

Australian Capital Territory

Family Violence (Transitional Provisions) Regulation 2017

Subordinate law SL2017–25

made under the

Family Violence Act 2016, s 201 (Transitional regulations)

EXPLANATORY STATEMENT

Overview of the regulation

The *Family Violence (Transitional Provisions) Regulation 2017* (the **regulation**) modifies part 20 of the *Family Violence Act 2015* (the **new Act**).

The new Act commenced on 1 May 2017, except for part 9, which is due to commence on 19 August 2017. The new Act repealed the *Domestic Violence and Protection Orders Act 2008* (the **repealed Act**). Part 20 of the new Act provides for transition between the repealed Act and new Act. In particular, section 200A of the new Act provides that part 12 of the repealed Act continues to apply in relation to an order that corresponds to a domestic violence order until the commencement of part 9 of the new Act.

Part 9 of the new Act contains provisions that relate to the National Domestic Violence Order scheme (the **NDVO scheme**). While part 9 commences on 19 August 2017, the proposed national commencement date for the NDVO scheme is 25 November 2017.

In the period between 19 August and 25 November 2017, some provisions of the repealed Act relating to interstate domestic violence orders will be required to remain operational to ensure that the Magistrates Court can continue to register those orders in the ACT.

Section 201 of the new Act provides that a regulation may modify part 20 of that Act to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately dealt with in that part.

In the Executive's option, it is necessary to modify part 20 of the new Act to provide for the recognition of interstate family violence orders between 19 August and 25 November 2017, when the NDVO scheme is due to commence.

If the NDVO scheme does not commence on 25 November 2017 the regulation will remain in place until it commences.

CLAUSE NOTES

Clause 1 Name of regulation

This clause provides that the name of the regulation is the *Family Violence (Transitional Provisions) Regulation 2017*.

Clause 2 Commencement

This clause provides for the commencement of the regulation. The regulation commences on the commencement of the *Family Violence Act 2016*, section 115.

Clause 3 Modification of Act, pt 20—Act, s 201 (2)

This clause modifies part 20 of the new Act, through schedule 1 of the regulation. The amendments in schedule 1 are intended to ensure that interstate family violence orders can be registered in the ACT between 19 August 2017 and the commencement of the NDVO scheme.

Schedule 1 provides the following amendments:

1. a new definition of *operational date*, being the commencement date of a regulation that prescribes a corresponding law;
2. ensuring that the transitional provisions in sections 200 and 200A of the new Act continue despite the commencement of part 9; and
3. the insertion of new section 200B, to provide that section 134A of the new Act applies on and after the operational date. Section 134A is to be inserted into the new Act by the *Family and Personal Violence Legislation Amendment Act 2017* when part 9 commences.

Clause 4 Expiry

This clause provides that the regulation expires on the day before a regulation for the Act commences.