 11 (What is domestic violence)

5 *Child Protection Act 1999*—

11 Who is a parent

- (1) A *parent* of a child is the child's mother, father or someone else (other than the chief executive) having or exercising parental responsibility for the child.
- (2) However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.
- (3) A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child.
- (4) A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.
- (5) A reference in this Act to the parents of a child or to 1 of the parents of a child is, if the child has only 1 parent, a reference to the parent.

12D Children as applicants and respondents generally

- (1) Subject to this section, a person who is a child may be named as the aggrieved or the respondent in a domestic violence order.
- (2) However, the child may be named as the aggrieved or the respondent only if a spousal relationship, intimate personal relationship or informal care relationship exists between the child and the other party named in the domestic violence order.
- (3) Subsection (2) does not limit the interstate orders that may be registered under part 3, division 3.⁶
- (4) If the child is under 16 years, a person responsible for giving a document to the child—
 - (a) must also give a copy of the document to a parent of the child; and
 - (b) must not give the document to the child at or in the vicinity of the child's school, unless there is no other place where service may be reasonably effected.
- (5) If the child is at least 16 years, a person responsible for giving a document to the child—
 - (a) must not give a copy of the document to a parent of the child unless the court orders it to be given to the parent; and
 - (b) must give the document to the child as discreetly as practicable.
- (6) To the extent that subsection (4) or (5) is inconsistent with section 85,⁷ that subsection prevails.
- (7) In this section—

other party, in a domestic violence order, means—

 - (a) in relation to an aggrieved—the respondent or any 1 of the respondents named in the domestic violence order; or

⁶ Part 3, division 3 (Registration of interstate orders)

⁷ Section 85 (Service etc. of documents)

- (b) in relation to a respondent—the aggrieved named in the domestic violence order.

parent, of a child, see the *Child Protection Act 1999*, section 11.

12E Child who is a party but is not represented

- (1) This section applies to a child who—
 - (a) is named in an application for a protection order as the aggrieved; and
 - (b) appears before a court and is not represented by a lawyer or helped by a police officer or authorised person.
- (2) Also, this section applies to a child who—
 - (a) is named in an application for a protection order as the respondent; and
 - (b) appears before a court and is not represented by a lawyer.
- (3) The court may adjourn the hearing of the application unless it is satisfied the child—
 - (a) has had reasonable opportunity to obtain representation by a lawyer; and
 - (b) has decided not to be represented by a lawyer.

12F Who is an aggrieved and who is a respondent

- (1) An *aggrieved* means the person for whose benefit a domestic violence order is in force or may be made under this Act.
- (2) Only 1 person may be named as the aggrieved in an application for a protection order or in the domestic violence order.
- (3) A *respondent* means a person against whom a domestic violence order is in force, is sought or may be sought, under this Act.
- (4) More than 1 person may be named as the respondent in an application for a protection order or in the domestic violence order.

13 What assistance can a court give to prevent domestic violence?

- (1) A court can make a domestic violence order for the benefit of an aggrieved.
- (2) A *domestic violence order* means—
 - (a) a protection order; or
 - (b) a temporary protection order.
- (3) A *temporary protection order* is an order (made under part 3, division 2 or section 54⁸) for a short period until a court decides whether to make a protection order for the benefit of an aggrieved.
- (4) Sometimes, the court can make a domestic violence order even though the person against whom the order is made—
 - (a) is not notified about the application; or
 - (b) does not appear in court.

14 Who can apply for a protection order?

- (1) An application for a protection order may be made only by—
 - (a) an aggrieved; or
 - (b) an authorised person mentioned in subsection (2); or
 - (c) a police officer mentioned in subsection (3); or
 - (d) a person acting under another Act for the aggrieved as mentioned in subsection (4).
- (2) An *authorised person* means—
 - (a) an adult authorised in writing by an aggrieved to appear on behalf of the aggrieved;⁹ or

8 Part 3, division 2 (Powers of court and magistrates to make temporary protection orders) or section 54 (Applications by telephone, facsimile etc.)

9 See section 60(2)—

(2) If an authorised person has made an application under this Act to a court and the court decides the authorised person is not able to assist it, the application is taken to have been made by the aggrieved.

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- (b) an adult whom the court believes is authorised by an aggrieved to appear on behalf of the aggrieved even though the authority is not in writing.

Example of paragraph (b)—

A 19 year old man has a physical disability that results in him not being able to sign an authority. He alleges his uncle has threatened physical harm to him. The man orally authorises his grandfather to apply for a protection order against the uncle. The court may believe the grandfather is authorised to appear on behalf of the man after hearing evidence about the authorisation.

- (3) A police officer who—
- (a) has investigated a matter under section 67;¹⁰ and
 - (b) has the reasonable beliefs mentioned in section 67(2);
- may apply for a protection order.
- (4) A person is acting under another Act for the aggrieved—
- (a) if the person is a guardian for a personal matter of the aggrieved, or an administrator for a financial matter of the aggrieved, under the *Guardianship and Administration Act 2000*; or
 - (b) if the person is the adult guardian and considers the aggrieved does not have capacity to make an application for a protection order; or
 - (c) if the person is appointed as the aggrieved's attorney under an enduring power of attorney under the *Powers of Attorney Act 1998* and the person makes the application under the enduring power of attorney.
- (5) If a person may make an application for a protection order, the person may make other applications or bring other proceedings under this Act in relation to a domestic violence order made because of the application.

¹⁰ Section 67 (Police action relating to domestic violence)

14A Court to explain order to aggrieved or respondent before the court

- (1) When an aggrieved or respondent is first personally before a court, the court must satisfy itself that the aggrieved or respondent understands—
 - (a) the nature, purpose and legal implications of the application; and
 - (b) the legal implications of the court making a domestic violence order because of the application.
- (2) If a person's first presence before a court is at the time the court is about to make a domestic violence order, the court may comply with subsection (1) and section 50,¹¹ at the same time.
- (3) Failure to comply with this section does not affect the validity of the domestic violence order.

15 Who can a domestic violence order protect?

- (1) As well as the aggrieved, a relative or associate of the aggrieved may be protected by the domestic violence order.
- (2) A relative or associate is protected by being specifically named in the domestic violence order under section 21(1).
- (3) The specifically named relative or associate is called a ***named person***.
- (4) The name of the named person may be specified in the domestic violence order at the time it is made or at a later time.
- (5) An ***associate*** means either of the following persons if it is reasonable to regard the person as an associate—
 - (a) a person whom an aggrieved regards as an associate;
 - (b) a person who regards himself or herself as an associate of the aggrieved.

¹¹ Section 50 (Court to ensure respondents and aggrieveds understand domestic violence orders)

Examples of persons who could be associates—

- 1 A person who works at the same place as the aggrieved.
- 2 A person who resides at the same place as the aggrieved.
- 3 A person who belongs to the same church, club or other type of association as the aggrieved.

16 When can a court make a domestic violence order?

- (1) Firstly, an application for a protection order may be made to a Magistrates Court by any of the persons mentioned in section 14.
- (2) Secondly, a police officer may apply to a magistrate for a temporary protection order under section 54.¹²
- (3) Thirdly, if a person is before a Magistrates Court, the Childrens Court, the District Court or the Supreme Court for an offence involving domestic violence, the court may make a domestic violence order under section 30.
- (4) Fourthly, if a person has obtained an order from another State, a Territory or New Zealand to protect himself or herself, the order may be registrable in Queensland under part 3, division 3.¹³

17 What are the conditions of a domestic violence order?

If a court makes a domestic violence order—

- (a) the respondent must be of good behaviour and must not commit acts of domestic violence or associated domestic violence; and
- (b) the respondent must comply with any other conditions imposed by the court and stated in the order.

12 Section 54 (Applications by telephone, facsimile etc.)

13 Part 3, division 3 (Registration of interstate orders)

17A What happens if circumstances change after domestic violence order is made?

If circumstances change after a domestic violence order is made, a person may, under section 51,¹⁴ apply for a variation or revocation of the order.

Example of change of circumstances—

A temporary protection order is made because of an application by a police officer under section 54. The aggrieved's place of residence is stated in the order as premises that the respondent is prohibited, by the order, from approaching within a stated distance of. If the aggrieved changes his or her place of residence, a variation of the temporary protection order may be sought under section 51.

18 What can happen if a respondent does not comply with an order

- (1) If a respondent does not comply with a domestic violence order, including a registered interstate order, a police officer can charge the respondent with an offence.
- (2) An aggrieved, named person or anyone else can complain to a police officer that the respondent is not complying with the order.

Part 3 Domestic violence orders—powers of court**Division 1 Powers of courts to make domestic violence orders****20 Power of court to make order to protect person with a domestic relationship against domestic violence**

- (1) A court may make an order against a person for the benefit of someone else (the *other person*) if the court is satisfied that—

14 Section 51 (Application for revocation or variation)

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- (a) the person has committed an act of domestic violence against the other person and a domestic relationship exists between the 2 persons; and
- (b) the person—
 - (i) is likely to commit an act of domestic violence again; or
 - (ii) if the act of domestic violence was a threat—is likely to carry out the threat.
- (2) A person who counsels or procures someone else to commit an act that, if done by the person, would be an act of domestic violence is taken to have committed the act.
- (3) If an application for a protection order names more than 1 respondent, the court may make a domestic violence order or domestic violence orders naming 1, some or all of the respondents, as the court reasonably considers appropriate.

21 Power of court to make orders to protect relatives or associates of aggrieved against violence etc.

- (1) The court may include the name of a relative or associate of an aggrieved in a domestic violence order made for the benefit of the aggrieved if the court is satisfied that the respondent has committed, or is likely to commit, any of the following acts against the relative or associate—
 - (a) wilful injury;
 - (b) wilful damage to property of the relative or associate;
 - (c) intimidation or harassment;
 - (d) a threat to commit an act mentioned in paragraphs (a) to (c).
- (2) A person who counsels or procures someone else to commit an act that, if done by the person, would be an act of associated domestic violence is taken to have committed the act.

22 Protection order must include standard condition to be of good behaviour etc.

In making a domestic violence order, the court must impose a condition that the respondent—

- (a) be of good behaviour towards the aggrieved and not commit domestic violence; and
- (b) be of good behaviour towards a named person in the order and not commit an act of associated domestic violence against the person.

23 Weapons Act to apply to respondents otherwise exempt

(1) This section applies to a person to whom, under the Weapons Act, section 2,¹⁵ that Act does not apply when the person—

- (a) possesses or uses a weapon as part of the person performing duties as mentioned in the Weapons Act, section 2(1)(e); or
- (b) possesses or uses a weapon as part of the person undergoing a training course as mentioned in the Weapons Act, section 2(1)(g); or
- (c) is actually engaged in the manufacture, assembly or handling of a weapon for or on behalf of the State, or another State or a Territory, as mentioned in the Weapons Act, section 2(1)(h); or
- (d) is engaged in scientific or experimental work with a weapon under an authority granted by the Minister as mentioned in the Weapons Act, section 2(1)(i); or
- (e) is actually engaged in the warehousing or transport under consignment of merchandise for or on behalf of a licensed dealer or an authority of a State as mentioned in the Weapons Act, section 2(1)(l); or
- (f) is a person to whom the commissioner of the police service granted an exemption from provisions of the Weapons Act as mentioned in the Weapons Act, section 2(1)(m); or

15 Weapons Act, section 2 (Application of Act)

- (g) is an employee of a government service entity within the meaning of the Weapons Act, section 2(8), and the person's acquisition, possession or use of a weapon is part of performing functions as mentioned in the Weapons Act, section 2(2).
- (2) If the person is named as the respondent in a domestic violence order, the Weapons Act applies to the person for the duration of the order despite the Weapons Act, section 2.
- (3) Despite subsection (2), if the respondent is not present in court when the court makes the domestic violence order, the respondent can not be convicted of an offence under the Weapons Act, because of the operation of subsection (2), for an act or omission that happened before a copy of the domestic violence order is served on the respondent.

24 Matters relating to weapons

- (1) Before making a domestic violence order, the court must ask about—
 - (a) weapons licences or weapons in the respondent's possession; and
 - (b) whether the respondent may access weapons as part of the respondent's employment; and
 - (c) whether the respondent may be a person to whom the Weapons Act does not apply; and
 - (d) both of the following if the respondent may access a weapon as part of the respondent's employment or because the Weapons Act does not apply to the respondent—
 - (i) the respondent's employer, including the employer's name and address;
 - (ii) the employment arrangements relating to the weapon that the respondent may access as part of the respondent's employment.
- (2) After asking about matters under subsection (1), the court may include 1 or more of the following in the domestic violence order to the extent the court considers reasonable—

- (a) information about any weapons licences or weapons in the respondent's possession;
 - (b) a statement that when the order is served on the person the Weapons Act applies to the person under section 23 of this Act, despite the Weapons Act, section 2;
 - (c) information about weapons that the respondent had access to as part of the respondent's employment or because the Weapons Act, before the order was made, did not apply to the respondent.
- (3) In this section—
- employment*, of a respondent, includes employment by a partnership in which the respondent is a partner.

25 Court may impose other conditions

- (1) If a court was to have exercised a power under section 22 and did not do so, the court is taken to have done so.

Example—

If a court does not include in a domestic violence order the conditions mentioned in section 22, the order is taken to include the conditions.

- (2) When a court makes or varies a domestic violence order, it may also impose conditions on the respondent that the court considers—
- (a) necessary in the circumstances; and
 - (b) desirable in the interests of the aggrieved, any named person and the respondent.
- (3) The conditions the court may impose on a respondent include, for example—
- (a) prohibiting stated behaviour of the respondent that would constitute an act of domestic violence against the aggrieved or an act of associated domestic violence against a named person; and
 - (b) prohibiting the respondent from doing all or any of the following in relation to stated premises even though the respondent has a legal or equitable interest in the premises—

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- (i) remaining at the premises;
 - (ii) entering or attempting to enter the premises;
 - (iii) approaching within a stated distance of the premises; and
- (c) prohibiting the respondent from approaching, or attempting to approach, the aggrieved or a named person, including stating in the order a distance within which an approach is prohibited; and
- (d) prohibiting the respondent from contacting, attempting to contact or asking someone else to contact the aggrieved or a named person, including, for example, if the aggrieved or named person has taken shelter at a refuge; and
- (e) prohibiting the respondent from locating, attempting to locate or asking someone else to locate the aggrieved or a named person if the aggrieved's or named person's whereabouts are not known to the respondent; and
- (f) prohibiting stated conduct of the respondent towards a child of the aggrieved, including prohibiting the respondent's presence at or in a place associated with the child.
- (4) In relation to property of the aggrieved, a condition may require the respondent—
- (a) to return the property to the aggrieved; or
 - (b) to allow the aggrieved access to the property; or
 - (c) to allow the aggrieved to recover the property; or
 - (d) to do any act necessary or desirable to facilitate action mentioned in paragraphs (a) to (c).
- (5) The following matters are to be of paramount importance to the court when it imposes conditions on the respondent—
- (a) the need to protect the aggrieved and any named persons;
 - (b) the welfare of a child of the aggrieved.

- (6) The court may also consider—
 - (a) the accommodation needs of all persons affected by the proceedings; and
 - (b) the order's effect on a child of the aggrieved; and
 - (c) existing orders relating to guardianship or custody of, or access to, a child of the aggrieved.
- (7) A condition in an order that prohibits a respondent from asking someone else to contact or to locate an aggrieved or a named person does not prohibit the respondent asking—
 - (a) someone else who is a lawyer to contact the aggrieved or named person; or
 - (b) someone else, including a lawyer, to locate the aggrieved or named person for a purpose authorised by an Act.

25A Orders under s 25 that include ouster condition

- (1) This section applies if a court makes an order under section 25 that includes an ouster condition.
- (2) The premises that may be stated in an ouster condition of the order include—
 - (a) premises where the aggrieved and respondent live together or previously lived together; and
 - (b) premises where the aggrieved or a named person resides, works or frequents.
- (3) In imposing the ouster condition, the court must consider including in the order another condition allowing the respondent—
 - (a) if the respondent is no longer at the premises—to return to the premises to recover stated property; or
 - (b) if the respondent is at the premises—to remain at the premises to remove stated property.
- (4) For another condition under subsection (3), the court must state in the order—

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- (a) if the respondent is present in court when the order is made—
 - (i) the time at which, without breaching the order, the respondent may return to the premises and then must leave the premises; or
 - (ii) for how long the respondent may, without breaching the order, continue to remain at the premises; or
- (b) if the respondent is not present in court when the order is made—
 - (i) the time at which, without breaching the order, the respondent may return to the premises and must leave the premises based on the time of service of the order on the respondent; or
 - (ii) for how long the respondent may, without breaching the order, remain at the premises based on the time of service of the order on the respondent.

Example for paragraph (b)(i)—

The respondent may, without breaching this order, return to the premises at noon on the day after the day this order is served on the respondent by a police officer. If the respondent chooses to return to the premises under the order, the respondent must leave the premises no later than 2 p.m. on the same day.

- (5) Before the court makes an order that includes an ouster condition, or another condition under subsection (3), the court must consider each of the following—
 - (a) the extent to which a matter mentioned in an order must be subject to the supervision of a police officer;
 - (b) if a police officer is to supervise a matter, the need to include in the order a condition that the respondent must not approach within a stated distance of the stated premises.

26 Special condition for thing that has been used as a weapon

- (1) This section applies if a court is satisfied that a respondent—
- (a) has used, or threatened to use, a thing in committing an act of domestic violence against the aggrieved, or an act of associated domestic violence against a named person; and
 - (b) is likely to use the thing again or carry out the threat.

Examples of things—

- 1 An animal including a pet.
 - 2 An antique firearm, crossbow or spear gun.
 - 3 A cricket or baseball bat.
- (2) The court may, as a condition of the domestic violence order, prohibit the respondent from possessing the thing, or a thing of the same type, for the duration of the order.
- (3) If the court makes an order under subsection (2), the thing is taken to be a weapon and may be dealt with under this Act and the *Weapons Act 1990* as a weapon for which there is no licence.
- (4) The court's power under this section does not limit its power under section 25.

29 Domestic violence orders must include information about weapons

- (1) The purpose of this section is to ensure that a police officer has as much information available as is possible when the officer exercises a power under an Act to obtain or seize a weapon.
- (2) In making a domestic violence order, the court must specify as much information as it can about the weapons that the respondent possesses.
- (3) In this section—
- weapon* includes a thing that a respondent is prohibited from possessing under section 26(2).

30 Power of court if person pleads or is found guilty of related offences

- (1) A court before which a person pleads guilty to, or is found guilty of, an offence that involves domestic violence may, on its own initiative, make a domestic violence order against the offender, if the court is satisfied that a protection order could be made under section 20¹⁶ against the offender as the respondent.
- (2) If a domestic violence order is already in force, the court—
 - (a) must consider the order and whether, in the circumstances, the order needs to be varied, including, for example, by varying the date the order ends; and
 - (b) may vary the order if the court considers the order needs to be varied.
- (3) This section applies whether or not the court makes another order in respect of the offender.

31 Court may inform other entities about matters of concern

- (1) This section applies if—
 - (a) a court makes a domestic violence order; and
 - (b) the court considers there was domestic violence or associated domestic violence involving an adult with impaired capacity; and
 - (c) the court considers that because of the circumstances involving, or the nature of, the domestic violence or associated domestic violence the adult guardian should be informed about the violence.
- (2) The court may inform the adult guardian, in writing, about the circumstances involving, or the nature of, the domestic violence or associated domestic violence.

¹⁶ Section 20 (Power of court to make order to protect person with a domestic relationship against domestic violence)

33 Court may make domestic violence order by consent

- (1) A court may make a domestic violence order in a form agreed to by, or on behalf of, the aggrieved and the respondent.
- (2) The order may only include matters that may be dealt with under this Act.
- (3) This section is subject to section 60.¹⁷

34 Start of domestic violence orders

A domestic violence order takes effect—

- (a) on the day it is made; or
- (b) if it is made while an existing domestic violence order against the respondent for the benefit of the same aggrieved is in force—at the end of the existing order.

34A Duration of protection orders

- (1) Subject to subsection (2), a court may order that a protection order continues for a period no longer than 2 years.
- (2) If the court is satisfied that there are special reasons for doing so, the court may order that a protection order continues for a period longer than 2 years.
- (3) A protection order continues in force for the period ordered by the court and stated in the order unless it is revoked at an earlier time or the period of the order is varied.

34B Duration of temporary protection orders

- (1) A temporary protection order continues in force until the first of the following happens—
 - (a) the order is returnable before a court unless the court extends the order;
 - (b) the order is revoked by the court.

¹⁷ Section 60 (Police officer or authorised person may represent aggrieved)

- (2) Subsection (3) applies if—
 - (a) a temporary protection order is made and has not been revoked by a court; and
 - (b) a court makes a relevant protection order relating to the temporary protection order on the day the temporary protection order is returnable before the court.
- (3) If the respondent is not before the court when the court makes the relevant protection order, despite subsection (1)(a), the court may order that the temporary protection order continues in force until the respondent is served with the relevant protection order.
- (4) The temporary protection order continued in force under subsection (3) is binding on the respondent even though it is not served on the respondent.
- (5) To remove doubt, it is declared that a court may find the respondent contravened—
 - (a) the temporary protection order continued in force under subsection (3); and
 - (b) the relevant protection order relating to the temporary protection order to the extent the respondent contravened a condition of the protection order about which a police officer told the respondent.
- (6) In this section—

relevant protection order, relating to a temporary protection order, means the protection order made by a court on an application for a protection order, being the application that allowed a court to make the temporary protection order.

35 Variation of domestic violence order

- (1) A court may vary a domestic violence order, including—
 - (a) the conditions imposed by the domestic violence order under section 25 or 26; or
 - (b) the period for which the domestic violence order continues in force.

- (2) The application for a variation must be made while the domestic violence order is in force.
- (3) The court may vary a domestic violence order—
 - (a) on an application to vary it; or
 - (b) on an application to revoke it; or
 - (c) on its own initiative under section 30; or
 - (d) when dealing with a contravention of the order.
- (4) Before a court varies a domestic violence order, it must consider—
 - (a) the grounds set out in the application for the protection order; and
 - (b) the findings of the court that made the domestic violence order.

36 Revocation of orders

- (1) A court may revoke a domestic violence order if an application for revocation is made to the court under section 51.¹⁸
- (2) In considering the application, the court must have regard to—
 - (a) any expressed wishes of the aggrieved; and
 - (b) any current contact between the aggrieved and respondent; and
 - (c) whether any pressure has been applied, or threat has been made, to the aggrieved by the respondent or someone else for the respondent; and
 - (d) any other relevant matter.
- (3) The court may only revoke the order if the court considers the safety of the aggrieved or a named person would not be compromised by the revocation.

18 Section 51 (Application for revocation or variation)

- (4) If the court refuses to revoke the order, the court may vary the order in a way it considers does not compromise the safety of the aggrieved and a named person.
- (5) A revocation or variation under this section takes effect on the day it is made.

37 Commissioner must be given notices of applications to vary or revoke

A court must not make an order under section 35 or 36 unless it is satisfied that the commissioner has been given a copy of the application.

38 Conferral of jurisdiction

- (1) Jurisdiction is conferred on—
 - (a) every Magistrates Court and magistrate to hear and determine all applications made to it or the magistrate under this Act; and
 - (b) every other court before which a person pleads guilty to, or is found guilty of, an offence that involves domestic violence.
- (2) To remove doubt, it is declared that—
 - (a) for proceedings under this Act before a Magistrates Court or magistrate—the provisions of the *Justices Act 1886* apply to the proceedings unless the application of that Act is inconsistent with this Act; and
 - (b) for proceedings under this Act in the Childrens Court constituted by a Childrens Court magistrate—
 - (i) the provisions of the *Justices Act 1886* apply to the proceedings unless the application of that Act is inconsistent with this Act or the *Childrens Court Act 1992*; and
 - (ii) the provisions of the *Childrens Court Act 1992* apply to the proceedings unless the application of that Act is inconsistent with this Act.

- (3) Subsection (4) applies if—
 - (a) an application for a protection order, or variation of a protection order, is made to a Magistrates Court; and
 - (b) an application is made under section 62A¹⁹ by the aggrieved or respondent in relation to a tenancy application.
- (4) If the Magistrates Court considers it appropriate, it may exercise the powers and make orders that a small claims tribunal may exercise or make under—
 - (a) the *Small Claims Tribunals Act 1973* for a tenancy application; or
 - (b) the *Residential Tenancies Act 1994* for a tenancy application.
- (5) An order of the Magistrates Court about the tenancy application is taken to have been made under the *Small Claims Tribunals Act 1973* for the *Residential Tenancies Act 1994*.

39 Court may summons person to attend

- (1) A justice may, by notice given to a person, summons the person to attend the hearing of an application for a protection order at a time and place specified in the summons—
 - (a) to give evidence; and
 - (b) to produce any record in the person's possession and specified in the notice.
- (2) A person served with a summons to attend as a witness must not fail, without reasonable excuse—
 - (a) to attend as required by the summons; or
 - (b) to attend from time to time in the course of the hearing as required by the court; or

19 Section 62A (Procedural provisions for tenancy application)

- (c) to produce any record that the person was required to produce by the summons served on the person.

Maximum penalty—10 penalty units.

- (3) A person attending as a witness at a hearing must not fail—
 - (a) to be sworn or to make an affirmation; or
 - (b) without reasonable excuse, to answer a question that the person is required to answer by the court.

Maximum penalty—10 penalty units.

- (4) If a person served with a summons fails to attend as mentioned in subsection (2)(a) or (b), the court may order the issue of a warrant for the person to be taken into custody by a police officer and to be brought before the court.
- (5) Any justice may issue a warrant for the purposes of subsection (4).
- (6) Subsection (4) does not limit any other powers of the court.

39AA Court may set aside a summons

- (1) A court may set aside a summons issued under section 39 if the court is satisfied there are sufficient grounds for setting the summons aside, including—
 - (a) want of relevance; or
 - (b) privilege; or
 - (c) oppressiveness.
- (2) The court may act on the application of the person served with the summons or on its own initiative.
- (3) If a court sets aside a summons under subsection (1), the court may make an order for costs for the benefit of the person on whom the summons was served.

Division 2 Powers of court and magistrates to make temporary protection orders

39A Act of domestic violence necessary before particular temporary protection orders made

- (1) A court may make a temporary protection order against a respondent under this division, other than section 39D, only if it appears to the court, on application for a protection order, that an act of domestic violence has been committed against the aggrieved by the respondent.
- (2) A temporary protection order under this division need only be supported by evidence the court considers sufficient and appropriate having regard to the temporary nature of the order.

39B Form of temporary protection orders

- (1) A court may make a temporary protection order against a respondent in the same terms as a protection order.
- (2) However, the temporary protection order must state the time and place at which the order is returnable before the court.
- (3) A temporary protection order is a summons to the respondent directing the respondent to appear at the time and place at which the order is returnable.

39C Temporary protection order because of adjournment

A court may make a temporary protection order if the court adjourns—

- (a) the hearing of an application for the protection order, whether the court is hearing the application under section 48 or 49;²⁰ or
- (b) the matter of making a protection order on its own initiative as mentioned in section 53(1)(b).²¹

20 Section 48 (Appearance of respondent) or 49 (Non-appearance of respondent)

21 Section 53 (Procedure if person found guilty etc. of related offence)

39D Court may make temporary protection order without proof of service in certain circumstances

A court may make a temporary protection order, or vary a domestic violence order, if—

- (a) an application is made for a protection order or for a variation of a domestic violence order; and
- (b) the court does not begin to hear, or has decided not to begin to hear, the application because the applicant has not satisfied the court that the respondent has been given a document mentioned in section 49(1)(a), (b) or (c), whether or not the respondent is present in court; and
- (c) it appears to the court—
 - (i) the aggrieved or a named person is in danger of personal injury; or
 - (ii) property of the aggrieved or a named person is in danger of substantial damage.

39E Temporary protection order when cross application made

- (1) This section applies if—
 - (a) an application (the *original application*) for a domestic violence order has been made and is before the court; and
 - (b) the person named in the original application as the respondent applies for a domestic violence order (the *cross application*) and the aggrieved named in the original application is named in the cross application as the respondent; and
 - (c) the cross application is made orally, or is made in writing but not served on the aggrieved named in the original application at least 1 business day before the day of the hearing of the original application.
- (2) If the cross application is made as mentioned in subsection (1)(c), the court must adjourn the hearing of the cross application and set a date by which the written cross application is to be served on the aggrieved named in the original application, unless that aggrieved consents to the

court hearing the cross application before hearing the original application or together with the original application.

- (3) The court may make a temporary protection order in relation to the cross application if—
- (a) the aggrieved named in the original application does not consent as mentioned in subsection (2); and
 - (b) at least 1 of the following persons is in danger of personal injury, or the property of at least 1 of the following persons is in danger of substantial damage—
 - (i) the person for whose benefit the domestic violence order, based on the cross application, is sought;
 - (ii) another person who is sought to be protected by the domestic violence order based on the cross application.

39F Court may make temporary protection order when considering variation of domestic violence order

- (1) A court may make a temporary protection order if—
- (a) it is hearing variation proceedings about a protection order or temporary protection order and adjourns the hearing; and
 - (b) it appears to the court the temporary protection order is necessary to protect the aggrieved or a named person pending its decision in the variation proceedings.
- (2) In this section—
- variation proceedings* means proceedings—
- (a) for an application for variation of a protection order or temporary protection order; or
 - (b) for varying a protection order arising because the court is acting on its own initiative under section 30²² or when dealing with a contravention of the order.

22 Section 30 (Power of court if person pleads or is found guilty of related offences)

39G Temporary protection order for application under s 54

- (1) A magistrate to whom application is made under section 54²³ may make a temporary protection order against the respondent if it appears to the magistrate that because of distance, time or other circumstance of the case, it is not practicable to apply to a court for a protection order and for it to be heard and decided quickly.
- (2) The temporary protection order under subsection (1) may be in the same terms as if the magistrate were then and there constituting a Magistrates Court.

39H Court may make temporary protection order relating to respondent being released from custody on conditions under s 71

A court may make a temporary protection order if—

- (a) a person is released from custody on conditions as mentioned in section 71(4);²⁴ and
- (b) the police officer who must, under section 72(2)(b),²⁵ make an application for a protection order against the person asks the court for a temporary protection order.

Division 3 Registration of interstate orders**40 Application to register interstate order in Queensland**

- (1) A person may apply to the clerk of a Magistrates Court for the registration of an interstate order.
- (2) The application is to be made on the appropriate approved form.

23 Section 54 (Applications by telephone, facsimile etc.)

24 Section 71 (Police officer must apply for protection order etc.)

25 Section 72 (Duty of police officers to apply for protection order in certain circumstances)

41 Clerk to obtain copies of order and proof of service

- (1) The clerk must be satisfied that—
 - (a) the interstate order is in force by obtaining a certified copy of it; and
 - (b) the order was served, or was taken to be served, on the person against whom it was made.
- (2) The clerk must try to obtain the copy and proof quickly, for example, if a facsimile machine is available, the clerk must try to obtain them by facsimile.

42 Registration of interstate order

- (1) This section applies if the clerk is satisfied about the matters mentioned in section 41(1).
- (2) Subject to subsection (3), the clerk must register the interstate order.
- (3) If—
 - (a) the clerk believes it necessary to do so; or
 - (b) the applicant asks the clerk to do so;the clerk must refer the interstate order to the Magistrates Court for adaptation or modification.
- (4) The court may vary the interstate order for the purposes of its registration by adapting or modifying it in a way that the court considers necessary or desirable for its effective operation in the State.
- (5) The clerk must register the interstate order as varied.
- (6) A registered interstate order is registered for the period during which the order, as originally made, is in force.
- (7) A regulation may prescribe the way that the clerk is to register an interstate order.

43 Duty of clerk after order is registered

- (1) No later than 2 business days after the registration of an interstate order, the clerk must give the applicant and the

commissioner a certificate of the registration with a copy of the registered interstate order attached.

- (2) Notice of the registration of an interstate order is not to be given to the person against whom the order was made unless the aggrieved has consented to the notice.
- (3) The consent must be given in writing.
- (4) The clerk may not ask the applicant for any fee, or reimbursement for any expenses incurred, under this division.

44 Effect of registration of interstate order

A registered interstate order—

- (a) has the same effect as a protection order made under division 1;²⁶ and
- (b) may be enforced against a person as if it were a protection order that had been made under division 1 and personally served on the person.

45 Variation etc. of registered interstate order

- (1) An application may be made to a court for—
 - (a) a variation of a registered interstate order as it applies in Queensland; or
 - (b) a variation of the period during which a registered interstate order has effect in its operation in Queensland; or
 - (c) the cancellation of the registration of an interstate order.
- (2) Any of the following persons may apply to a court for an order under subsection (1)—
 - (a) the person who applied for the registration of the interstate order;
 - (b) a person for whose benefit the interstate order has been made;

²⁶ Division 1 (Powers of courts to make domestic violence orders)

- (c) a person against whom the interstate order has been made;
 - (d) an authorised person;
 - (e) a police officer.
- (3) The court may determine the application—
- (a) by varying it as it applies in Queensland; or
 - (b) by varying the period during which it has effect in its operation in Queensland; or
 - (c) by cancelling the registration.

46 Applicant need not notify person against whom interstate order was made

- (1) An applicant under this division need not give notice of—
- (a) an application for registration of an interstate order; or
 - (b) an application for variation or revocation of a registered interstate order;
- to the person against whom the order was originally made.
- (2) When an application for which notice has not been given comes before a court, the court—
- (a) may hear and determine the application in the absence of the person against whom the interstate order was originally made; and
 - (b) must not refuse to hear and determine the application merely because the person against whom the interstate order was originally made has not been given notice of the application.
- (3) A registered interstate order that is—
- (a) adapted or modified under section 42(4); or
 - (b) varied under section 45;
- is enforceable in Queensland without notice of the adaptation, modification or variation being given to the person against whom the interstate order was originally made.

- (4) This section does not prevent an applicant giving notice of the application, or an order made because of the application, to the person against whom the interstate order was originally made.

Division 4 Relevant orders under Family Law Act 1975 (Cwlth) and Family Court Act 1997 (WA)

46A Definitions for div 4

In this division—

family contact order means—

- (a) a division 11 contact order within the meaning of the *Family Law Act 1975* (Cwlth), part VII; or
- (b) a division 10 contact order within the meaning of the *Family Court Act 1997* (WA), section 174.²⁷

relevant family contact order means a family contact order that relates to access—

- (a) between the aggrieved and a named person; or
- (b) between the respondent and either a child of the respondent or a child of the aggrieved.

46B Disclosure of existence of relevant family protection order

- (1) A person who applies to a court for a domestic violence order, or for the revocation or variation of a domestic violence order, and is aware of either of the following must inform the court about the order or application—

²⁷ The *Family Law Act 1975* (Cwlth), part VII is about children. A division 11 contact order is made under division 11 and the purpose of that division is to deal with contact orders made under the division and orders made under certain State and Territory laws about family violence. The Western Australian legislation is similar to the Commonwealth Act.

- (a) a relevant family contact order;
 - (b) a pending application for a relevant family contact order.
- (2) However, the application is not invalid merely because the person does not inform the court about the order or application.

46C Court to consider relevant family contact order etc.

- (1) Before deciding about making, revoking or varying a domestic violence order, the court must—
- (a) consider whether contact between the aggrieved, or between the respondent, and any child of either of those persons is relevant to making, revoking or varying the order; and
 - (b) have regard to any relevant family contact order, or pending application for a relevant family contact order, of which the court has been informed.
- (2) However, a domestic violence order, or a revocation or variation of an order, is not invalid merely because the court does not comply with subsection (1).

Part 4 Procedural provisions

Division 1 Procedures to be followed by court on applications for protection orders

47 Service of application on respondent may be accompanied by summons

- (1) On application made for a protection order, a clerk of the court or a justice may, subject to subsections (2) and (3), issue a summons directing the respondent to appear at the time and place set out in the summons with a view to the respondent being heard on the matter.

- (2) The clerk need not issue a summons under subsection (1) if the applicant asks the clerk to arrange for the application to be heard by the court for the purpose of the court making a temporary protection order.
- (3) If the court refuses to make the temporary protection order and the applicant does not withdraw the application, the clerk must issue the summons.
- (4) The clerk of the court must give 2 copies of the application and any summons to the police officer in charge of the police division in which the respondent ordinarily resides or was last known to reside.
- (5) The officer must cause the application and any summons to be served on the respondent.
- (6) If the applicant is not the aggrieved, the applicant must serve the aggrieved with a copy of the application and notice of the time and place that the application is to be heard.
- (7) A justice may issue a summons under subsection (1) only if the justice knows that a Magistrates Court is sitting at the time and place that the justice specifies in the summons for when it is returnable.

48 Appearance of respondent

- (1) This section applies if a respondent appears before the court that is to hear and determine the matter of an application for a protection order.
- (2) The court—
 - (a) may hear and determine the application; or
 - (b) may adjourn the matter of the application (whether or not it makes a temporary protection order); or
 - (c) subject to subsection (3), may dismiss the application.
- (3) The court may not dismiss an application unless—
 - (a) the applicant has not appeared and, if the applicant was a police officer, no other police officer or Crown prosecutor requests an adjournment; and
 - (b) no other person eligible to apply appears.

- (4) The dismissal of the application does not affect the right of the applicant to make a further application against the respondent.
- (5) The appearance of the respondent is evidence that the respondent has been served.

49 Non-appearance of respondent

- (1) This section applies if a respondent fails to appear before the court that is to hear and determine the matter of the application for a protection order and the court is satisfied that the respondent has been given the documents mentioned in any of the following paragraphs—
 - (a) a copy of the application and any summons issued under section 47;
 - (b) a copy of the application and the temporary protection order made because of the application;
 - (c) a copy of the application and a copy of the conditions on which the person was released from the watch-house under section 71²⁸ that set out the time and place for the hearing of the application.
- (2) The court may—
 - (a) proceed to hear and determine the matter of the application in the absence of the respondent; or
 - (b) adjourn the matter of the application (whether or not it makes a temporary protection order); or
 - (c) subject to section 59(1),²⁹ order the issue of a warrant for the respondent to be taken into custody by a police officer and brought before the court.
- (3) Any justice may issue a warrant for the purposes of subsection (2)(c).

28 Section 71 (Police officer must apply for protection order etc.)

29 Section 59 (Provisions concerning warrants)

50 Court to ensure respondents and aggrieveds understand domestic violence orders

- (1) If a person is before a court that is about to make a domestic violence order for which the person is the respondent, the court must ensure the respondent understands the following—
 - (a) the purpose, terms and effect of the proposed order, including, for example, that—
 - (i) the order may be enforceable in other States, Territories and New Zealand without further notice to the respondent; and
 - (ii) if the respondent has a weapons licence, or is a body's representative as mentioned in the Weapons Act, section 10(3),³⁰ the licence or endorsement as the body's representative is dealt with by the Weapons Act, section 27A or 28A;³¹
 - (b) what may follow if the respondent does not comply with the terms of the proposed order;
 - (c) that the respondent may apply for revocation or variation of the order.
- (2) If a person is before a court that is about to make a domestic violence order for which the person is the aggrieved, the court must ensure the aggrieved understands the following—
 - (a) the purpose, terms and effect of the proposed order, including, for example, that the order may be enforceable in other States, Territories and New Zealand;
 - (b) that the aggrieved may apply for revocation or variation of the order.
- (3) The process that a court adopts to ensure a respondent understands the matters mentioned in subsection (1), or an aggrieved understands the matters mentioned in

30 Weapons Act, section 10 (Limitations on issue of licence)

31 Weapons Act, section 27A (Suspension of licence and related matters after temporary protection order is made) or 28A (Revocation or suspension of licence and related matters after protection order is made)

subsection (2), may include using services of, or help from, other people to the extent the court considers appropriate.

Examples of services or help the court may consider appropriate—

- 1 The court may arrange for the clerk or a public service employee at the court, to explain the order to an aggrieved or respondent.
 - 2 A local interpreter or the telephone interpreter service may be used to explain the order to an aggrieved or respondent.
 - 3 Explanatory notes prepared for aggrieveds or respondents, including non-English speakers, may be given to an aggrieved or respondent.
 - 4 The court may arrange with a community government under the *Local Government (Community Government Areas) Act 2004*, Torres Strait Islander local government, community justice group or group of elders for someone to explain the order to an aggrieved or respondent.
- (4) Failure to comply with this section does not affect the validity of the domestic violence order.

51 Application for revocation or variation

- (1) This section applies to an application for—
 - (a) revocation of a domestic violence order; or
 - (b) variation of a domestic violence order (including conditions imposed by the order).
- (2) The application may be made to a court by—
 - (a) the aggrieved; or
 - (b) the respondent; or
 - (c) an authorised person; or
 - (d) a police officer who reasonably believes that it is for the benefit of the aggrieved and there is sufficient reason for taking the action.
- (3) The application must be made on the approved form.
- (4) Where an application under subsection (1) is made, the person who makes the application shall cause a copy of the application and a notification of the time and place at which the application is to be heard—

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- (a) to be served on each person, being the aggrieved or the respondent, other than the person who makes the application; and
 - (b) to be given to the commissioner.
- (4A) The clerk must cause service to be effected by a police officer on the respondent, as required under subsection (4)(a), if the application—
 - (a) is made by an aggrieved or named person; and
 - (b) seeks a variation of the domestic violence order to extend the protection given to the aggrieved or named person, to extend the period or scope of the order or to add a condition to the order.
- (5) If it appears to a court to which application is made under subsection (1) that it is not reasonably practicable to effect service on a particular person, the court may order that the copy of the application and the notification be served on that person by such means of substituted service as the court thinks fit.
- (6) Where a person on whom is served a copy of the application and a notification required by subsection (4) to be served (including by way of substituted service ordered under subsection (5)) fails to appear at the time and place at which the application is to be heard, the court, upon proof of such service—
 - (a) may hear and determine the matter of the application in the absence of that person; or
 - (b) may adjourn the matter of the application; or
 - (c) where that person is the respondent within the meaning of this Act, may, subject to section 59(1), order the issue of a warrant for the respondent to be taken into custody by a police officer and to be brought before the court.
- (7) Any justice may issue a warrant for the purpose of subsection (6)(c).

52 Duty of clerk of court to give certain notices to commissioner

- (1) The clerk of the court in which any of the following applications are made, or orders are granted, must give notice of the application or order to the commissioner—
 - (a) an application for a protection order;
 - (b) an application for a variation or revocation of such an order;
 - (c) an application for—
 - (i) registration of an interstate order; or
 - (ii) variation or revocation of a registered interstate order;
 - (d) an order made because of an application mentioned in paragraph (a), (b) or (c), including a temporary order.
- (2) The clerk must give the notice before the end of 1 business day after the day the application is made or order is granted.

53 Procedure if person found guilty etc. of related offence

- (1) A court exercising jurisdiction under section 30³²—
 - (a) may make the protection order before the offender is discharged by the court or otherwise leaves the court subject to the offender being given a sufficient opportunity to present evidence and to prepare and present submissions about the making of a protection order; or
 - (b) may adjourn the matter of making the protection order to a later fixed time and day and may, in the meantime, make a temporary protection order under section 39C(b).³³
- (2) On the later day to which the matter has been adjourned, the court may receive evidence that is necessary or desirable to assist it on the matter.

32 Section 30 (Power of court if person pleads or is found guilty of related offences)

33 Section 39C (Temporary protection order because of adjournment)

- (3) If the offender fails to appear at the later time and day to which the matter is adjourned, the court may—
 - (a) determine to make a protection order against the offender in the offender's absence; or
 - (b) adjourn the matter further; or
 - (c) order, subject to section 59(1), the issue of a warrant for the offender to be taken into custody by a police officer and brought before the court.
- (4) Any justice may issue a warrant for the purpose of subsection (3)(c).

Division 2 Police may apply for temporary protection order in certain circumstances

54 Applications by telephone, facsimile etc.

- (1) A police officer may, by way of telephone, facsimile, telex, radio or other similar facility, apply under this section for a temporary protection order to a magistrate if—
 - (a) the police officer may, under section 67(2),³⁴ make an application for a protection order, and believes that because of distance, time or other circumstances, it is not practicable for an application made to a court, or to be made to a court, to be heard and determined quickly; or
 - (b) the police officer may, under section 71(2),³⁵ make an application under this section; or
 - (c) the police officer must, under section 72(2),³⁶ make an application under this section.

34 Section 67 (Police action relating to domestic violence)

35 Section 71 (Police officer must apply for protection order etc.)

36 Section 72 (Duty of police officers to apply for protection order in certain circumstances)

- (3) Before making the application, the police officer (if an application for a protection order has not already been made to a court must prepare a form of application for a protection order under this section.
- (4) The police officer must inform the magistrate of the particulars of the application.
- (5) A magistrate with whom contact is made by a person claiming to be a police officer applying for a protection order under this section is entitled to presume that—
 - (a) the person is who and what the person claims to be; and
 - (b) the provisions of this section have been complied with.
- (6) The form of application for a protection order completed under subsection (3) is to be filed in the office of the clerk of the court—
 - (a) at the place where the order sought, when made, is to be returned; or
 - (b) if such order is not made, would be returned were it made.
- (7) On the filing of the form of application, an application for a protection order is taken to be made to the court at that place.

55 Duty of magistrate upon application under s 54

A magistrate to whom an application for a temporary protection order is made under section 54 shall reduce the particulars of the application, as conveyed by the applicant, to writing in or to the effect of the approved form, and—

- (a) if the magistrate makes the temporary protection order, shall—
 - (i) complete and sign the order; and
 - (ii) record on the order the factors that cause the magistrate to be satisfied that a protection order

could properly be made by a court under section 20;³⁷ and

- (iii) inform the applicant, by telephone, facsimile, telex, radio, or other similar facility, of the terms of the order and the time and place at which it is to be returned before a court; and
 - (iv) as soon as is practicable, cause the written particulars of the application as conveyed by the applicant and the order referred to in subparagraph (i) to be given to the clerk of the court at the place where the order is to be returned; and
 - (v) cause a copy of the order referred to in subparagraph (i) to be given to the commissioner; or
- (b) if the magistrate refuses the temporary protection order, shall—
- (i) reduce to writing the reasons for the refusal; and
 - (ii) as soon as is practicable, cause the written particulars of the application as conveyed by the applicant and the written reasons for the refusal to be given to the clerk of the court at the place where there is filed an application for a protection order against the respondent.

56 Duty of police officer for s 54 order

- (1) A police officer who obtains a temporary protection order under section 54 shall prepare 3 copies of the order, in or to the effect of the approved form, in the terms conveyed to the officer by the magistrate who made the order and shall specify therein—
- (a) the name of the magistrate who made the order; and
 - (b) the date and time the order was made; and

³⁷ Section 20 (Power of court to make order to protect person with a domestic relationship against domestic violence)

- (c) the place and time at which the order is to be returned before a court; and
 - (d) such other information as is prescribed.
- (2) Of the copies prepared as required by subsection (1), 1 shall be served on the respondent together with a copy of the application in connection with which the temporary protection order was made (if such copy has not already been so served) and 1 shall be given to the aggrieved, in either case, as soon as is practicable.

57 Return date of temporary protection order

- (1) A temporary protection order made because of an application under section 54 must specify the time and place at which the order is returnable before a court.
- (2) If—
- (a) the court before which the order is returnable is sitting within 30 days after the day on which the temporary protection order is made; and
 - (b) a suitable hearing day is available within the period;
- the day that the order is returnable must be a day within the period.
- (3) If—
- (a) the court before which the order is returnable is not sitting within 30 days after the day on which the temporary protection order is made; or
 - (b) there is not a suitable hearing day available within the period;
- the day that the order is returnable must be the first suitable hearing day available after the end of the period.

Division 3 Other procedural provisions

58 Service of court orders

- (1) This section applies if a court—
 - (a) has made a domestic violence order; or
 - (b) revokes a domestic violence order; or
 - (c) varies a domestic violence order (including the conditions imposed by it).
- (2) Subject to subsection (3), the clerk of the court must—
 - (a) cause—
 - (i) a copy of the order; and
 - (ii) in the case of a temporary protection order, a copy of the application for a protection order to which the temporary protection order relates (if a copy has not already been served);to be given to the respondent; and
 - (b) cause a copy of the order to be given to the aggrieved and each named person; and
 - (c) cause a copy of the order to be given to the commissioner.
- (3) Where an order referred to in subsection (1) is made in the absence of the respondent or the aggrieved or the clerk of the court has not caused a copy of the order to be served on the respondent or given to the aggrieved before the respondent or, as the case may be, aggrieved has departed the court precincts, the clerk shall—
 - (a) in the case where a copy is to be served on the respondent, cause 2 copies of the order and, in the case where a copy of the application is to be served on the respondent, 2 copies of the application to be given to the officer in charge of the police division in which the respondent was last known to the clerk to ordinarily reside; or
 - (b) in the case where a copy is to be given to the aggrieved, cause 1 copy of the order to be given to the officer in

charge of the police division in which the aggrieved was last known to the clerk to ordinarily reside.

- (4) The officer in charge of a police division who receives a copy or copies of an order or an application from the clerk of the court under subsection (3) must cause a copy of the order or, as the case requires, of the application to be served on the respondent or, as the case may be, given to the aggrieved as soon as is practicable.

59 Provisions concerning warrants

- (1) A court shall not order the issue of a warrant under section 49(2)(c), 51(6)(c) or 53(3)(c) as a matter of course, but only where, in the circumstances of the case, the court believes it appropriate that the respondent or, as the case may be, offender, be heard.
- (2) Where a person is taken into custody under a warrant issued under this Act the provisions of the *Bail Act 1980* are applicable in respect of the person as if the person had been apprehended on a charge of an offence.

60 Police officer or authorised person may represent aggrieved

- (1) A police officer or authorised person may appear, and act on behalf of, an aggrieved in a proceeding for any application under this Act, but must not agree to an order under section 33³⁸ without the specific approval of the aggrieved.
- (2) If an authorised person has made an application under this Act to a court and the court decides the authorised person is not able to assist it, the application is taken to have been made by the aggrieved.

61 Court may not award costs except if application malicious etc.

A court may not award costs on an application for—

38 Section 33 (Court may make domestic violence order by consent)

- (a) a protection order; or
- (b) a revocation or variation of a domestic violence order (including a variation of conditions imposed by the order);

unless the court dismisses the application as malicious, deliberately false, frivolous or vexatious.

62 Concurrent and other proceedings

- (1) Any application under this Act may be made, and a court or magistrate may, as authorised by this Act, dispose of the application notwithstanding that a person concerned in the application has been charged with an offence arising out of conduct on which the application is based.
- (2) Subsection (3) applies if the person against whom—
 - (a) a domestic violence order has been made; or
 - (b) a court has refused to make a domestic violence order; or
 - (d) proceedings are current in which a protection order is sought against the person;
 is charged with an offence mentioned in subsection (1).
- (2A) Also, subsection (3) applies if the person is charged with an offence mentioned in subsection (1) and the court has done either of the following relating to a domestic violence order naming the person as the respondent—
 - (a) revoked, or refused to revoke, the domestic violence order;
 - (b) varied, or refused to vary, the domestic violence order, including the conditions imposed by the order.
- (3) A reference to—
 - (a) the making, or refusal to make, the order, or a revocation or variation; or
 - (b) the existence of current proceedings mentioned in subsection (2)(d); or

- (c) the fact that evidence of a particular nature or content was given in—
- (i) the proceedings in which the order, revocation or variation was made or refused; or
 - (ii) the current proceedings;

is inadmissible in the trial of the person for an offence arising out of conduct on which the application for the order, revocation, or variation, or relevant to the current proceedings, is based.

- (4) To allay any doubt, it is declared that, subject to this section, an application, proceeding or order under this Act in relation to the conduct of the person does not affect any proceeding for an offence against the person arising out of the same conduct.
- (5) The person may be punished for the offence mentioned in subsection (4) despite any order made against him or her under this Act.

62A Procedural provisions for tenancy application

- (1) If there is an application for a protection order (a *protection application*), or an application relating to an existing protection order (also a *protection application*), a person may make an application under the *Residential Tenancies Act 1994*, section 150, 188 or 190,³⁹ to the Magistrates Court dealing with the protection application instead of a small claims tribunal.
- (2) Subsection (3) applies if an aggrieved or respondent makes a tenancy application to a small claims tribunal and a protection application has been made or is made under this Act to a Magistrates Court.
- (3) The court may, on application of either the aggrieved or respondent and if the court considers it appropriate, order the

³⁹ *Residential Tenancies Act 1994*, section 150 (Injury to spouse), 188 (Application by tenant's spouse for termination for damage or injury) or 190 (Application for interim order about damage or injury)

tenancy application be removed to the court despite the *Small Claims Tribunals Act 1973*, section 17.⁴⁰

- (4) If a tenancy application is dealt with by a Magistrates Court under this section, the procedures applicable to the tenancy application are the procedures under the *Small Claims Tribunals Act 1973*.
- (5) Subsection (4) is subject to the court giving directions, before, or at any time during, the hearing of the tenancy application, about the way in which the court may exercise the powers of a small claims tribunal for a tenancy application or the service of documents for the tenancy application.
- (6) An applicant for any of the following must give written notice to the lessor named in the tenancy application about the application and any adjournment of it—
 - (a) an application under the *Residential Tenancies Act 1994*, section 150, 188 or 190 that, under subsection (1), is made to a Magistrates Court dealing with a protection application, instead of a small claims tribunal;
 - (b) an application under subsection (3) to a Magistrates Court to order a tenancy application to a small claims tribunal to be removed to the court.

Part 5 Appeals

63 Appeals

- (1) A person who is aggrieved by an order of a Magistrates Court or the Childrens Court constituted by a Childrens Court magistrate, or a decision of a magistrate—
 - (a) to refuse an application for—
 - (i) a protection order; or

⁴⁰ *Small Claims Tribunals Act 1973*, section 17 (Exclusion of other jurisdictions)

- (ii) a revocation or variation of a domestic violence order (including a refusal to vary conditions imposed by the order); or
 - (b) to make a domestic violence order; or
 - (c) to revoke or vary a domestic violence order (including a variation of the conditions imposed by the order);
- may appeal to the District Court at or nearest to the place where the order or decision was made.
- (2) A person who is aggrieved by a decision of the Childrens Court constituted by a District Court judge, the District Court or the Supreme Court under section 30⁴¹ may appeal the decision to the Court of Appeal.
 - (3) Any such appeal shall be instituted within 28 days after the day on which the order or decision is made or, where the order was made in the absence of the person who is thereby aggrieved, after the day on which a copy of the order is served on or given to that person.

64 Institution of appeal

- (1) An appeal under section 63(1) must be instituted by—
 - (a) lodging a notice of appeal in writing with the registrar of the District Court at the place where the appeal must be brought; and
 - (b) serving a copy of the notice of appeal on each person, being the aggrieved or the respondent, other than the appellant and on the clerk of the court at the place at which is filed the application upon or in connection with which the order or decision was made; and
 - (c) giving a copy of the notice of appeal to the commissioner.

⁴¹ Section 30 (Power of court if person pleads or is found guilty of related offences)

- (2) A notice of appeal—
 - (a) shall specify with particularity the grounds of appeal and the facts that are relied upon; and
 - (b) must be made on the approved form.
- (3) If it appears to a District Court judge to whom application is made that it is not reasonably practicable to effect service on a particular person, the judge may order that service on that person be effected by such means of substituted service as the judge thinks fit.

64A Commissioner has right to appear and be heard on appeal

The commissioner has a right to appear and be heard before the District Court on an appeal to the court under this part.

65 Nature of appeal

- (1) An appeal under section 63(1) is by way of rehearing on the record and under the rules of court applying to the District Court or, in so far as those rules can not be applied to such appeals, in accordance with directions given by a District Court judge.
- (2) An appeal against an order does not stay the operation of the order, but—
 - (a) if the order was a temporary protection order made by a magistrate—a Magistrates Court; or
 - (b) in any other case—the court that made the order;may stay the operation of the order, or a condition imposed by the order, until the appeal is dealt with.
- (3) Subsection (2) does not limit any other power to stay the operation of the order.

66 Decision on appeal

- (1) If the District Court allows an appeal—
 - (a) it may discharge or vary any order to which the appeal relates, as it considers appropriate; or

- (b) it may make such order or decision as it considers should have been made, and every such order or decision shall take effect on and from the day on which it is made.
- (2) The provisions of parts 4 and 7 apply in relation to an order or decision of the District Court as if it were an order or decision of a Magistrates Court.
- (3) A District Court judge may make such order as to costs of an appeal as the judge thinks proper.
- (4) Jurisdiction is hereby conferred on the District Court to hear and determine an appeal duly instituted to the court.
- (5) The decision of the District Court upon an appeal shall be final and conclusive.

Part 6 Police functions and powers

67 Police action relating to domestic violence

- (1) If a police officer reasonably suspects a person is an aggrieved, it is the duty of the officer to investigate or cause to be investigated the complaint, report, or circumstance on which the officer's reasonable suspicion is based, until the officer is satisfied the suspicion is unfounded.
- (2) If, after the investigation, the officer reasonably believes—
 - (a) the person is an aggrieved; and
 - (b) there is sufficient reason for the officer to take action;
the officer may—
 - (c) apply for a protection order to protect the aggrieved; and
 - (d) take other action that the officer is required or authorised to take by this Act.

69 Presence at domestic violence incident

- (1) A police officer who has reasonable grounds for suspecting that an act of domestic violence has been committed and—
 - (a) a person is in danger of personal injury by a respondent;
or
 - (b) a person's property is in danger of being damaged by a respondent;may take the respondent into custody using such force as is reasonable and necessary.
- (2) The respondent taken into custody may be held in custody until the earliest of the following happens—
 - (a) an application for a protection order naming the respondent is heard and decided under section 71(1);
 - (b) a temporary protection order is made under section 39G;⁴²
 - (c) an application for a protection order is completed, and arrangements are made with the watch-house manager, under section 71(3).
- (3) If the watch-house manager reasonably believes it is necessary for arrangements to be made to safeguard the aggrieved but the respondent may no longer be held under subsection (2)—
 - (a) the respondent may continue to be held in custody until the arrangements are completed; and
 - (b) the watch-house manager must record the following in the register kept under section 70—
 - (i) the reasons for the belief; and
 - (ii) the time at which the respondent could no longer be held under subsection (2); and
 - (iii) the time at which arrangements to safeguard the aggrieved were completed; and
 - (iv) the time at which the respondent was released from custody.

42 Section 39G (Temporary protection order for application under s 54)

- (4) A respondent may not be held under subsection (2) or (3) for more than 4 hours from when the respondent is first taken into custody under subsection (1).

70 Duty of police officer who has taken a person into custody under s 69

- (1) If a person is taken into custody under section 69(1), the police officer who took the person into custody must immediately deliver the person into the custody of a watch-house manager.
- (2) As soon as possible after the person arrives at the watch-house, the watch-house manager must enter the person's particulars, as required under a regulation, in the register kept by the watch-house manager for the purpose.
- (3) The police officer who took the person to the watch-house is responsible for confirming the particulars the watch-house manager has entered in the register.

71 Police officer must apply for protection order etc.

- (1) Subject to this section, if a police officer takes a person into custody under section 69(1), the officer must prepare an application for a protection order in which the person is named as the respondent and immediately bring the person before the court for the hearing and determination of the application if the person is still in custody.
- (2) If—
 - (a) it is not practicable to bring the person taken into custody before a court under subsection (1); and
 - (b) the police officer believes that it is necessary to obtain a temporary protection order under section 54 against the person before the person is released;the police officer may make an application under section 54.
- (3) If—
 - (a) it is not practicable to bring the person taken into custody before a court under subsection (1); and

- (b) the police officer is not satisfied that it is necessary to make an application under section 54 against the person before the person is released;

the police officer must—

- (c) complete the application prepared under subsection (1); and
 - (d) arrange with the watch-house manager for the person to be released from custody on such reasonable conditions as the watch-house manager considers appropriate, including prescribed conditions and a condition that sets out the details of the time and place of the hearing of the application.
- (4) When the person is released from custody, the watch-house manager must give the person a copy of the application for the protection order and the conditions on which the person is released.
- (5) Conditions on which a person is released from custody as mentioned in subsection (4) continue in force until—
- (a) a court determines whether or not to make a protection order against the person; or
 - (b) a court determines whether or not to make a temporary protection order against the person; or
 - (c) a magistrate determines whether or not to make a temporary protection order against the person on an application under section 54;

whichever happens first.

72 Duty of police officers to apply for protection order in certain circumstances

- (1) This section applies if—
- (a) a person is released from custody on conditions as mentioned in section 71(4); and
 - (b) it is unlikely that the matter of making a protection order or a temporary protection order against the person on or in connection with the application completed in relation to the person under section 71(3) will be determined

quickly and, in any case, within 7 days after the day on which the person is released.

- (2) The police officer who took the person into custody—
 - (a) if the police officer is satisfied it is necessary to apply for a temporary protection order by way of telephone, facsimile, telex, radio or other similar facility—must make an application under section 54⁴³ against the person; or
 - (b) otherwise—must make the application for the protection order and ask the court for a temporary protection order under section 39H.⁴⁴

75 Entry of registers

- (1) If there is a failure to enter the particulars of a person taken into custody under section 69 in the register, the failure is evidence that—
 - (a) the taking of the person into custody under that section was unlawful; and
 - (b) the custody of that person by a police officer and at the watch-house was also unlawful.
- (2) The register must be made available at all reasonable times to a person in respect of whose person action has been taken under authority conferred by section 69 or to another person authorised in writing by that person, to the extent that the register contains an entry or particulars relating to the person taken into custody.
- (3) A failure to make the register available as required under subsection (2) is evidence that there is no entry in the register of particulars relating to that person.
- (4) In this section—

register means the register mentioned in section 70(2).

43 Section 54 (Applications by telephone, facsimile etc.)

44 Section 39H (Court may make temporary protection order relating to respondent being released from custody on conditions under s 71)

78 Acting in aid of police powers

Where this Act confers authority on a police officer it is to be taken that this Act thereby confers a like authority and to a like extent on every other police officer who at the material time is acting in aid of that officer.

Part 7 Miscellaneous provisions**80 Breach of order or conditions**

- (1) A respondent must not contravene a protection order, temporary protection order or any other order made under this Act, including a condition imposed by the order, if—
- (a) the respondent was present in court when the order was made; or
 - (b) the respondent was served with a copy of the order; or
 - (c) a police officer told the respondent about the existence of the order.

Maximum penalty—

- (a) if—
 - (i) the respondent has previously been convicted on at least 2 different occasions of an offence against this subsection; and
 - (ii) at least 2 of those offences were committed not earlier than 3 years before the present offence was committed;2 years imprisonment; or
 - (b) otherwise—40 penalty units or 1 year's imprisonment.
- (2) However, a court may not find a respondent contravened an order merely because a police officer told the respondent about the existence of the order, unless the court is satisfied the police officer told the respondent about the condition that it is alleged the respondent contravened.

- (3) It is not a defence in proceedings for an offence involving an interstate order that a person did not know the interstate order—
 - (a) could be registered in Queensland; or
 - (b) was registered in Queensland.
- (4) A respondent who knowingly contravenes or fails to comply with the conditions on which the respondent is released from custody under section 71(3)(d), other than that the respondent appears before a court at a specified time and place, commits an offence against this Act and is liable to a penalty not exceeding 40 penalty units or 12 months imprisonment.

81 Courts to be closed

- (1) A court hearing an application under this Act is not to be open to the public.
- (2) However, the court may open the proceedings or part of the proceedings to the public or specific persons.
- (3) An aggrieved is entitled to have an adult with the aggrieved throughout the proceedings to provide support and other help.

81A Child not to be witness or swear affidavit

- (1) This section applies to a child, other than a child who is the aggrieved or respondent in the relevant proceedings under this Act.
- (2) Subject to an order of a court, a person must not—
 - (a) call a child as a witness in the proceedings; or
 - (b) ask a child to remain in a court during the proceedings;
or
 - (c) ask a child to swear an affidavit for the proceedings.
- (3) If a court orders a child may be called as a witness, the court must consider whether the child's evidence should be given by way of video or other electronic means and may make an order accordingly.

- (4) A sworn affidavit of a child is not admissible in the proceedings unless the court ordered the child may be asked to swear the affidavit before the affidavit was sworn.

82 Restriction on publication of proceedings

- (1) A person who publishes in a newspaper or periodical publication or who, by radio broadcast or television or otherwise by any means, disseminates to the public or to a section of the public—
- (a) (otherwise than by the display of a notice in the premises of a court) a notification of proceedings under or for the purposes of this Act, identified by reference to the names of the parties to the proceedings, that are to be dealt with by the court; or
 - (b) any account of proceedings under or for the purposes of this Act before a court or a magistrate, or of any part of those proceedings, that identifies or is likely to identify—
 - (i) the aggrieved, a named person, the respondent, or the applicant or appellant (in either case other than a police officer); or
 - (ii) a witness in the proceedings (other than a police officer); or
 - (iii) a child concerned in the proceedings;

commits an offence against this Act, unless the court before which the proceedings are, are to be, or were held, or the magistrate before whom the proceedings are or were taken, expressly permits the publication or the publication is permitted under a regulation.

Maximum penalty—40 penalty units or 1 year's imprisonment.

- (2) The provisions of subsection (1) do not apply in relation to—
- (a) the publishing of any publication bona fide intended primarily for use by members of any profession, being—

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- (i) a separate volume or part of a series of law reports; or
 - (ii) any other publication of a technical character; or
 - (b) the publication or other dissemination of an account of proceedings or of any part of proceedings—
 - (i) to a person who is a member of a profession, in connection with the practice by that person of that profession or in the course of any form of professional training in which that person is involved; or
 - (ii) to a person who is a student, in connection with that person's studies.
- (3) A person shall not be taken to have disseminated an account of any proceedings, or part of any proceedings, under or for the purposes of this Act to the public or a section of the public in respect of—
- (a) the communication by the person to persons concerned in proceedings in a court or to a police officer, of any transcript of evidence, or other document for use in connection with the proceedings; or
 - (b) the communication by the person of any transcript of evidence or other document to—
 - (i) a body responsible for disciplining members of any profession; or
 - (ii) persons concerned in disciplinary proceedings against a member of any profession, being proceedings before a body responsible for disciplining members of the profession.
- (4) In this section (other than in subsection (3)(b)(ii))—
- proceedings*** includes an application made to a magistrate under section 54.⁴⁵

45 Section 54 (Applications by telephone, facsimile etc.)

83 Prosecution of proceedings

- (1) A prosecution for an offence against this Act shall be taken in a summary manner under the *Justices Act 1886*.
- (2) A complaint for an offence against this Act shall be laid by a police officer, and, in the case of an offence defined in section 82, with the consent of the Minister first obtained.

84 Evidentiary provision

- (1) In any proceeding with the view to giving effect to any provision of this Act a document purporting to be—
 - (a) a copy of a protection order or a temporary protection order; or
 - (b) a copy of an order revoking a protection order or a temporary protection order, or varying the prohibitions and restrictions imposed by a protection order or a temporary protection order;

shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the making of the order and of the matters contained therein.

- (2) In any proceeding with the view to—
 - (a) making a protection order or a temporary protection order; or
 - (b) revoking a protection order or a temporary protection order; or
 - (c) varying the prohibitions and restrictions imposed by a protection order or a temporary protection order;

the court or magistrate may inform itself, himself or herself in such manner as it or the magistrate thinks fit and is not bound by the rules or practice as to evidence.

- (3) The court or magistrate need not have the personal evidence of the aggrieved before making a domestic violence order.

85 Service etc. of documents

- (1) A summons, order or other document to be served for the purposes of this Act may be served in the manner prescribed

by the *Justices Act 1886* with respect to service of summonses under that Act, and if it is so served, the provisions of that Act as to proof of service shall apply to proof of service for the purposes of this Act.

- (2) A document to be given to any person for the purposes of this Act shall be taken to have been duly given if—
 - (a) it is given to the person personally or to a person authorised by the person to whom it is directed to accept delivery of documents on the person's behalf, either generally or in a particular case; or
 - (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives it; or
 - (c) it is sent by post to the place of residence or business of the person to whom it is directed last known to the person who gives it.
- (3) A document shall be deemed to have been received by the person to whom it is directed—
 - (a) where it has been given in the manner referred to in subsection (2)(a), on the day it is so given; or
 - (b) where it has been given in the manner referred to in subsection (2)(b), on the day next following the day it is left at the place specified therein; or
 - (c) where it has been given in the manner referred to in subsection (2)(c), unless the contrary is proved, at the time it would be delivered in the ordinary course of post.
- (4) A summons or warrant issued to cause a person to appear or to be brought before a Magistrates Court in connection with proceedings under this Act may be served or executed on a Sunday as on any other day.

86 Exclusion of right to compensation—liability at law

- (1) No entitlement to compensation arises on account of the seizure, retention, forfeiture, destruction, sale or other disposal of any thing under this Act except that in the case of sale the owner of the thing, if the owner establishes claim, is

entitled to the proceeds of sale after the expenses of sale have been met.

- (2) A police officer shall incur no liability on account of any act done pursuant to this Act or any act done or omission made in good faith and without negligence for the purposes of this Act.

87 Approved forms

- (1) The chief executive may approve forms for this Act.
- (2) The clerk of each court is to ensure approved forms are available when asked for by a person.
- (3) The approved form of a temporary protection order must include information, in a general way, about section 34B.⁴⁶

89 Regulation-making power

- (1) The Governor in Council may make regulations for the purposes of this Act.
- (2) The regulations may prescribe, for example—
 - (a) the orders made under the law of another State or a Territory that are similar to a domestic violence order; and
 - (b) the form of the register to be kept by each clerk of a Magistrates Court for the registration of interstate orders; and
 - (c) conditions to be accepted by a person before the person is released from custody under this Act; and
 - (d) types of cases that may be published.

46 Section 34B (Duration of temporary protection orders)

Part 8 Transitional

Division 1 Transitional provisions for Domestic Violence (Family Protection) Amendment Act 1992

90 Interpretation

In this division—

commencement means the commencement of this division.⁴⁷

new Act means this Act after the commencement.

old Act means this Act before the commencement.

91 Instruments, documents, decisions and orders to continue with certain changes

- (1) This section applies to—
 - (a) an instrument or document prepared under the old Act or filed with, or issued by, a Magistrates Court, magistrate or justice; or
 - (b) an order of a Magistrates Court, or a decision of a magistrate, made before the commencement.
- (2) After the commencement, the instrument, document, decision or order continues to have the same effect under the new Act as it did under the old Act.
- (3) However, a reference in the instrument, document, decision or order to—
 - (a) an aggrieved person is taken to be a reference to an aggrieved spouse within the meaning of the new Act; and
 - (b) a respondent is taken to be a reference to a respondent spouse within the meaning of the new Act; and

⁴⁷ Division 1 commenced 28 May 1993 (see 1993 SL No. 151).

- (c) an interim protection order is taken to be a reference to a temporary protection order within the meaning of the new Act; and
- (d) prohibitions and restrictions is taken to be a reference to conditions imposed by the domestic violence order within the meaning of the new Act; and
- (e) firearm or other weapon is taken to be a reference to a weapon within the meaning of the new Act.

93 Higher courts may deal with pending matters

- (1) This section applies to a person if, before the commencement, the person came before—
 - (a) the District Court (other than under part 4 of the old Act); or
 - (b) the Supreme Court;for an offence that involved domestic violence under the old Act and the proceeding was pending at the time of the commencement.
- (2) The court may, after the commencement, exercise its powers under section 30 of the new Act even though it could not have exercised the powers when the person first came before it.

94 Standard conditions not part of orders under old Act

- (1) To allay any doubt, but subject to subsection (2), sections 22 and 23 of the new Act do not apply to a protection order or interim protection order made under the old Act.
- (2) If a protection order or interim protection order under the old Act is varied after the commencement, the court must exercise its powers under sections 22, 23 or 28 in relation to the domestic violence order.

95 Disposal of weapons seized under old Act

- (1) This section applies to a weapon seized under section 34 of the old Act that has not been returned to the owner, or forfeited to the Crown, before the commencement.

- (2) After the commencement, the weapon is to be dealt with under section 76 of the new Act as if it had been seized under the new Act.
- (3) For the purposes of dealing with the weapon under section 76(3) of the new Act, a reference in that subsection to—
 - (a) a protection order is to include a protection order under the old Act; and
 - (b) a temporary protection order is to include an interim protection order under the old Act; and
 - (c) a condition is to include prohibitions and restrictions under the old Act.

Division 2 Transitional provisions for Domestic Violence (Family Protection) Amendment Act 1999

96 Temporary protection orders to continue to have effect

- (1) This section applies to a temporary protection order made under section 31 or 32 before the commencement of this section that is in force immediately before the commencement.⁴⁸
- (2) Subject to subsection (3), the temporary protection order is taken to be made under part 3, division 2.⁴⁹
- (3) Any express conditions of the temporary protection order continue to have effect.

48 Section 96 commenced 12 May 2000 (see 2000 SL No. 85).

49 Part 3, division 2 (Powers of court and magistrates to make temporary protection orders)

Division 3 Transitional provisions for Domestic Violence Legislation Amendment Act 2002

97 Definitions for div 3

In this division—

commencement means the commencement of this section.⁵⁰

new Act means this Act as in force immediately after the commencement.

old Act means this Act as in force before the commencement.

98 New Act to the extent it relates to intimate personal, family or informal care relationships does not apply to domestic violence etc. committed only before the commencement

- (1) This section applies to an application for a protection order that states the respondent committed domestic violence or associated domestic violence before the commencement.
- (2) A court may only make a domestic violence order against the respondent if the court is satisfied—
 - (a) the respondent was, at the time of the violence, a person who is or was a spouse of the aggrieved named in the application; or
 - (b) the respondent committed domestic violence or associated domestic violence after the commencement.

99 Revocations and suspensions of weapons licence before commencement and retention of weapons for earning a livelihood

- (1) If, before the commencement, a respondent's weapons licence is revoked or suspended or a respondent's name is removed from a weapons licence, under section 23 of the old Act—

⁵⁰ Section 97 commenced on 10 March 2003 (see 2003 SL No. 17).

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- (a) the revocation, suspension or removal continues to have effect as if the *Domestic Violence Legislation Amendment Act 2002* had not been passed; and
 - (b) the old Act continues to apply to the revocation, suspension or removal.
- (2) If, before the commencement, the Weapons Act applies to a respondent because of an order under section 23(6) of the old Act—
 - (a) the Weapons Act continues to apply to a respondent as if the *Domestic Violence Legislation Amendment Act 2002* had not been passed; and
 - (b) the old Act continues to apply to the order.
- (3) If, before the commencement, the court made an order, or purportedly made an order, under section 28(2) of the old Act (an **order**) and allowed a respondent's licence under the Weapons Act to continue—
 - (a) the order is taken to have been validly made; and
 - (b) for an order that has not ended before the commencement—
 - (i) the order continues to have effect as if the *Domestic Violence Legislation Amendment Act 2002* had not been passed; and
 - (ii) the old Act continues to apply to the order, including, for example, the provisions of the old Act about the duration of the order.
- (4) To the extent necessary for subsections (1), (2) and (3) to have effect, the Weapons Act did not and does not apply to the respondent.
- (5) However when the order ends, the limitation on the application of the Weapons Act under subsection (4) relating to the respondent ends.

100 References to terms in old Act to be read as references in new Act

- (1) A reference to an aggrieved spouse, aggrieved person or respondent spouse in a domestic violence order in force under this Act immediately before the commencement is to be read as an aggrieved, named person or respondent, under the new Act.
- (2) A reference to an aggrieved spouse, aggrieved person or a respondent in an application for a protection order that may still be dealt with by a court after the commencement is to be dealt with as if the reference were to an aggrieved, a named person or a respondent.

Schedule Dictionary

section 3

adult guardian means the adult guardian appointed under the *Guardianship and Administration Act 2000*, section 199.

aggrieved see section 12F(1).

approved form means a form approved by the chief executive under section 87.

associate see section 15(5).

associated domestic violence means an act mentioned in section 21(1).

authorised person see section 14(2).

child means an individual under 18 years.

child, of an aggrieved, means a child who is—

- (a) a biological, adopted, step or foster child of the aggrieved; or
- (b) in the care or custody of the aggrieved.

child, of a respondent, means a child who is—

- (a) a biological, adopted, step or foster child of the respondent; or
- (b) in the care or custody of the respondent.

Childrens Court means the Childrens Court under the *Childrens Court Act 1992*.

Childrens Court magistrate means a Childrens Court magistrate under the *Childrens Court Act 1992*.

clerk, of a court, means—

- (a) if the court is a Magistrates Court—the clerk of the court; or
- (b) if the court is the Childrens Court—the person who, under the *Childrens Court Act 1992*, holds the same position as the clerk of the Magistrates Court, or

Schedule (continued)

registrar of the District Court, at which the relevant matter is dealt with; or

- (c) if the court is the District Court—a registrar, within the meaning of the *District Court of Queensland Act 1967*, of the court; or
- (d) if the court is the Supreme Court—a registrar of the Supreme Court.

commissioner means the commissioner of the police service.

court see section 4(1).

damage, to property, includes destruction or loss of the property.

domestic violence see section 11(1).

domestic violence order see section 13(2).

family relationship see section 12B(1).

informal care relationship see section 12C.

interstate order means an order made by a court of another State, a Territory or New Zealand under a prescribed law of the other State, Territory or New Zealand.

intimate personal relationship see section 12A.

justice means a justice of the peace, but does not include a justice of the peace (commissioner for declarations) under the *Justices of the Peace and Commissioners for Declarations Act 1991*.

Magistrates Court see section 4(2).

named person see section 15(3).

ouster condition means a condition of an order imposed under section 25 that prohibits a respondent from remaining at, entering or attempting to enter, or approaching within a stated distance of, stated premises.

possession see section 5.

premises see section 6.

property see section 7.

Schedule (continued)

protection order means an order made under section 20(1).

registered interstate order means an interstate order that is registered under section 42.

relative see section 12B(2) to (5).

respondent see section 12F(3).

small claims tribunal means a small claims tribunal under the *Small Claims Tribunals Act 1973*.

spousal relationship see section 12(1).

spouse see section 12(2) and (3).

temporary protection order see section 13(3).

tenancy application means—

- (a) an application made under the *Residential Tenancies Act 1994*, section 150, 188 or 190,⁵¹ to a small claims tribunal; or
- (b) an application under section 62A(1).

variation, of a domestic violence order, includes an extension of the period for which the order has effect.

watch-house manager means a watch-house manager under the *Police Powers and Responsibilities Act 2000*, schedule 4.

weapon means a weapon under the Weapons Act.

Weapons Act means the *Weapons Act 1990*.

weapons licence means a licence under the Weapons Act.

whereabouts, of a person, means a place or locality where the person lives, works, frequents or visits.

51 *Residential Tenancies Act 1994*, section 150 (Injury to spouse), 188 (Application by tenant's spouse for termination for damage or injury) or 190 (Application for interim order about damage or injury)

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 January 2005. Future amendments of the Domestic and Family Violence Protection Act 1989 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Reprint date
1	to 1992 Act No. 46	28 May 1993	28 May 1993
2	to 1993 Act No. 76	14 December 1993	17 January 1994
2A	to 1999 Act No. 19	30 April 1999	14 May 1999
2B	to 1999 Act No. 56	1 December 1999	1 December 1999
2C	to 2000 Act No. 5	12 May 2000	26 May 2000
2D	to 2000 Act No. 5	1 July 2000	14 July 2000
3	to 2000 Act No. 5	1 July 2000	28 September 2000
3A	to 2000 Act No. 46	25 October 2000	1 November 2000 (Column discontinued) Notes
4	to 2002 Act No. 74	10 March 2003	
4A	to 2002 Act No. 74	1 April 2003	
4B	to 2004 Act No. 53	29 November 2004	
4C	to 2004 Act No. 53	1 January 2005	

5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	1, 2, 4
Renumbered provisions	1

6 List of legislation

Domestic and Family Violence Protection Act 1989 No. 42 (prev Domestic Violence (Family Protection) Act 1989)

date of assent 5 May 1989

ss 1–2 commenced on date of assent

remaining provisions commenced 21 August 1989 (proc pubd gaz 29 July 1989 p 2859)

amending legislation—

Domestic Violence (Family Protection) Amendment Act 1992 No. 46

date of assent 19 August 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 28 May 1993 (1993 SL No. 151)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1993 No. 76 s 3 sch 1

date of assent 14 December 1993

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch

date of assent 30 April 1999

commenced on date of assent

Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1999 (see s 2(1))

Domestic Violence (Family Protection) Amendment Act 1999 No. 56

date of assent 18 November 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 12 May 2000 (2000 SL No. 85)

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3 (this Act is amended, see amending legislation below)

date of assent 23 March 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

amending legislation—

Police Powers and Responsibilities and Other Acts Amendment Act 2000

No. 22 ss 1, 28(3), 3 sch amdt 48 (amends 2000 No. 5 above)

date of assent 23 June 2000

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch

date of assent 25 October 2000

commenced on date of assent

Domestic Violence Legislation Amendment Act 2002 No. 6 pts 1–2, s 3 sch 1

date of assent 13 March 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 10 March 2003 (2003 SL No. 17)

Discrimination Law Amendment Act 2002 No. 74 ss 1–2, 90 sch

date of assent 13 December 2002

ss 1–2 commenced on date of assent

s 90 commenced on 31 March 2003 (2003 SL No. 51)

remaining provisions commenced 1 April 2003 (2003 SL No. 51)

Local Government (Community Government Areas) Act 2004 No. 37 ss 1–2, 86 sch 1

date of assent 27 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2005 (2004 SL No. 266)

Statute Law (Miscellaneous Provisions) Act 2004 No. 53

date of assent 29 November 2004

commenced on date of assent

7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 9.

Title amd 1992 No. 46 s 4; 2002 No. 6 s 4

PART 1—PRELIMINARY

Short title

s 1 amd 2002 No. 6 s 5

Definitions

prov hdg sub 1999 No. 56 s 4(1)

s 3 prev s 3 sub 1992 No. 46 s 5

Note—prev s 3 contained definitions for this Act. Definitions are now located in the schedule—Dictionary. Annotations for definitions contained in prev s 3 are located in annotations for the schedule.

pres s 3 sub 2002 No. 6 s 6

Main purpose of Act

s 3A ins 2002 No. 6 s 6

References to court and when justices may exercise power

prov hdg sub 1999 No. 56 s 5(1)
s 4 ins 1992 No. 46 s 5
 amd 1999 No. 56 s 5(2)–(3); 2002 No. 6 s 3 sch 1

Meaning of “possession”

s 5 ins 1992 No. 46 s 5
 amd 1999 No. 56 s 6; 2002 No. 6 s 3 sch 1

Meaning of “premises”

s 6 ins 1992 No. 46 s 5
 amd 1999 No. 42 s 54(3) sch pt 3; 2004 No. 53 s 2 sch

Meaning of “property”

s 7 ins 1992 No. 46 s 5
 amd 2002 No. 6 s 3 sch 1

Meaning of “weapons licence”

s 8 ins 1992 No. 46 s 5
 amd 1999 No. 56 s 3 sch
 om 2002 No. 6 s 7

Meaning of court being satisfied

s 9 ins 1992 No. 46 s 5

PART 2—EXPLANATION OF HOW DOMESTIC VIOLENCE IS DEALT WITH UNDER THIS ACT

pt hdg ins 1992 No. 46 s 6
 sub 2002 No. 6 s 8

Purpose of this part

s 10 ins 1992 No. 46 s 6
 amd 1999 No. 56 s 3 sch
 sub 2002 No. 6 s 9

What is domestic violence

s 11 ins 1992 No. 46 s 6
 sub 2002 No. 6 s 9

Relationships that are domestic relationships for this Act

s 11A ins 2002 No. 6 s 9

What is a spousal relationship and who is a spouse

prov hdg sub 2002 No. 6 s 10(1)
s 12 prev s 12 om 1992 No. 46 s 8
 pres s 12 ins 1992 No. 46 s 6
 amd 1999 No. 56 s 7; 2002 No. 6 s 10(2)–(6); 2002 No. 74 s 90 sch

What is an intimate personal relationship

s 12A ins 2002 No. 6 s 11

Meaning of “family relationship” and “relative”

s 12B ins 2002 No. 6 s 11

What is an informal care relationship

s 12C ins 2002 No. 6 s 11

Children as applicants and respondents generally

s 12D ins 2002 No. 6 s 11
amd 2004 No. 53 s 2 sch

Child who is a party but is not represented

s 12E ins 2002 No. 6 s 11

Who is an aggrieved and who is a respondent

s 12F ins 2002 No. 6 s 11

What assistance can a court give to prevent domestic violence?

s 13 ins 1992 No. 46 s 6
amd 1999 No. 56 s 3 sch; 2002 No. 6 s 3 sch 1

Who can apply for a protection order?

s 14 ins 1992 No. 46 s 6
amd 2002 No. 6 s 12

Court to explain order to aggrieved or respondent before the court

s 14A ins 2002 No. 6 s 13

Who can a domestic violence order protect?

s 15 ins 1992 No. 46 s 6
amd 2002 No. 6 s 14

When can a court make a domestic violence order?

s 16 ins 1992 No. 46 s 6
amd 1993 No. 76 s 3 sch 1; 1999 No. 19 s 3 sch; 1999 No. 56 s 3 sch; 2002
No. 6 s 3 sch 1

What are the conditions of a domestic violence order?

s 17 ins 1992 No. 46 s 6
amd 2002 No. 6 s 15

What happens if circumstances change after domestic violence order is made?

s 17A ins 1999 No. 56 s 8
amd 2002 No. 6 s 3 sch 1

What can happen if a respondent does not comply with an order

s 18 ins 1992 No. 46 s 6
sub 2002 No. 6 s 16

What can happen if a respondent spouse does not comply with an order?

s 19 ins 1992 No. 46 s 6
om 2002 No. 6 s 16

PART 3—DOMESTIC VIOLENCE ORDERS—POWERS OF COURT

pt hdg sub 1992 No. 46 s 7

Division 1—Powers of courts to make domestic violence orders

div hdg ins 1992 No. 46 s 7

Power of court to make order to protect person with a domestic relationship against domestic violence

prov hdg amd 2002 No. 6 s 17(1)
s 20 sub 1992 No. 46 s 7
 amd 2002 No. 6 s 17(2)–(5)

Power of court to make orders to protect relatives or associates of aggrieved against violence etc.

prov hdg amd 2002 No. 6 s 18(1)
s 21 ins 1992 No. 46 s 7
 amd 2002 No. 6 s 18(2)–(3)

Protection order must include standard condition to be of good behaviour etc.

s 22 ins 1992 No. 46 s 7
 amd 2002 No. 6 s 3 sch 1

Weapons Act to apply to respondents otherwise exempt

s 23 ins 1992 No. 46 s 7
 amd 1999 No. 56 s 3 sch
 sub 2002 No. 6 s 19

Action by court if respondent spouse has access to weapons through employment

s 23A ins 1999 No. 56 s 9
 amd 2000 No. 46 s 3 sch
 om 2002 No. 6 s 19

Matters relating to weapons

s 24 ins 1992 No. 46 s 7
 amd 1999 No. 56 s 10
 sub 2002 No. 6 s 19

Court may impose other conditions

s 25 sub 1992 No. 46 s 7
 amd 1999 No. 56 s 11; 2002 No. 6 s 3 sch 1

Orders under s 25 that include ouster condition

s 25A ins 1999 No. 56 s 12
 amd 2002 No. 6 s 3 sch 1

Special condition for thing that has been used as a weapon

s 26 ins 1992 No. 46 s 7
 amd 2002 No. 6 s 20

No weapons licence for duration of domestic violence order

s 27 ins 1992 No. 46 s 7
 om 2002 No. 6 s 21

Court may allow respondent spouse to possess weapons in limited circumstances

s 28 ins 1992 No. 46 s 7
 om 2002 No. 6 s 21

Domestic violence orders must include information about weapons

s 29 ins 1992 No. 46 s 7
 amd 2002 No. 6 s 22

Power of court if person pleads or is found guilty of related offences

- prov hdg** amd 2002 No. 6 s 3 sch 1
s 30 sub 1992 No. 46 s 7
 amd 1999 No. 56 s 13; 2002 No. 6 s 3 sch 1

Court may inform other entities about matters of concern

- s 31** prev s 31 sub 1992 No. 46 s 7
 om 1999 No. 56 s 14
 pres s 31 ins 2002 No. 6 s 23

Court may make temporary protection order without proof of service in certain circumstances

- s 32** ins 1992 No. 46 s 7
 om 1999 No. 56 s 14

Court may make domestic violence order by consent

- s 33** sub 1992 No. 46 s 7
 amd 2002 No. 6 s 3 sch 1

Start of domestic violence orders

- s 34** sub 1992 No. 46 s 7; 2002 No. 6 s 24

Duration of protection orders

- s 34A** ins 2002 No. 6 s 24

Duration of temporary protection orders

- s 34B** ins 2002 No. 6 s 24

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- s 35** sub 1992 No. 46 s 7

Revocation of orders

- s 36** ins 1992 No. 46 s 7
 sub 1999 No. 56 s 15
 amd 2002 No. 6 s 3 sch 1

Commissioner must be given notices of applications to vary or revoke

- prov hdg** amd 1999 No. 56 s 3 sch
s 37 ins 1992 No. 46 s 7
 amd 1999 No. 56 s 3 sch

Conferral of jurisdiction

- s 38** sub 1992 No. 46 s 7
 amd 1999 No. 56 s 16; 2002 No. 6 s 3 sch 1

Court may summons person to attend

- s 39** ins 1992 No. 46 s 7

Court may set aside a summons

- s 39AA** ins 2002 No. 6 s 25

Division 2—Powers of court and magistrates to make temporary protection orders

- div hdg** ins 1992 No. 46 s 7
 sub 1999 No. 56 s 17

Act of domestic violence necessary before particular temporary protection orders made

s 39A ins 1999 No. 56 s 17
amd 2002 No. 6 s 3 sch 1

Form of temporary protection orders

s 39B ins 1999 No. 56 s 17
amd 2002 No. 6 s 3 sch 1

Temporary protection order because of adjournment

s 39C ins 1999 No. 56 s 17

Court may make temporary protection order without proof of service in certain circumstances

s 39D ins 1999 No. 56 s 17
amd 2002 No. 6 s 3 sch 1

Temporary protection order when cross application made

s 39E ins 1999 No. 56 s 17
amd 2002 No. 6 s 3 sch 1

Court may make temporary protection order when considering variation of domestic violence order

s 39F ins 1999 No. 56 s 17
amd 2002 No. 6 s 3 sch 1

Temporary protection order for application under s 54

s 39G ins 1999 No. 56 s 17
amd 2002 No. 6 s 3 sch 1

Court may make temporary protection order relating to respondent being released from custody on conditions under s 71

s 39H ins 2002 No. 6 s 26

Division 3—Registration of interstate orders

div hdg ins 1999 No. 56 s 17

Application to register interstate order in Queensland

s 40 ins 1992 No. 46 s 7

Clerk to obtain copies of order and proof of service

s 41 ins 1992 No. 46 s 7

Registration of interstate order

s 42 ins 1992 No. 46 s 7

Duty of clerk after order is registered

s 43 ins 1992 No. 46 s 7
amd 1999 No. 56 s 3 sch; 2002 No. 6 s 3 sch 1

Effect of registration of interstate order

s 44 ins 1992 No. 46 s 7
amd 1999 No. 56 s 3 sch

Variation etc. of registered interstate order

s 45 ins 1992 No. 46 s 7

Applicant need not notify person against whom interstate order was made

prov hdg amd 1999 No. 56 s 3 sch
s 46 ins 1992 No. 46 s 7
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Division 4—Relevant orders under Family Law Act 1975 (Cwlth) and Family Court Act 1997 (WA)

div hdg ins 1999 No. 56 s 18

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s 46A ins 1999 No. 56 s 18
 def “**relevant family contact order**” amd 2002 No. 6 s 3 sch 1

Disclosure of existence of relevant family protection order

s 46B ins 1999 No. 56 s 18

Court to consider relevant family contact order etc.

s 46C ins 1999 No. 56 s 18
 amd 2002 No. 6 s 3 sch 1

PART 4—PROCEDURAL PROVISIONS**Division 1—Procedures to be followed by court on applications for protection orders**

div hdg ins 1992 No. 46 s 8

Service of application on respondent may be accompanied by summons

prov hdg amd 2002 No. 6 s 3 sch 1
s 47 sub 1992 No. 46 s 8
 amd 2002 No. 6 s 3 sch 1

Appearance of respondent

prov hdg amd 2002 No. 6 s 3 sch 1
s 48 ins 1992 No. 46 s 8
 amd 2002 No. 6 s 3 sch 1

Non-appearance of respondent

prov hdg amd 2002 No. 6 s 3 sch 1
s 49 sub 1992 No. 46 s 8
 amd 2002 No. 6 s 3 sch 1

Court to ensure respondents and aggrieveds understand domestic violence orders

prov hdg amd 2002 No. 6 s 27(1)
s 50 ins 1992 No. 46 s 8
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 amd 2002 No. 6 s 27(2)–(6); 2004 No. 37 s 86 sch 1

Application for revocation or variation

s 51 amd 1992 No. 46 s 9, sch; 1999 No. 56 ss 20, 3 sch; 2002 No. 6 s 3 sch 1

Duty of clerk of court to give certain notices to commissioner

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s 52 prev s 52 ins 1992 No. 46 s 33
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 amd 1999 No. 56 s 3 sch

Procedure if person found guilty etc. of related offence

- prov hdg** amd 2002 No. 6 s 3 sch 1
s 53 sub 1992 No. 46 s 11
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Division 2—Police may apply for temporary protection order in certain circumstances

- div hdg** ins 1992 No. 46 s 11

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- s 54** sub 1992 No. 46 s 11
 amd 1999 No. 56 s 21; 2002 No. 6 s 28

Duty of magistrate upon application under s 54

- s 55** amd 1992 No. 46 sch; 1999 No. 56 s 3 sch; 2002 No. 6 s 3 sch 1

Duty of police officer for s 54 order

- prov hdg** amd 2002 No. 6 s 3 sch 1
s 56 amd 1992 No. 46 sch; 2002 No. 6 s 3 sch 1

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- s 57** sub 1992 No. 46 s 12
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Division 3—Other procedural provisions

- div hdg** ins 1999 No. 56 s 23

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- s 58** amd 1992 No. 46 s 13, sch; 1999 No. 56 s 24; 2002 No. 6 s 3 sch 1; 2004 No. 53 s 2 sch

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- s 59** amd 1992 No. 46 s 14, sch; 2002 No. 6 s 3 sch 1

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- prov hdg** amd 2002 No. 6 s 3 sch 1
s 60 sub 1992 No. 46 s 15
 amd 1999 No. 56 s 25; 2002 No. 6 s 3 sch 1

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- s 61** sub 1992 No. 46 s 15

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- prov hdg** sub 1992 No. 46 s 16
s 62 amd 1992 No. 46 s 16, sch; 2002 No. 6 s 3 sch 1

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- s 62A** ins 1999 No. 56 s 26
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PART 5—APPEALS**Appeals**

- s 63** amd 1992 No. 46 s 17; 1999 No. 19 s 3 sch; 2002 No. 6 s 3 sch 1

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s 64 amd 1992 No. 46 s 18, sch; 1999 No. 19 s 3 sch; 1999 No. 56 s 3 sch; 2002 No. 6 s 3 sch 1

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s 64A ins 1999 No. 56 s 27

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s 65 amd 1992 No. 46 s 19; 1999 No. 19 s 3 sch; 2002 No. 6 s 3 sch 1

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PART 6—POLICE FUNCTIONS AND POWERS

pt hdg sub 1992 No. 46 s 20

Police action relating to domestic violence

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s 67 amd 1992 No. 46 sch
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Police officer may require person to provide identification

s 68 ins 1992 No. 46 s 21
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s 69 sub 1992 No. 46 s 21
amd 1993 No. 76 s 3 sch 1; 1999 No. 56 s 28; 2002 No. 6 s 3 sch 1

Duty of police officer who has taken a person into custody under s 69

s 70 ins 1992 No. 46 s 21
amd 1999 No. 56 s 29; 2000 No. 5 s 461 sch 3 (amd 2000 No. 22 sp28(3))

Police officer must apply for protection order etc.

s 71 ins 1992 No. 46 s 21
amd 1999 No. 56 s 3 sch; 2002 No. 6 s 3 sch 1

Duty of police officers to apply for protection order in certain circumstances

s 72 ins 1992 No. 46 s 21
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Entry on and search of premises

s 73 amd 1992 No. 46 s 22, sch; 1999 No. 56 s 30
om 2000 No. 5 s 461 sch 3

Police actions after protection order is made

s 74 ins 1992 No. 46 s 23
amd 1999 No. 56 s 3 sch; 2000 No. 5 s 461 sch 3
om 2002 No. 6 s 30

Entry of registers

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s 75 amd 1992 No. 46 s 24, sch; 1993 No. 76 s 3 sch 1; 1999 No. 56 s 31; 2000 No. 5 s 461 sch 3; 2002 No. 6 s 3 sch 1

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- s 75A** ins 1999 No. 56 s 31A
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- s 76** sub 1992 No. 46 s 25
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- s 77** amd 1992 No. 46 s 26, sch
 om 2000 No. 5 s 461 sch 3

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- s 78** amd 1992 No. 46 sch; 2002 No. 6 s 3 sch 1

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- s 79** ins 1992 No. 46 s 27
 om 2000 No. 5 s 461 sch 3

PART 7—MISCELLANEOUS PROVISIONS**Breach of order or conditions**

- s 80** amd 1992 No. 46 s 28, sch; 1993 No. 76 s 3 sch 1; 1999 No. 56 s 32; 2002
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- s 81** ins 1992 No. 46 s 29
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- s 81A** ins 2002 No. 6 s 33

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- s 82** amd 1992 No. 46 s 30, sch; 1993 No. 76 s 3 sch 1; 1999 No. 56 s 33; 2002
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- s 83** amd 1992 No. 46 sch

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- s 84** amd 1992 No. 46 s 31, sch; 2002 No. 6 s 3 sch 1

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- s 85** amd 1992 No. 46 s 32; 2002 No. 6 s 3 sch 1

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- s 86** amd 1992 No. 46 sch

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- s 87** sub 1992 No. 46 s 33; 1999 No. 56 s 34
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- s 88** ins 1992 No. 46 s 33
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PART 8—TRANSITIONAL

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**Division 1—Transitional provisions for Domestic Violence (Family Protection)
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div hdg ins 1999 No. 56 s 35

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s 90 ins 1992 No. 46 s 33
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s 92 ins 1992 No. 46 s 33
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s 93 ins 1992 No. 46 s 33
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s 94 ins 1992 No. 46 s 33

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**Division 2—Transitional provisions for Domestic Violence (Family Protection)
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s 96 ins 1999 No. 56 s 36

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s 97 ins 2002 No. 6 s 36

**New Act to the extent it relates to intimate personal, family or informal care
 relationships does not apply to domestic violence etc. committed only before
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s 98 ins 2002 No. 6 s 36

**Revocations and suspensions of weapons licence before commencement and retention
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s 99 ins 2002 No. 6 s 36

References to terms in old Act to be read as references in new Act
s 100 ins 2002 No. 6 s 36

SCHEDULE—DICTIONARY

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Note—definitions for this Act were originally located in prev s 3. Annotations for definitions contained in prev s 3 are located in annotations for the schedule.

def **“adult guardian”** ins 2002 No. 6 s 36

def **“aggrieved”** ins 2002 No. 6 s 36

def **“aggrieved person”** om from prev s 3 2002 No. 6 s 6

def **“aggrieved spouse”** om from prev s 3 2002 No. 6 s 6

def **“approved form”** amd 1999 No. 56 s 4(3)

sub 2002 No. 6 ss 6, 36

def **“associate”** sub 2002 No. 6 ss 6, 36

def **“associated domestic violence”** sub 2002 No. 6 ss 6, 36

def **“authorised person”** sub 2002 No. 6 ss 6, 36

def **“child”** amd 1999 No. 56 s 4(4)–(5)

sub 2002 No. 6 ss 6, 36

def **“child”**, of an aggrieved, ins 2002 No. 6 s 36

def **“child”**, of a respondent, ins 2002 No. 6 s 36

def **“Childrens Court”** ins 2002 No. 6 s 36

def **“Childrens Court magistrate”** ins 2002 No. 6 s 36

def **“clerk”** amd 1999 No. 19 s 3 sch

sub 2002 No. 6 ss 6, 36

amd 2004 No. 53 s 2 sch

def **“commissioner”** ins 1999 No. 56 s 4(2)

sub 2002 No. 6 ss 6, 36

def **“court”** sub 2002 No. 6 ss 6, 36

def **“damage”** sub 2002 No. 6 ss 6, 36

def **“domestic violence”** sub 2002 No. 6 ss 6, 36

def **“domestic violence order”** sub 2002 No. 6 ss 6, 36

def **“effective individual within the employing entity”** ins 1999 No. 56 s 4(2)

om from prev s 3 2002 No. 6 s 6

def **“employment”** ins 1999 No. 56 s 4(2)

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def **“family relationship”** ins 2002 No. 6 s 36

def **“informal care relationship”** ins 2002 No. 6 s 36

def **“interstate order”** amd 1999 No. 56 s 4(6)–(7)

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def **“intimate personal relationship”** ins 2002 No. 6 s 36

def **“justice”** sub 2002 No. 6 ss 6, 36

def **“licensed armourer”** ins 1999 No. 56 s 4(2)

om from prev s 3 2002 No. 6 s 6

def **“licensed dealer”** ins 1999 No. 56 s 4(2)

om from prev s 3 2002 No. 6 s 6

def **“Magistrates Court”** sub 2002 No. 6 ss 6, 36

def **“named person”** ins 2002 No. 6 s 36

- def “**otherwise surrender**” ins 1999 No. 56 s 4(2)
om from prev s 3 2002 No. 6 s 6
- def “**ouster condition**” ins 1999 No. 56 s 4(2)
sub 2002 No. 6 ss 6, 36
- def “**possession**” sub 2002 No. 6 ss 6, 36
- def “**premises**” sub 2002 No. 6 ss 6, 36
- def “**property**” sub 2002 No. 6 ss 6, 36
- def “**protection order**” sub 2002 No. 6 ss 6, 36
- def “**registered interstate order**” sub 2002 No. 6 ss 6, 36
- def “**relative**” sub 2002 No. 6 ss 6, 36
- def “**respondent**” ins 2002 No. 6 s 36
- def “**respondent spouse**” om from prev s 3 2002 No. 6 s 6
- def “**small claims tribunal**” ins 1999 No. 56 s 4(2)
sub 2002 No. 6 ss 6, 36
- def “**spousal relationship**” ins 2002 No. 6 s 36
- def “**spouse**” sub 2002 No. 6 ss 6, 36
amd 2002 No. 74 s 90 sch
- def “**temporary protection order**” sub 2002 No. 6 ss 6, 36
- def “**tenancy application**” ins 1999 No. 56 s 4(2)
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- def “**variation**” ins 1999 No. 56 s 4(2)
sub 2002 No. 6 ss 6, 36
- def “**watch-house manager**” ins 2000 No. 5 s 461 sch 3
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- def “**weapon**” sub 2002 No. 6 ss 6, 36
- def “**Weapons Act**” ins 2002 No. 6 s 36
- def “**weapons licence**” sub 2002 No. 6 ss 6, 36
- def “**whereabouts**” ins 1999 No. 56 s 4(2)
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8 List of forms notified or published in the gazette

Form DV1 Version 4—Application for a Protection Order

pubd gaz 28 February 2003 pp 767–8

Form DV2 Version 3—Temporary Protection Order

pubd gaz 28 February 2003 pp 767–8

Form DV3 Version 3—Protection Order

pubd gaz 28 February 2003 pp 767–8

Form DV4A Version 1—Revocation of a Domestic Violence Order

pubd gaz 28 February 2003 pp 767–8

Form DV4B Version 2—Variation to a Domestic Violence Order

pubd gaz 28 February 2003 pp 767–8

Form DV5 Version 3—Application to Revoke or Vary a Domestic Violence Order

pubd gaz 28 February 2003 pp 767–8

Form DV6 Version 3—Temporary Protection Order Section 54 Application

pubd gaz 28 February 2003 pp 767–8

Form DV7 Version 3—Temporary Protection Order

pubd gaz 28 February 2003 pp 767–8

Form DV8 Version 3—Application for Registration in Queensland of an Interstate Domestic Violence Order

pubd gaz 28 February 2003 pp 767–8

Form DV9 Version 3—Notice of Registration of an Interstate Domestic Violence Order

pubd gaz 28 February 2003 pp 767–8

Form DV10 Version 3—Notice of Appeal

pubd gaz 28 February 2003 pp 767–8

Form DV11 Version 3—Release from Custody

pubd gaz 28 February 2003 pp 767–8

Form DV12 Version 3—Summons of a Witness

pubd gaz 28 February 2003 pp 767–8

Form DV13 Version 3—Warrant

pubd gaz 28 February 2003 pp 767–8

9 Table of renumbered provisions

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