

2004

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Attorney-General)

## **Domestic Violence and Protection Orders Amendment Bill 2004**

### **Contents**

---

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Section 1	2
5 New section 4A	2
6 Objects	
Section 5 (b)	3
7 Principles for making protection orders Section 6 (1)	3
8 Section 9	4
9 New section 10A	6

## Contents

---

	Page
10 Section 12	7
11 New section 18A	8
12 Explaining orders if aggrieved person present Section 25 (2) (d)	9
13 New section 25 (2) (e)	9
14 Section 25 (2), note	9
15 New section 30A	9
16 Amendment or revocation generally Section 31 (1)	10
17 This Act and Children and Young People Act Section 32 (1) (b)	11
18 Service of non-emergency orders Section 33 (1)	11
19 Offence for contravention of protection order Section 34 (2)	12
20 Extension of final orders Section 37 (3)	12
21 Section 40	12
22 What final orders (other than workplace orders) may contain Section 42 (2) (h)	13
23 What are grounds for making workplace order? Section 45	13
24 New section 45 (2) and (3)	14
25 When can interim order be made? New section 48 (4)	14
26 Section 49	15
27 What interim orders may contain New section 51 (5)	15
28 New section 51A	16
29 When may emergency order be made? Section 62 (a) (i)	17
30 Length of emergency orders Section 70 (1) (c)	17
31 Police required to explain emergency order served Section 75 (1)	18

		Page
32	Restriction on publication of reports about proceedings Section 100 (1)	18
33	Limits of restriction on publication about proceedings Section 101 (2) (c)	19
34	Section 101 (2)	19
35	Dictionary, definition of <i>relative</i>	19
36	Dictionary, definition of <i>relevant person</i> , paragraph (a), new note	19
37	Dictionary, definition of <i>relevant person</i> , paragraph (d)	19
38	Dictionary, new definition of <i>return date</i>	20
39	Further amendments, mentions of <i>behaviour</i>	20
<b>Schedule 1</b>	<b>Consequential amendments</b>	21
<b>Part 1.1</b>	<b>Bail Act 1992</b>	21
<b>Part 1.2</b>	<b>Children and Young People Act 1999</b>	23
<b>Part 1.3</b>	<b>Crimes Act 1900</b>	25
<b>Part 1.4</b>	<b>Crimes (Restorative Justice) Act 2004</b>	26
<b>Part 1.5</b>	<b>Dangerous Substances Act 2004</b>	27
<b>Part 1.6</b>	<b>Domestic Violence Agencies Act 1986</b>	27
<b>Part 1.7</b>	<b>Evidence (Miscellaneous Provisions) Act 1991</b>	28
<b>Part 1.8</b>	<b>Firearms Act 1996</b>	28
<b>Part 1.9</b>	<b>Health Records (Privacy and Access) Act 1997</b>	30
<b>Part 1.10</b>	<b>Magistrates Court Act 1930</b>	30
<b>Part 1.11</b>	<b>Prohibited Weapons Regulations 1997</b>	31
<b>Part 1.12</b>	<b>Protection Orders Regulations 2002</b>	31
<b>Part 1.13</b>	<b>Rehabilitation of Offenders (Interim) Act 2001</b>	32



2004

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Attorney-General)

# Domestic Violence and Protection Orders Amendment Bill 2004

---

## A Bill for

An Act to amend the *Protection Orders Act 2001*, and for other purposes

---

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

**1 Name of Act**

This Act is the *Domestic Violence and Protection Orders Amendment Act 2004*.

**2 Commencement**

This Act commences on the day after its notification day.

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

**3 Legislation amended**

This Act amends the *Protection Orders Act 2001*.

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

**4 Section 1**

substitute

**1 Name of Act**

This Act is the *Domestic Violence and Protection Orders Act 2001*.

**5 New section 4A**

*in part 1, insert*

**4A Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

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

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

*Note 2 Penalty units*

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

## **6 Objects**

### **Section 5 (b)**

*substitute*

- (b) to facilitate the safety and protection of people who fear or experience violence by—
  - (i) providing a legally enforceable mechanism to prevent violent conduct; and
  - (ii) allowing for the resolution of conflict without the need to resort to arbitration.

## **7 Principles for making protection orders**

### **Section 6 (1)**

*substitute*

- (1) In deciding an application for a protection order, the paramount consideration is—
  - (a) for a domestic violence order—the need to ensure that the aggrieved person, and any child at risk of exposure to domestic violence, is protected from domestic violence; and
  - (b) for a personal violence order—the need to ensure that the aggrieved person is protected from personal violence; and

- 1 (c) for a workplace order—the need to ensure that employees and  
2 other people at the workplace are protected from personal  
3 violence in the workplace.

4 **8 Section 9**

5 *substitute*

6 **9 What is domestic violence?**

- 7 (1) For this Act, a person's conduct is ***domestic violence*** if it—  
8 (a) causes physical or personal injury to a relevant person; or  
9 (b) causes damage to the property of a relevant person; or  
10 (c) is directed at a relevant person and is a domestic violence  
11 offence; or  
12 (d) is a threat, made to a relevant person, to do anything in relation  
13 to the relevant person or another relevant person that, if done,  
14 would fall under paragraph (a), (b) or (c); or  
15 (e) is harassing or offensive to a relevant person; or  
16 (f) is directed at a pet of a relevant person and is an animal  
17 violence offence; or  
18 (g) is a threat, made to a relevant person, to do anything to a pet of  
19 the person or another relevant person that, if done, would be an  
20 animal violence offence.

21 *Note* ***Relevant person***—see dict.

- 22 (2) In this Act:

23 ***animal violence offence*** means an offence against any of the  
24 following provisions of the *Animal Welfare Act 1992*:

- 25 (a) section 7 (Cruelty);  
26 (b) section 8 (Pain);



- (c) section 12 (Administering poison);
- (d) section 12A (Laying poison);
- (e) section 13 (which is about administering an electric shock to an animal).

***domestic violence offence*** means an offence against—

- (a) section 34 (which is about contravening protection orders); or
- (b) a provision of the *Crimes Act 1900* mentioned in schedule 1 (which deals with domestic violence crimes); or
- (c) any of the following provisions of the Criminal Code:
  - (i) section 311 (Burglary);
  - (ii) section 403, 404, 405, 406, 407 or 408 (which deal with property offences); 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 is about menacing driving); or
- (e) any of the following provisions of the *Firearms Act 1996*:
  - (i) section 53 (Unregistered firearms);
  - (ii) section 80 or section 81 (which are about discharge of firearms or possession endangering life).

*Note* A reference to an offence against a Territory law includes a reference to a related ancillary offence, eg attempt (see Legislation Act, s 189).

(3) In this section:

*offence* includes conduct, wherever engaged in, that would be an offence if it were engaged in within the ACT.

*personal injury* includes nervous shock.

## **9 New section 10A**

*in part 2, insert*

### **10A Who is a relative?**

For this Act, a *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) if the original person has or had a domestic partner (other than a spouse)—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 domestic partner; and

*Note* For the meaning of *domestic partner*, see Legislation Act, s 169.

(c) includes—

(i) someone who has been a relative of a kind mentioned in paragraph (a) or (b) of the original person; and

- (ii) anyone else who could reasonably be considered to be a relative of the original person.

**Examples for par (c) (ii)**

1 if the original person is an Aboriginal or Torres Strait Islander, the following people:

- (a) a person the original person has responsibility for, or an interest in, in accordance with the traditions and customs of the original person's Aboriginal or Torres Strait Islander community;
- (b) a person who has responsibility for, or an interest in, the original person in accordance with the traditions and customs of the original person's Aboriginal or Torres Strait Islander community.

2 a person regarded and treated by the original person as a relative, for example, as an uncle or aunt

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

## 10 Section 12

*substitute*

## 12 Applications by people with legal disability

- (1) An aggrieved person with a legal disability may only apply for a protection order by a next friend.

*Note 1* *The Macquarie Dictionary* (1997) defines **next friend** as a person bringing action in a court of law on behalf of a minor or person of unsound mind.

*Note 2* The regulations may prescribe how a next friend may be appointed (see s 106 (3) (b) (i)).

- (2) However, if the aggrieved person is a child, the aggrieved person may—

- (a) apply for a domestic violence protection order in the person's own right; or

- 1 (b) apply for another protection order in the person's own right  
2 with the leave of the Magistrates Court.
- 3 (3) Also, an aggrieved person with a legal disability (other than a child)  
4 may apply for any protection order in the person's own right with  
5 the leave of the Magistrates Court.
- 6 (4) The Magistrates Court must give leave for an application under  
7 subsection (2) (b) or (3) if satisfied that the aggrieved person—
- 8 (a) understands the consequences of applying for a protection  
9 order; and
- 10 (b) will understand the proceeding on the application.

11 **11 New section 18A**

12 *in part 3, insert*

13 **18A Referral to mediation**

- 14 If, at any time during the preliminary conference for an application  
15 for a protection order, the registrar is satisfied that the application is  
16 likely to be more effectively resolved by mediation than by a  
17 hearing, the registrar must—
- 18 (a) recommend to the parties to the application that they seek  
19 mediation; and
- 20 (b) give the parties information about mediation; and
- 21 (c) adjourn the preliminary conference until a stated date to allow  
22 for mediation to happen.

**12      Explaining orders if aggrieved person present**  
**Section 25 (2) (d)**

*omit*

commit an offence.

*substitute*

commit an offence; and

**13      New section 25 (2) (e)**

*insert*

(e) that the order may be registered and enforced in a State,  
 another Territory or New Zealand.

**14      Section 25 (2), note**

*substitute*

*Note*      The Criminal Code, pt 2.4 deals with offences of aiding and abetting.

**15      New section 30A**

*insert*

**30A      Application by respondent for leave to apply for  
 amendment or revocation**

- (1) An application for amendment or revocation of a protection order (the *original order*) must not be made by the respondent to the original order without the leave of the Magistrates Court.
- (2) Before hearing the application for leave, the Magistrates Court must fix a time to hear the application, and give the respondent written notice of the time.
- (3) If the respondent does not attend at the time fixed, the Magistrates Court must—

- 1 (a) if satisfied that the respondent has not been given reasonable  
2 notice of the time—fix another time to hear the application,  
3 adjourn the hearing to the other time and give the respondent  
4 written notice of the time; or
- 5 (b) dismiss the application.
- 6 (4) If the respondent attends at the time fixed under subsection (2) or  
7 (3) (a), the Magistrates Court may give the respondent leave to  
8 apply to amend or revoke the original order only if satisfied, on the  
9 basis of evidence provided by the respondent, that there may have  
10 been a substantial change in the circumstances surrounding the  
11 making of the original order.
- 12 (5) To remove any doubt, a decision under subsection (4) that there may  
13 have been a substantial change does not affect the hearing and  
14 deciding of the application for amendment or revocation of the  
15 original order.
- 16 (6) An aggrieved person for the original order is not entitled to attend or  
17 take part in a hearing under this section without the leave of the  
18 Magistrates Court.
- 19 (7) In this section:
- 20 *aggrieved person* includes a representative of the aggrieved person.  
21 *respondent* includes a representative of the respondent.

22 **16 Amendment or revocation generally**  
23 **Section 31 (1)**

- 24 *substitute*
- 25 (1) A protection order may be amended if the Magistrates Court is  
26 satisfied that—
- 27 (a) the order as amended could be made on application for a  
28 protection order; and

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

**17 This Act and Children and Young People Act  
Section 32 (1) (b)**

*substitute*

- (b) at least 1 of the criteria mentioned in that Act, section 205A (1) (b) (When Childrens Court may make final protection order) is satisfied; and

**18 Service of non-emergency orders  
Section 33 (1)**

*substitute*

- (1) If the Magistrates Court makes a protection order (other than an emergency order), the registrar must—
- (a) if the order is an interim protection order—serve 2 copies of the order (1 marked as the endorsement copy) on the respondent no later than 7 days before the return date for the application for the final protection order; and
  - (b) if the order is not an interim protection order—serve a copy of the order on the respondent; and
  - (c) give a copy of the order to—
    - (i) each other party to the proceeding; and
    - (ii) the chief police officer; and
    - (iii) the registrar of firearms.

**19      Offence for contravention of protection order**  
**Section 34 (2)**

*substitute*

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

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

*Note*      In deciding the sentence to be imposed on a person under this section, the Magistrates Court must consider the matters under the *Crimes Act 1900*, s 342.

**20      Extension of final orders**  
**Section 37 (3)**

*substitute*

- (3) If the original order is a domestic violence order, the Magistrates Court must, on application, amend the original order by extending it for a stated period unless satisfied that a protection order is no longer necessary to protect the aggrieved person from domestic violence by the respondent.

**21      Section 40**

*substitute*

**40      What are grounds for making final order (other than workplace order)?**

- (1) The Magistrates Court may make a final order (other than a workplace order) on application if satisfied that the respondent has—
- (a) engaged in domestic violence; or



(b) engaged in personal violence towards the aggrieved person and may engage in personal violence towards the aggrieved person during the time the order is proposed to operate if the order is not made.

(2) If an interim order has been made on the application and the respondent has objected to the interim order, in making the final order the Magistrates Court must consider the respondent's objection.

*Note* This section does not apply to consent orders (see s 29 (2) (b)).

## **22 What final orders (other than workplace orders) may contain Section 42 (2) (h)**

*substitute*

(h) prohibit the respondent from doing anything mentioned in paragraphs (a) to (g) in relation to—

(i) a child of the aggrieved person; or

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

## **23 What are grounds for making workplace order? Section 45**

*omit*

The Magistrates Court

*substitute*

(1) The Magistrates Court

**24 New section 45 (2) and (3)**

*insert*

- (2) The Magistrates Court may make a workplace order on application by an employee of a child facility if satisfied that the respondent poses a risk to people at the workplace, for example, children, carers or teachers.

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

- (3) In this section:

***child facility*** means a preschool, childcare centre, school or other similar facility the main purpose of which is the care or education of children.

**25 When can interim order be made?  
New section 48 (4)**

*insert*

- (4) If an interim order is made and the return date for the application for the final order is less than 21 days after the day the interim order is made, the Magistrates Court must change the return date for the application to a day that is at least 21 days after the day the interim order is made.

---

**26 Section 49**

*substitute*

**49 Grounds for making interim order**

The Magistrates Court may make an interim order if satisfied that it is necessary to make the interim order to do 1 or more of the following until the application for the final order is decided:

- (a) ensure the safety of the aggrieved person or a child of the aggrieved person;
- (b) if the interim order is an interim workplace order—ensure the safety of the aggrieved person at the workplace, or an employee of the aggrieved person or other people at the workplace;
- (c) prevent substantial damage to the property of the aggrieved person or a child of the aggrieved person.

*Note* This section does not apply to consent orders (see s 29 (2) (b)).

**27 What interim orders may contain**  
**New section 51 (5)**

- (5) An interim order may require the respondent to return to the aggrieved person personal items reasonably needed by the aggrieved person or a child of the aggrieved person.

**Examples of personal items**

- 1 personal clothing
- 2 toiletries
- 3 books
- 4 photographs
- 5 house or car keys

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

**28      New section 51A**

*insert*

**51A      What if respondent objects to interim order made when not present?**

- (1) This section applies if the Magistrates Court makes an interim order in the absence of a respondent and any representative of the respondent.
- (2) The respondent may—
  - (a) fill out the endorsement copy of the interim order in accordance with the instructions on the copy; and
  - (b) return it to the Magistrates Court at least 7 days before the return date for the application for the final order to which the interim order relates.
- (3) The interim order becomes a final order against the respondent—
  - (a) if—
    - (i) the Magistrates Court receives the endorsement copy from the respondent at least 7 days before the return date for the application for the final order; and
    - (ii) the respondent indicated on the endorsement copy that the respondent does not object to the interim order becoming a final order; or
  - (b) if the respondent does not return the endorsement copy to the Magistrates Court at least 7 days before the return date for the application for the final order.
- (4) A final order under subsection (3) comes into force—
  - (a) if the respondent returned the endorsement copy and does not object to the interim order becoming final—on the day the Magistrates Court receives the endorsement copy; or

(b) on the return date for the application for the final order.

(5) The Magistrates Court may decide the application for the final order if—

(a) the respondent returns the endorsement copy of the interim order at least 7 days before the return date for the application for the final order; and

(b) the endorsement copy indicates that the respondent objects to the interim order becoming a final order.

(6) In this section:

*endorsement copy*, of an interim order, means the copy of the interim order marked as the endorsement copy under section 33 (1).

*respondent* includes a representative of the respondent.

## **29 When may emergency order be made?**

### **Section 62 (a) (i)**

*substitute*

(i) the respondent has behaved in a way that satisfies the judicial officer that there are reasonable grounds for believing that, if an emergency order is not made, the respondent may cause physical injury to, or substantial damage to the property of, the aggrieved person or a child of the aggrieved person; and

## **30 Length of emergency orders**

### **Section 70 (1) (c)**

*substitute*

(c) a final order or interim order made against the respondent in relation to the aggrieved person is served on the respondent.

**31      Police required to explain emergency order served  
Section 75 (1)**

*omit*

effect

*substitute*

purpose, terms and effect

**32      Restriction on publication of reports about proceedings  
Section 100 (1)**

*substitute*

(1) A person commits an offence if—

(a) the person publishes (completely or partly) an account or report of a proceeding on an application for a protection order; and

(b) the account or report—

(i) identifies a party to the proceeding; or

(ii) identifies a person who is related to, or associated with, a party to the proceeding or is, or is claimed to be, in any other way concerned in the matter to which the proceeding relates; or

(iii) identifies a witness to the proceeding; or

(iv) allows the identity of a person mentioned in subparagraph (i), (ii) or (iii) to be worked out.

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

**33 Limits of restriction on publication about proceedings  
Section 101 (2) (c)**

*substitute*

(c) information from being given to the director of public prosecutions, the director of corrective services or a police officer in relation to the exercise of the director's or officer's functions;

(ca) information from being given to the community advocate in relation to the exercise of the community advocate's functions;

**34 Section 101 (2)**

*renumber paragraphs when Act next republished under Legislation Act*

**35 Dictionary, definition of *relative***

*substitute*

*relative*—see section 10A.

**36 Dictionary, definition of *relevant person*, paragraph (a),  
new note**

*insert*

*Note* A *domestic partner* need not be an adult (see Legislation Act, s 169).

**37 Dictionary, definition of *relevant person*, paragraph (d)**

*substitute*

(d) a parent of a child of the original person.

**38 Dictionary, new definition of *return date***

*insert*

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

**39 Further amendments, mentions of *behaviour***

*omit*

behaviour

*substitute*

conduct

*in*

- section 10 (1) and (2)
- section 20
- section 21
- section 22 (1) (b)
- section 23 (1) (b), (2) (b)
- section 34 (3)
- section 41
- section 44
- section 46 (1) (c)
- section 63 (2) (b) and (4)
- section 71 (3)
- section 102
- dictionary, definitions of ***aggrieved person***, ***domestic violence order*** and ***personal protection order***



---

## Schedule 1 Consequential amendments

### Part 1.1 Bail Act 1992

#### [1.1] Section 2, notes

*substitute*

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act.

*Note 2* A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

#### [1.2] Section 9B (b) (iv)

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

#### [1.3] Section 9F (6)

*substitute*

(6) In this section:

***protected person***, in relation to a person accused of a domestic violence offence—

- (a) means a person against whom the alleged conduct making up the offence was directed; and
- (b) includes any other relevant person in relation to the accused person.

**relevant person**—see the *Domestic Violence and Protection Orders Act 2001*, dictionary.

*Note* The *Domestic Violence and Protection Orders Act 2001*, dict defines a **relevant person** in relation to the offender as any of the following people:

- a domestic partner of the accused person (**domestic partner** is defined in the Legislation Act, s 169 (1))
- a relative of the accused person (**relative** is defined in the *Domestic Violence and Protection Orders Act 2001*, s 10A)
- a child of a domestic partner of the accused person
- a parent of a child of the accused person.

**[1.4] Section 16 (7)**

*substitute*

(7) In this section:

**protected person**, in relation to a domestic violence offence, means—

- (a) if the conduct making up the offence was directed at a child—a person with parental responsibility for the child; or
- (b) if the conduct making up the offence was directed at someone else—the person at whom the conduct was directed.

**[1.5] Section 47A (3)**

*omit*

care and control of

*substitute*

parental responsibility for

---

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

*substitute*

*domestic violence offence*—an offence that a person is accused of committing is a *domestic violence offence* if the conduct making up the offence is domestic violence under the *Domestic Violence and Protection Orders Act 2001*.

**[1.7] Dictionary, new definition of *parental responsibility***

*insert*

*parental responsibility*—see the *Children and Young People Act 1999*, section 17.

**[1.8] Dictionary, definition of *relevant person***

*omit*

**Part 1.2 Children and Young People Act 1999**

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

*substitute*

(c) emotional abuse (including psychological abuse) if the child or young person has suffered, is suffering or is likely to suffer in a way that has caused, is causing or is likely to cause significant harm to his or her wellbeing or development; or

(d) emotional abuse (including psychological abuse) if—

(i) the child or young person has been, is being, or is likely to be exposed to conduct that is domestic violence under the *Domestic Violence and Protection Orders Act 2001*; and

- 1 (ii) the exposure has caused, is causing or is likely to cause  
2 significant harm to the child's or young person's  
3 wellbeing or development.

4 **[1.10] Section 194, definitions of *final protection order* and**  
5 ***interim protection order***

- 6 *omit*  
7 *Protection Orders Act 2001*  
8 *substitute*  
9 *Domestic Violence and Protection Orders Act 2001*

10 **[1.11] Section 205**

- 11 *omit*  
12 *Protection Orders Act 2001*  
13 *substitute*  
14 *Domestic Violence and Protection Orders Act 2001*

15 **[1.12] Section 205A (3), definition of *domestic violence***

- 16 *substitute*  
17 *domestic violence*—see the *Domestic Violence and Protection*  
18 *Orders Act 2001*, section 9 (1).

19 **[1.13] Section 205B (3)**

- 20 *omit*  
21 *Protection Orders Act 2001*  
22 *substitute*  
23 *Domestic Violence and Protection Orders Act 2001*

---

1 **[1.14] Section 205C (1), examples**

2 *omit*

3 **Protection Orders Act**

4 *substitute*

5 **Domestic Violence and Protection Orders Act**

6 **[1.15] Sections 205C (3) and (4) and 380 (4) (b)**

7 *omit*

8 *Protection Orders Act 2001*

9 *substitute*

10 *Domestic Violence and Protection Orders Act 2001*

11 **[1.16] Dictionary, definition of *protection order***

12 *omit*

13 *Protection Orders Act 2001*

14 *substitute*

15 *Domestic Violence and Protection Orders Act 2001*

16 **Part 1.3 Crimes Act 1900**

17 **[1.17] Sections 191 (4) (b) and 192 (2)**

18 *omit*

19 *Protection Orders Act 2001*

20 *substitute*

21 *Domestic Violence and Protection Orders Act 2001*

---

**[1.18] New section 212 (5)**

*insert*

(5) In this section:

***domestic violence offence***—an offence that a person is suspected of committing is a ***domestic violence offence*** if the conduct making up the offence is domestic violence under the *Domestic Violence and Protection Orders Act 2001*.

**[1.19] Schedule 1**

*omit*

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

*omit*

**[1.21] Dictionary, definition of *relevant person***

*omit*

**Part 1.4 Crimes (Restorative Justice) Act  
2004**

**[1.22] Section 12, definition of *domestic violence offence***

*substitute*

***domestic violence offence***—an offence is a ***domestic violence offence*** if the conduct making up the offence is domestic violence under the *Domestic Violence and Protection Orders Act 2001*.

---

## Part 1.5 Dangerous Substances Act 2004

### [1.23] Section 49 (2), definition of *protection order*

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

## Part 1.6 Domestic Violence Agencies Act 1986

### [1.24] Section 2, note 1

*substitute*

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

For example the signpost definitions '*domestic violence*—see the *Domestic Violence and Protection Orders Act 2001*, section 9 (1).' means that the term '*domestic violence*' is defined in section 9 (1) of that Act and the definition applies to this Act.

### [1.25] Dictionary, definition of *domestic violence*

*substitute*

*domestic violence*—see the *Domestic Violence and Protection Orders Act 2001*, section 9 (1).

---

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

*substitute*

*domestic violence offence*—an offence is a *domestic violence offence* if the conduct making up the offence is domestic violence under the *Domestic Violence and Protection Orders Act 2001*.

**Part 1.7 Evidence (Miscellaneous Provisions) Act 1991**

**[1.27] Sections 7 (c) and 41 (2) (c)**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**[1.28] Section 74 (2) (c)**

(c) an offence if the conduct making up the offence is domestic violence under the *Domestic Violence and Protection Orders Act 2001*.

**Part 1.8 Firearms Act 1996**

**[1.29] Section 4, definitions of *interim protection order* and *protection order***

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*



---

**[1.30] Section 39 (4)**

*substitute*

(4) In this section:

***domestic violence offence***—an offence is a ***domestic violence offence*** if the conduct making up the offence is domestic violence under the *Domestic Violence and Protection Orders Act 2001*.

*Note 1* A licence is automatically suspended under the *Domestic Violence and Protection Orders Act 2001*, s 57 (Firearms and interim orders) if the Magistrates Court makes an interim protection order unless the court orders otherwise. Under that section, the Magistrates Court may also order seizure of the licence, and seizure and detention of firearms and ammunition, for the period of the interim order.

*Note 2* A licence is also automatically suspended under the *Domestic Violence and Protection Orders Act 2001*, s 73 (Firearms and emergency orders) if a judicial officer makes an emergency order. Under that section, the officer may also order seizure of the licence, and seizure and detention of firearms and ammunition, for the period of the emergency order.

**[1.31] Section 41 (1), note**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

---

## Part 1.9 Health Records (Privacy and Access) Act 1997

### [1.32] Section 31 (1) (c) and (d)

*substitute*

(c) any other order in relation to a matter arising under this Act that the court considers appropriate.

### [1.33] Section 31 (4) to (7)

*omit*

## Part 1.10 Magistrates Court Act 1930

### [1.34] Section 256 (a)

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

---

**Part 1.11                      Prohibited Weapons Regulations  
1997**

**[1.35]      Regulation 5 (6), definitions of *interim protection order*  
and *protection order***

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**Part 1.12                      Protection Orders Regulations  
2002**

**[1.36]      Regulation 1**

*omit*

*Protection Orders Regulations 2002*

*substitute*

*Domestic Violence and Protection Orders Regulations 2002*

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

*substitute*

For example, the signpost definition ‘*institution*—see the *Children and Young People Act 1999*, dictionary.’ means that the term ‘institution’ is defined in that dictionary and the definition applies to this Act.

*substitute*

- (i) an offence made up of conduct that is domestic violence under the *Domestic Violence and Protection Orders Act 2001* in relation to anyone with whom it is likely the person would live in the same household if the home detention order were made;

*substitute*

- (ii) an offence made up of conduct that is domestic violence under the *Domestic Violence and Protection Orders Act 2001*, or would be domestic violence if the conduct happened in the ACT, directed at anyone with whom it is likely the person would live in the same household if the home detention order were made; or

---

1	<b>[1.40] Section 10 (1) (c) and (4)</b>
2	<i>omit</i>
3	<i>Protection Orders Act 2001</i>
4	<i>substitute</i>
5	<i>Domestic Violence and Protection Orders Act 2001</i>
6	<b>[1.41] Section 13 (2) (e)</b>
7	<i>substitute</i>
8	(e) the likelihood that the person will commit an offence that is
9	made up of conduct that is domestic violence under the
10	<i>Domestic Violence and Protection Orders Act 2001</i> in relation
11	to anyone with whom it is likely the person would live in the
12	same household if the home detention order were made;
13	<b>[1.42] Dictionary, definition of <i>domestic violence offence</i></b>
14	<i>omit</i>

---

## Endnotes

- 1 Presentation speech**  
Presentation speech made in the Legislative Assembly on 2004.
  - 2 Notification**  
Notified under the Legislation Act on 2004.
  - 3 Republications of amended laws**  
For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).
-

---

© Australian Capital Territory 2004