



Australian Capital Territory

Domestic Violence Act 1986

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About this republication

The republished law

This is a republication of the *Domestic Violence Agencies Act 1986* effective from 17 October 1997 to 31 October 1997.

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- authorised republications to which the *Legislation Act 2001* applies
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Australian Capital Territory

DOMESTIC VIOLENCE ACT 1986

This consolidation has been prepared by the ACT Parliamentary Counsel's Office

Updated as at 17 October 1997

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Australian Capital Territory

DOMESTIC VIOLENCE ACT 1986

An Act relating to domestic violence, and for other purposes

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Domestic Violence Act 1986*.¹

Commencement

2. This Act shall come into operation on such date as is fixed by the Minister of State for Territories by notice in the *Gazette*.¹

Interpretation

3.³ In this Act, unless the contrary intention appears—

“aggrieved person” means a person in respect of whom the alleged conduct has been, or is likely to be, engaged in;

“approved crisis support organisation” means an organisation approved under section 33;

“authorised police officer” means the police officer for the time being in charge of a police station;

“child”—

(a) means a person who has not attained the age of 18 years; and

(b) in relation to a person, includes a child—

(i) who normally or regularly resides with the person; or

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(ii) of whom the person is a guardian;

“Court” means the Magistrates Court;

“Crimes Act” means the Crimes Act, 1900 of the State of New South Wales in its application to the Territory;

“de facto spouse”, in relation to a person, means a person of the opposite sex to the first-mentioned person who is living with the first-mentioned person as that person’s husband or wife although not legally married to the first-mentioned person;

“domestic violence offence” means—

- (a) an offence against a provision of the Crimes Act specified in column 1 of Schedule 1A or an attempt to commit such an offence;
- (b) an offence against section 27 of this Act; or
- (c) an offence against section 129 of the *Motor Traffic Act 1936*;

committed by a person so as to cause physical or emotional harm to—

- (d) a spouse of the person;
- (e) a child of the person or of a spouse of the person;
- (f) a relative; or
- (g) a household member;

“drug” means—

- (a) a substance specified in Schedule 1; or
- (b) a substance that is specified in Schedule 1 or 2 to the Drugs of Dependence Regulations;

“household member”, in relation to a person, means a person who normally resides, or was normally resident, in the same household as the first-mentioned person (other than as a tenant or boarder);

“interim protection order” means an order made under section 14;

“legal practitioner” means a barrister and solicitor within the meaning of the *Legal Practitioners Act 1970*;

“protection order” means an order made under section 4;

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“Registrar” means the Registrar or a Deputy Registrar of the Court;

“relative”, in relation to a person—

(a) means—

(i) the father, mother, grandfather, grandmother, step-father, step-mother, father-in-law or mother-in-law of the person;

(ii) the son, daughter, grandson, granddaughter, step-son, step-daughter, son-in-law or daughter-in-law of the person;

(iii) the brother, sister, half-brother, half-sister, step-brother, step-sister, brother-in-law or sister-in-law of the person;

(iv) the uncle, aunt, uncle-in-law or aunt-in-law of the person;

(v) the nephew or niece of the person; or

(vi) the cousin of the person;

(b) includes a person who would have been a relative of a kind referred to in paragraph (a) if the first-mentioned person had been legally married to his or her de facto spouse; and

(c) includes a former relative of a kind referred to in paragraph (a) or (b);

“relevant family contact order”, in relation to a protection order or an interim protection order, means a Division 11 contact order within the meaning of Division 11 of Part 7 of the *Family Law Act 1975* of the Commonwealth that relates to access between the aggrieved person or the respondent, and any child of either of those persons;

“respondent”, in relation to a protection order or an interim protection order, means the person in respect of whom the order is sought or made, as the case requires;

“spouse” includes former spouse, de facto spouse and former de facto spouse;

“vary” includes adapt and modify.

PART II—PROTECTION ORDERS

Making of orders

4.³ **(1)** Where, on an application made in accordance with this Part in respect of a person, the Court is satisfied, on the balance of probabilities, that—

- (a) the respondent has engaged in conduct that constitutes a domestic violence offence and, unless the respondent is restrained, the respondent is likely to engage in further conduct that would constitute that or another domestic violence offence;
- (b) the respondent has threatened to engage in conduct that would constitute a domestic violence offence and, unless the respondent is restrained, the respondent is likely to engage in conduct that would constitute that or another domestic violence offence; or
- (c) the respondent has engaged in conduct of such an offensive or harassing nature in respect of—
 - (i) a spouse of the respondent;
 - (ii) a relative;
 - (iii) a household member; or
 - (iv) a child of the spouse or of the respondent;that—
 - (v) the spouse, relative, household member or child fears for his or her safety; or
 - (vi) the spouse fears for the safety of the child;

the Court may make an order restraining the respondent from engaging in that conduct and in conduct that would constitute any domestic violence offence and may impose 1 or more of the prohibitions and conditions specified in section 9.

(2) In subsection (1)—

- (a) a reference to conduct that constitutes a domestic violence offence shall be read as including a reference to conduct engaged in outside the Territory that, if it were engaged in within the Territory, would constitute a domestic violence offence; and
- (b) a reference to conduct of an offensive or harassing nature shall be read as including a reference to conduct engaged in outside the Territory.

Applications for orders

5. An application for a protection order may be made by—

- (a) an aggrieved person;
- (b) where the alleged conduct involves a child—
 - (i) a person with whom the child normally resides;
 - (ii) a parent or guardian of the child; or
 - (iii) the child; or
- (c) a police officer.

Date for hearing

6. The Registrar shall fix a date for the hearing of an application for a protection order that is not more than 2 days after the date on which the application is filed.

Parties

7. (1) The person in respect of whom the application is made shall be the respondent to the proceedings.

(2) Where the applicant is a police officer, the aggrieved person shall be a party to the proceedings.

(3) Where the alleged conduct in respect of which an application is made has been engaged in with respect to a child—

- (a) the Registrar shall, as soon as practicable, cause a copy of the application, together with notice of the time and date of the hearing, to be given—
 - (i) where the child does not normally reside with the respondent—to the person with whom the child normally resides; and
 - (ii) where the child has a parent or guardian with whom the child does not normally reside—to that parent or guardian; and
- (b) subject to subsection (2), a person to whom a copy of an application and notice have been given under paragraph (a) shall, on application to the Court, be made a party to the proceedings.

Representation of children

7A. (1) Where—

- (a) an application for a protection order is made by a child;
- (b) the child is not separately represented by another person; and
- (c) it appears to the Court that the child should be so represented;

the Court may, of its own motion or on the application of a person (including the child), order that the child be separately represented by another person and the Court may make such other orders as it thinks necessary to secure that representation.

(2) Where the Court orders that a child be separately represented, the Court may request that the representation be arranged by the Legal Aid Office (A.C.T.).

Hearing of application

8. (1) Paragraph 22 (4) (a) and section 199 of the *Magistrates Court (Civil Jurisdiction) Act 1982* do not apply in relation to proceedings under this Act.

(2) Notwithstanding the provisions of sections 206 and 207 of the *Magistrates Court (Civil Jurisdiction) Act 1982*—

- (a) an affidavit; and
- (b) a notice referred to in subsection 206 (1) of that Act,

shall each be served—

- (c) as soon as practicable before the hearing; or
- (d) within such other time as the Court orders.

(3) Where a period of time, being a period of 5 days or less, is prescribed or allowed for any purpose under this Act, that period shall be reckoned exclusive of any day on which the office of the Court is closed.

Court to be informed of relevant contact orders

8A. (1) The applicant for a protection order shall inform the Court of any relevant family contact order, or any pending application for such an order, of which the applicant is aware.

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(2) A failure to comply with subsection (1) does not affect the validity of a protection order or an interim protection order.

NOTE: RELATIONSHIP WITH FAMILY LAW ACT

Divisions 10 and 11 of Part 7 of the *Family Law Act* of the Commonwealth deal with the relationship between protection orders and contact orders within the meaning of that Part. In particular, section 68J imposes an obligation on certain persons to inform the court of any protection orders or interim protection orders and under section 68S certain persons may apply for a declaration of the extent to which a contact order is inconsistent with a protection order or an interim protection order.

Restrictions in order

9. (1) Subject to this Act, a protection order may—
- (a) prohibit the respondent from being on premises on which the aggrieved person resides or works;
 - (b) prohibit the respondent from being on premises specified in the order, being premises frequented by the aggrieved person;
 - (c) prohibit the respondent from being in a locality specified in the order;
 - (d) prohibit the respondent from approaching within a specified distance of the aggrieved person;
 - (e) prohibit the respondent from contacting, harassing, threatening or intimidating the aggrieved person;
 - (f) prohibit the respondent from damaging property of the aggrieved person;
 - (g) where the order contains a prohibition of the kind referred to in paragraph (a)—
 - (i) prohibit the respondent from taking possession of specified personal property, being property that is reasonably needed by the aggrieved person; or
 - (ii) direct the respondent to give specified personal property that is in the possession of the respondent and is reasonably needed by the aggrieved person to the aggrieved person;
 - (h) prohibit the respondent from causing another person to engage in the conduct referred to in paragraph (e) or (f) or subparagraph (g) (i); or

- (j) specify conditions subject to which the respondent may—
 - (i) be on premises;
 - (ii) be in a locality; or
 - (iii) approach or contact a person (including a child);specified in the order.

(2) The Court may make an order that includes a prohibition of the kind referred to in paragraph (1) (a) or (g) notwithstanding any legal or equitable interests the respondent might have in the property comprising the premises or in the property to which the prohibition of the kind referred to in paragraph (1) (g) relates.

(3) Where the Court makes an order that includes a prohibition or direction of a kind referred to in subsection (1), the Court may extend the prohibition or direction to apply in relation to a child of the aggrieved person.

Matters to be taken into account

10.³ (1) In determining an application for a protection order, the Court shall have regard to the following:

- (a) the need to ensure the aggrieved person is protected from violence or harassment;
- (b) the welfare of a child affected, or likely to be affected, by the respondent's conduct;
- (c) the accommodation needs of the aggrieved person, the children (if any) of the aggrieved person and the children (if any) of the respondent;
- (d) any hardship that may be caused to the respondent or to any other person as a result of the making of the order;
- (e) where the Court proposes to include in the order a prohibition or direction of the kind referred to in paragraph 9 (1) (g)—the income, assets and liabilities of the respondent and of the aggrieved person (other than an aggrieved person who is a child);
- (ea) whether access between the aggrieved person or the respondent, and any child of either of those persons, is relevant to the making of the order, and to any relevant family contact order of which the Court is aware;

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- (f) any other matter that, in the circumstances of the case, the Court considers relevant.

(2) In having regard to the matters referred to in subsection (1), the Court shall consider the matters referred to in paragraphs (1) (a) and (b) as being of primary importance.

(3) A failure to have regard to any of the matters mentioned in paragraph (1) (ea) does not affect the validity of a protection order or an order varying a protection order.

Consent orders

10A. The Court may, with the consent of the parties to the proceedings, make any order under this Act without proof or admission of guilt.

Counselling

11. Where the Court makes a protection order, the Court may recommend that the respondent, the aggrieved person or any other person participate in counselling of a nature specified by the Court.

Service of application

12. (1) Subject to section 28, the Registrar shall, as soon as practicable after an application for a protection order has been filed, cause—

- (a) a copy of the application, together with notice of the proceedings in accordance with Form 1 in Schedule 2, to be served personally on the respondent; and
- (b) where the applicant is a police officer—a copy of the application, together with notice of the date on which, and time and place at which, the application is to be heard, to be served personally on the aggrieved person (other than an aggrieved person who is a child).

(2) Where the hearing of an application is adjourned by reason of the fact that the application and the notice of proceedings have not been served on the respondent, the date, time and place stated in the notice of proceedings shall be the date, time and place fixed by the Court for the adjourned hearing.

Procedure in absence of respondent

13. Where—

- (a) notice of the proceedings has been served on the respondent in accordance with this Act; and

- (b) the respondent fails to appear in person at the Court at the time fixed for the hearing of the application for the protection order,

the Court may—

- (c) proceed to hear and determine the matter in the respondent's absence; or
- (d) where the Court is satisfied, having regard to the material before it, that it is appropriate to do so—adjourn the matter and issue a warrant for the respondent to be apprehended and brought before the Court.

Interim orders

14. (1) Where—

- (a) an application for a protection order has been made in accordance with this Part; and
- (b) the Court is satisfied that it is necessary, in order to ensure the safety of the aggrieved person pending the hearing and determination of the application, to make an interim protection order,

the Court may make an interim protection order whether or not a copy of the application has been served on the respondent.

(2) The Court shall not make an interim protection order unless the application is supported by oral evidence on oath given by the applicant.

(2A) In making an interim protection order, the Court shall have regard to whether access between the aggrieved person or the respondent, and any child of either of those persons, is relevant to the making of the order, and to any relevant family contact order of which the Court is aware.

(2B) A failure to have regard to any of the matters mentioned in subsection (2A) does not affect the validity of an interim protection order or an order varying an interim protection order.

(3) An interim protection order—

- (a) shall restrain the respondent from engaging in the conduct on which the application is based;
- (b) may prohibit the respondent from being on premises on which the aggrieved person resides; and

- (c) shall not contain any other prohibition or condition specified in section 9 unless the Court is satisfied, by reason of the circumstances of the case, that it is necessary to do so to ensure the safety of the aggrieved person.

Protection orders, interim protection orders—firearms

14A. (1) Where a protection order is made in respect of a person who is the holder of a licence under the *Firearms Act 1996*, the licence is by force of this section cancelled.

(2) If the court makes such a protection order, the court may also order—

- (a) the seizure of any firearm and any ammunition for a firearm in the respondent's possession; and
- (b) the seizure of the licence.

(3) Where an interim protection order is made in respect of a person who is the holder of a licence under the *Firearms Act 1996*, the licence is by force of this section suspended until the order is confirmed or revoked and the court may order—

- (a) the seizure of the licence for the period specified in the order; and
- (b) the seizure and detention for that period of any firearm and any ammunition for a firearm in the respondent's possession.

(4) An expression used in this section that is defined in the *Firearms Act 1996* has, in this section, the same meaning as in that Act.

Explaining proposed orders

15. (1) Where—

- (a) the Court proposes to make a protection order or an interim protection order; and
- (b) the respondent is before the Court,

the Court shall, before making the order, explain or cause to have explained to the respondent, in language likely to be readily understood by the respondent—

- (c) the purpose, terms and effect of the proposed order;
- (d) the consequences that may follow if the respondent fails to comply with the terms of the proposed order;

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- (e) the means by which the proposed order may be varied or revoked; and
- (f) that, where a State or another Territory has reciprocal legislation in force, the proposed order may be registered, and enforced, in that State or other Territory without notice of registration being given to the respondent.

(2) Where—

- (a) the Court proposes to make a protection order or an interim protection order; and
- (b) the aggrieved person is before the Court;

the Court shall, before making the order, explain or cause to have explained to the aggrieved person, in language likely to be readily understood by the aggrieved person—

- (c) the matters specified in paragraphs (1) (c), (d) and (e); and
- (d) the consequences of the aggrieved person aiding or abetting the respondent in the commission of an offence against section 27.

(3) Where—

- (a) the Court proposes to make a protection order or an interim protection order;
- (b) the aggrieved person is a child; and
- (c) the person who has the care and control of the child is before the Court;

the Court shall, before making the order, explain or cause to have explained to the person who has that care and control, in language likely to be readily understood by that person—

- (d) the matters specified in paragraphs (1) (c), (d) and (e); and
- (e) the consequences of that person or the aggrieved person aiding or abetting the respondent in the commission of an offence against section 27.

Criminal proceedings: hearing of application

16. The power of the Court to make a protection order or an interim protection order in respect of a person may be exercised notwithstanding that

the person has been charged with an offence arising out of the same conduct as that out of which the application for the protection order arose.

Duration of order

17.³ **(1)** A protection order remains in force for such period, not exceeding 12 months, as the Court specifies in the order.

(2) Where a protection order contains a prohibition or condition of the kind specified in section 9, the Court may specify different periods, being periods none of which exceeds the period referred to in subsection (1), as the period for which each prohibition or condition is to remain in force.

(3) Subject to this section, an interim protection order remains in force for such period, not exceeding 10 days, as the Court specifies in the order.

(4) Where—

(a) the Court adjourns the hearing of an application for a protection order; and

(b) an interim protection order is in force in respect of the respondent,

the Court may, by order, extend the period for which an interim order is to remain in force until the date fixed for the further hearing of the application.

(5) An interim protection order made on an application under section 5 ceases to be in force—

(a) where a protection order is made on that application and the respondent is present at the time the protection order is made—when the protection order is made;

(b) where a protection order is made on that application but the respondent is not present at the time the protection order is made—when the protection order is served on the respondent; or

(c) when the application is dismissed.

17A-17C.³ * * * * *

Variation and revocation of orders

18. (1) Where a protection order or an interim protection order is in force, a party to the proceedings in which the order was made may apply to the Court for an order varying or revoking the order.

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(2) On an application under subsection (1), the Court may by order vary or revoke the protection order or interim protection order.

(3) The Registrar shall cause a copy of an application under this section to be served personally on each other person who was a party to the proceedings in which the original order was made.

(4) In determining whether to vary a protection order, the Court shall have regard to the matters specified in section 10.

(5) In determining whether to revoke a protection order, the Court shall have regard to the matters specified in section 10, other than the matters specified in paragraph 10 (1) (ea).

(6) In determining whether to vary an interim protection order, the Court shall have regard to—

- (a) the need to ensure the safety of the aggrieved person pending the hearing and determination of the application for a protection order; and
- (b) the matters specified in subsection 14 (2A).

(7) In determining whether to revoke an interim protection order, the Court shall have regard to the need to ensure the safety of the aggrieved person pending the hearing and determination of the application for a protection order.

Service etc. of order

19. (1) Where a protection order or an interim protection order is made or varied by the Court, the Registrar shall—

- (a) arrange for an order in the prescribed form to be formally drawn up and filed in the Court;
- (b) cause a copy of the order to be served personally on the respondent; and
- (c) cause a copy of the order to be forwarded to—
 - (i) the Commissioner of Police and the Registrar of Firearms; and
 - (ii) each other person who was a party to the proceedings.

(2) In subsection (1), a reference to an order in the prescribed form shall be read as a reference to—

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- (a) in the case of the making of a protection order or an interim protection order—an order in accordance with Form 2 in Schedule 2; and
 - (b) in the case of the varying of a protection order or an interim protection order—an order in accordance with Form 3 in Schedule 2.
- (3) Where an order is made under section 14A, the Registrar shall cause a copy of the order to be forwarded to the Registrar of Firearms.

PART III—THE DOMESTIC VIOLENCE PREVENTION COUNCIL

Interpretation

20. In this Part—

“appointed member” means a member appointed under subsection 23 (6);

“Council” means the Domestic Violence Prevention Council established by section 21;

“member” means a member of the Council and includes the Chairperson;

“statutory office” means an office established by an Act;

“statutory office holder” means the holder of a statutory office and includes a person who at any time occupies for the time being, or performs for the time being the duties of, the office.

Establishment

21. There is hereby established a council to be known as the Domestic Violence Prevention Council.

Objective and functions

22. (1) The objective of the Council is to reduce the incidence of domestic violence offences.

(2) The functions of the Council are—

- (a) to promote collaboration among government agencies and non-government organisations involved in—
 - (i) law enforcement; or

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- (ii) the provision of health, education, crisis or welfare services to victims or perpetrators of domestic violence or otherwise relating to the incidence or prevention of domestic violence;
- (b) to assist and encourage the agencies and organisations referred to in paragraph (a) to promote projects and programs aimed at enhancing the safety and security of victims of domestic violence offences, with particular regard to children;
- (c) to advise the Minister on any matter relating to domestic violence;
- (d) to inquire into and provide advice to the Minister on matters relating to domestic violence that have been referred to the Council by the Minister;
- (e) to establish and maintain links with and among government agencies and non-government organisations concerned with domestic violence;
- (f) to assist government agencies and non-government organisations to develop procedures for the collection, standardisation and sharing of statistical information relating to domestic violence offences;
- (g) to collect statistical and other information relating to domestic violence offences;
- (h) to prepare and submit to the Minister a plan for dealing with domestic violence in the community, including recommendations on—
 - (i) any changes in the law or its administration that may be necessary;
 - (ii) improving the effectiveness of the provision of assistance to victims of domestic violence offences;
 - (iii) the prevention of the occurrence of domestic violence offences; and
 - (iv) developing systems for monitoring the effectiveness of any programs recommended in the plan that are implemented;
- (i) to monitor developments within and outside Australia of legislation, policy and community views on domestic violence and the provision of health and welfare services to victims and perpetrators of domestic violence offences; and
- (j) to give directions to the Domestic Violence Project Coordinator.

Membership

23. (1) The Council consists of the Chairperson and 12 other members.

(2) The Minister shall, by instrument, appoint a Chairperson of the Council.

(3) Not less than 6 members shall be persons who, in the opinion of the Minister, are familiar with the views and interests of the community on matters relating to domestic violence and are capable of representing those views and interests, and shall include—

- (a)** at least 1 person who is capable of representing the views and interests of persons of Aboriginal and Torres Strait Islands descent; and
- (b)** at least 1 person who is capable of representing the views and interests of other persons of non-English speaking background.

(4) The remaining members shall be—

- (a)** the Domestic Violence Project Coordinator;
- (b)** other statutory office holders who hold statutory offices specified by the Minister by instrument; or
- (c)** public servants who—
 - (i)** occupy an office the functions of which involve dealing with matters that are relevant to a function of the Council; and
 - (ii)** in the opinion of the Minister, have such experience and expertise as would assist the Council in the discharge of its functions.

(5) The Minister shall not specify a statutory office for the purposes of paragraph (4) (b) unless satisfied that the discharge of the functions of the office requires its holder to have such experience and expertise as would assist the Council in the discharge of its functions.

(6) A person referred to in subsection (3) or paragraph (4) (c) shall be appointed by the Minister by instrument.

(7) The performance of a function by the Council is not affected by reason only of there being a vacancy or vacancies in its membership.

Terms of appointment

24. (1) Subject to this Part—

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- (a) the Chairperson holds office for such period not exceeding 2 years as is specified in the instrument of appointment;
 - (b) any member who is a statutory office holder holds office as a member while he or she holds the relevant statutory office;
 - (c) a member referred to in subsection 23 (3) holds office for such period not exceeding 2 years as is specified in the instrument of appointment; and
 - (d) a member referred to in paragraph 23 (4) (c) holds office as a member while he or she occupies an office referred to in subparagraph 23 (4) (c) (i).
- (2) A member is eligible for reappointment.

Resignation

25. An appointed member may resign his or her office by notice in writing signed by the member and delivered to the Minister.

Termination of appointment

25A. The Minister shall terminate the appointment of an appointed member—

- (a) for misbehaviour;
- (b) for physical or mental incapacity;
- (c) if he or she becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of remuneration for the benefit of those creditors;
- (d) is absent, without the permission of the Chairperson, from—
 - (i) 3 consecutive meetings of the Council; or
 - (ii) 4 out of 6 consecutive meetings of the Council; or
- (e) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 1 year or longer.

Meetings of Council

26. (1) The Chairperson shall convene a meeting of the Council—

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- (a) whenever he or she deems it necessary for the effective discharge of the functions of the Council;
- (b) on receipt of a written request by the Minister;
- (c) on receipt of a written request signed by not less than 3 other members of the Council; or
- (d) whenever necessary in order to ensure that subsection (2) is complied with.

(2) The Council shall hold a meeting at least once in any period of 3 months.

(3) The Council shall hold a meeting in accordance with any resolution of the Council.

Procedure at meetings

26A. (1) The Chairperson shall preside at all meetings at which he or she is present.

(2) If the Chairperson is not present at a meeting or part of a meeting, the members present shall elect 1 of their number to preside at the meeting or part.

(3) At a meeting of the Council a quorum shall consist of the majority of members for the time being.

(4) Questions arising at a meeting shall be decided by a majority of votes of members present and voting.

(5) The Council shall keep written minutes of its proceedings.

(6) Subject to this Act, the procedures of the Council shall be as the Council determines.

**PART IIIA—OFFICE OF DOMESTIC VIOLENCE
PROJECT COORDINATOR**

Interpretation

26B. In this Part—

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

Appointment

26C. (1) There shall be a Domestic Violence Project Coordinator.

(2) The Coordinator shall be appointed by the Minister in writing.

Functions

26D. The Coordinator has the following functions in relation to domestic violence:

- (a) to monitor and promote compliance with the policies of the Territory and Commonwealth governments;
- (b) to assist government agencies and non-government organisations involved in—
 - (i) law enforcement; or
 - (ii) the provision of health, education, crisis or welfare services to victims or perpetrators of domestic violence or otherwise relating to the incidence or prevention of domestic violence;to provide services of the highest standard;
- (c) to assist and encourage the agencies and organisations referred to in paragraph (b) to provide appropriate educational programs;
- (d) to facilitate cooperation among the agencies and organisations referred to in paragraph (b);
- (e) to assist in the development and implementation of policies and programs as directed by the Council;
- (f) to carry out such other functions as the Domestic Violence Prevention Council directs.

Powers

26E. The Coordinator has power to do all things necessary or convenient to be done in connection with the performance of his or her functions.

Terms of office

26F. The Coordinator holds office, subject to this Part—

- (a) for such period, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for reappointment; and

- (b) on such terms and conditions (if any) in relation to matters not provided for by this Act as are specified in the instrument of appointment.

Resignation

26G. The Coordinator may resign by giving a signed notice of resignation to the Minister.

Termination of appointment

26H. The Minister may terminate the appointment of the Coordinator—

- (a) for misbehaviour or physical or mental incapacity; or
- (b) in accordance with the instrument of appointment.

Acting Coordinator

26I. (1) The Minister may, in writing, appoint a person to act as the Coordinator—

- (a) during a vacancy in the office of the Coordinator, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Coordinator is for any reason unable to perform the functions of the office.

(2) A person appointed to act as the Coordinator during a vacancy in the office of Coordinator shall not so act continuously for more than 12 months.

(3) Anything done by or in relation to a person purporting to act pursuant to an appointment under subsection (1) is not invalid on the ground that—

- (a) the appointment was ineffective or had ceased to have effect; or
- (b) the occasion to act had not arisen or had ceased.

Legal immunity

26J. (1) No action, suit or proceeding lies against a person who is or has been—

- (a) the Coordinator; or
- (b) a person acting under the direction or authority of the Coordinator;

in relation to an act done or omitted to be done in good faith in the performance, or purported performance, of a function of the Coordinator under or in relation to this Act or another law.

(2) Subsection (1) does not affect any liability that the Territory would have, but for that subsection, in respect of the act or omission.

PART IV—MISCELLANEOUS

Offence

27. (1) Where—

- (a) a protection order or an interim protection order is made and—
 - (i) the respondent was present at the time the protection order or interim protection order was made; or
 - (ii) where the respondent was not present at the time the protection order or interim protection order was made—a copy of the protection order or interim protection order has been served personally on the respondent; and
- (b) the respondent contravenes the order in any respect,

the respondent is guilty of an offence punishable, on conviction, by a fine not exceeding 50 penalty units or imprisonment for a period not exceeding—

- (a) in the case of a first offence—2 years; or
- (b) in any other case—5 years;

or by both fine and imprisonment.

(2) In paragraph (1) (b), a reference to contravening an order shall be read as including a reference to engaging in conduct outside the Territory that, if it were engaged in within the Territory, would contravene the order.

Service other than personal service

28. Where it appears to the Court that it is not reasonably practicable to serve a copy of an application under this Act personally, the Court may—

- (a) order that the copy of the application be served by such other means as the Court thinks just; or
- (b) make an order for substituted service.

Service of documents by police

29. (1) Where the Court is satisfied, having regard to the material before it, that it is appropriate to do so, the Court may direct that a document required to be served on a person be served by a police officer.

(2) Where the Court gives a direction under subsection (1), an authorised police officer shall, when requested to do so by the Registrar, arrange for the document to be served by a police officer.

Restrictions on publication of reports of proceedings

30. (1) A person shall not, otherwise than pursuant to a direction or order of a court, print or publish by any means a report or account of any proceedings under this Act if the printing or publication identifies—

- (a) a party to the proceedings;
- (b) a person who is related to, or associated with, a party to the proceedings or is, or is alleged to be, in any other way concerned in the matter to which the proceedings relate; or
- (c) a witness to the proceedings.

(2) A person who contravenes subsection (1) is guilty of an offence punishable, on conviction—

- (a) in the case of a body corporate—by a fine not exceeding 250 penalty units; and
- (b) in the case of a natural person—by a fine not exceeding 50 penalty units, or imprisonment for a period not exceeding 6 months, or both.

(3) Proceedings for an offence against this section shall not be commenced except by, or with the consent in writing of the Director of Public Prosecutions.

Exemptions from restrictions on publication

30A. Section 30 does not apply to—

- (a) a party to proceedings under this Act who informs a person of the contents of an order made in those proceedings; or
- (b) a person who, pursuant to subsection 68J (1) or (2) of the *Family Law Act 1975* of the Commonwealth, informs a court of a protection order or an interim protection order.

Appeals

31. (1) Part XIXA of the *Magistrates Court (Civil Jurisdiction) Act 1982* applies in relation to an appeal from—

- (a) the making, variation or revocation of a protection order; or
- (b) a refusal of the Magistrates Court to make a protection order,

as if the appeal were an appeal from a judgment or order of a kind specified in subsection 387 (2) of that Act.

(2) An appeal to the Supreme Court does not lie from—

- (a) the making, variation or revocation of an interim protection order; or
- (b) the refusal of the Magistrates Court to make an interim protection order.

Application of Crimes Act, 1900 etc.

32. Nothing in this Act shall be taken to affect the operation of subsection 547 (1) of the Crimes Act or Part X of the *Magistrates Court Act 1930*.

Approval of crisis support organisations

33. (1) The Minister may, by notice in the *Gazette*, approve an organisation to be a crisis support organisation for the purposes of this Act.

(2) A notice under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Disclosure of information to an approved crisis support organisation

34. Where a police officer or a staff member of the Australian Federal Police suspects on reasonable grounds that a domestic violence offence has been, is being or is likely to be committed in relation to a person, a police officer or staff member may disclose to an approved crisis support organisation any information that is likely to aid the organisation in rendering assistance to the person or to any children of the person.

SCHEDULES
SCHEDULE 1A

Section 3

**DOMESTIC VIOLENCE OFFENCES UNDER THE
CRIMES ACT 1900**

| Column 1 Provision | Column 2 Description of offence |
|-----------------------|---|
| 12 | Murder |
| 15 | Manslaughter |
| 19 | Intentionally inflicting grievous bodily harm |
| 20 | Recklessly inflicting grievous bodily harm |
| 21 | Wounding |
| 22 | Assault with intent to commit certain indictable offences |
| 23 | Intentionally or recklessly inflicting actual bodily harm |
| 24 | Assault occasioning actual bodily harm |
| 25 | Unlawfully or negligently causing grievous bodily harm |
| 26 | Common assault |
| 27 | Acts endangering human life |
| 28 | Acts endangering the health, safety or physical well-being of another person |
| 29 | Culpable driving of a motor vehicle |
| 30 | Threatening to kill |
| 31 | Threatening to inflict grievous bodily harm |
| 32 (1) (a) | Making a demand with a threat to kill or inflict grievous bodily harm |
| 32 (2) (a) | Making a demand with a threat to endanger health, safety or physical well-being |
| 33 | Possession of an object with intent to use it to kill or cause grievous bodily harm |
| 34 | Forcible confinement or imprisonment |
| 34A | Stalking |
| 36 | Abduction of a young person |
| 37 | Kidnapping |
| 92A | Inflicting grievous bodily harm on a person with intent to engage in sexual intercourse |
| 92B | Inflicting actual bodily harm on a person with intent to engage in sexual intercourse |
| 92C | Unlawful assault or threatening to inflict grievous or actual bodily harm with intent to engage in sexual intercourse |
| 92D | Sexual intercourse without consent |

Domestic Violence Act 1986

SCHEDULE 1A—continued

| Column 1 Provision | Column 2 Description of offence |
|-----------------------|--|
| 92E | Sexual intercourse with a young person |
| 92F | Inflicting grievous bodily harm with intent to commit an act of indecency |
| 92G | Inflicting actual bodily harm with intent to commit an act of indecency |
| 92H | Unlawful assault or threatening to inflict grievous or actual bodily harm with intent to commit an act of indecency |
| 92J | Committing an act of indecency without consent |
| 92K | Committing an act of indecency upon or in the presence of a young person |
| 92L | Incest or similar offences |
| 92M | Abducting or detaining a person with intent to engage in sexual intercourse |
| 128 | Destroying or damaging property |
| 129 | Destroying or damaging property by means of fire or explosive |
| 133 | Possession of an article with intent to use it to destroy property |
| 145 (1) (a) | Being armed with a weapon or instrument with intent to commit an offence |
| 146 | Forcible entry on to land in a manner likely to cause a breach of the peace |
| 493 | Possession of an offensive weapon or disabling substance in a public place in circumstances likely to cause alarm |
| 494 | Possession of an offensive weapon or disabling substance in circumstances indicating intent to use the weapon or substance |
| 546A | Behaving in an offensive manner |

SCHEDULE 1

Section 3

Drugs

Amitriptyline and other compounds structurally derived therefrom by substitution in the side chain.
Barbituric acid and its derivatives.
Carbromal.
Chloral hydrate and its derivatives.
Chlordiazepoxide and other substances structurally derived from benzodiazepine with ataractic properties.
Chlormezanone.
Chlorpromazine and other substances structurally derived from phenothiazine with ataractic properties.
Chlorprothixene and other thioxanthenes.
Ethchlorvynol.
Ethinamate.
Glutethimide.
Haloperidol and other substances structurally derived from butyrophenone with ataractic properties.
Meprobamate.
Mianserin and other tetracyclic antidepressants.
Paraldehyde.
Phenelzine and other monoamine oxidase inhibitors with ataractic properties.

Domestic Violence Act 1986

SCHEDULE 2

FORMS

Form 1

Section 12

Domestic Violence Act 1986

NOTICE OF PROCEEDINGS

IN THE MAGISTRATES

COURT AT CANBERRA

No. of 19

Between

(*applicant*)

and

(*respondent*)

To the Respondent

An application under section 4 of the *Domestic Violence Act 1986* for a protection order has been made by _____ against you. A copy of the application is attached. The application has been set down for hearing on _____ 19 _____ at _____ (*time*) at _____ (*place*) .

If you do not appear in person at the hearing of the application, the Court may—

- (a) deal with the application in your absence; or
- (b) issue a warrant for your apprehension to be brought before the Court.

Dated _____ 19 .

[*Signature*]

Registrar of the Magistrates Court

Domestic Violence Act 1986

SCHEDULE 2—contined

Form 2

Section 19

Domestic Violence Act 1986

**PROTECTION ORDER *or*
INTERIM PROTECTION ORDER**

IN THE MAGISTRATES
COURT AT CANBERRA

No. of 19

The Court, having heard an application made by [*name of applicant*] under the *Domestic Violence Act 1986* in respect of the conduct [*or threatened conduct*] of [*name of respondent*] towards [*name of person to be protected*]:

Now the Court this day orders that, for [*period*]:

1. [*name of respondent*] not engage in the following conduct:
2. [*name of respondent*] not engage in conduct that constitutes any domestic violence offence.
3. [*name of respondent*] comply with the following prohibitions and conditions:

[specify prohibitions and conditions and any other period or periods for which they are imposed]

Dated 19 .

[*Signature*]

Registrar of the Magistrates Court

Note: If a State or another Territory has reciprocal legislation in force, this order may be registered, and enforced, in that State or other Territory without notice of registration being given to the respondent.

Form 3

Section 19

Domestic Violence Act 1986

**ORDER VARYING PROTECTION ORDER *or*
INTERIM PROTECTION ORDER**

IN THE MAGISTRATES
COURT AT CANBERRA

No. of 19

The Court, having heard an application made by [*name of applicant*] under the *Domestic Violence Act 1986* in respect of the conduct [*or threatened conduct*] of [*name of respondent*] towards [*name of person to be protected*], and having on [*date of original order*] ordered that, for [*period*]:

1. [*name of respondent*] not engage in the following conduct:
2. [*name of respondent*] not engage in conduct that constitutes any domestic violence offence.
3. [*name of respondent*] comply with the following prohibitions and conditions:

[specify prohibitions and conditions and any other period or periods for which they are imposed]

Now the Court, on the application of [*name of applicant*], this day orders that the Protection Order [*or Interim Protection Order*] be varied as follows:

[specify details of variation]

Dated 19 .

[*Signature*]

Registrar of the Magistrates Court

Domestic Violence Act 1986

NOTES

1. The *Domestic Violence Act 1986* as shown in this reprint comprises Act No. 52, 1986 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

2. The *Legislation (Republication) Act 1996* (No. 51, 1996) authorises the Parliamentary Counsel in preparing a law for republication, to make certain editorial and other formal amendments in accordance with current legislative drafting practice. Those amendments make no change in the law. Amendments made pursuant to that Act do not appear in the Table of Amendments but details may be obtained on request from the Parliamentary Counsel's Office.

Table 1

Table of Ordinances

| Ordinance | Number and year | Date of notification in <i>Gazette</i> | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|--|---|--|
| <i>Domestic Violence Ordinance 1986</i> | 52, 1986 | 4 Sept 1986 | 1 Oct 1986 (see <i>Gazette</i> 1986, No. S484) | |
| <i>Drug Laws (Consequential Amendments) Ordinance 1989</i> | 14, 1989 | 15 Mar 1989 | 1 Apr 1989 (see <i>Gazette</i> 1989, No. S109) | — |
| <i>Self-Government (Consequential Amendments) Ordinance 1989</i> | 38, 1989 | 10 May 1989 | Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164) | — |

Self-Government day 11 May 1989

Table 2

Table of Acts

| Act | Number and year | Date of notification in <i>Gazette</i> | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|--|----------------------|--|
| <i>Domestic Violence (Amendment) Act 1990</i> | 30, 1990 | 28 Sept 1990 | 28 Sept 1990 | — |
| <i>Domestic Violence (Amendment) Act (No. 2) 1990</i> | 36, 1990 | 7 Nov 1990 | 7 Nov 1990 | — |
| <i>Magistrates Court (Amendment) Act 1990</i> | 65, 1990 | 24 Dec 1990 | 24 Dec 1990 | — |

Domestic Violence Act 1986

NOTES—continued

Table of Acts—continued

| Act | Number and year | Date of notification in <i>Gazette</i> | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|--|---|--|
| <i>Weapons (Consequential Amendments) Act 1991</i> | 9, 1991 | 3 Apr 1991 | Ss. 1 and 2: 3 Apr 1991 Remainder: 3 Oct 1991 (see s. 2 (2)) | — |
| <i>Magistrates and Coroner's Courts (Registrar) Act 1991</i> | 44, 1991 | 20 Sept 1991 | Ss. 1 and 2: 20 Sept 1991 Remainder: 25 Sept 1991 (see <i>Gazette</i> 1991, No. S103, p. 2) | — |
| <i>Bail (Consequential Amendments) Act 1992</i> | 9, 1992 | 28 May 1992 | Ss. 1 and 2: 28 May 1992 Remainder: 28 Nov 1992 | S. 3 |
| <i>Domestic Violence (Amendment) Act 1992</i> | 34, 1992 | 8 July 1992 | 8 July 1992 | — |
| <i>Protection Orders (Reciprocal Arrangements) (Consequential Amendments) Act 1992</i> | 37, 1992 | 8 July 1992 | Ss. 7 and 12: 3 August 1992 (see <i>Gazette</i> 1992, No. S130) Remainder: 8 July 1992 | — |
| <i>Statute Law Revision Act 1994</i> | 26, 1994 | 31 May 1994 | 31 May 1994 | — |
| <i>Statute Law Revision (Penalties) Act 1994</i> | 81, 1994 | 29 Nov 1994 | Ss. 1 and 2: 29 Nov 1994 Remainder: 29 Nov 1994 (see <i>Gazette</i> 1994, No. S269, p. 2) | — |
| (Reprinted as at 31 January 1995) | | | | |
| <i>Statute Law Revision Act 1995</i> | 46, 1995 | 18 Dec 1995 | 18 Dec 1995 | — |
| <i>Domestic Violence (Amendment) Act 1996</i> | 3, 1996 | 12 Mar 1996 | Ss. 1-3: 12 Mar 1996 Remainder: 11 June 1996 (see s. 2 (2) and <i>Cwealth Gazette</i> 1996, No. GN5, p. 468) | S. 10 |
| <i>Domestic Violence (Amendment) Act (No. 2) 1996</i> | 37, 1996 | 10 July 1996 | 10 July 1996 | — |

(Reprinted as at 30 November 1996)

Domestic Violence Act 1986

NOTES—continued

Table of Acts—continued

| Act | Number and year | Date of notification in <i>Gazette</i> | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|--|---|--|
| <i>Firearms Act 1996</i> | 74, 1996 | 20 Dec 1996 | Ss. 1 and 2: 20 Dec 1996 Remainder: 17 May 1997 (see <i>Gazette</i> 1997, No. S135) | — |
| <i>Domestic Violence (Amendment) Act 1997</i> | 24, 1997 | 29 May 1997 | Ss. 1-3: 29 May 1997 Remainder: 30 May 1997 (see s. 2 (2) and <i>Gazette</i> 1997, No. S149) | — |
| <i>Domestic Violence (Amendment) Act (No. 2) 1997</i> | 37, 1997 | 16 July 1997 | Ss. 1-3: 16 July 1997 Remainder: 17 Oct 1997 (see <i>Gazette</i> 1997, No. S310) | — |
| <i>Domestic Violence (Amendment) Act (No. 3) 1997</i> | 65, 1997 | 9 Oct 1997 | Ss. 1-3: 9 Oct 1997 Remainder: (ss. 4-8): (see Note 3) | — |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision | How affected |
|---------------|---|
| S. 3 | am. No. 14, 1989; Act No. 30, 1990; No. 44, 1991; Nos. 34 and 37, 1992; No. 26, 1994; No. 3, 1996; No. 24, 1997 |
| Ss. 4, 5..... | am. Act No. 30, 1990 |
| S. 6 | am. Act No. 44, 1991 |
| S. 7 | am. Act No. 30, 1990; No. 44, 1991 |
| S. 7A | ad. Act No. 30, 1990 |
| S. 8 | am. Act No. 46, 1995 |
| S. 8A | ad. Act No. 3, 1996 |
| S. 9 | am. Act No. 30, 1990 |
| S. 10 | am. Act No. 30, 1990; No. 3, 1996 |
| S. 10A | ad. Act No. 30, 1990 |
| S. 11 | am. Act No. 30, 1990 |
| S. 12 | am. Act No. 30, 1990; No. 44, 1991 |
| S. 14 | am. Act No. 30, 1990; No. 3, 1996 |
| S. 14A | ad. Act No. 36, 1990 |

Domestic Violence Act 1986

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision | How affected |
|---------------------------------------|---|
| | am. No. 65, 1990; Act No. 9, 1991; No. 74, 1996; No. 24, 1997 |
| S. 15 | am. Act No. 30, 1990; No. 37, 1992 |
| S. 18 | am. Act No. 44, 1991; No. 3, 1996 |
| S. 19 | am. Act No. 36, 1990; Nos. 9 and 44, 1991; No. 74, 1996 |
| Part III (ss. 20-26) | rep. Act No. 9, 1992 |
| Part III (ss. 20-25, 25A, 26, 26A) | ad. Act No. 37, 1997 |
| S. 20 | rs. Act No. 30, 1990 rep. No. 9, 1992 ad. No. 37, 1997 |
| Ss. 21-23 | rep. Act No. 9, 1992 ad. No. 37, 1997 |
| S. 24 | am. No. 38, 1989 rep. Act No. 9, 1992 ad. No. 37, 1997 |
| S. 25 | rep. Act No. 9, 1992 ad. No. 37, 1997 |
| S. 25A | ad. Act No. 37, 1997 |
| S. 26 | am. Act No. 30, 1990 rep. No. 9, 1992 ad. No. 37, 1997 |
| S. 26A | ad. Act No. 37, 1997 |
| Part IIIA (ss. 26B-26J) | ad. Act No. 37, 1997 |
| Ss. 26B-26J | ad. Act No. 37, 1997 |
| S. 27 | am. Act No. 37, 1992; No. 81, 1994; No. 37, 1996 |
| S. 29 | am. Act No. 44, 1991 |
| S. 30 | am. No. 38, 1989; Act No. 81, 1994 |
| S. 30A | ad. Act No. 30, 1990 rs. No. 3, 1996 |
| Ss. 33, 34 | ad. Act No. 34, 1992 |
| S. 31 | am. Act No. 46, 1995 |
| Schedule 1A | ad. Act No. 24, 1997 |
| Schedule 2 | am. Act No. 44, 1991; No. 37, 1992 |

3. Sections 3, 4, 10, 17 and 17A-17C are amended by sections 4-8 of the *Domestic Violence (Amendment) Act (No. 3) 1997*, subsections 2 (2) and (3) of which provide as follows:

“(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

“(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.”.

Domestic Violence Act 1986

NOTES—continued

As at 17 October 1997 no date had been fixed for the commencement of sections 4-8 and the amendments are not incorporated in this reprint. They are set out below under the heading “EXTRACT FROM DOMESTIC VIOLENCE (AMENDMENT) ACT (No. 3) 1997.

EXTRACT FROM DOMESTIC VIOLENCE (AMENDMENT) ACT (No. 3) 1997

Interpretation

4. Section 3 of the Principal Act is amended by inserting the following definitions:

“extension request” means a notice referred to in subsection 17A (1);

“original order” means a protection order that is sought to be extended, whether or not that order has already been extended;

“relevant period”, in relation to the extension of an original order, means—

(a) if the period of the extension applied for is—

(i) equal to the period of the original order; or

(ii) 2 years or less;

the period of the extension applied for; or

(b) in any other case—a period of 2 years;

commencing on the day on which the original order expires;”.

Making of orders

5. Section 4 of the Principal Act is amended—

(a) by omitting from paragraphs (1) (a) and (b) all the words after “domestic violence offence” (first occurring);

(b) by omitting from paragraph (1) (c) “such” and “that—”; and

(c) by omitting subparagraphs (1) (c) (v) and (vi).

Matters to be taken into account

6. Section 10 of the Principal Act is amended—

(a) by inserting after paragraph (1) (ea) the following paragraphs:

“(eb) if the respondent has previously engaged in conduct that constitutes a domestic violence offence—that conduct;

(ec) if a protection order has been made in relation to the respondent at any time—particulars of the order;

(ed) if the respondent has contravened a protection order made in relation to him or her—particulars of the contravention;

(ee) the need to ensure that property is protected from damage;” and

(b) by adding at the end the following subsections:

NOTES—continued

EXTRACT FROM DOMESTIC VIOLENCE (AMENDMENT) ACT (No. 3) 1997—continued

“(4) In paragraph (1) (eb), a reference to conduct that constitutes a domestic violence offence shall be read as including a reference to conduct engaged in outside the Territory that, if it were engaged in within the Territory, would constitute a domestic violence offence.

“(5) In paragraphs (1) (ec) and (ed), a reference to a protection order shall be read as including a reference to an order under a law of a State or another Territory having the same effect or substantially the same effect as a protection order.”.

Duration of order

7. Section 17 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

“(1) Unless the Court specifies otherwise in the order, a protection order remains in force for a period of 2 years.

“(1A) The Court shall not specify that an order is to remain in force—

- (a) for a period greater than 2 years; or
- (b) until the Court otherwise orders;

unless satisfied that there are special or exceptional circumstances that justify the making of such an order.”.

Insertion

8. After section 17 of the Principal Act the following sections are inserted:

Application for extension of order

“17A. (1) No later than 21 days before the day on which a protection order is to expire, a person who would have been entitled under section 5 to have applied for the order may lodge with the Registrar a notice requesting an extension of the order.

“(2) Notwithstanding subsection (1), the Court may grant leave to a person to lodge an extension request less than 21 days before the expiration of the original order.

“(3) An extension request shall—

- (a) be in a form approved by the Registrar; and
- (b) contain statements to the following effect:
 - (i) that the respondent may, on or before the day fixed for the hearing of the request, lodge with the Registrar a notice in a form approved by the Registrar opposing the extension of the order;
 - (ii) if no notice opposing the extension of the original order is made before the day fixed for the hearing of the request, the order shall be extended for the relevant period commencing on the day on which the original order expires.

Court action on extension request

Domestic Violence Act 1986

NOTES—continued

EXTRACT FROM DOMESTIC VIOLENCE (AMENDMENT) ACT (No. 3) 1997—continued

“17B. (1) Where an extension request is lodged with the Registrar in accordance with section 17A—

- (a) the Court shall fix a hearing date no later than 14 days after the day on which the request is lodged; and
- (b) the Registrar shall endeavour to cause notice of the making of the extension request and of the date fixed for hearing the request to be served on the respondent.

“(2) If notice of the making of the extension request and of the date fixed for hearing the request has not been served on the respondent before the date fixed for hearing the request—

- (a) the Court may extend the original order for the relevant period notwithstanding the absence of the respondent; and
- (b) if the Court extends the order—the Court shall cause to be personally served on the respondent notice to the effect that—
 - (i) the original order has been extended; and
 - (ii) the respondent may, within 7 days of being personally served with the notice, apply for the cancellation of the extended order.

“(3) The Court shall extend an original order for the relevant period—

- (a) if, on the hearing of the extension request, the respondent fails to satisfy the Court that the order should not be extended;
- (b) if—
 - (i) notice of the making of the extension request and of the date fixed for hearing the request has been served on the respondent before the date fixed for hearing the request; and
 - (ii) the respondent does not lodge a notice opposing the extension on or before the date of the hearing; or
- (c) if—
 - (i) the respondent has lodged with the Registrar on or before the date fixed for the hearing of the extension request a notice opposing the extension of the order;
 - (ii) the respondent fails to appear on the date fixed for the hearing; and
 - (iii) the Court is satisfied that an adjournment is not warranted.

“(4) The Court may grant an interim extension of an original order where the respondent has lodged with the Registrar on or before the date fixed for the hearing of the extension request a notice opposing the extension of the order—

- (a) if there is insufficient time to hear and determine the extension request before the expiration of the original order; or
- (b) if—

NOTES—continued

EXTRACT FROM DOMESTIC VIOLENCE (AMENDMENT) ACT (No. 3) 1997—continued

- (i) the respondent fails to appear on the date fixed for hearing; and
- (ii) the Court is satisfied that an adjournment is warranted.

“(5) Where the Court grants an interim extension of an original order in accordance with subsection (4), it shall notify the respondent and applicant of the time fixed for the further hearing or the new hearing.

“(6) If, on the hearing of a request for extension, the respondent satisfies the Court that the original order should not be extended, the Court shall not extend the order.

“(7) A notice opposing the extension of an order shall be in a form approved by the Registrar.

Application for cancellation of extended order

“17C. (1) If, within 7 days of being personally served with a notice in accordance with paragraph 17B (2) (b), a person lodges with the Registrar an application for cancellation of a protection order extended in accordance with subsection 17B (2), the Court shall—

- (a) fix a hearing date; and
- (b) notify the person who applied for the extension of the original order of the making of the application and of the hearing date.

“(2) If, on the hearing of an application referred to in subsection (1), the applicant satisfies the Court that the protection order should be cancelled, the Court shall—

- (a) cancel the order; and
- (b) notify any person who was protected by the order and who is not present at the hearing that the order has been cancelled.”.