



Australian Capital Territory

# Domestic Violence and Protection Orders Amendment Act 2005

A2005-13

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Australian Capital Territory

# Domestic Violence and Protection Orders Amendment Act 2005

**A2005-13**

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

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

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2003 238B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

**1 Name of Act**

This Act is the *Domestic Violence and Protection Orders Amendment Act 2005*.

**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 adjudication.

## **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 protection order (other than a workplace order)—the need to ensure that the aggrieved person is protected from personal violence; and

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

## **8 Section 9**

*substitute*

### **9 What is domestic violence etc?**

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

*Note* **Relevant person**—see dict.

- (2) In this Act:
  - 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 offences); or



- 
- (c) any of the following provisions of the Criminal Code:
- (i) section 311 (Burglary);
  - (ii) section 403, section 404, section 405, section 406, section 407 or section 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:

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

- (a) section 7 (Cruelty);
- (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).

*offence* includes conduct, engaged in outside the ACT, 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 (other than a child) may apply for a protection order—
  - (a) by a next friend; or
  - (b) in the person's own right with the Magistrates Court's leave.

*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* A regulation may prescribe how a next friend may be appointed (see s 106 (3) (b) (i)).
- (2) An aggrieved person who is a child may apply for—
  - (a) any protection order by a next friend; or
  - (b) a domestic violence order in the person's own right; or

- (c) a personal protection order in the person's own right with the Magistrates Court's leave.
- (3) The Magistrates Court must give leave for an application under subsection (1) (b) or (2) (c) if satisfied that the aggrieved person—
  - (a) understands the consequences of applying for a protection order; and
  - (b) will understand the proceeding on the application.

**11 New section 18A**

*in part 3, insert*

**18A Referral to mediation**

If, at any time during the preliminary conference for an application for a protection order, the registrar is satisfied that the application is likely to be more effectively resolved by mediation than by a hearing, the registrar must—

- (a) recommend to the parties to the application that they seek mediation; and
- (b) give the parties information about mediation; and
- (c) adjourn the preliminary conference until a stated date to allow 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 Consent orders  
Section 29 (3), example**

*substitute*

**Example**

The parties to an application agree to the making of a final order. An automatic consequence of the order is that any firearms licence of the respondent is cancelled under section 38 (Firearms and final orders). That consequence automatically flows from the making of the final order. However, under section 38 (3) the Magistrates Court may, in certain circumstances (but not if the final order is a domestic violence order), order that the licence not be cancelled. If those circumstances apply and the parties agree that the firearms licence not be cancelled, the firearms licence would not be cancelled under section 38.

*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).

**16 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 Magistrates Court's leave.

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

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**17 Amendment or revocation generally**  
**Section 31 (1)**

*substitute*

- (1) A protection order may be amended if the Magistrates Court is satisfied that—
  - (a) the order as amended could be made on application for a 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.

**18 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

**19 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 order—serve 2 copies of the order (1 marked as the endorsement copy) on the respondent no later than 14 days before the return date for the application for the final order; and
  - (b) if the order is not an interim 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.

**20 Offence for contravention of protection order  
Section 34 (2) and (3)**

*substitute*

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

Maximum penalty: 500 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.

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

**21 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.



**22 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)).

**23 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;

**24 Workplace orders**  
**Division 5.3 heading, note**

*substitute*

**42A Definitions**

In this Act:

***aggrieved person***, for a workplace order—

- (a) means the employer of the person against whom the conduct is directed; and
- (b) if the workplace is a child facility, includes—
  - (i) a person in control of the child facility; and
  - (ii) an employee of an employer mentioned in paragraph (a).

***child facility*** means—

- (a) a preschool, childcare centre, school, or other similar facility the main purpose of which is the care or education of children; or
- (b) a paediatric ward, or other facility in a hospital the main purpose of which is to provide health services for children; or
- (c) an office or other facility used by or for the Territory for children or young people who are, under the *Children and Young People Act 1999*, chapter 7, in need of care and protection.

*Note* The *Children and Young People Act 1999*, s 156 defines a child or young person in need of care and protection.

**25 Section 45**

*substitute*

**45 What are grounds for making workplace order?**

- (1) The Magistrates Court may make a workplace order in relation to a workplace on application if satisfied that the respondent—
  - (a) has engaged in personal violence in relation to the workplace; and
  - (b) may engage in personal violence in relation to the workplace during the time the order is proposed to operate if the order is not made.
- (2) The Magistrates Court may make a workplace order in relation to a workplace that is a child facility if satisfied that the respondent poses a risk to people at the workplace, for example, children, carers or teachers.

*Note 1* This section does not apply to consent orders (see s 29 (2) (b)).

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**26 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.

**27 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)).

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

*insert*

- (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).

## **29 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 to the Magistrates Court 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 to the Magistrates Court 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.

**30**      **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

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**31 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.

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

*omit*

effect

*substitute*

purpose, terms and effect

**33 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.

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

**35 Section 101 (2)**

*renumber paragraphs when Act next republished under Legislation Act*

**36 Dictionary, definition of *aggrieved person***

*substitute*

***aggrieved person*** means—

- (a) for a domestic violence order or personal protection order—a person against whom the conduct that may be domestic or person violence has been, or is likely to be, directed; or
- (b) for a workplace order—see section 42A.



**37 Dictionary, new definition of *child facility***

*insert*

*child facility*—see section 42A.

**38 Dictionary, definition of *relative***

*substitute*

*relative*—see section 10A.

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

*insert*

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

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

*substitute*

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

**41 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.

**42 Further amendments, mentions of *behaviour***

*omit*

behaviour

*substitute*

conduct

*in*

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

## Schedule 1 Consequential amendments

(see s 3)

### Part 1.1 Bail Act 1992

#### [1.1] 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 in this Act.

For example, the signpost definition '*parental responsibility*—see the *Children and Young People Act 1999*, section 17.' means that the term 'parental responsibility' is defined in that section and the definition applies to this Act.

#### [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 accused person 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

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

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

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**[1.11] Section 205**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**[1.12] Section 205A (1) and (2)**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

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

*substitute*

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

**[1.14] Section 205A (3), definition of *personal violence***

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**[1.15] Section 205B (3)**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**[1.16] Section 205C (1)**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**[1.17] Section 205C (1), example heading**

*omit*

**Protection Orders Act**

*substitute*

**Domestic Violence and Protection Orders Act**

**[1.18] Section 205C (3) and (4)**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**[1.19] Section 380 (4) (b)**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**[1.20] Dictionary, definition of *protection order***

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

## **Part 1.3 Court Procedures Act 2004**

**[1.21] Section 15 (2) (c) (iv) (C)**

*substitute*

(C) the *Domestic Violence and Protection Orders Act 2001*;



## **Part 1.4 Crimes Act 1900**

### **[1.22] Section 191 (4) (b)**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

### **[1.23] Section 192 (1) and (5)**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

### **[1.24] 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*.

### **[1.25] Schedule 1**

*omit*

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

*omit*

### **[1.27] Dictionary, definition of *relevant person***

*omit*

## Part 1.5 Crimes (Restorative Justice) Act 2004

### [1.28] 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 1.6 Dangerous Substances Act 2004

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

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

## Part 1.7 Domestic Violence Agencies Act 1986

### [1.30] 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 that subsection of that Act and the definition applies to this Act.

**[1.31] Dictionary, definition of *domestic violence***

*substitute*

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

**[1.32] 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 1.8 Evidence (Miscellaneous Provisions) Act 1991**

**[1.33] Section 7 (c)**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**[1.34] Section 41 (2) (c)**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

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

*substitute*

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

## Part 1.9 Firearms Act 1996

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

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**[1.37] 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.

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

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

## **Part 1.10 Firearms Regulation 1997**

**[1.39] Section 29 (2) (b) (xi) (B)**

*substitute*

(B) is, or has been at any time within the 10 years before the application for the permit is made, subject to an order or other restriction having the same or substantially the same effect as a domestic violence order under the *Domestic Violence and Protection Orders Act 2001* (other than an order or other restriction which has been revoked); or

**Example of order**

a protection order under the *Domestic Violence Act 1986* (repealed)

*Note* An example is part of the regulation, 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).

**[1.40] New section 29 (4)**

*insert*

(4) This subsection, and the example and note to subsection (2) (b) (xi) (B), expire on 27 March 2012.

## Part 1.11 Health Records (Privacy and Access) Act 1997

### [1.41] 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.

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

*omit*

## Part 1.12 Magistrates Court Act 1930

### [1.43] Section 256 (a)

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

## Part 1.13 Magistrates Court (Civil Jurisdiction) Rules 2004

### [1.44] Section 4 (a)

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

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## Part 1.14 Prohibited Weapons Regulation 1997

### [1.45] Section 5 (6), definition of *interim protection order*

*substitute*

*interim protection order*—see the *Domestic Violence and Protection Orders Act 2001*, dictionary, definition of *interim order*.

*Note* See also s (7).

### [1.46] Section 5 (6), definition of *protection order*

*substitute*

*protection order*—see the *Domestic Violence and Protection Orders Act 2001*, dictionary, definition of *final order*.

*Note* See also s (7).

### [1.47] New section 5 (7) and (8)

*insert*

(7) In subsection (6):

*interim protection order* includes—

- (a) an interim protection order made under the *Domestic Violence Act 1986*; and
- (b) an interim restraining order made under the *Magistrates Court Act 1930*.

*protection order* includes—

- (a) a protection order made under the *Domestic Violence Act 1986*; and
- (b) a restraining order made under the *Magistrates Court Act 1930*.

- (8) The notes to subsection (6), definitions of *interim protection order* and *protection order*, subsection (7) and this subsection, expire on 27 March 2012.

## Part 1.15 Protection Orders Regulation 2002

### [1.48] Section 1

*omit*

*Protection Orders Regulation 2002*

*substitute*

*Domestic Violence and Protection Orders Regulation 2002*

### [1.49] Dictionary, note 3

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

## Part 1.16 Rehabilitation of Offenders (Interim) Act 2001

### [1.50] Section 3, 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 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.



**[1.51] Section 9 (2) (i)**

*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;

**[1.52] Section 10 (1) (b) (ii)**

*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

**[1.53] Section 10 (1) (c) and (4)**

*omit*

*Protection Orders Act 2001*

*substitute*

*Domestic Violence and Protection Orders Act 2001*

**[1.54] Section 13 (2) (e)**

*substitute*

- (e) the likelihood that the person will commit an offence that is 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;

**[1.55] Dictionary, definition of *domestic violence offence***  
*omit*

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**Endnotes**

- 1 Presentation speech**  
Presentation speech made in the Legislative Assembly on 17 February 2005.
  - 2 Notification**  
Notified under the Legislation Act on 24 March 2005.
  - 3 Republications of amended laws**  
For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).
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I certify that the above is a true copy of the Domestic Violence and Protection Orders Amendment Bill 2005, which was passed by the Legislative Assembly on 17 March 2005.

Clerk of the Legislative Assembly