

2001

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Protection Orders (Consequential Amendments) Bill 2001

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2001 022B

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2001

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Protection Orders (Consequential Amendments) Bill 2001

A Bill for

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

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

2001 022B

1

2 **1 Name of Act**

3 This Act is the *Protection Orders (Consequential Amendments) Act*
4 2001.

5 **2 Commencement**

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

8 **3 Schedule 1**

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

11 **4 Protection Orders (Reciprocal Arrangements) Act**

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13 is repealed.

1

2 **Schedule 1 Amendments**

3 (see s 3)

4 **Part 1 Bail Act 1992**

5 **[1.1] Section 3 (1), definition of *domestic violence offence***

6 *substitute*

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

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

26 **[1.2] Section 3 (1), definition of *household member***

27 *omit*

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

2 *substitute*

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

4 (a) means the original person's—

5
6 (i) father, mother, grandfather, grandmother, stepfather,
7 stepmother, father-in-law or mother-in-law; or

8 (ii) son, daughter, grandson, granddaughter, stepson,
9 stepdaughter, son-in-law or daughter-in-law; or

10 (iii) brother, sister, half-brother, half-sister, stepbrother,
11 stepsister, brother-in-law or sister-in-law; or

12 (iv) uncle, aunt, uncle-in-law or aunt-in-law; or

13 (v) nephew, niece or cousin; and

14 (b) includes someone who would have been a relative of a kind
15 mentioned in paragraph (a) if the original person had been
16 legally married to the original person's de facto spouse (if
17 any); and

18 (c) includes someone who has been a relative of a kind mentioned
19 in paragraph (a) or (b) of the original person.

20 **[1.4] Section 3 (1), new definition of *relevant person***

21 *insert*

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

24 (a) a spouse of the original person; or

25 (b) a relative of the original person; or

26 (c) a child of a spouse of the original person; or

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

1 **[1.5] Section 7 (3) (e)**

2 *substitute*

3 (e) a person charged with—

4 (i) an offence against the *Protection Orders Act 2001*,
5 section 34 (which is about contravening protection
6 orders); or

7 (ii) an offence against the *Crimes Act 1900*, section 493
8 (which is about possession of offensive weapons); or

9 **[1.6] Sections 7A to 8A**

10 *substitute*

11 **7A Bail following arrest for breach of peace**

12 (1) This section applies to someone arrested for a breach of the peace or
13 an apprehended breach of the peace.

14 (2) The person—

15 (a) is entitled to be granted bail—

16 (i) without a condition being imposed; or

17 (ii) on condition that the person keeps the peace; and

18 (b) must be released from custody as soon as the person—

19 (i) gives an undertaking to appear; and

20 (ii) if a condition to keep the peace is imposed—enters into
21 an agreement under section 25 (1) (a).

22 (3) However, the person is not entitled to be granted bail under
23 subsection (2) if—

24 (a) because of the behaviour that resulted in the person being
25 arrested, someone else would be likely to make application for
26 a protection order under the *Protection Orders Act 2001*
27 against the person; or

- 1 (b) the person failed to comply with an undertaking to appear
2 given, or bail condition imposed, in relation to a previous
3 breach of the peace or apprehended breach of the peace.

4 **8 Bail for other than minor offences**

5 (1) This section applies to—

6 (a) anyone in relation to an offence other than an offence
7 mentioned in section 7 (1) (which is about minor offences and
8 breaches of the peace); and

9 (b) someone who is not entitled to bail because of section 7 (3);
10 and

11 (c) someone who is not entitled to bail because of section 7A (3).

12 (2) However, this section does not apply to the grant of bail—

13 (a) by an authorised officer to a person accused of a domestic
14 violence offence (see section 8A); or

15 (b) by a court or an authorised officer to a person accused of a
16 serious offence that is alleged to have been committed while
17 the person was on bail for another serious offence (see section
18 9A).

19 (3) If this section applies to a person, the person is entitled to be granted
20 bail in accordance with this Act unless—

21 (a) the court or authorised officer is satisfied that refusal is
22 justified having regard to—

23 (i) if the accused person is an adult—the matters mentioned
24 in section 22 (Criteria for granting bail to adults); or

25 (ii) if the accused is a child—the matters mentioned in
26 section 23 (Criteria for granting bail to children); or

27 (b) the requirement for bail is dispensed with under section 10
28 (Dispensing with bail).

1 **8A Bail by authorised officer—domestic violence offences**

- 2 (1) This section applies if someone (the *accused*) is accused of a
3 domestic violence offence.
- 4 (2) An authorised officer must not grant bail to the accused unless
5 satisfied that the accused poses no danger to a protected person
6 during the period of bail.
- 7 (3) However, even if the authorised officer is satisfied under
8 subsection (2), the officer must refuse bail if satisfied that refusal is
9 justified having regard to—
- 10 (a) if the accused person is an adult—the matters mentioned in
11 section 22 (Criteria for granting bail to adults); or
- 12 (b) if the accused is a child—the matters mentioned in section 23
13 (Criteria for granting bail to children).
- 14 (4) If an authorised officer grants bail to the accused under this section,
15 the officer must, in the record of the decision made under section 27
16 (Recording of certain bail decisions), state why, in the officer's
17 opinion, the accused poses no danger to the protected person.
- 18 (5) The accused must not be released on bail under this section unless
19 the accused has given an undertaking under section 28 (Undertaking
20 to appear) to appear before the stated court within 48 hours of being
21 released.
- 22 (6) For this section:
- 23 *protected person*—
- 24 (a) means a person against whom the alleged behaviour
25 constituting the domestic violence offence was directed; and
- 26 (b) includes a relevant person in relation to a person mentioned in
27 paragraph (a).

1 **[1.7] Section 16 (3)**

2 *substitute*

3 (3) If an authorised officer decides to grant bail to an accused person in
4 relation to a domestic violence offence, the officer must take
5 reasonable steps to tell each protected person, as soon as practicable,
6 about the decision and, if the accused person is granted bail subject
7 to a bail condition, about the condition.

8 (4) If an authorised officer decides not to grant bail to an accused
9 person in relation to a domestic violence offence, the officer must
10 tell each protected person about the decision.

11 (5) For this section:

12 *protected person* means—

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

19 **[1.8] Section 16**

20 *renumber subsections when next republished under Legislation Act*
21 *2001*

22 **[1.9] Section 25 (2) (e)**

23 *substitute*

24 (e) for a person (the *accused person*) charged with a domestic
25 violence offence—

- 26 (i) a requirement that the accused person not contact, harass,
27 threaten or intimidate, or cause someone else to contact,
28 harass, threaten or intimidate, a stated person; or

- 1 (ii) a requirement that the accused person not be on premises
2 where a stated person lives or works; or
3 (iii) a requirement that the accused person not be on or near
4 premises where a stated person is likely to be; or
5 (iv) a requirement that the accused person not be in a stated
6 place; or
7 (v) a requirement that the accused person not be within a
8 stated distance of a stated person; or
9 (vi) if the accused person lives with someone—a requirement
10 that the accused person not enter or remain at the home if
11 the accused person is under the influence of alcohol or
12 another drug.

13 **[1.10] Section 39, pt 8**

14 *substitute*

15 **59 Expiry—Motor Traffic Act reference**

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

18 **[1.11] Schedule**

19 *substitute*

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

22 (see s 3)

column 1 item	column 2 provision	column 3 description of offence
1	12	murder
2	15	manslaughter
3	19	intentionally inflicting grievous bodily harm
4	20	recklessly inflicting grievous bodily harm

Schedule 1 Amendments
Part 1 Bail Act 1992

Amendment [1.11]

column 1 item	column 2 provision	column 3 description of offence
5	21	wounding
6	22	assault with intent to commit certain indictable offences
7	23	inflicting actual bodily harm
8	24	assault occasioning actual bodily harm
9	25	causing grievous bodily harm
10	26	common assault
11	27	acts endangering life etc
12	28	acts endangering health etc
13	29	culpable driving of motor vehicle
14	30	threat to kill
15	31	threat to inflict grievous bodily harm
16	32 (1) (a)	make demand with threat to kill or inflict grievous bodily harm
17	32 (2) (a)	make demand with threat to endanger health etc
18	33	possession of object with intent to kill etc
19	34	forcible confinement
20	34A	stalking
21	36	abduction of young person
22	37	kidnapping
23	92A	sexual assault in the first degree
24	92B	sexual assault in the second degree
25	92C	sexual assault in the third degree
26	92D	sexual intercourse without consent
27	92E	sexual intercourse with young person
28	92F	act of indecency in the first degree
29	92G	act of indecency in the second degree
30	92H	act of indecency in the third degree
31	92J	act of indecency without consent
32	92K	acts of indecency with young people
33	92L	incest or similar offences
34	92M	abduction
35	128	destroying or damaging property
36	129	arson

column 1 item	column 2 provision	column 3 description of offence
37	133	possession of article with intent to destroy property
38	145 (1) (a)	being armed with weapon etc with intent to commit offence
39	146	forcible entry on land
40	493	possession of an offensive weapons
41	494	possession of an offensive weapon with intent
42	546A	offensive behaviour

[1.12] Divisions

renumber divisions when next republished under Legislation Act 2001

Part 2 Children and Young People Act 1999

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

substitute

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

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

substitute

final care and protection order means an order under division 7 (Final care and protection orders) (other than a protection order or interim order), or a contact order, residence order or therapeutic protection order made as a final care and protection order.

[1.15] Section 205

substitute

1 **205 When may the court make a protection order?**

2 The court may make a protection order—

3 (a) on application for a care and protection order; and

4 (b) at any time it could make an interim order; and

5 (c) in addition to an interim order, or in addition to, or in
6 substitution for, the care and protection order applied for.

7 **[1.16] Section 255 (7)**

8 *substitute*

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

13 **[1.17] Section 380 (4) (b)**

14 *substitute*

15 (b) in relation to a protection order made by the Childrens Court in
16 relation to a child or young person in need of care and
17 protection—in accordance with the *Protection Orders Act*
18 *2001*; or

19 **[1.18] Dictionary, definition of *domestic violence order***

20 *omit*

21 **[1.19] Dictionary, definition of *interim order* for chapter 8**

22 *substitute*

23 *interim order*—

24 (a) for chapter 7 (Children and young people in need of care and
25 protection), part 3 (Care and protection orders and emergency
26 action), division 7 (Final care and protection orders), means an
27 order under section 251 (1) (e); and

- 1 (b) for chapter 8 (Transfer of child care and protection orders and
2 proceedings)—see section 299.

3 **[1.20] Dictionary, definition of *interim order* for chapter 7**

4 *omit*

5 **[1.21] Dictionary, new definition of *protection order***

6 *insert*

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

8 **[1.22] Dictionary, definition of *restraining order***

9 *omit*

10 **Part 3 Crimes Act 1900**

11 **[1.23] Section 349D (2B), (2C) and (3)**

12 *substitute*

13 (2B) A firearm, ammunition or licence seized under subsection (1) must
14 be returned to the licensee at the end of 60 days after the seizure if,
15 before the end of that period—

16 (a) a prosecution for an offence arising out of circumstances in
17 which a police officer has entered premises under section 349A
18 (Police powers of entry), section 349B (Issue of warrant) or
19 section 349C (Entry in emergencies) has not been instituted; or

20 (b) an application for a protection order that is a domestic violence
21 order (other than an emergency order) under the *Protection*
22 *Orders Act 2001* has not been made.

23 (2C) However, a firearm, ammunition or licence seized under
24 subsection (1) must not be returned if the registrar would otherwise
25 be entitled under the *Firearms Act 1996* to be in possession of the
26 firearm, ammunition or licence.

- 1 (3) A word or expression used in the *Firearms Act 1996* has the same
2 meaning in this section.

3 **[1.24] Section 349D**

4 *renumber subsections when next republished under Legislation Act*
5 *2001*

6 **[1.25] Section 349DA, heading**

7 *substitute*

8 **349DA Seizure of firearms—protection orders**

9 **[1.26] Section 349DA (1)**

10 *substitute*

- 11 (1) In enforcing an order under the *Protection Orders Act 2001*, section
12 38 (5) (Firearms and final orders), section 56 (4) (Firearms and
13 interim orders) or section 72 (2) (Firearms and emergency orders), a
14 police officer may—
15 (a) enter premises where the respondent named in the order is
16 reasonably believed to be living or staying; and
17 (b) seize any firearm, any ammunition and any licence to possess
18 or use a firearm—
19 (i) in or on the premises; or
20 (ii) in or on a motor vehicle under the control of someone
21 who ordinarily lives on the premises or is apparently
22 connected with the circumstances giving rise to the entry
23 of the police officer onto the premises.

24 **[1.27] Schedule 2**

25 *substitute*

26 **Schedule 2 Domestic violence offences**

27 (see dict)

column 1 item	column 2 provision	column 3 description of offence
1	12	murder
2	15	manslaughter
3	19	intentionally inflicting grievous bodily harm
4	20	recklessly inflicting grievous bodily harm
5	21	wounding
6	22	assault with intent to commit certain indictable offences
7	23	inflicting actual bodily harm
8	24	assault occasioning actual bodily harm
9	25	causing grievous bodily harm
10	26	common assault
11	27	acts endangering life etc
12	28	acts endangering health etc
13	29	culpable driving of motor vehicle
14	30	threat to kill
15	31	threat to inflict grievous bodily harm
16	32 (1) (a)	make demand with threat to kill or inflict grievous bodily harm
17	32 (2) (a)	make demand with threat to endanger health etc
18	33	possession of object with intent to kill etc
19	34	forcible confinement
20	34A	stalking
21	36	abduction of young person
22	37	kidnapping
23	92A	sexual assault in the first degree
24	92B	sexual assault in the second degree
25	92C	sexual assault in the third degree
26	92D	sexual intercourse without consent
27	92E	sexual intercourse with young person
28	92F	act of indecency in the first degree
29	92G	act of indecency in the second degree
30	92H	act of indecency in the third degree
31	92J	act of indecency without consent
32	92K	acts of indecency with young people

Schedule 1 Amendments
Part 3 Crimes Act 1900

Amendment [1.28]

column 1 item	column 2 provision	column 3 description of offence
33	92L	incest or similar offences
34	92M	abduction
35	128	destroying or damaging property
36	129	arson
37	133	possession of article with intent to destroy property
38	145 (1) (a)	being armed with weapon etc with intent to commit offence
39	146	forcible entry on land
40	493	possession of an offensive weapons
41	494	possession of an offensive weapon with intent
42	546A	offensive behaviour

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

substitute

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

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

(iii) section 8 (1) or (2) (which are about menacing driving);
or

(e) the *Motor Traffic Act 1936*, section 129 (which is about
reckless, dangerous or negligent driving).

[1.29] Dictionary, definition of *household member*

omit

[1.30] Dictionary, definition of *relative*

substitute

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

(a) means the original person's—

(i) father, mother, grandfather, grandmother, stepfather,
stepmother, father-in-law or mother-in-law; or

(ii) son, daughter, grandson, granddaughter, stepson,
stepdaughter, son-in-law or daughter-in-law; or

(iii) brother, sister, half-brother, half-sister, stepbrother,
stepsister, brother-in-law or sister-in-law; or

(iv) uncle, aunt, uncle-in-law or aunt-in-law; or

(v) nephew, niece or cousin; and

(b) includes someone who would have been a relative of a kind
mentioned in paragraph (a) if the original person had been
legally married to the original person's de facto spouse (if
any); and

(c) includes someone who has been a relative of a kind mentioned
in paragraph (a) or (b) of the original person.

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

insert

means that the expression 'domestic violence' is defined in that section and the definition applies to this Act.

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

4 Notes

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

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

[1.35] Parts II and IIA

omit

[1.36] Section 20

omit

[1.37] Section 23 (4) (b)

substitute

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

[1.38] Section 23 (5)

substitute

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

[1.39] Section 23 (7)

omit

[1.40] Sections 24 and 25

substitute

1 **24 Terms of appointment**

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

4 (2) If a person is a member because the person is a statutory office
5 holder, the person stops being a member if the person stops being
6 the statutory office holder.

7 (3) A member mentioned in section 23 (3) holds office for the period of
8 up to 2 years stated in the instrument of appointment.

9 (4) A person who is a member mentioned in section 23 (4) (c) holds
10 office as a member while the person occupies an office mentioned in
11 section 23 (4) (c) (i).

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

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

17 **[1.41] Section 26B**

18 *omit*

19 **[1.42] Section 26E**

20 *omit*

21 **[1.43] Section 26F (a)**

22 *omit*

23 , but is eligible for reappointment

24 **[1.44] Section 26F, new notes**

25 *insert*

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

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

[1.45] Section 26G

omit

[1.46] Section 26I

substitute

26I Acting coordinator

The Minister may appoint a person to act as coordinator.

[1.47] Sections 28 to 32

omit

[1.48] Section 35

omit

[1.49] Schedules 1A and 1

substitute

Dictionary

(see s 3)

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

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

child, of a person, includes—

(a) a child who normally lives with the person; and

(b) a child for whom the person is a guardian.

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

- 1 *council* means the Domestic Violence Prevention Council
2 established by section 21.
3 *domestic violence*—see the *Protection Orders Act 2001*, dictionary.
4 *domestic violence offence*—see the *Protection Orders Act 2001*,
5 dictionary.
6 *member* means a member of the council, and includes the
7 chairperson.

8 **[1.50] The Act**

9 *renumber Act when next republished under Legislation Act 2001*

10 **Part 5 Evidence Act 1971**

11 **[1.51] Section 66**

12 *omit*

13 **Part 6 Evidence (Miscellaneous**
14 **Provisions) Act 1991**

15 **[1.52] Section 5 (1)**

16 *omit*

17 (1)

18 **[1.53] Section 5 (c)**

19 *substitute*

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

21 **[1.54] Section 5 (e)**

22 *omit*

1 **[1.55] Section 5**

2 *renumber paragraphs when Act next republished under Legislation*
3 *Act 2001*

4 **Part 7** **Firearms Act 1996**

5 **[1.56] Section 4, definition of *corresponding order***

6 *substitute*

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

11 **[1.57] Section 4, new definition of *interim protection order***

12 *insert*

13 *interim protection order—*

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

19 **[1.58] Section 4, new definition of *protection order***

20 *insert*

21 *protection order—*

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

1 **[1.59] Section 21 (5) (d)**

2 *substitute*

3 (d) the applicant—

4 (i) was, within the 10 years before the day the application
5 was made, subject to an interim protection order or
6 corresponding order; or

7 (ii) has, within the 10 years before the day the application
8 was made—

9 (A) given an undertaking, in the ACT or elsewhere, to
10 keep the peace or to be of good behaviour; or

11 (B) had his or her licence suspended or cancelled.

12 **[1.60] Section 22 (1) (a)**

13 *substitute*

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

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

20 **[1.61] Section 22 (4)**

21 *renumber as section 22 (5)*

22 **[1.62] New section 22 (4)**

23 *insert*

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

27 **[1.63] Section 39 (2)**

28 *substitute*

- 1 (2) The registrar must suspend a licence in accordance with this section
2 if the registrar has reasonable grounds for believing that the licensee
3 has been charged with, committed, or threatened to commit, a
4 domestic violence offence.

5 **[1.64] New section 39 (4)**

6 *insert*

- 7 (4) In this section:
8 *domestic violence offence*—see *Protection Orders Act 2001*,
9 dictionary.

10 *Note 1* A licence is automatically suspended under the *Protection Orders Act*
11 *2001*, s 56 (Firearms and interim orders) if the Magistrates Court makes
12 an interim protection order unless the court orders otherwise. Under
13 that section, the Magistrates Court may also order seizure of the licence,
14 and seizure and detention of firearms and ammunition, for the period of
15 the interim order.

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

21 **[1.65] Section 40**

22 *omit*

23 **[1.66] Section 41 (1)**

24 *substitute*

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

28 *Note* A licence is automatically cancelled under the *Protection Orders Act*
29 *2001*, s 38 (Firearms and final orders) if the Magistrates Court makes a
30 final protection order unless the court orders otherwise. Under that
31 section, the Magistrates Court may also order seizure of the licence,
32 firearms and ammunition.

1 **[1.67] Section 46 (3) (b)**

2 *substitute*

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

7 **[1.68] New section 46 (3A)**

8 *insert*

9 (3A) For subsection (3) (b):

10 *protection order* does not include a protection order that has been
11 revoked.

12 **[1.69] Section 46**

13 *renumber subsections when Act next republished under Legislation*
14 *Act 2001*

15 **[1.70] Divisions**

16 *renumber divisions when Act next republished under Legislation Act*
17 *2001*

18 **Part 8 Magistrates Court Act 1930**

19 **[1.71] Part 10**

20 *omit*

21 **[1.72] Section 207**

22 *omit*

23 (other than a decision under Part 10)

24 **[1.73] Part 16**

25 *omit*

Part 9 Magistrates Court (Civil Jurisdiction) Act 1982

[1.74] Section 4, new paragraph (a)

insert

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

[1.75] Section 4

renumber paragraphs when next republished under Legislation Act 2001

Part 10 Prohibited Weapons Regulations

[1.76] Regulation 1

substitute

1 Name of regulations

These regulations are the *Prohibited Weapons Regulations 1997*.

[1.77] Regulation 3, definition of *Registrar*

substitute

registrar means the registrar of firearms.

[1.78] Regulation 5 (3)

substitute

- (3) The registrar must not issue a permit to someone if—

- (a) the person has been convicted within the relevant period in the ACT, or elsewhere, of a prescribed offence, whether or not the offence is an offence against Territory law; or

- 1 (b) the person is, or has been within the relevant period, subject to
2 a protection order or corresponding order; or
3 (c) the person is subject to an interim protection order or a
4 corresponding order; or
5 (d) the person is subject to an undertaking to keep the peace
6 (whether or not the undertaking was given in the ACT); or
7 (e) a permit issued to the person under the Act, or a licence or
8 permit issued to the person under the *Firearms Act 1996*, has
9 been cancelled.

10 (3A) For subsection (3) (b):

11 *protection order* does not include a protection order that has been
12 revoked.

13 **[1.79] Regulation 5 (5) and (6)**

14 *substitute*

15 (5) In this regulation:

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

20 *interim protection order*—

21 (a) see the *Protection Orders Act 2001*, dictionary, definition of
22 *interim order*; and

23 (b) includes an interim protection order made under the *Domestic*
24 *Violence Act 1986* and an interim restraining order made under
25 the *Magistrates Court Act 1930*.

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

29 *protection order*—

- 1 (a) see the *Protection Orders Act 2001*, dictionary, definition of
2 *final order*; and
3 (b) includes a protection order made under the *Domestic Violence*
4 *Act 1986* and a restraining order made under the *Magistrates*
5 *Court Act 1930*.
6 *relevant period*, in relation to an application for a permit, means the
7 10 years before the day the application was made.