

Serial
Domestic and Family Violence (Recognition of Domestic Violence Orders)
(National Uniform Law) Amendment Bill 2016
Mr Elferink

A Bill for an Act to amend the *Domestic and Family Violence Act*, and for
related purposes

DRAFT ONLY

Prepared by the Office of the Parliamentary Counsel

Date: 19 May 2016 09:22

Ref: 10bIID032v6b

NORTHERN TERRITORY OF AUSTRALIA

DOMESTIC AND FAMILY VIOLENCE (RECOGNITION OF DOMESTIC
VIOLENCE ORDERS) (NATIONAL UNIFORM LAW) AMENDMENT
ACT 2016

Act No. [] of 2016

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2015

An Act to amend the *Domestic and Family Violence Act*, and for related purposes

[Assented to [] 2016]
[Second reading [] 2016]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2016*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Domestic and Family Violence Act

3 Act amended

This Part amends the *Domestic and Family Violence Act*.

4 Section 4 amended

- (1) Section 4, definitions ***corresponding law***, ***domestic violence order***, ***external order***, ***interim DVO***, ***interim variation order*** and

variation*omit*

(2) Section 4

*insert (in alphabetical order)***corresponding law**, for Chapter 3A, see section 102.**domestic violence concern**, for Chapter 3A, see section 103C.**domestic violence order**:

- (a) other than for Chapter 3A and Part 7.4 – means a court DVO or police DVO, and includes:
 - (i) a DVO as varied under Part 2.7 or 2.8; and
 - (ii) a police DVO as varied under Part 2.8, Division 2, or confirmed under Part 2.9; and
- (b) for Chapter 3A and Part 7.4 - see section 102.

external order means:

- (a) an order in the nature of a DVO made by a court of New Zealand; or
- (b) an order made by a court of another State or Territory that is prescribed by regulation.

final DVO, for Chapter 3A, see section 102.**foreign order**, see section 102.**general violence order**, for Chapter 3A, see section 102.**interim court DVO**, see section 35(1).**interim court variation order**, see section 52A.**interim DVO**, for Chapter 3A and Part 7.4, see section 102.**interstate DVO**, see section 103A.**interstate law enforcement agency**, for Chapter 3A, see section 102.**issuing jurisdiction**, for Chapter 3A, see section 102.

jurisdiction, for Chapter 3A and Part 7.4, see section 102.

local DVO, for Chapter 3A and Part 7.4, see section 103.

local law enforcement agency, for Chapter 3A, see section 102.

make, for an order, includes issue and confirm.

New Zealand DVO, for Chapter 3A, see section 102.

non-local DVO, for Chapter 3A and Part 7.4, see section 102.

participating jurisdiction, see section 102.

properly notified, for Chapter 3A, see section 103L.

recognised DVO, see sections 103E and 103ZH.

recognised variation, for Chapter 3A, see section 103F.

registered foreign order, for Chapter 3A, see section 103B.

vary, for a DVO, includes the following:

- (a) amend or modify the DVO;
- (b) add further conditions, prohibitions or restrictions to the DVO or vary or delete conditions, prohibitions or restrictions;
- (c) extend or reduce the period for which the DVO remains in force.

- (3) Section 4, definition **court DVO**, paragraph (b), after "interim"

insert

court

- (4) Section 4, definition **defendant**, paragraph (b), after "external order"

insert

or interstate DVO

- (5) Section 4, definition **issuing authority**, paragraph (c)

omit

DVO.

insert

DVO; or

- (6) Section 4, definition ***issuing authority***, after paragraph (c)

insert

(d) for Chapter 3A, see section 102.

- (7) Section 4, definition ***protected person***, paragraph (b)

omit, insert

(b) an external order or interstate DVO – see section 102.

5 Section 13 amended

Section 13(1), at the end

insert

Note for subsection (1)

*Section 102 defines **protected person** for recognised interstate and foreign orders.*

6 Section 27 amended

- (1) Section 27, after "interim"

insert

court

- (2) Section 27, note, after "*interim*"

insert

court

7 Section 35 amended

- (1) Section 35, heading, after "**interim**"

insert

court

- (2) Section 35(1), after "*interim*"

insert

court

- (3) Section 35(2) and (3), after "interim"

insert

court

- (4) Section 35(3), at the end

insert

Note for subsection (3)

Under section 103H a Local Court DVO can be superseded in certain circumstances by an interstate DVO that is a recognised DVO in the Territory

8 Section 36 amended

Section 36, after "interim"

insert

court

9 Section 41 amended

Section 41(1), at the end

insert

Note for subsection (1)

Section 103J(2) prevents an authorised officer from making a police DVO if the officer is aware that a recognised DVO made by a court applies to the same defendant and protected person and is enforceable against the defendant under Chapter 3A.

10 Section 47 amended

Section 47, after "interim"

insert

court

11 Section 52A amended

- (1) Section 52A, heading, after "**interim**"

insert

court

- (2) Section 52A, after "**interim**"

insert

court

12 Section 53 amended

Section 53, after "interim"

insert

court

13 Section 54 amended

Section 54, after "interim"

insert

court

14 Section 64 amended

Section 64(a), after "interim"

insert

court

15 Section 89 amended

Section 89(2)(a)(ii)

omit, insert

- (ii) the DVO may be registered and enforced, without notice to the defendant, in New Zealand; and
- (iii) the DVO may be enforced, without notice to the defendant, in a State or another Territory that is a participating jurisdiction; and

16 Section 92 amended

(1) Section 92(b)

omit

orders; and

insert

orders.

-
- (2) Section 92(c)

omit

17 Section 97 amended

- (1) Section 97, before "The"

insert

(1)

- (2) Section 97, at the end

insert

- (2) Subsection (1) does not apply to a variation or revocation of a registered external order if the order is a recognised DVO under Chapter 3A and the variation or revocation is recognised in the Territory under that Chapter.

18 Part 3.4 replaced

Part 3.4

repeal, insert

Chapter 3A National Recognition of Domestic Violence Orders

Part 3A.1 Preliminary matters

101 Objects of Chapter

The object of this Chapter is to establish, in conjunction with the corresponding laws, a national recognition scheme for DVOs (or domestic violence orders).

102 Definitions

In this Chapter:

corresponding law means:

- (a) a law of another jurisdiction that contains provisions that substantially correspond with this Chapter; or
- (b) a law of another jurisdiction prescribed by regulation to be a corresponding law for the purposes of this Chapter.

domestic violence concern, see section 103C.

DVO (or **domestic violence order**), for this Chapter, means a local DVO, an interstate DVO or a foreign order.

final DVO means a DVO that is not an interim DVO.

foreign order means a New Zealand DVO.

general violence order means:

- (a) an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* (SA); or
- (b) a violence restraining order made under *Restraining Orders Act 1997* (WA), other than:
 - (i) a violence restraining order made under section 11B of that Act; or
 - (ii) a police order under that Act.

interim DVO, means a DVO that is of an interim or provisional nature and, to avoid doubt, includes the following:

- (a) any DVO made by a police officer;
- (b) an emergency order under the *Domestic Violence and Protection Orders Act 2008* (ACT);
- (c) a temporary protection order under the *Domestic and Family Violence Protection Act 2012* (Qld);
- (d) any DVO declared by the regulations to be an interim DVO.

interstate DVO, see section 103A.

interstate law enforcement agency means:

- (a) the police force of another jurisdiction; or
- (b) any other agency of another jurisdiction responsible for the enforcement of DVO's in that jurisdiction; or
- (c) any other agency of another jurisdiction or the Commonwealth approved by the Minister and responsible for managing information for law enforcement purposes.

issuing authority, for this Chapter, also includes a court or person with power to make, vary or revoke a DVO under the law of a participating jurisdiction.

issuing jurisdiction, for a DVO, means the jurisdiction in which the DVO is made.

jurisdiction means a State or Territory.

local DVO, see section 103.

local law enforcement agency means:

- (a) the Police Force; or
- (b) any other agency of the Territory responsible for the enforcement of DVOs in the Territory.

New Zealand DVO means an order made under the *Domestic Violence Act 1995* (NZ) or under an Act repealed by that Act.

non-local DVO means an interstate DVO or a foreign order.

participating jurisdiction means the following jurisdictions:

- (a) the Territory; or
- (b) a jurisdiction in which a corresponding law is enacted.

properly notified, see section 103L.

protected person means a person for whose protection or benefit a DVO is made.

recognised DVO, see sections 103E and 103ZH.

recognised variation, see section 103F.

registered foreign order, see section 103B.

revoke includes cancel.

103 Local DVO

- (1) A **local DVO** means a court DVO or police DVO.
- (2) A registered foreign order is not a local DVO.

103A Interstate DVO

- (1) Each of the following is an **interstate DVO**:
 - (a) a domestic violence order under the *Domestic Violence and Protection Orders Act 2008* (ACT);

-
- (b) an apprehended domestic violence order or an interim apprehended domestic violence order under the *Crimes (Domestic and Personal Violence) Act 2007* (NSW);
 - (c) a domestic violence order or police protection notice under the *Domestic and Family Violence Protection Act 2012* (Qld);
 - (d) an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) that addresses a domestic violence concern;
 - (e) a family violence order (FVO), interim FVO or police family violence order (PFVO) under the *Family Violence Act 2004* (Tas);
 - (f) a family violence intervention order or a family violence safety notice under the *Family Violence Protection Act 2008* (Vic);
 - (g) the following orders under the *Restraining Orders Act 1997* (WA):
 - (i) a violence restraining order that addresses a domestic violence concern;
 - (ii) any violence restraining order made under section 11B of that Act;
 - (iii) a police order;
 - (h) an order of a State or another Territory prescribed by regulation;
 - (i) an order under a law of a State or another Territory repealed by a law mentioned in paragraphs (a) to (h) if the repealed law provided for an order to protect a person in a relationship corresponding to a domestic relationship.
- (2) A registered foreign order is not an interstate DVO.

103B Registered foreign order

A **registered foreign order** means a foreign order that is:

- (a) a registered external order under this Act; or
- (b) a registered order under Part 12 of the *Domestic Violence and Protection Orders Act 2008* (ACT); or
- (c) a registered external protection order under Part 13 of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW); or

-
- (d) a registered interstate order under the *Domestic and Family Violence Protection Act 2012* (Qld); or
 - (e) a foreign intervention order registered under Part 4 of the *Intervention Orders (Prevention of Abuse) Act 2009* (SA); or
 - (f) an external family violence order registered under section 27 of the *Family Violence Act 2004* (Tas); or
 - (g) a corresponding New Zealand order registered under Part 10 of the *Family Violence Protection Act 2008* (Vic); or
 - (h) a foreign restraining order registered under Part 7A of the *Restraining Orders Act 1997* (WA); or
 - (i) an order under a law of a State or another Territory prescribed by regulation; or
 - (j) an order of a law of a State, another Territory or New Zealand repealed by a law mentioned in paragraphs (a) to (h) if the repealed law provided for registration of an order to protect a person in a relationship corresponding to a domestic relationship.

103C Domestic violence concerns – SA and WA orders

- (1) An intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) addresses a **domestic violence concern** if the order is made because it is reasonable to suspect that the defendant will, without intervention, commit an act of domestic violence (within the meaning of that Act).
- (2) A violence restraining order under the *Restraining Orders Act 1997* (WA) addresses a **domestic violence concern** if the order is made because the defendant has committed, or because it is feared the defendant will commit, an act of family and domestic violence (within the meaning of section 6 of that Act).
- (3) For this Chapter, a general violence order is taken to be an order that addresses a **domestic violence concern** if:
 - (a) it is declared to be an order that addresses a **domestic violence concern** by the issuing authority that makes the order; or
 - (b) a registrar of a court of the jurisdiction in which the order was made makes an order declaring the DVO to be a recognised DVO in that jurisdiction.
- (4) The regulations may prescribe circumstances in which an order

made in a participating jurisdiction is taken, for this Chapter, to be an order that addresses a **domestic violence concern**.

103D Special provisions for foreign orders

- (1) For this Chapter, a registered foreign order:
 - (a) is taken to be made in the jurisdiction in which it is registered as a registered foreign order; and
 - (b) is taken to be made when it becomes a registered foreign order in that jurisdiction.
- (2) For this Chapter, a registered foreign order is varied or revoked if its registration as a registered foreign order is varied or revoked.
- (3) A power conferred by this Chapter to vary or revoke a registered foreign order is a power to vary or revoke registration of the order as a registered foreign order.

Part 3A.2 National recognition of DVOs

Division 1 General principles

103E Recognition of DVOs

- (1) Each of the following DVOs is a **recognised DVO** in the Territory:
 - (a) a local DVO;
 - (b) an interstate DVO made in a participating jurisdiction;
 - (c) a foreign order that is a registered foreign order in any participating jurisdiction.

Notes for subsection (1)

1. *Recognition by way of a declaration by a registrar can also extend to DVOs made in jurisdictions that are not, or are not yet, participating jurisdictions. See Part 3A.6.*
2. *An interstate DVO made after commencement will be recognised in the Territory if it is made in a participating jurisdiction. Additionally, an interstate DVO made before commencement will be recognised in the Territory if, under the law of a participating jurisdiction, it is a recognised DVO.*

- (2) A DVO becomes a recognised DVO when it is made.

Note for subsection (2)

Under section 97, a foreign order is taken to be made when it is registered as a registered foreign order.

-
- (3) Subject to this Chapter, a DVO is a recognised DVO for the period for which it remains in force in the jurisdiction in which it is made.

103F Variations to DVOs

- (1) A variation to a recognised DVO that is done in the Territory or another jurisdiction is a **recognised variation** in the Territory in the circumstances provided for by this section.
- (2) A variation to a local DVO is a recognised variation in the Territory if the variation is done:
- (a) in the Territory by a court or any other person authorised to do so under this Act; or
 - (b) in another participating jurisdiction by a court under a corresponding law.
- (3) A variation to an interstate DVO or foreign order is a recognised variation in the Territory if the variation is done:
- (a) in the issuing jurisdiction by a court or any other person authorised to do so under the law of the issuing jurisdiction; or
 - (b) in any participating jurisdiction by a court under this Chapter or a corresponding law.

Note for subsection (3)

Under section 103D, the issuing jurisdiction for a foreign order is taken to be the jurisdiction in which the order is registered.

- (4) A variation is recognised from the time it is made.

103G Revocation of recognised DVO

- (1) A DVO ceases to be a recognised DVO if the DVO is revoked in the Territory or another jurisdiction and that revocation is recognised in the Territory.
- (2) A revocation of a local DVO is recognised in the Territory if the revocation is done:
- (a) in the Territory by a court or any other person authorised to do so under this Act; or
 - (b) in another participating jurisdiction by a court under a corresponding law.
- (3) A revocation of an interstate DVO or foreign order is recognised in the Territory if the revocation is done:

- (a) in the issuing jurisdiction by a court or any other person authorised to do so under the law of the issuing jurisdiction; or
 - (b) in any participating jurisdiction by a court under this Chapter or a corresponding law.
- (4) The DVO ceases to be a recognised DVO from the time it is revoked.

103H Recognised DVO prevails over earlier comparable DVOs

- (1) A recognised DVO that is enforceable against a defendant in the Territory (a **new DVO**) supersedes:
- (a) any comparable recognised DVO made earlier than the new DVO; and
 - (b) any comparable local DVO made earlier than the new DVO (whether or not the local DVO is a recognised DVO).
- (2) The earlier comparable DVO is superseded from the time the recognised DVO becomes enforceable against the defendant.
- (3) A recognised DVO that is superseded ceases to be a recognised DVO.
- (4) A local DVO that is superseded is revoked.
- (5) A DVO is not superseded to the extent that it relates to a protected person who is not a protected person under the new DVO.
- (6) Accordingly, a DVO continues to be a recognised DVO, and to have effect, to the extent that it relates to a person who is not a protected person under the new DVO.
- (7) A DVO made by a police officer does not supersede a comparable DVO made by a court (of any jurisdiction).
- (8) A DVO is **comparable** with another DVO if:
- (a) the DVOs are made against the same defendant; and
 - (b) the DVOs are made for the protection of one or more of the same protected persons.

103J Making of new orders

- (1) Nothing in this Chapter prevents a person from applying for, or an issuing authority from making, a local DVO even through there is a recognised DVO in force that applies to the same defendant.

- (2) However, a police officer is not to make a local DVO if the police officer is aware that there is already a recognised DVO that is enforceable against the defendant which:
 - (a) applies to the same defendant and protected person; and
 - (b) was made by a court of any jurisdiction.

Division 2 Enforcement of recognised DVOs

103K Recognised DVOs and variations are enforceable against defendant

- (1) A recognised DVO, or a recognised variation to a recognised DVO, is enforceable against the defendant in the Territory.
- (2) A recognised DVO that is a local DVO becomes enforceable against the defendant in the Territory when the defendant is properly notified of the making of the DVO under the law of the Territory.
- (3) A recognised DVO that is a non-local DVO (other than a foreign order) becomes enforceable against a defendant in the Territory when the defendant is properly notified of the making of the DVO under the law of the jurisdiction in which the DVO was made.
- (4) A recognised DVO that is a foreign order becomes enforceable against a defendant in the Territory from the time it becomes a recognised DVO.
- (5) A recognised variation to a recognised DVO becomes enforceable against the defendant in the Territory when the defendant is properly notified of the variation under the law of the jurisdiction in which the variation is done.

103L Meaning of *properly notified*

- (1) The making of a local DVO is ***properly notified*** under the law of the Territory if:
 - (a) the defendant is given a copy of the DVO; or
 - (b) the DVO is made by a court and the defendant is present in court when the DVO is made.
- (2) The making of an interstate DVO is ***properly notified*** under the law of the jurisdiction in which it is made in the circumstances provided for by the corresponding law of that jurisdiction.
- (3) A variation to a recognised DVO that is done in the Territory is

properly notified under the law of the Territory if:

- (a) the defendant is given a copy of the variation; or
 - (b) the variation is done by a court and the defendant is present in court when the DVO is varied.
- (4) A variation to a recognised DVO that is done in another jurisdiction is ***properly notified*** under the law of that jurisdiction in the circumstances provided for by the corresponding law of that jurisdiction.

103M Contravention of enforceable recognised DVO

- (1) A non-local DVO that is a recognised DVO and which is enforceable against a defendant in the Territory may be enforced in the Territory:
- (a) as if it were a local DVO; and
 - (b) as if the defendant had been properly notified of the making of the DVO under the law of the Territory.
- (2) A recognised variation to a non-local DVO that is a recognised DVO and which is enforceable in the Territory may be enforced in the Territory as if it were a variation to a local DVO.
- (3) A recognised variation to a recognised DVO made in another jurisdiction that is enforceable against the defendant in the Territory may be enforced as if the defendant had been properly notified of the variation under the law of the Territory.
- (4) This section does not affect any law of the Territory that requires a geographical nexus to exist between the Territory and an offence for a person to be guilty of an offence under the law of the Territory.

Division 3 Enforcement of non-local DVOs

103N Non-local DVO to be treated as local DVO

- (1) A recognised DVO that is a non-local DVO has the same effect in the Territory as a local DVO.
- (2) A prohibition, restriction or condition imposed by a non-local DVO has the same meaning as it would have in the jurisdiction in which the DVO was made, but may be enforced in the Territory as if it were a prohibition, restriction or condition of a local DVO.

103P Licences, permits and other authorisations

- (1) A law of the Territory (a **relevant law**) that restricts the grant of an authorisation, or that authorises or requires an authorisation to be suspended or revoked, if a person is or has been subject to a local DVO extends to a person who is or has been subject to any non-local DVO that is a recognised DVO (as if the non-local DVO were a local DVO).
- (2) For the purposes of a relevant law:
 - (a) a non-local DVO that is a final DVO is to be treated in the same way as a local DVO that is a final DVO; and
 - (b) a non-local DVO that is an interim DVO is to be treated in the same way as a local DVO that is an interim DVO.

- (3) In this section:

authorisation includes a licence or permit.

grant includes issue.

103Q Recognition of disqualification to hold firearms licence

- (1) If a non-local DVO that is a recognised DVO disqualifies a person from holding a non-local firearms licence, or type of non-local firearms licence, the person is also disqualified from holding a local firearms licence or local firearms licence of the same type (as the case requires).
- (2) The Commissioner of Police must revoke any local firearms licence held by a person, or refuse to issue a local firearms licence to a person, if the person is disqualified from holding the firearms licence by a recognised DVO.
- (3) A recognised DVO disqualifies a person from holding a non-local firearms licence if the DVO expressly:
 - (a) disqualifies the person from holding a non-local firearms licence or type of non-local firearms licence; or
 - (b) revokes or requires the person to surrender a non-local firearms licence or type of non-local firearms licence held by the person.

- (4) In this section:

local firearms licence means a licence, permit or authorisation under the *Firearms Act*.

non-local firearms licence means a licence, permit or other authorisation to possess a firearm (within the meaning of the *Firearms Act*) issued under the law of another jurisdiction or country.

103R Recognition of disqualification to hold weapons licence

- (1) If a non-local DVO that is a recognised DVO disqualifies a person from holding a non-local weapons licence or type of non-local weapons licence, the person is also disqualified from holding a local weapons licence or local weapons licence of the same type (as the case requires).
- (2) The Commissioner of Police must revoke any local weapons licence held by a person, or refuse to issue a local weapons licence to a person, if the person is disqualified from holding the weapons licence by a recognised DVO.
- (3) A recognised DVO disqualifies a person from holding a non-local weapons licence or type of non-local weapons licence if the DVO expressly:
 - (a) disqualifies the person from holding a non-local weapons licence or type of non-local weapons licence; or
 - (b) revokes or requires the person to surrender a non-local weapons licence or type of non-local weapons licence held by the person.
- (4) In this section:

local weapons licence means a licence, permit or other authorisation under the *Weapons Control Act*.

non-local weapons licence means a licence, permit or other authorisation to possess a prohibited weapon (within the meaning of the *Weapons Control Act*) issued under the law of another jurisdiction or country.

103S Orders for costs

- (1) A non-local DVO, to the extent that it requires the payment of money, cannot be enforced in the Territory.
- (2) The recognition of a DVO made in another jurisdiction does not confer power on a court or tribunal of the Territory to award costs in respect of any proceedings relating to the DVO that occurred in another jurisdiction.
- (3) This section does not prevent a court or tribunal awarding costs in

respect of any proceedings in the Territory relating to the variation or revocation of a recognised DVO.

Part 3A.3 Variation and revocation of recognised non-local DVOs

103T Definition

In this Part:

court means the Local Court, as constituted by a Local Court Judge, or the Supreme Court.

103U Power of court to vary or revoke recognised non-local DVOs

- (1) A court may vary or revoke a recognised DVO that is a non-local DVO in accordance with this Part as if the DVO were a local DVO.
- (2) A court cannot vary or revoke a non-local DVO if it is a kind of DVO that cannot be varied or revoked by a court in the jurisdiction in which the DVO was made.
- (3) A variation to, or revocation of, a recognised DVO that is done under this Part is not limited in its operation to the Territory.
- (4) This Part does not apply to the variation or revocation of a foreign order that is registered as a registered foreign order in the Territory.

Note for subsection (4)

Foreign orders registered in the Territory (referred to as registered external orders in Chapter 3) can be varied or cancelled under Part 3.3.

- (5) To avoid doubt, if a court varies a recognised DVO that was made in another jurisdiction, the other jurisdiction continues to be treated, for the purpose of this Chapter, as the jurisdiction in which the DVO was made.

103V Application for variation or revocation of recognised non-local DVO

- (1) An application for the variation or revocation of a recognised DVO that is a non-local DVO may be made to a court as if it were an application for variation or revocation of a local DVO by any person who would be able to make the application if the DVO were a local DVO.
- (2) An application:
 - (a) is to be made to a court that would have power to hear the

application if the DVO were a local DVO; and

- (b) is to be made in accordance with any requirements that would apply if the DVO were a local DVO; and
- (c) may be dealt with (subject to this Part) as if the DVO were a local DVO.

103W Decision about hearing an application

- (1) A court that deals with an application for variation or revocation of a non-local DVO may decide to hear the application or decline to hear the application.
- (2) In making that decision, the court may consider the following matters (to the extent relevant):
 - (a) the jurisdiction in which the defendant and the protected person or persons under the DVO generally reside or are employed;
 - (b) any difficulty the respondent to the proceedings may have in attending the proceedings;
 - (c) whether there is sufficient information available to the court in relation to the DVO and the basis on which it was made;
 - (d) whether any proceedings are being taken in respect of an alleged contravention of the DVO and the jurisdiction in which those proceedings are being taken;
 - (e) the practicality of the applicant (if not the defendant under the DVO) applying for and obtaining a local DVO against the defendant with similar prohibitions or restrictions;
 - (f) the impact of the application on children;
 - (g) any other matters the court considers relevant.
- (3) Without limiting the court's power to decline to hear an application, the court may decline to hear the application if the court is satisfied that there has been no material change in the circumstances on which the making of the order was based and that the application is in the nature of an appeal against the order.
- (4) For the purposes of exercising its functions under this Part, a court may have regard to any information that the court considers relevant about the making or variation of a DVO that is provided by an issuing authority of any other jurisdiction.

Note for subsection (4)

Part 3A.4 enables the court to obtain information about DVOs from other jurisdictions.

- (5) A court must refuse to hear an application made by the defendant during any period in which, under the law of the issuing jurisdiction for the DVO, the defendant is not entitled to apply for the variation or revocation of the DVO in the issuing jurisdiction.
- (6) In this section, the **respondent** to an application for variation or revocation of a DVO means:
 - (a) in the case of an application made by the defendant under the recognised DVO – the protected person or persons under the recognised DVO; and
 - (b) in any other case – the defendant under the recognised DVO.

Part 3A.4 Exchange of information

103X Issuing authorities may obtain DVO information

An issuing authority of the Territory may obtain information about a DVO from an issuing authority of another jurisdiction, or from a local or interstate law enforcement agency, and use that information for the purposes of exercising functions under this Chapter.

103Y Issuing authorities must provide DVO information

- (1) An issuing authority of the Territory that makes, varies or revokes a DVO must provide to a court of any other participating jurisdiction any information about the DVO that the court reasonably requests for the purposes of exercising its functions under a corresponding law.
- (2) An issuing authority of the Territory that makes, varies or revokes a DVO must provide to a local or interstate law enforcement agency any information about the DVO that the law enforcement agency reasonably requests for the purpose of exercising its law enforcement functions.

103Z Law enforcement agencies may obtain DVO information

A local law enforcement agency may obtain information about a DVO from an issuing authority of this or another jurisdiction, or from an interstate law enforcement agency, and use that information for the purpose of exercising its law enforcement functions.

103ZA Information to be provided to law enforcement agencies

A local law enforcement agency must provide to an interstate law

enforcement agency any information it holds about a DVO that the interstate law enforcement agency reasonably requests for the purpose of exercising its law enforcement functions.

Part 3A.5 Miscellaneous

103ZB Certificate evidence – notification

- (1) An authorised officer of the Territory may issue a certificate in writing certifying any of the following matters:
 - (a) that the making of a local DVO has been properly notified under the law of the Territory;
 - (b) that a variation of a DVO that was done in the Territory has been properly notified under the law of the Territory.
- (2) The certificate is admissible in evidence in any proceedings and is evidence of the matters certified.
- (3) A certificate in writing purporting to be signed by an authorised officer of another jurisdiction and certifying any of the following matters is admissible in evidence in any proceedings and is evidence of the matters certified:
 - (a) that the making of a DVO in that jurisdiction has been properly notified under the law of that jurisdiction;
 - (b) that a variation to a DVO that was done in that jurisdiction has been properly notified under the law of that jurisdiction.
- (4) In any document, the words "authorised officer" after a signature are evidence that the person whose signature it purports to be is in fact an authorised officer.
- (5) In this section:

authorised officer of another jurisdiction means a person (whether or not designated as an authorised officer) who is authorised under the law of another jurisdiction to issue a certificate certifying that the making or variation of a DVO has been properly notified under the law of that jurisdiction.

authorised officer of the Territory means:

- (a) a registrar of a court of the Territory; or
- (b) a police officer of or above the rank of sergeant.

103ZC Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
 - (a) an issuing authority;
 - (b) a person assisting an issuing authority;
 - (c) a member of a local law enforcement agency.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) To avoid doubt, subsection (1) applies to acts done or omitted to be done as a result of a failure by a person mentioned in that subsection to obtain current information about a DVO or an order in the nature of a DVO.
- (4) This section has effect subject to:
 - (a) Part VIIA of the *Police Administration Act* to the extent it relates to the civil liability of a person who is or has been a police officer; and
 - (b) the *Courts and Administrative Tribunals (Immunities) Act* to the extent that it relates to the liability of a person who is a member of a court or tribunal within the meaning of that Act.
- (5) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

Part 3A.6 Provisions consequential on enactment of Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2016**Division 1 Preliminary matters****103ZD Definition**

In this Part:

commencement date means the day on which the *Domestic and*

Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2016

Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2016 commences.

103ZE Enforcement of DVOs under other provisions

- (1) This Chapter does not affect the enforceability in the Territory, otherwise than under this Chapter, of any local DVO made before the commencement date.
- (2) This Chapter does not affect the enforceability in the Territory otherwise than under this Chapter, of any external order registered in the Territory, before the commencement date, under Chapter 3.
- (3) However, a DVO made in the Territory before the commencement date can be superseded under section 103H, on or after the commencement date, by a recognised DVO that is made later.

Division 2 DVOs to which scheme applies

103ZF DVOs made in the Territory

Part 3A.2 applies to any local DVO or foreign order that is made in the Territory on or after the commencement date, or an earlier date prescribed by regulation.

103ZG DVOs made in other jurisdictions

- (1) Part 3A.2 applies to any DVOs made in another participating jurisdiction that are recognised DVOs in that jurisdiction under the corresponding law for that jurisdiction.
- (2) To avoid doubt, section 103E extends to the following DVOs:
 - (a) any interstate DVO that was made in another participating jurisdiction before the commencement date that is a recognised DVO in that jurisdiction; and
 - (b) any foreign order that became a registered foreign order in another participating jurisdiction before the commencement date that is a recognised DVO in that jurisdiction.
- (3) Sections 103F and 103G extend to any variation or revocation of a DVO referred to in subsection (2), that was done in a participating jurisdiction before the commencement date, as if the DVO were a recognised DVO.
- (4) However, a non-local DVO, and any variation to a non-local DVO, does not become enforceable against the defendant in the Territory, under this Chapter, until the commencement date (even if the making of the DVO, or variation, was properly notified before

that date).

Division 3 Extension of scheme to older DVOs

103ZH DVOs declared to be recognised DVOs

- (1) Each of the following DVOs is also taken to be a **recognised DVO**:
 - (a) any DVO that is declared by a registrar of a court of the Territory to be a recognised DVO in the Territory under Division 4;
 - (b) any DVO that is declared by a registrar of a court of another participating jurisdiction to be a recognised DVO in that jurisdiction under a corresponding law.
- (2) A recognised DVO referred to in subsection (1) becomes enforceable against the defendant in the Territory, under this Chapter, when the declaration is made (despite section 103J).

103ZI DVOs declared to be recognised in other jurisdictions before commencement date

- (1) To avoid doubt, section 103ZJ extends to a DVO declared by a registrar of a court of another participating jurisdiction to be a recognised DVO before the commencement date.
- (2) Sections 103F and 103G extend to any variation or revocation of a DVO referred to in subsection (1), that was done in a participating jurisdiction before the commencement date, as if the DVO were a recognised DVO.
- (3) However, the DVO, and any variation to the DVO, does not become enforceable against the defendant in the Territory, under this Chapter, until the commencement date.

Division 4 Power to declare DVO to be recognised

103ZJ Definition

In this Part:

registrar means a registrar of a court of the Territory that has power to make a local DVO.

103ZK Power to declare DVO to be recognised

- (1) A registrar may, by order, declare any DVO made in any jurisdiction to be a recognised DVO in the Territory.

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- (2) A declaration may be made in relation to any DVO made in any jurisdiction that is in force in the issuing jurisdiction and is not a recognised DVO in the Territory.
 - (3) The jurisdiction in which the DVO was made does not have to be a participating jurisdiction.
 - (4) A registrar must make a declaration under this section if an application for the declaration is made in accordance with this Part, unless the registrar decides to refuse to make the declaration in the interests of justice.
 - (5) Without limiting subsection (4), the registrar may refuse to make the declaration if the registrar is not satisfied that the defendant has been properly notified of the making of the DVO under the law of the jurisdiction in which the DVO was made.

Note for subsection (5)

Under section 103ZH, the DVO becomes enforceable against the defendant when the declaration is made. Subsection (7) specifies that notice of the declaration is not to be served on the defendant unless the person making the application consents to service.

- (6) However, a registrar cannot declare a general violence order to be a recognised DVO in the Territory.
- (7) Notice of a declaration is not to be served on the defendant unless the person who makes the application consents to service.

Note for section 103ZK

Under section 103D, a foreign order is taken to be made in any jurisdiction in which it is registered as a registered foreign order. Accordingly, this section extends to registered foreign orders.

103ZL Application for order

- (1) An application for a declaration that a DVO is a recognised DVO in the Territory may be made by any person who would be able to make an application for variation of the DVO if the DVO were a recognised DVO.
- (2) The application must:
 - (a) be made in a form approved by the registrar; and
 - (b) be accompanied by any information or evidence the registrar requires.

Note for section 103ZL

It is only necessary to make an application in one participating jurisdiction. Under section 103ZH, once a declaration is made in any participating jurisdiction the

DVO will be treated as a recognised DVO in all participating jurisdictions.

103ZM Functions of registrar may be exercised by court

A court with power to make a local DVO may exercise any of the functions of a registrar of the court under this Part.

19 Section 124 amended

Section 124(1)(a)

omit

court DVO

insert

recognised DVO made by a court

20 Part 7.4 inserted

After section 136

insert

Part 7.4 Transitional matters for Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2016

137 Definitions

In this Chapter:

amending Act means the *Domestic and Family Violence (Recognition of Domestic Violence Orders) (National Uniform Law) Amendment Act 2016*.

commencement date means the day on which the amending Act commences.

pre-commencement Act means this Act in force immediately prior to the commencement date.

138 Interim court DVO

An interim DVO under section 35, as in force immediately before the commencement date, is taken to be an interim court DVO under section 35 and may be enforced, varied or revoked as if it were an

interim court DVO.

139 Interim court variation order

An interim variation order under section 52A, as in force immediately before the commencement date, is taken to be an interim court variation order under section 52A and may be enforced, varied or revoked as if it were an interim court variation order.

140 Registered interstate DVOs

- (1) The registration of an external order under section 94, as in force immediately before the commencement date, is not affected by the commencement of the amending Act and this Act continues to apply in respect of the order as if the amending Act had not commenced.
- (2) The declaration of an unregistered external order under section 101, as in force immediately before the commencement date, is not affected by the commencement of the amending Act and this Act continues to apply in respect of the declaration as if the amending Act had not commenced.
- (3) An order mentioned in subsection (1) or (2) is not a local DVO for the purposes of Chapter 3 (despite section 97(1)).
- (4) An order mentioned in subsection (1) or (2) ceases to be registered or declared under Chapter 3 if the order becomes a recognised DVO in the Territory and Chapter 3A applies to the order in the same way as it applies to any other recognised DVO that is a non-local DVO.

Note for section 139

Under this section, an interstate order registered under Chapter 3 under the pre-commencement Act will continue to be enforceable in the Territory as provided for by that Chapter. If the interstate order becomes a recognised DVO by operation of section 103ZG or by declaration under section 103ZK, the order ceases to be registered under Chapter 3 and the order will then be enforceable in the Territory as provided under Chapter 3A.

141 Enforcement of non-recognised interstate DVOs

- (1) A regulation may provide for the enforcement in the Territory of an interstate DVO or type of interstate DVO that is not a recognised DVO if the DVO was made:
 - (a) in a jurisdiction that is not a participating jurisdiction; or
 - (b) in a jurisdiction prior to the jurisdiction becoming a participating jurisdiction.

- (2) To avoid doubt, subsection (1) extends to an interstate DVO made before the commencement date.

Part 3 Amendment of Domestic and Family Violence Regulations

21 Regulations amended

This Part amends the *Domestic and Family Violence Regulations*.

22 Regulation 3 repealed

Regulation 3

repeal

Part 4 Consequential amendment of Firearms Act

23 Act amended

This Part amends the *Firearms Act*.

24 Section 3 amended

- (1) Section 3(1), definition ***interim order***

omit

- (2) Section 3(1)

insert (in alphabetical order)

interim court DVO, see section 35(1) of the Domestic and Family Violence Act.

- (3) Section 3(1), definition ***final domestic violence order***, paragraph (a), after "interim"

insert

domestic violence

- (4) Section 3(1), definition ***interim domestic violence order***, paragraph (b)

omit

order

insert

court DVO

Part 5 Expiry of Act

25 Expiry of Act

This Act expires on the day after it commences.