

Domestic and Family Violence Protection and Other Legislation Amendment Act 2016

This fact sheet provides information about amendments to the *Domestic and Family Violence Protection Act 2012* (the Act) made by the *Domestic and Family Violence Protection and Other Legislation Amendment Act 2016* (the Amendment Act), which was passed by Queensland Parliament on 11 October 2016.

Overview

The Amendment Act builds on priority legislative changes already enacted and is the next stage of legislative reforms to implement the Queensland Government's response to the Special Taskforce on Domestic and Family Violence in Queensland (the Taskforce). The Amendment Act implements the outcomes of an overarching review of the Act (recommendation 140).

The Amendment Act also implements model laws endorsed by the Council of Australian Governments to enable Queensland to participate in the National Domestic Violence Order Scheme (NDVOS), which will provide for the automatic mutual recognition of domestic violence orders (DVOs) made across Australia.

Commencement

The majority of provisions of the Amendment Act came into effect on 30 May 2017. Provisions related to implementing the NDVOS did not commence on this date. It is anticipated that jurisdictions will work towards commencing the NDVOS on 25 November 2017.

The amendments

The Amendment Act improves protection for victims and strengthens the justice response by:

- requiring police to consider what action to take to provide victims with effective and immediate protection until a court can consider an application for a protection order (PO) and expanding the protection able to be provided by police protection notices (PPNs) to better safeguard victims and their families;
- clarifying that a court may make a DVO when a victim has been threatened or has fears for their safety or wellbeing;
- expanding the existing power available to police, to direct a person to remain at a specified place, to also enable them to direct a person to move to and remain at

another place to allow police to serve or explain an application, PPN or DVO or issue a PPN;

- requiring a court to consider whether additional DVO conditions (beyond the standard condition that the respondent be of good behaviour) are necessary or desirable to better tailor protection for the victim or another named person;
- requiring a court to focus on the protection required by a victim in determining the appropriate duration of a PO;
- requiring a court to consider any existing family law order it is aware of and whether that order needs to be varied or suspended if it is inconsistent with the protection needed by the victim;
- clarifying that a court must consider non-compliance, and may consider compliance, with a perpetrator intervention order (IO) when making a PO or varying a DVO, but must not refuse to make a PO or vary a DVO merely because the respondent has complied with an IO;
- facilitating information sharing between key government and non-government entities to enable both risk assessment and management of serious domestic violence threats;
- enabling the Queensland Police Service to refer victims and perpetrators to specialist domestic and family violence service providers where a threat to a person's life, health or safety is identified; and
- providing for the automatic mutual recognition of DVOs across Australia under the NDVOS.

The Amendment Act also increases perpetrator accountability by increasing maximum penalties for breaches of PPNs and release conditions to achieve consistency with other existing penalty provisions, and reflect the seriousness of domestic violence.

Benefits

Expanded PPNs and police powers

The provisions in the Amendment Act are designed to:

- expand the protection police officers can provide to victims prior to a court hearing an application for a DVO;

- enable police officers to tailor protection to meet victims' needs;
- make PPNs easier for police officers to use and simplify the current range of police responses to domestic and family violence.

Tailoring conditions in DVOs

- These changes improve the ability of a victim to obtain tailored protection by requiring a court to always consider whether additional conditions should be included on the order.

Duration of protection orders

- The Amendment Act removes the general requirement that a PO can only be made for a maximum of two years and broadens the court's discretion to determine the appropriate length of an order.
- If the court does not specify the duration of the order, the order will remain in place for five years from when the order is made. The Amendment Act also provides that a court may only make an order that lasts for less than five years if there are reasons for doing so.
- The Amendment Act aims to balance giving the court flexibility to determine the length of POs in individual cases with ensuring that victims have access to the long-term protection they need.

Achieving consistency with family law orders

- The Amendment Act requires the court to always consider a family law order that it is aware of and whether to exercise its powers to revive, vary, discharge or suspend the order if it conflicts with the proposed DVO.
- This aims to improve consistency between DVOs and family law orders and set a clear expectation that a court will consider if a family law order should be, varied, discharged or suspended if it conflicts with a proposed DVO.

Consideration of a perpetrator's compliance with a perpetrator intervention program

- The Amendment Act provides that the court must consider a respondent's non-compliance with an IO when deciding whether to make a PO or vary a DVO. The court may also consider a respondent's compliance with an IO, but must not refuse to make a PO or vary a DVO merely because the respondent has complied;

- This will ensure that a victim's access to protection does not depend on whether or not the respondent has complied with an IO and clarifies that making an IO should not be considered a viable alternative to a PO.

Information sharing

- The Taskforce recommended that enabling legislation is introduced to allow information sharing between government and non-government agencies within integrated service responses, including without consent if a risk assessment indicates it is necessary for safety reasons.
- The Amendment Act enables information to be shared, without consent, for the purposes of both assessing risk and managing serious threats to peoples' lives, health or safety. Only information which is relevant to assessing the risk or addressing the threat can be shared.
- The Amendment Act contains specific principles to confirm that the sharing of information with consent will remain the preferred approach, but prioritises the safety of victims and their families by enabling information sharing to occur without consent within a confined framework.
- The Amendment Act provides agencies with protection from liability for sharing information in accordance with the new provisions.
- The Amendment Act enables police to share a limited range of information (name, contact details and the nature of the threat) for the purpose of referring either a victim or a perpetrator to a specialist domestic and family violence service provider. This will encourage the provision of early support to both victims and perpetrators.

Mutual recognition of DVOs made in Australia

- The Amendment Act provides for the protection provided by an interstate DVO to automatically continue anywhere in Australia (provided it has been served).
- The Amendment Act streamlines processes so a victim who moves interstate does not need to re-engage with police or the court.